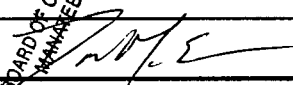


**MANATEE COUNTY GOVERNMENT**  
**AGENDA MEMORANDUM**

<b>SUBJECT</b>	Intergovernmental Agreement for Joint Use of Shared Recreational and Parking Area of the Martha B. King Middle School	<b>TYPE AGENDA ITEM</b>	Consent
<b>DATE REQUESTED</b>	November 3, 2009	<b>DATE SUBMITTED/REVISED</b>	October 22, 2009
<b>BRIEFINGS? Who?</b>	None	<b>CONSEQUENCES IF DEFERRED</b>	None
<b>DEPARTMENT/DIVISION</b>	Parks and Recreation/ Administration	<b>AUTHORIZED BY TITLE</b>	Cindy Turner, Director
<b>CONTACT PERSON TELEPHONE/EXTENSION</b>	Cynthia Gray/742-5922 x6002	<b>PRESENTER/TITLE TELEPHONE/EXTENSION</b>	Mike Whelan/Policy and Program Coordinator/ x6005
<b>ADMINISTRATIVE APPROVAL</b>		 <small>BOARD OF COUNTY COMMISSIONERS MANATEE COUNTY, FLORIDA</small>	
<b>ACTION DESIRED</b>			
INDICATE WHETHER 1) REPORT; 2) DISCUSSION; 3) FORM OF MOTION; OR 4) OTHER ACTION REQUIRED			
<p>Authorization for the Chairman to execute the attached Intergovernmental Agreement for Joint Use of the Shared Recreational and Parking Area of Martha B. King Middle School between the School Board of Manatee County and Manatee County Government .</p>			
<b>ENABLING/REGULATING AUTHORITY</b>			
Federal/State law(s), administrative ruling(s), Manatee County Comp Plan/Land Development Code, ordinances, resolutions, policy			
<ul style="list-style-type: none"> <li>• Manatee County Comprehensive Plan, Recreation and Open Space Element Goal 8.1, Objective 8.1.1</li> <li>• Section 163.01, F.S., The Florida Interlocal Cooperation Act of 1969</li> <li>• Interlocal Agreement for the Use of Recreational Facilities by and between the County of Manatee, Florida, and the School Board of Manatee County, Florida executed October 3, 1995</li> </ul>			
<b>BACKGROUND/DISCUSSION</b>			
<ul style="list-style-type: none"> <li>• 10/03/95 – Manatee County and the School Board signed an Interlocal Agreement for shared use of school/park facilities. In the spirit of the agreement, the School Board has proposed joint-use of a portion of King Middle School tennis courts and parking area for non-fee based recreational use.</li> <li>• 9/16/08 – Dr. Roger Dearing, who retired earlier this year as Manatee County School Superintendent, contacted Cindy Turner, Manatee County Parks and Recreation Director, to discuss possible limited use (subordinate to school-use) by the public, of the tennis courts, playing fields and yet to be built restrooms, on School Board property, adjacent to the Martha B. King Middle School.</li> <li>• 10/04/08 – Cindy Turner met with County Administrator, Ed Hunzeker, to discuss the possibility of creating an Interlocal Agreement and the possible costs and benefits to the public.</li> <li>• 11/13/08 – Parks and Recreation Department received a draft copy of County School Board proposed agreement from Mike Pendley, Executive Planner, School District of Manatee County.</li> <li>• 12/12/08 – A joint meeting of County Administrative staff with School Board personnel was held at which the School Board draft proposal was discussed and amendments agreed upon.</li> <li>• 12/16/08 – E-mail received by Cindy Turner from Mike Pendley outlining agreed upon changes to the School Board of Manatee County draft proposal.</li> </ul>			

