

**--Joint Use Agreement:**

**Opening Outdoor School Facilities for Use During Non-School Hours**

AGREEMENT BETWEEN THE TUPELO PUBLIC SCHOOL DISTRICT (“DISTRICT”) AND THE CITY OF TUPELO (“CITY”) FOR USE OF SCHOOL AND PARK RECREATION FACILITIES.

**Recitals**

WHEREAS, the Tupelo Public School District and the City of Tupelo have an interest in promoting community recreation programs and activities to promote the health and general welfare of the community; and

WHEREAS, the District and the City are the owners of real property in the City, including facilities and active use areas that are capable of being used by the City for community recreational purposes; and

WHEREAS, under appropriate circumstances, these publicly held lands and facilities should be used most efficiently to maximize use and increase recreational opportunities for the community; and

NOW, THEREFORE, the District and the City agree to cooperate with each other as follows:

**1. Term**

This Agreement will begin on July 1, 2011 and end on June 30, 2012 unless sooner terminated as provided for hereinafter in Section 14.

**2. Effective Date**

This Agreement shall be effective when it is fully executed and upon inspection of affected property (as described hereinafter in Section 3) by District and City officials.

**3. Facilities covered**

The term “Active Use Areas” will be used for purposes of this Agreement to mean the designated fields, playgrounds, and parking lots.

The Active Use areas of the District covered by this agreement are:

- Carver Elementary School
- Lawhon Elementary School
- Milam School
- Pierce Street Elementary School
- Rankin Elementary School
- Thomas Street Elementary School

The Active Use areas of the City covered by this agreement are:

- Ballard Park East
- Dot Cooper Kelly Park

Rob Leake City Park  
Robins Field  
Theron Nichols Park  
Thomas Street Park

Terms of this Agreement shall apply to all Active Use Areas owned by the District and the City. The District and the City shall have the right to add or exclude Active Use Areas during the term of this Agreement, provided that any such change shall be in writing and approved by both the District and the City.

**4. Permitted Uses of Active Use Areas**

The District shall be entitled to the exclusive use of District Active Use Areas for public school and school-related educational and recreational activities, including summer school, and, at such other times as Active Use Areas are being used by the District or its agents.

The City shall be entitled to access Active Use Areas for use by the community during daylight hours on weekdays after school, weekends, and school holidays when the District or its agents are not using the Active Use Areas. Such use shall be referred to as “Public Access Hours.”

**5. Compliance With Law**

All use of District and City property shall be in accordance with state and local law. In the case of a conflict between the terms of this Agreement and the requirements of state law, the state law shall govern. Any actions taken by the District or the City that are required by state law, but are inconsistent with the terms of this Agreement shall not be construed to be a breach or default of this Agreement.

**6. Obligations of City**

**a. Designation of Employee**

The Director of Tupelo Department of Parks and Recreation or his designee shall designate an employee with whom the District, or any authorized agent of the District, may confer regarding the terms of this Agreement.

**b. Access and Security**

Active Use Areas during will be open during Public Access Hours.

**c. Inspection and Notification**

The City staff shall inspect the Active Use Areas to ensure that these sites are in good and safe condition. The staff shall ensure that the District or the City is notified within 24 hours in the event that an Active Use Area is damaged.

**d. Supervision**

The City shall provide personnel necessary for the direction or supervision of activities sponsored by the City or District at Active Use Areas. The City shall enforce all District and City rules, regulations, and policies while directing community recreational activities at Active Use Areas.

**e. Equipment and Storage**

The City shall furnish all expendable materials necessary for carrying out its programs.

**f. Custodial**

The City shall make its trash receptacles available. The City encourages community users to dispose of trash in the trash receptacles. If there is a significant increase in trash volume, the City shall provide custodial services necessary to keep the Active Use Areas in a neat, orderly, and sanitary condition at all times.

**7. Obligations of District**

**a. Designation of Employee**

The Superintendent or his designee shall be the designated employee with whom the City, or any authorized agent of the City, may confer regarding the terms of this Agreement.

