

**INTERGOVERNMENTAL AGREEMENT
BETWEEN THE CITY OF MARICOPA AND THE
MARICOPA UNIFIED SCHOOL DISTRICT
FOR JOINT USE OF FACILITIES**

THIS INTERGOVERNMENTAL AGREEMENT (“Agreement”) is made this _____ day of _____, 2008, by and between the Maricopa Unified School District #20, (“District”) and The City of Maricopa, Arizona, an Arizona municipal corporation (“City”).

RECITALS

WHEREAS, the Parties are authorized to enter into this Agreement by A.R.S. §§ 11-951 et seq., 15-342(13), 15-363 and 15-364;

WHEREAS, District and City want to participate in the sharing, combining or joint usage of District Facilities and/or physical resources whenever possible to benefit the community;

WHEREAS, District may cause the construction of improvements on District property located within the City to be used for recreational purposes. These improvements include, but are not limited to, meeting places, gymnasiums, play fields, ball fields, basketball courts, and playground equipment;

WHEREAS, District and City want the facilities at all school and municipal sites within the City to be available for use by the community as public recreation centers to the greatest extent possible; and

WHEREAS, both District and City believe that the public would be served by allowing City to use mutually agreed upon District facilities for City’s recreation programs under the discretion of District.

NOW THEREFORE, District and City agree to provide the services and facilities required according to the terms and conditions and for the consideration hereinafter set forth:

Purpose.

1. The primary purpose of this Agreement is for:

- A. The waiving of District usage fees for usage of District Facilities for City sponsored recreational and educational programs in exchange for the waiving of City permit, ~~and~~ plan review, or development services fees for District construction of new schools and/or improvements to existing District Facilities.

2. District’s Obligations

A. Use by the City of District Facilities:

- 1. The District shall permit the City to use District Facilities at no cost to the City for the number of hours requested by the City during the Scheduling Period in the form substantially similar to Appendix One (1).

2. "District Facilities" will include playing fields, multi purpose rooms (MPR), and classrooms, including art and music rooms at District sites of two (2) years or older or as determined by District administrative staff.
3. City shall use District Facilities to conduct City sponsored sporting, civic, and Maricopa Parks and Recreation program events, to be referred to from this point as "Scheduled Events".
4. City shall be subject to all District policies and regulations for the use of District Facilities prescribed by the Governing Board except as amended by this Agreement.
5. City shall not interfere with or disrupt the normal operations of District.

B. Scheduling Events:

1. No later than sixty (60) days before the beginning of each of the three (3) academic semesters ("Scheduling Period"), City and District representatives shall meet and agree upon times, dates, and locations of all Scheduled Events based on City's usage request in the form substantially similar to Appendix One (1)
2. All efforts will be made to maintain consistency in time, date, and location of repetitive City events.
3. City will have priority use over new requests by other organizations prior to the beginning of the Scheduling Period.
4. City will not have priority over preexisting usage requests by other organizations, reoccurring usage of an ongoing nature, or over any other organization during the Scheduling Period, once the Scheduling Period has begun.
5. District shall have final approval of times, dates and locations of all Scheduled Events. City shall be subject to operational rules prescribed by District's Governing Board and by the District reservation procedures for requests made in addition to those agreed upon during the Scheduling Period.

C. Reservation Reliability:

1. District will honor all Scheduled Events and ensure that facilities reserved by City in this process are not double-booked.
2. In the event that facilities reserved for Scheduled Events become unusable, or if Arizona Interscholastic Association (AIA) events must be added, District will notify City at the earliest opportunity and work with City to relocate the event to a different facility on the same date.

D. Rescheduling and Scheduling Additional Events:

1. At all times, District and City will work together to accommodate the needs of all organizations and to resolve any unexpected scheduling conflicts.

