

ORDINANCE NO. 22-1821

AN ORDINANCE OF THE CITY OF DENTON AUTHORIZING THE CITY MANAGER TO EXECUTE AN INTERLOCAL AGREEMENT BETWEEN THE CITY OF DENTON, TEXAS AND DENTON INDEPENDENT SCHOOL DISTRICT FOR THE JOINT USE OF THE MCMATH MIDDLE SCHOOL GOLD GYM AND FOR USE OF THE SOUTH LAKES PARK FOOTBALL, TRACK, TENNIS, AND SOFTBALL FIELDS

WHEREAS, Denton ISD and the City mutually desire to be subject to the provisions of Texas Government Code Chapter 791, the Interlocal Cooperation Act, which provides authorization for a local government to contract with one or more local governments or other state agencies to perform governmental functions and services under the terms of the Act; and

WHEREAS, Denton ISD and the City are mutually interested in an adequate program of educational and leisure related activities which can best serve the citizens of Denton; and

WHEREAS, the agreement between the City of Denton and Denton Independent School District is regarding the joint use of the McMath Middle School Gold Gym, South Lakes Park football, track, tennis, softball fields; and

WHEREAS, the Parties have agreed this Agreement would serve a public benefit and be beneficial to carry out the performance of governmental functions for the promotion and protection of the health and welfare of citizens within the Denton community, and full cooperation between the City and Denton ISD is necessary to achieve the best service with the least possible expenditure of public funds; and

WHEREAS, the City's Parks and Recreation Department desires access to the McMath Middle School Gold Gym after school hours for activities and Denton ISD desires use of the building site and adjacent football, track and softball fields at South Lakes Park; and

WHEREAS, City staff has reviewed the Interlocal Agreement between the City and Denton ISD and is of the opinion it should be approved; and

WHEREAS, the City of Denton City Council finds it is in the public interest to approve the Interlocal Agreement; NOW THEREFORE,

THE COUNCIL OF THE CITY DENTON HEREBY ORDAINS:

SECTION 1. The City of Denton City Council finds that the recitations contained in the preamble of this ordinance are incorporated herein.

SECTION 2. The City Manager, or designee, is further authorized to execute on behalf of the City the Interlocal Agreement with Denton ISD, a copy of which is attached hereto as Exhibit "A" and made a part hereof for all purposes.

SECTION 3. The City Manager, or designee, is further authorized to carry out all duties and obligations to be performed by the City under the Agreement.

SECTION 4. This ordinance shall become effective immediately upon its passage and approval.

The motion to approve this ordinance was made by Brian Beck and seconded by Chris Watts; the ordinance was passed and approved by the following vote [5 - 0]:

	Aye	Nay	Abstain	Absent
Mayor Gerard Hudspeth:	<u>✓</u>	_____	_____	_____
Vicki Byrd, District 1:	<u>✓</u>	_____	_____	_____
Brian Beck District 2:	<u>✓</u>	_____	_____	_____
Jesse Davis, District 3:	_____	_____	<u>✓</u>	_____
Alison Maguire, District 4:	_____	_____	<u>✓</u>	_____
Brandon Chase McGee, At Large Place 5:	<u>✓</u>	_____	_____	_____
Chris Watts, At Large Place 6:	<u>✓</u>	_____	_____	_____

PASSED AND APPROVED this the 27th day of September, 2021.




 GERARD HUDSPETH, MAYOR

ATTEST:
ROSA RIOS, CITY SECRETARY

BY: Rosa Rios

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY


 BY: _____



**INTERLOCAL AGREEMENT BETWEEN THE CITY OF DENTON, TEXAS AND
DENTON INDEPENDENT SCHOOL DISTRICT FOR THE JOINT USE OF THE
MCMATH MIDDLE SCHOOL GOLD GYM AND FOR USE OF THE SOUTH
LAKES PARK FOOTBALL, TRACK, TENNIS AND SOFTBALL FIELDS**

THIS AGREEMENT is made and entered into by and between the City of Denton, a Texas home rule municipal corporation (hereinafter "City") and Denton Independent School District (hereinafter "DISD"), a duly organized political subdivision of the State of Texas engaged in providing services to the citizens of Denton, Texas, each acting by, through, and under the authority of their respective governing bodies and officials. DISD and the City are referred to individually as "Party" and are collectively referred to herein as "Parties." This Agreement is for the purpose of providing for joint use of the McMath Middle School Gold Gym and for joint use of the South Lakes Park football, track, tennis, softball fields.

WHEREAS, DISD and the City mutually desire to be subject to the provisions of Texas Government Code Chapter 791, the Interlocal Cooperation Act, which provides authorization for a local government to contract with one or more local governments or other state agencies to perform governmental functions and services under the terms of the Act; and

WHEREAS, DISD and the City are mutually interested in an adequate program of educational and leisure related activities which can best serve the citizens of Denton; and

WHEREAS, the Parties have agreed that this Agreement would serve a public benefit and be beneficial to carry out the performance of governmental functions for the promotion and protection of the health and welfare of citizens within the Denton community, and full cooperation between the City and DISD is necessary to achieve the best service with the least possible expenditure of public funds; and

WHEREAS, the City's Parks and Recreation Department desires access to the McMath Middle School Gold Gym after school hours for activities and DISD desires use of the building site and adjacent football, track and softball fields at South Lakes Park.

