

**AGREEMENT BETWEEN THE CITY OF AUSTIN AND
THE AUSTIN INDEPENDENT SCHOOL DISTRICT FOR
RECIPROCAL USE OF PROPERTY**

The parties to this agreement are the City of Austin ("City") and the Austin Independent School District ("AISD").

RECITALS:

The City of Austin owns and maintains Kealing Park, immediately adjacent to the south of Kealing Middle School, a facility owned and operated by the AISD.

The AISD is in need of additional space in which to place portable classrooms in order to accommodate the educational needs of its students.

The City is currently constructing an expansion to the Carver Library and is in need of temporarily relocating library operations to a nearby area in order to continue to provide services to the surrounding community.

The City and the AISD desire to cooperate in the expeditious construction of the expansion and the placement of portable classrooms.

TERMS:

- A. Term. The term of this Agreement shall be for six years beginning from its date of execution. The Agreement may be extended to accommodate construction delays, or such other delays as prevent use of the expansion by the City.
- B.
 1. AISD Portable Buildings. AISD shall have license to move to and maintain on the areas numbered 1 through 4 on Exhibit "A" ("Licensed Property") four portable classroom buildings, with all required access, utilities and other items necessary to comply with applicable City codes during the term of this Agreement and for a reasonable time after such occupancy in order to allow removal of the portable classroom buildings. AISD will take all necessary actions to comply with applicable State law and local ordinances regarding the use of the property as herein licensed.
 2. Temporary Library Operations. The City shall have license to operate the Carver Library in two portable buildings furnished by AISD in the locations indicated in Exhibit "A".

- C. Grounds Maintenance. The AISD shall maintain the areas around the classrooms. Maintenance shall include mowing, watering and litter pickup.
- D. Construction Schedule. The City agrees to use its best efforts to adhere to a construction schedule for completion of the expansion within 12 months of the effective date of this Agreement.
- E. Restoration of Park Land. AISD shall use only the minimum area of park land required pursuant to this Agreement and shall use all reasonable efforts to prevent its contractors and employees from interfering with use of the remaining park land by the public or damaging the remaining park land. Upon termination of this Agreement, AISD shall promptly remove the portable classrooms and all appurtenances and utilities and shall cause the park land to be returned to its original use pursuant to the reasonable requirements of the Parks and Recreation Department of the City. All construction on City property shall comply with applicable City ordinances, park land construction standards and guidelines and the "Construction in Parks Specifications" of the Parks and Recreation Department of the City.
- F. Surrender of Portables used for Library Operations. The City agrees to use only the minimum area of AISD property required for the operation of Carver Library and shall use all reasonable efforts to limit interference with the operation of Kealing Middle School. Upon completion of the expansion, the City shall vacate the portable buildings in a good and clean condition, reasonable wear and tear excepted.
- G. Provisions Relating to Licensed Property.

1. City's Rights to Licensed Property. The right of AISD to use the Licensed Property is expressly subject and subordinate to the right of the City, to construct, install, maintain, operate, and renew any public utilities facilities, franchised public utilities, streets or park facilities on, beneath, or above the surface of the Licensed Property.

Said uses of the Licensed Property by the City are permitted, provided that they do not substantially interfere with or destroy AISD's use of the Licensed Property, or any property or improvements placed thereon or therein by AISD. In case of an officially declared emergency, however, damage to or destruction of AISD property in or on the Licensed Property shall be at no charge, cost, claim, or liability to the City, its agents, contractors, officers, or employees.

Nothing in this Agreement shall be construed to limit, in any way, the power of the City to use, alter, or improve the Licensed Property subject to this Agreement pursuant to official action by the governing body of the City, or its successors. The City does, however, agree to cooperate with AISD to effect the relocation of AISD installation and improvements in the event of such use, alteration or improvement of

such areas and, further, to cooperate with AISD wherever possible, to effect such use, alteration or improvement of such areas so that AISD operations and improvements on the Licensed Property will not be materially affected thereby.

2. Default. In the event that a Party fails to comply with the terms or conditions as set forth herein, then the other Party may give written notice thereof, by registered or certified mail, return receipt requested, to the address set forth below and revoke this Agreement as set forth below.