2. Any additional events scheduled by City after the beginning of the Scheduling Period will be scheduled with no priority. Fees will not be charged provided that the total accumulated requested hours, as agreed upon during the Scheduling Period, have not be reached

E. Miscellaneous

1. In no event shall District Facilities be used by City for third party fundraising activities.

F. Facilities Maintenance.

1. District shall at all times, during the term of this Agreement, be responsible for the normal maintenance and wear and tear of District Facilities.
2. City agrees to operate Scheduled Events at District Facilities in a safe and secure manner, to require responsible usage of District Facilities, and to maintain District Facilities in proper condition during Scheduled Events.
3. City agrees all District Facilities are non-smoking facilities and use of intoxicants or narcotics is strictly prohibited.
4. City agrees it will not be permitted to make any changes to, remove, or displace District furniture or equipment without permission of the District.
5. City may be permitted to, at the discretion of the District, use equipment that requires an operator, provided the operator is approved by the District.
6. The number of people present at District Facilities shall not exceed the posted capacity.

G. Damage or Loss:

1. City shall be responsible for the cost of any repairs, damage, or loss resulting from City use of District Facilities. Costs shall be established by the office of the Business Manager, and an invoice shall be submitted to City for payment.
2. If District Facilities are left littered and/or unsanitary, City will be invoiced for the cost necessary to clean District Facilities.

H. Staffing Responsibility:

1. City is responsible for staffing and controlling the use of any District Facility being used for City Scheduled Events.
2. District staff members shall ensure that facilities are unlocked a minimum of 15 minutes prior to start time and 15 minutes after the completion of any Scheduled Events unless otherwise requested by City.
3. District staff will not unlock a room unless a City representative has arrived for the event and city staff will remain on site unless District staff has returned.

4. City will fund an unlock and lock fee, per event, for Scheduled Events held during times when District maintenance or custodial staff are already on site but district staff attendance will not be required. City staff will maintain radio and/or cell communication with a designated District staff person on site.
5. City will fund a District staff person to ensure District staff coverage of Scheduled Events during times when District maintenance or custodial staff are not normally on site of scheduled facilities to be used, such as weekends.
6. District Administrative Staff may delegate these responsibilities to City as deemed appropriate.

3. City's Obligation

A. Facility Construction Fees.

1. The City shall not charge permit, plan review or development services fees required for construction of new schools and/or improvements to existing District Facilities during the term of this Agreement as long as these fees do not exceed the value of the City's usage of District Facilities as approved by the District during the Scheduling Period in the form substantially similar to Appendix One.

4. Finance and Budget

Each party agrees that the District will use its funds to finance its costs for its improvements and related expenses on District property located within the City. This Agreement shall be limited to the terms expressed herein and shall not apply to any other requirements imposed by the City or state statute regarding construction or development including, but not limited to, the construction and dedication of public rights-of-way and/or improvements.

5. Shared Facilities Stipulation

A. Charges for Use of Facilities. District shall not impose any usage, staffing or maintenance fees not set forth herein during the term of this agreement on the City for use of District Facilities unless the City exceeds its hourly usage request for the term of this Agreement.

B. Past Usage and Fees. District agrees to waive any rental charges or usage, staffing or maintenance fees that may have been incurred by the City, since incorporation and the City agrees to waive any unpaid or outstanding construction permit and plan review fees incurred by the District during facility construction since incorporation of the City.

C. Other Expenses. Unless otherwise specifically provided in this Agreement, maintenance, expenses, taxes and any and all other financial obligations with regard to property to which District holds title shall be the sole responsibility of the District.

Common Terms and Agreements

6. Insurance.

- a. Each Party shall provide and maintain in full force while this agreement is in effect (i) Public Liability and property damage insurance from a reliable insurance company authorized to transact business in Arizona in an amount of not less than \$1,000,000 for bodily injury or death or property damage, one occurrence, and (ii) workers' compensation insurance as required by Arizona law. Public liability and property damage insurance shall list the other party as an additional insured.
- b. Each Party shall provide proof of such insurance on an annual basis, and within thirty (30) days after each Party renews its insurance coverage.
- c. Either Party that obtains knowledge of any injury, loss, damage or claim arising out of the use of the facilities which may subject the other Party to any liability shall immediately give written notice of such possible claim to the other Party.
- d. In the event that a claim is made against either or both Parties to this Agreement and both Parties have obtained insurance coverage from an insurance company, the primary insurance shall be that of the Party who was assigned the use of the facilities at the time of the event giving rise to such claim, absent a showing that the damage to property or injury to or death of person(s) arose out of the sole act, omission or negligence of the other Party or its departments, officers, employees and/or agents.