- 1/05/09 – Draft of proposal received by Cindy Turner from Mike Pendley.
- 1/10/09 – Notification from CAO of RLS closure due to Pat McVoy retirement.
- 2/09/09 – Issuance of new Request for Legal Services was forwarded to the County Attorney’s Office requesting review of third draft proposal from School Board staff.
- 3/10/09 – Cindy Turner and Parks and Recreation staff, met with Sr. Assistant County Attorney, Jim Minix for review of proposed agreement. Mr. Minix recommended incorporation of several additional changes to terms and stipulations wording.
- 3/11/09 – Changes made to Agreement terms and stipulations by staff and forwarded to School Board staff for review and comment.
- 4/27/09 – School Board staff accepted changes and forwarded Agreement to Manatee County School Board for passage and signing at their regular School Board Meeting rather than sending the draft agreement back to County for final CAO review.
- 6/03/09 – School Board executed Martha B. King Middle School Intergovernmental Agreement for Joint Use of Facilities is received by Parks and Recreation staff and prepared for BCC Agenda submission.
- 6/22/09 – With further review by CAO and through additional communication with School Board staff, new stipulations and terms are agreed upon and written into the yet to be BCC approved agreement, and once again, sent to School Board staff for review and comment.
- 9/28/09 – After further negotiation and revision, the Intergovernmental Agreement, with its current language and terms, is again voted on and passed by the Manatee County School Board and forwarded to the County Attorney’s Office processing through the Parks and Recreation Department. Terms of the Agreement include:
  - Use of facilities for public non-fee based recreation.
  - Use of bathroom facilities when completed.
  - Use of recreation area, twelve (12) tennis courts, and parking by the public at all times not in use by the school system. The County will develop, at least annually, a list of dates and times for desired use of facilities, to be approved by the School Superintendent.
  - County may install and maintain lighting at its sole cost if after dark use is desired.
  - The School Board shall be responsible for maintaining the Shared Recreation and Parking Area except that the County shall be responsible for the cost of repairs due to vandalism or abuse that might occur during use by the public. Such repairs will occur within thirty (30) days of notification by the School Board, unless deemed to be dangerous or detrimental to the school program, in which case the school Board will order the immediate repair and invoice the County.

**COUNTY ATTORNEY REVIEW**

Check appropriate box	
<input checked="" type="checkbox"/>	<b>REVIEWED</b> Written Comments: <input type="checkbox"/> Attached <input checked="" type="checkbox"/> Available from Attorney (Attorney's initials: <u>JM</u> )
<input type="checkbox"/>	<b>NOT REVIEWED (No apparent legal issues.)</b>
<input type="checkbox"/>	<b>NOT REVIEWED (Utilizes exact form or procedure previously approved by CAO.)</b>
<input type="checkbox"/>	<b>OTHER</b>

**ATTACHMENTS:** (List in order as attached)

**INSTRUCTIONS TO BOARD RECORDS:**

<ul style="list-style-type: none"> <li>• Intergovernmental Agreement</li> <li>• Site Plan - Exhibit A</li> <li>• Site Plan - Exhibit B</li> </ul>	Please forward one approved Agenda to Cynthia Gray, Parks & Recreation.		
COST:	Cost to County will be incurred if vandalized during public use.	SOURCE (ACCT # & NAME):	0010012400 Parks Maintenance
COMMENTS:	N/A	AMT./FREQ. OF RECURRING COSTS: (ATTACH FISCAL IMPACT STATEMENT)	N/A

**INTERLOCAL AGREEMENT FOR  
JOINT USE OF PORTIONS OF MARTHA B. KING MIDDLE SCHOOL SITE**

This Interlocal Agreement is made pursuant to § 163.01, Florida Statutes (2008) and entered into between The School Board of Manatee County, a public body corporate created and existing under the laws of the State of Florida, whose address is 215 Manatee Avenue West, Bradenton, Florida 34205, (hereinafter "School Board") and Manatee County, a political subdivision of the State of Florida, whose address is 1112 Manatee Avenue West, Bradenton, Florida 34205, (hereinafter "County").

**WITNESSETH:**

WHEREAS, the Florida Interlocal Cooperation Act, § 163.01, Fla. Stat. authorizes local government units to cooperate in order to provide services and facilities that will accord best with geographic, economic, population and other factors influencing the needs and development of local communities; and

WHEREAS, the School Board owns certain property located at 600, 700 and 808 75<sup>th</sup> Street Northwest, Bradenton, PID numbers 3837010002, 3837010051, 3837010150 and 3837000607, as depicted on Exhibit "A" attached hereto, in western Manatee County, hereinafter referred to as "King Middle School," which is a public school; and