**b. Access and Security**

The District shall provide access to the Active Use Areas during Public Access Hours. Public Access Hours shall be 4:00 p.m. until dark on school days and 7:00 a.m. until dark on weekends and school holidays.

**c. Inspection and Notification**

The District shall inspect the Active Use Area to ensure that these sites are in good and safe condition. A comprehensive inspection shall be performed quarterly on each playground. If an area is found to be unsafe, the district shall act accordingly to either immediately repair the equipment or barricade it to prevent use until it can be properly repaired.

**d. Custodial**

The District shall make its trash receptacles available during Public Access Hours. The City shall encourage community users to dispose of trash in the trash receptacles. If there is a significant increase in trash volume, the District shall notify the City's designated employee so that the City may provide custodial services necessary to keep the Active Use Areas in a neat, orderly, and sanitary condition at all times during the Public Access Hours.

**8. Maintenance**

The District and City shall perform normal maintenance of Active Use Areas at basic level of service subject to normal wear and tear. They notify each other of any known change in condition of the Active Use Areas.

**9. Restitution and Repair**

The City and the District shall be wholly responsible for repairing, remediating, or funding the replacement or remediation of any and all damage or vandalism to the Active Use Areas.

- a. Inspection and Notification** The District and City shall, through its designated representatives, inspect and notify the District or City of any damage.

- b. **Repairs** Except as mutually agreed, the City or District shall not cause repairs to be made for any building, facility, property, or item of equipment for which the City or District is responsible.

## 10. Liability and Indemnification

- a. The City shall defend, indemnify, and hold the District, its officers, employees and agents, harmless from and against any and all liability, loss, expense, attorneys' fees or claims for injury or damages, arising out of the performance of this Agreement, but only in proportion to and to the extent such liability, loss, expense, attorneys' fees, or claims for injury are caused by or result from the negligent or intentional acts or omissions of the City, its officers, agents or employees.
- b. The District shall defend, indemnify, and hold the City, its officers, employees and agents, harmless from and against any and all liability, loss, expense, attorneys' fees or claims for injury or damages, arising out of the performance of this Agreement, but only in proportion to and to the extent such liability, loss, expense, attorneys' fees, or claims for injury are caused by or result from the negligent or intentional acts or omissions of the District, its officers, agents or employees.

## 11. Insurance

The City and the District agree to provide the following insurance in connection with this Agreement.

- a. Commercial General Liability for bodily injury and property damage, including Personal Injury and Blanket Contractual, with limits of \_\_\_\_\_ per occurrence \_\_\_\_\_ aggregate.
- b. Workers' Compensation. Workers' compensation coverage, as required by Mississippi state law.
- c. Documentation of Insurance. The City and the District shall provide to each other a certificate of insurance each year this Agreement is in effect showing proof of the above coverage. In the event the City or the District is self-insured for the above coverage, such agency shall provide a letter stating its agreement to provide coverage for any claims resulting from its negligence in connection with joint use facilities in the above amounts.

## 12. Evaluation/Conflict Resolution

- a. The City and the District shall establish a Joint Use Interagency Team, composed of staff representatives of the City and the District, to monitor the joint use project and Agreement for its duration. The Interagency Team shall hold conference calls or meetings as needed to review the performance of the project and to confer to discuss interim problems during the term of the Agreement

- b. The Joint Use Interagency Team shall review the Agreement by May 31<sup>st</sup> of each year to evaluate the Project and to propose amendments to this Agreement.

**13. Termination**

This Agreement may be terminated at any time prior to its expiration upon ten (10) days written notice to the other party.

**14. Entire Agreement**

This Agreement constitutes the entire understanding between the parties with respect to the subject matter and supersedes any prior negotiations, representations, agreements, and understandings.

**15. Amendments**

This Agreement may not be modified, nor may compliance with any of its terms be waived, except by written instrument executed and approved in the same manner as this Agreement.

**16. Authority**

The individuals executing this Agreement represent that they have authority to sign on behalf of the parties to this Agreement.

Tupelo Public School District

The City of Tupelo

By: \_\_\_\_\_  
(Type in name)

By: \_\_\_\_\_  
(Type in name)

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_