7. Indemnification. To the extent permitted by law, the City agrees to indemnify, save and hold harmless the District from any loss, claims or damages that may arise during, or be caused in any way by, the City's use of District Facilities.

8. Duration of Agreement. This Agreement shall be effective upon approval by both City's Mayor and the Council, and District's Governing Board. This Agreement shall remain in effect until terminated pursuant to the provisions provided hereunder, otherwise this Agreement shall be of one (1) years duration from the effective date of this Agreement, and will continue unless canceled in writing by the Parties. If the duration of this Agreement is found to be unlawful, then the duration of this Agreement shall extend for the longest period of time which is permissible by law, at the end of which time, this Agreement shall terminate.

9. Default, Breach, Remedies and Termination. This Agreement may be terminated by either party if in its judgment such action is necessary due to: 1) funding; 2) statutory changes; 3) failure to perform; or 4) non-compliance with this Agreement. If either Party fails to perform any of its obligations under this Agreement or fails to comply with the terms of this Agreement, such failure shall constitute a default. The non-defaulting Party shall give the defaulting Party written notice of the default. The defaulting Party shall have thirty (30) days after the receipt of such notice in which to cure the default. Failure to timely cure the default shall constitute a breach of this Agreement. In the event of a breach, the non-breaching Party may terminate this Agreement and obtain any remedy provided by law. Termination may otherwise occur by either party providing written notice to the other party ninety (90) days prior to the effective date of termination.

10. Disposition of Property. Upon termination of this Agreement for any reason, District shall retain all property to which it holds title, including improvements.

11. Assignment and Delegation Prohibited. Neither Party may assign any of its rights nor delegate any of its duties under this Agreement without the prior written consent of the other Party which may be withheld for any reason or for no reason.

12. No Third Party Beneficiaries. Only the Parties may enforce this Agreement. The Parties do not intend through this Agreement to confer enforceable rights on any non-Party and do not intend to create any third Party beneficiaries to this Agreement.

13. Notices. All notices to the other party required under this Agreement shall be in writing and sent by first class certified mail, postage prepaid, return receipt requested, addressed to the following personnel:

If to City: City of Maricopa
Attn: City Manager
PO Box 610
Maricopa, AZ 85239

If to District: Maricopa Unified School District
Attn: Facilities Manager
45012 West Honeycutt Avenue
Maricopa, AZ 85239

14. Amendment to Agreement. This Agreement may be amended from time to time by written agreement of both Parties.

15. Waiver of Terms and Conditions. The failure of City or District to insist in any one or more instances on performance of any of the terms or conditions of this Agreement or to exercise any right of privilege contained herein shall not be considered as thereafter waiving such terms, conditions, rights or privileges, and they shall remain in full force and effect.

16. Section Headings. Captions and section headings used herein are for convenience only, are not a part of this Agreement, shall not be deemed to limit or alter any provisions hereof, and shall not be deemed relevant in construing this Agreement.

17. Governing Law and Venue. The terms and conditions of this Agreement shall be governed by and interpreted in accordance with the laws of the State of Arizona. Any action at law or in equity brought by either Party for the purpose of enforcing a right or rights provided for in this Agreement shall be tried in a court of competent jurisdiction in Pinal County, State of Arizona. The Parties hereby waive all provisions of law providing for a change of venue in such proceeding to any other county. If there is a dispute that is subject to the mandatory provisions of ARS 12-133, the parties shall submit the matter to non-binding arbitration. In the event either party shall bring suit to enforce any term or condition in this Agreement, it is mutually agreed that the prevailing Party in such action shall recover all costs including: all litigation and appeal expenses, collection expenses, reasonable attorneys' fees, necessary witness fees and court costs to be determined by the court in such action.

18. Entire Agreement. This Agreement and any attachments represents the entire Agreement between City and District and supersedes all prior negotiations, representations or agreements, either express or implied, written or oral. It is mutually understood and agreed that no alteration or variation of the terms and conditions of this Agreement shall be valid unless made in writing and signed by the Parties hereto. Written and signed amendments shall automatically become part of the Agreement, and

shall supersede any inconsistent provision therein; provided, however, that any apparent inconsistency shall be resolved, if possible, by construing the provisions as mutually complementary and supplementary.