3. Commencement; Termination by Abandonment. AISD's right to use the Licensed Property shall begin with the effective date of this Agreement and continue thereafter for the term of the Agreement so long as the Licensed Property is used for the purposes set forth herein. If AISD abandons the use of all or any part of the Licensed Property for such purposes set forth in this Agreement, then this Agreement, as to such portion or portions of the Licensed Property abandoned, shall expire and terminate following thirty (30) days written notice to AISD if such abandonment has not been remedied by AISD within such period; the City shall thereafter have the right to enter on the Licensed Property and terminate the rights of AISD its successors and assigns hereunder. All installations of AISD not removed shall be deemed property of the City as of the time abandoned. The City, may in its sole discretion, remove and dispose of abandoned installations at AISD expense.

4. Termination.

a. Termination by AISD. This Agreement as to the Licensed Property may be terminated by AISD by delivering written notice of termination to the City not later than thirty (30) days before the effective date of termination. If AISD so terminates, then it shall remove installations and restore the Licensed Property within the thirty-day notice period. Any installations not removed within said period shall be removed at AISD expense or may, at the City's option, be deemed property of the City.

b. Termination for Default by City. This right to use the Licensed Property is revocable upon written notice of the City if:

- (i) The improvements or a portion of them, constitute a danger to the public which the City deems not to be remediable by alteration or maintenance of such improvements;
- (ii) Despite thirty (30) days written notice to AISD, maintenance or alteration necessary to alleviate a danger to the public has not been made; or

- (iii) AISD fails to comply with the terms and conditions of this Agreement.

Notwithstanding any termination provision, no termination by the City shall be effective until July 1 after notice of termination.

5. Expiration of License. Notwithstanding any other provisions of this Agreement, the right to use the Licensed Property shall terminate upon the expiration of its term or the end of authorized extensions to such term. AISD shall remove its improvements and restore the Licensed Property to its original condition at the end of the said term.
6. Interpretation. Although drawn by one party, this Agreement shall, in the event of any dispute over its meaning or application, be interpreted fairly and reasonably, and neither more strongly for or against either party.
7. Administration. The Parks and Recreation Department shall administer this Agreement on behalf of the City. The Construction Management Office of AISD shall administer this Agreement on behalf of AISD.
8. Application of Law. This Agreement shall be governed by the laws of the State of Texas. If the final judgment of a court of competent jurisdiction invalidates any part of this Agreement, then the remaining parts shall be enforced, to the extent possible, consistent with the intent of the parties as evidenced by this Agreement.
9. Survival. Conditions and covenants of this Agreement which by their terms are performable after the termination, expiration or end of the Agreement, shall survive such termination, expiration or end and remain fully performable.
10. Venue. Venue for all lawsuits concerning this Agreement will be in the City of Austin, Travis County, Texas.
11. Assignment. Neither party shall assign sublet or transfer its interest in this Agreement without the written consent of the other.

Dated to be effective this the _____ day of _____, 2004.

