

**Joint Use Agreement(Amended December 2012):
~~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 the Effective Date and shall continue month to month unless sooner terminated as provided for hereinafter in Section 14.

2. Effective Date

This Agreement shall be effective when it is fully executed 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, buildings, playgrounds, and parking lots.

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

Carver Elementary Playground
Lawhon Elementary Gym
Milam Playground and Gym
Pierce Street Elementary Playground
Rankin Elementary Playground
Thomas Street Elementary Playground
Lawndale Elementary Playground
Tupelo Middle School Gym
Tupelo High School Gym and Stadium

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

Ballard Park East Playground
Dot Cooper Kelly Park Playground
Rob Leake City Park Playground, Tennis Courts, Swimming Pool
Robins Field Playground
Theron Nichols Park Playground and Baseball Fields
Thomas Street Park
Sportsplex Soccer and Baseball Fields
Cross Country Trail

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 District 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 District Active Use Areas are being used by the District or its agents.

The City shall be entitled to access Active Use Areas (excluding Gyms) 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." All access of gyms must be coordinated between the District and City prior to their use through their designated representative.

5. Permitted Uses of City Active Use Areas

The District shall be entitled to use City Active Use Areas for public school and school-related educational and recreational activities during regularly scheduled school hours to the extent that its use does not interfere with general community use of City Active Use Areas. All after school activities must be coordinated between the District and City prior to use through their designated representative.

6. 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.

7. Obligations of City

a. Designation of Employee

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

b. Access

City Active Use Playground Areas will be open to the District during regularly scheduled school hours all other use of City Active Use Areas must be coordinated prior to use through the Cities designated representative.

c. Inspection and Notification

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

d. 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.

8. 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 District Active Use Playground 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. Access to all gyms must be coordinated prior to use through the designated representative of the District and the City.

c. Inspection and Notification

The District shall inspect the District Active Use Area to ensure that these sites are in good and safe condition. A comprehensive inspection shall be performed quarterly on each District Active Use Area. If a District Active Use 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.

9. Maintenance

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

10. 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 their respective Active Use Areas.

11. Liability and Indemnification

- a. To the extent allowed by law, 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. To the extent allowed by law, 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.

12. 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 \$1,000,000 per occurrence \$2,000,000 aggregate.

- b. 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.

13. 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 31st of each year to evaluate the Project and to propose amendments to this Agreement.

14. Termination

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

15. 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.

16. 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.

17. 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: _____