WHEREAS, the School Board has offered the County limited use of those portions of the King Middle School property depicted on Exhibit "B" attached hereto , hereinafter referred to as "Shared Recreational and Parking Area", for recreational and parking purposes; and

WHEREAS, the County has indicated interest in using the Shared Recreational and Parking Area for limited use recreational purposes as part of its parks and recreation program; and

WHEREAS, the Interlocal Agreement for Public School Facility Planning of March 13, 2008, Section 8.1 requires the County and School Board to look for opportunities to co-locate and share use of facilities; and

WHEREAS, the School Board and the County have agreed to cooperate in using the Shared Recreational and Parking Area, under the terms and conditions set forth in this Agreement.

## PROVISIONS:

**NOW THEREFORE**, in consideration of the mutual covenants contained herein and other good and valuable consideration, receipt of which is hereby acknowledged, the parties agree as follows:

**Section 1.** Recitals. The foregoing recitals clauses are true and accurate and are hereby incorporated herein.

**Section 2.** Agreed Terms.

A. The School Board agrees to allow the County to use the Shared Recreational and Parking Area for non-fee based recreational use by the public and associated parking purposes as set forth in this agreement.

B. The School Board intends to construct a restroom facility at the Shared Recreational and Parking Area to serve the School District's Students. Once completed, the County may use such facility subject to the conditions set forth herein.

C. The County agrees that it shall not object to future School Board modifications to the Shared Recreational and Parking Area to meet current or future needs of the School Board, subject to all applicable permitting requirements.

D. The Shared Recreational and Parking Area shall be reserved for exclusive use by King Middle School during school hours and for School Board uses (e.g. team practice) during off-school hours. The County may utilize the Shared Recreational and Parking Area at all times other than when King Middle School is in session, or when there are no other scheduled School Board activities.

E. The County shall develop a list of dates and times desired for its use and submit such times for review to the attention of the District Superintendent or his designee (hereinafter referred to as the "Superintendent"). Subject to the requirements of Section 2.D. above, such schedule shall be submitted no less than annually, on or before August 10<sup>th</sup> of each year and shall be approved by the Superintendent, whose approval shall not be unreasonably withheld.

F. The County, at its sole cost, may install night lighting at the Tennis Courts in the Shared Recreational and Parking Area upon review and approval of any such plans by the Superintendent. The installation shall be conducted in such a manner and time so as not to interfere with School Board activities at the Tennis Courts. The installation shall be accomplished in compliance with all requirements of all local, state and federal governmental authorities having jurisdiction thereof. Any such lighting shall become the property of the School Board; provided, however, that all maintenance, repair and operating expense will be the sole responsibility of the County.

G. The School Board shall be responsible for maintaining the Shared Recreational and Parking Area, except that the County at County's sole expense, shall be responsible for repairing and correcting any damage due to vandalism or abuse to the Shared Recreational and Parking Area that occurs during County's use. Any such vandalism related repair which is the responsibility of the County shall be corrected within 30 calendar days after notice from the School Board. For such acts of vandalism that demand a more urgent corrective timeframe due to the dangerous character or detriment to the educational program, the School Board may notice the County and immediately make the repair on the County's behalf and invoice the County for actual costs.

**Section 3.** Notice. Notices required to be given by this Agreement shall be in writing and hand-delivered or sent by certified United States mail, return receipt requested, addressed to the persons and places specified for giving notice below, or to such other person or place specified for giving notice as designated by written notice in the manner provided above.

FOR MANATEE COUNTY: County Administrator  
1112 Manatee Avenue West  
Post Office Box 1000  
Bradenton, Florida 34206

With copies to: Manatee County Attorney  
1112 Manatee Avenue West  
Post Office Box 1000  
Bradenton, Florida 34206

FOR SCHOOL BOARD: Superintendent  
School Board of Manatee County  
215 Manatee Avenue West  
Bradenton, Florida 34205

With copies to: John Bowen, Esquire  
School Board Attorney  
215 Manatee Avenue West  
Post Office Box 9069  
Bradenton, Florida 34205

Mark Barnebey, Esquire  
Kirk-Pinkerton, P.A.  
1301 6<sup>th</sup> Avenue W.  
Suite 401  
Bradenton, Florida 34205

**Section 4.** Entire Agreement. This Agreement constitutes the entire Agreement between the parties hereto and supersedes any and all prior understandings or

correspondence, if any, related to the joint use of the facilities described herein. Any subsequent conditions, representations, warranties or agreements, shall not be valid and binding upon the parties unless they are in writing signed by both parties. There are no oral or other written promises, conditions, representations, understandings, or terms of any kind as conditions or inducements to the execution hereof, and none have been relied upon by either party relating to this Agreement. It is further agreed that no modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.