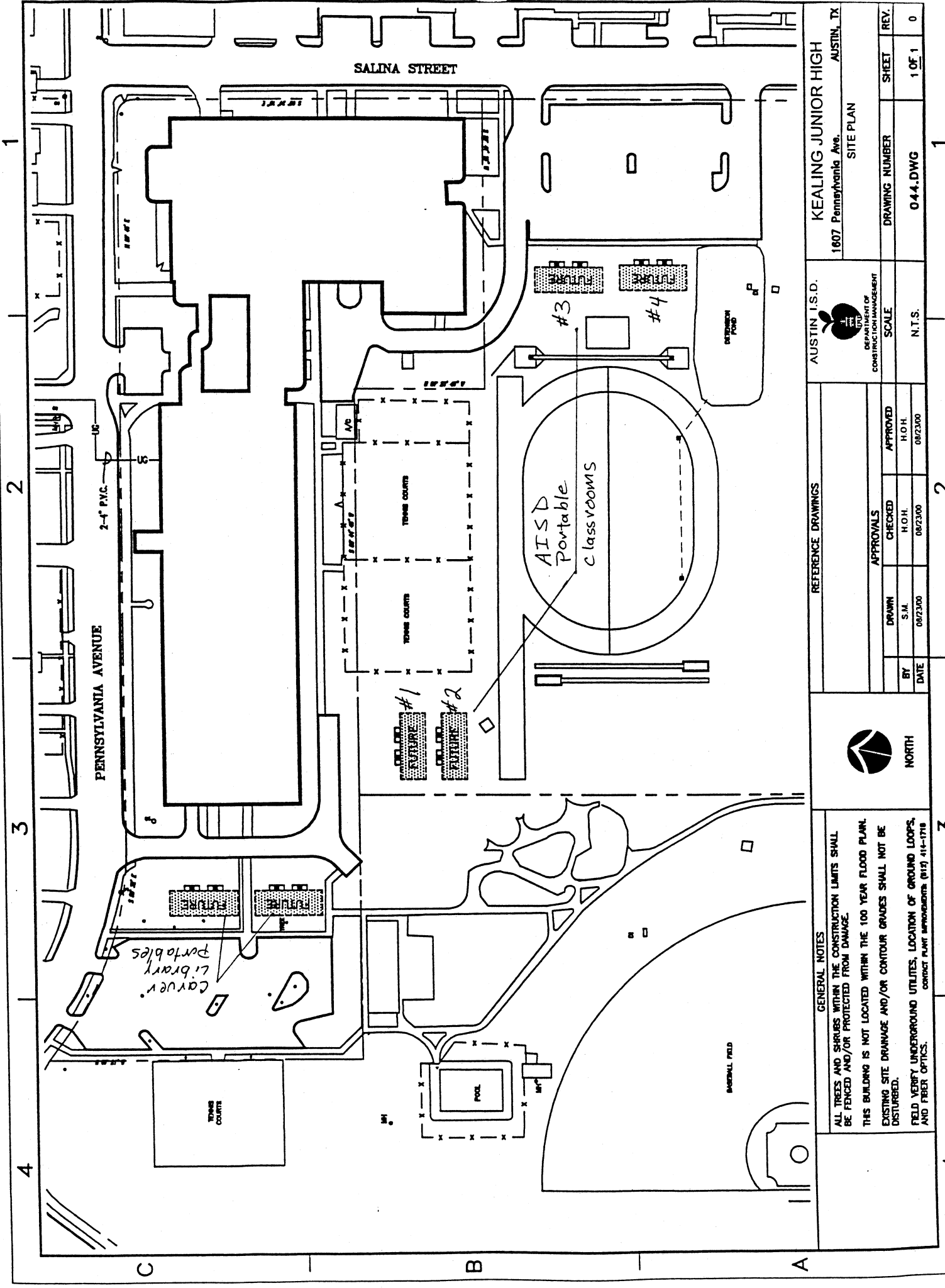
CITY OF AUSTIN
124 West 8th Street
Austin, TX 78701

AUSTIN INDEPENDENT SCHOOL DISTRICT
1111 West 6th Street
Austin, TX 78703

pc

By: *Michael D. ...* By: _____
Title: *Acting Asst. City Manager* Title: _____

Exhibit "A"



KEALING JUNIOR HIGH
 1607 Pennsylvania Ave.
 AUSTIN, TX
 SITE PLAN

AUSTIN I.S.D.
 DEPARTMENT OF
 CONSTRUCTION MANAGEMENT

APPROVALS		SCALE	
DRAWN	CHECKED	SCALE	N.T.S.
BY S.M. DATE	H.O.H. DATE	APPROVED	H.O.H. DATE
08/23/00	08/23/00	08/23/00	08/23/00



GENERAL NOTES
 ALL TREES AND SHRUBS WITHIN THE CONSTRUCTION LIMITS SHALL BE FENCED AND/OR PROTECTED FROM DAMAGE.
 THIS BUILDING IS NOT LOCATED WITHIN THE 100 YEAR FLOOD PLAIN.
 EXISTING SITE DRAINAGE AND/OR CONTOUR GRADES SHALL NOT BE DISTURBED.
 FIELD VERIFY UNDERGROUND UTILITIES, LOCATION OF GROUND LOOPS, AND FIBER OPTICS.
 CONTACT PLANT MAINTENANCE (817) 411-1718

DRAWING NUMBER	SHEET	REV.
044.DWG	1 OF 1	0

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