NOW THEREFORE, the Parties, for the mutual consideration stated herein, agree and understand, as follows:

All matters and recitations stated in the preamble to this Agreement are true and correct and are hereby incorporated by reference into the provisions of this Agreement for all purposes.

Access

1. Denton ISD will provide an office and storage room for use by the City and will provide a set of keys for this area, as well as for a facility known to the parties at the time of formation as the "Gold gym" and the janitorial closet to perform required cleaning / maintenance. DISD will also retain a set of keys. City employees will also have access to the Gold gym office and storage room during all regular school operating hours. City employees must have identification badges to have access to the building.
2. City will have access to the Gold gym every evening between the hours of 6:00 p.m. and 10:15 p.m., except during scheduled school events and programs. Additionally, City will have access to the gym beginning thirty (30) minutes after the regular school day is over when there are no regularly scheduled activities, and on Saturdays between the hours of 7:00 a.m. and 10:00 p.m., and on Sundays between the hours of 12:00 p.m. and 10:00 p.m. and all other non-school days, unless a school activity has been previously scheduled. During the summer months, after school recesses concluding the spring semester, the City will have access to the gym between the hours of 7:00 a.m. and 10:00 p.m. weekdays. Weekend hours will remain the same. All activities will be concluded by 10:15 p.m., and the building will be cleaned and vacated by 10:45 p.m., whereupon the City will lock the gym upon departure with the keys provided.

City agrees to provide adequate staff that must have completed a criminal background check, in accordance with City and DISD policy, and picture identification badges to supervise the conduct of gymnasium patrons at all times during these activities, and to make reasonable efforts to stop or prevent disruptive, ill-mannered or destructive behavior by patrons in the gymnasium. However, this supervision shall not constitute an indemnification of damages caused by third party patrons, nor shall it be construed as a contractual obligation to assume responsibility for claims by DISD or third parties arising out of an alleged failure of the City to reasonably supervise.

The Parties shall cooperate with one another to prevent ill-mannered or destructive behavior from occurring on either Party's property by providing, upon request, to the other party any known names and addresses of those who participated in destructive behavior and taking reasonable action at the time of the occurrence of the incident to prevent the activity from occurring or reoccurring.

3. The City will provide the McMath Middle School Principal a list and criminal background checks of all employees scheduled to work in the facility once a month. City employees will sign in and out at the front desk, or other appropriate

locale, noting the City employee's name, time of entry and time of exit during school hours. City will ensure all employees maintain picture identification badges that work in the facility, and will be required to wear the identification badges in a manner that the badges are visible to all at all times the employee is on DISD property. Might it be wise management for City Employees to sign out even when it is after regular school hours?

Scheduling

4. DISD will provide on an annual basis, a schedule of school-sponsored activities and maintenance occurring in the Gold gym which would conflict with the city hours of operation in the facility. In the event that the Gold gym is unavailable for scheduled City activities, DISD, within reason, will make comparable and equivalent substitute facilities available.
5. The Parties will provide a 30 days' notice of any substantial changes to their schedule. The Parties will make every effort not to disrupt scheduled activities of either party.

Costs

6. All costs for utilities and regular custodial services will be absorbed by DISD, except as specifically provided otherwise herein. Should the City request custodial services, DISD will invoice \$25 per hour on a quarterly basis.

Equipment

7. The City will provide its own sports equipment, which will be stored in the designated storage room. School-owned equipment will be provided upon prior request, including, but not limited to, volleyball standards, scoreboard controls, basketball raising and lowering mechanism and bleacher control devices. City shall be responsible for any damage to DISD property provided to the City.

Signage

8. The City shall be allowed to use the brochure rack in the Gold gym to display information on Parks and Recreation's activities. The City will be allowed to display additional informational signage, as long as the City uses materials approved by DISD prior to placement of the signage.

Maintenance

9. DISD will provide adequate clean-up of school sponsored activities in the Gold gym and restrooms, which includes removing trash, sweeping and mopping floors and restocking paper supplies in the restrooms. The City, at its sole cost, will on each day in which the City has used the facilities provide trash bags and remove trash from the Gold gym and restrooms, and sweep the gym, and shall mop the floors of the Gold gym each week at the end of the day Saturday.

Access to Outdoor Facilities

10. DISD is authorized to utilize the football field, softball diamond, tennis courts and track in South Lakes Park, adjacent to the McMath building. DISD agrees to provide staff to supervise the conduct of students during school activities, and to make reasonable efforts to stop or prevent disruptive, ill-mannered or destructive behavior by students. However, this supervision shall not constitute an indemnification of damages caused by third parties, nor shall it be construed as a contractual obligation to assume responsibility for claims arising out of an alleged failure of the DISD to reasonably supervise. City will have access to these outdoor facilities when there are no regularly scheduled school activities. The tennis courts will be available for unstructured use after school hours. The school district will maintain the athletic fields and the area on the east side of the campus down to the vegetation line of the creek.