19. Non-Discrimination. Both parties shall comply with all applicable State and Federal employment laws, rules, and regulations including the Americans with Disabilities Act and Executive Order 99-4, which requires that all persons shall have equal access to employment opportunities regardless of race, color, religion, sex, age, national origin or political affiliation.

20. Recordation. This Agreement shall be filed with the Pinal County Recorder pursuant to ARS 11-952(G) and shall become effective on the date provided herein.

21. Severability. If any part, term or provision of this Agreement shall be held illegal, unenforceable or in conflict with any law, the validity of the remaining portions and provisions hereof shall not be affected.

22. Conflicts of Interest. The provisions of A.R.S. §38-511 relating to cancellation of contracts due to conflicts of interest shall apply to this contract.

IN WITNESS WHEREOF, the parties have caused this Agreement to be signed by their duly authorized representatives as of the day and year first above written.

MARICOPA UNIFIED SCHOOL
DISTRICT #20

CITY OF MARICOPA

By _____
Board President

By _____
Mayor

ATTEST:

ATTEST:

Superintendent

City Clerk

APPROVED:

APPROVED:

Pinal County Attorney
For the Maricopa School District

Denis M. Fitzgibbons, City Attorney

Appendix One

A. Requested 12 Month Facility Usage by the City of Maricopa.

- Practice fields: 640 hours with 10% on weekends. 3 hour increments on weekdays/8 hours on weekends. Multiple sites needed.
- Multi Purpose Room/Small Gym: 740 hours with 50% on weekends. 3 hour increments on weekdays/8 hours on weekends. Multiple sites needed.
- Classrooms: 124 hours (62- 2 hour classes) 0% on weekends.
- Classrooms: 110 hours (45- 2.5 hour classes) 20% on weekends.
- Art Rooms: 12 hours (8- 1.5 hour classes) 0% on weekends.
- Music rooms: 24 hours (4- 6 hour classes) 0% on weekends.
- Civic meeting space: 100 Hours, 16 event sessions, 4 session on weekends

Class 2 cost	Hourly Cost	Total Hours	Total events	Weekday Hours	Weekday Duration Hours	Weekday events	Weekend Hours	Weekend Duration Hours	Weekend Events	Cost per year
Practice Fields	\$50	640	144	512	4	128	128	8	16	\$32,000
MPR/Gym	\$120	740	139	370	4	93	370	8	46	\$88,800
Classroom 1	\$40	124	62	124	2	62	0	2	0	\$4,960
Classroom 2	\$40	150	60	135	2.5	54	15	2.5	6	\$6,000
Classroom Art	\$50	12	8	12	1.5	8	0	1.5	0	\$600
Classroom Music	\$50	24	4	24	6	4	0	6	0	\$1,200
Civic Meeting Space	\$40	110	34	55	2	28	55	8	7	\$4,400
Custodial Service	\$30	183								\$5,490
Key Service	\$5	376								\$1,880
									Total	\$143,450

Final For Passage

Appendix Two

B. Estimated Construction Projects for the next 12 months requiring building permits and plan review for MUSD by the City of Maricopa

- New District Office Complex – Senita site
- New Transportation complex _ site to be determined
- Gym Addition - Maricopa Wells site
- Maricopa High School Phase III projects – Maricopa High School site

	Estimated Range	Cost for Permit and Plan review
District Office Complex	40K to 50K	45K
Transportation complex	20K to 40K	30K
Gym Addition	10K to 20K	15K
High School Phase III	15k to 25K	20K
Total Value	85K to 135K	110K

Final For Passage

Appendix Three

C. Replacement language for Section 4 based on agreement by Maricopa Unified School District Attorney and City of Maricopa Attorney

1. Old language include in your packet version of the IGA to be replaced

Finance and Budget

Each party agrees that the District will use its funds to finance its costs for its improvements and related expenses on District property located within the City and City will use its funds to finance its costs for its improvements and related expenses on City property located within the City.

2. New language agreed to by attorneys for both parties to replace existing language in packet

Finance and Budget

Each party agrees that the District will use its funds to finance its costs for its improvements and related expenses on District property located within the City. **This Agreement shall be limited to the terms expressed herein and shall not apply to any other requirements imposed by the City or state statute regarding construction or development including, but not limited to, the construction and dedication of public rights-of-way and/or improvements.**