**Section 5.** Parties Drafted Equally. The County and School Board agree that both parties have paid an equal and reciprocal part in drafting of this Agreement. Therefore, no provisions of this Agreement shall be construed by any court or other authority against any party hereto because such party is deemed to have drafted or structured such provisions.

**Section 6.** Execution of Counterparts. This Agreement may be executed in any number of counterparts. Each counterpart shall be deemed an original instrument, and all counterparts collectively shall be a single agreement.

**Section 7.** Severability. In the event any term or provision of the Agreement shall be held invalid, such invalid term or provision shall not effect the validity of any other term or provision hereof; and all such other terms and provisions hereto shall be enforceable to the fullest extent permitted by law as if such invalid term or provision had never been part of this Agreement; provided, however, if any term or provision of this Agreement is held to be invalid due to the scope or extent thereof, such term or provision shall be automatically deemed modified in order that it may be enforced to the maximum scope and extent permitted by law.

**Section 8.** Applicable Laws and Venue. This Agreement shall be construed, and the rights and obligations of the parties hereunder shall be determined, in accordance with the laws of the State of Florida. Venue for any litigation pertaining to the subject matter hereof shall be exclusive in Manatee County, Florida. This agreement shall be filed with the Clerk of the Circuit Court as required by § 163.01(11), Florida Statutes.

**Section 9.** No Third Party Beneficiary; No Joint Venture. Nothing in this Agreement, express or implied, is intended or shall be construed to confer upon any person, firm or corporation other than the parties hereto, any right, remedy or claim, legal or equitable, under or by reason of this Agreement or any provision hereof, this Agreement and all of its provisions being intended to be and being for the sole and exclusive benefit of the parties hereto. In addition, nothing contained herein shall be construed to create any partnership, joint venture or other relationship between the parties with respect to the Shared Recreational or Parking Area or to authorize any party to bid for or undertake or offer any contracts for any other party or act as agent for the other party except as and to the extent expressly permitted herein.

**Section 10. Indemnity.** If permitted by law, that the County and the School Board agrees to save one another harmless from any and all liability for personal injury or property damage relating to County's or School Board's use, respectively, of the facilities granted pursuant to the terms of this Agreement. In any event, the obligation to save one another harmless shall be in accordance with and limited by Section 768.28, Florida Statutes and successor legislation.

**Section 11. Termination.** This Agreement shall remain in full force and effect until 90 days after such time as either party delivers a written notice to terminate or upon mutual agreement of the parties. Such notice to terminate shall be delivered to the appropriate party specified in Section 3 herein.

**Section 12. Effective Date.** This Agreement shall become effective once it has been filed with the Clerk of Court as required by § 163.01(11), Florida Statutes.

**IN WITNESS WHEREOF,** the parties hereto have set their hands and seals on the date and year shown below, and the signatories do hereby confirm that the governing or managing body of each party has approved the content, form, and manner of execution of this Agreement.

**MANATEE COUNTY, FLORIDA,**  
a political subdivision of the State  
of Florida

By: Board of County Commissioners

By: *D. Beverly J. Brown*  
Chairman of the Board of County  
Commissioners



ATTEST:

R.B. SHORE, Clerk of the Circuit Court

By: *R.B. Shore*  
Deputy Clerk

**SCHOOL BOARD OF MANATEE COUNTY**

By: *Walter E. Miller*  
Print Name: Walter E. Miller  
Title: Chairman  
Date: 9/28/05