Warranties

11. The facilities, including all portions thereof and all equipment provided by either Party for use, are provided "As Is." Neither Party makes any representations, warranties, or guarantees, express or implied, including, without limitation, the warranty of merchantability and the warranty of fitness for a particular purpose, relating to the facilities or to either Party's use thereof.

Each party agrees to be responsible for any damages caused by the party's direct use of the other's Party's facilities or equipment, less depreciation. However, this responsibility shall not extend to damages caused in whole or in part by ordinary wear.

Consideration

12. DISD and City enter into this agreement on consideration of the mutual promises and duties set forth herein, and upon the right to jointly use facilities owned by

each. By execution of this agreement, the parties stipulate to the to the adequacy of consideration therefor.

Liability and Immunity

13. This Agreement is not intended to extend the liability of the parties beyond that provided by law. Neither Denton nor DISD waives, nor shall be deemed hereby to waive, any immunity or defense that would otherwise be available to it against claims arising by third parties. The parties to this Agreement agree that the exchanges and permitted uses described in this Agreement constitute payments in amounts that fairly compensate the other party for the services and functions performed under this Agreement.

In the performance of their respective duties hereunder, the Parties hereto and their respective employees and agents, are at all times acting and performing as independent contractors of each other. No Party will have the authority to act for or bind another Party in any respect or to incur or assume any obligation or liability, or responsibility on behalf of or in the name of another Party hereto. DISD agrees and understands that DISD, its employees, servants, agents, and representatives shall at no time represent themselves to be employees, servants, agents, and/or representatives of the City. The City agrees and understands that the City, its employees, servants, agents, and representatives shall at no time represent themselves to be employees, servants, agents, or representatives of DISD.

DISD shall be responsible for the acts, negligence, and/or omissions of all DISD, its employees, agents, subcontractors, and/or contract laborers and for all other persons doing work under a contract or agreement with the DISD.

The City shall be responsible for the acts, negligence, and/or omissions of all City employees, agents, subcontractors, and/or contract laborers and for all other persons doing work under a contract or agreement with the City.

Term and Termination

14. The initial terms of this Agreement is from the date of execution until the first day of the 2022-2023 school year. Thereafter, the agreement shall automatically renew for successive one-year periods, unless terminated by delivering written notice of non-renewal at least sixty (60) days prior to the end of that term. Notice shall be effective upon actual receipt (or upon posting of certified mail), if directed to the attention of the following individuals:

City Manager
City of Denton
215 E. McKinney
76201

Superintendent
Denton ISD
1307 N. Locust
76201

With Copies to:

Director
City of Denton
Parks and Recreation
601 E Hickory St
Denton, Texas 76205

Executive Director
Denton ISD
Operations
230 North Mayhill Road
Denton, Texas 76208

Supersede

15. This Agreement supersedes the letter agreement dated September 10, 1998, relating to joint use of the McMath facilities, but is not intended to supersede any other written agreement between the parties, except to the extent of a conflict.

Severability


16. If any of the terms, sections, subsections, sentences, clauses, phrases, provisions, covenants, conditions or any other part of this Contract are for any reason held to be invalid, void or unenforceable, the remainder of the terms, sections, subsections, sentences, clauses, phrases, provisions, covenants, conditions or any other part of this Contract shall remain in full force and effect and shall in no way be affected, impaired or invalidated, unless doing so would undermine the purposes of the Agreement.

Governing Law


17. This Agreement is entered into subject to the City Charter and Ordinances of the City of Denton as they may be amended from time to time and is subject to and is to be construed, governed, and enforced under all applicable State of Texas and Federal law. DISD enters into this Agreement subject to its policy and applicable laws of the State of Texas and the United States. Situs of this Agreement is agreed to be Denton County, Texas, for all purposes including performance and execution.

EXECUTED in duplicate originals this the 26 day of July 2022.

DENTON INDEPENDENT SCHOOL DISTRICT

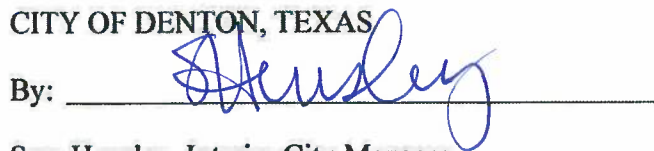
By: 
Dr. James K. Wilson, Superintendent

7-26-22
Date

By: 
Mia Price, Board President

7-26-22
Date

CITY OF DENTON, TEXAS

By: 
Sara Hensley, Interim City Manager

9/28/22
Date

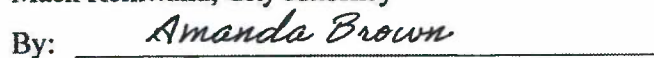
Attest: Rosa Rios, City Secretary

By: 

9/28/22
Date

Approved As To Legal Form:

Mack Reinwand, City Attorney

By: 

9-16-22
Date