*MP*  
*(Signature)*

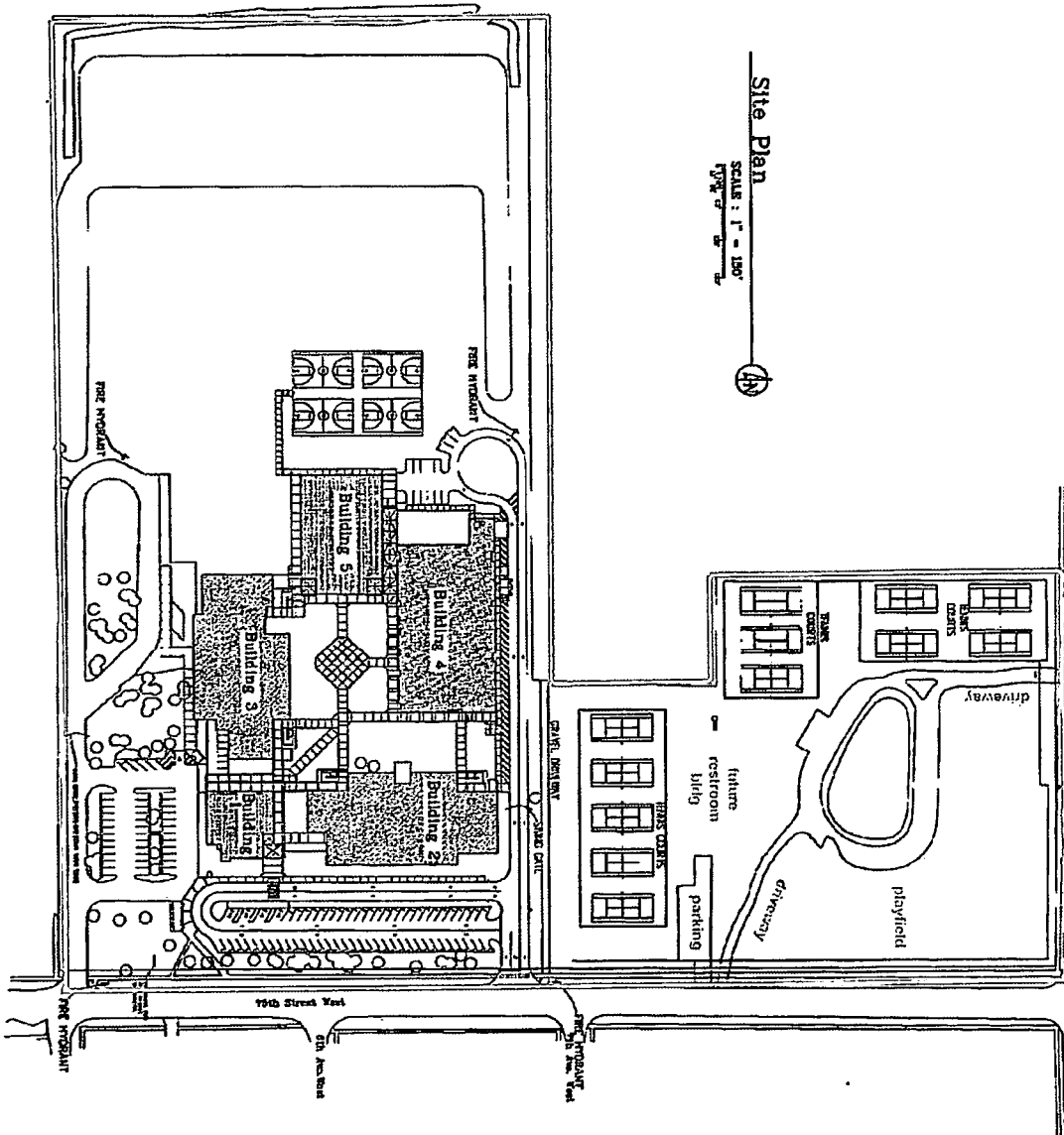
ATTEST:  
*[Signature]*

Dated: 9/28/05

*JMB*



Exhibit A



Site Plan  
 SCALE : 1" = 150'  
 DATE : 9-21-07

JOB No :	PROJECT NAME :	Department of Construction Services School District of Manatee County 2302 B 27th Street East Bradenton, Florida 34203 (841) 703-6300 Fax (841) 703-6332 Copyright 2007 • Construction Services LLC
DATE : 9-21-07	King Middle School	
SCALE : 1" = 150'	DRAWING TITLE :	
SHEET No :	Site Plan	
1 of 8		

