RESOLUTION 48-2010

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF BENSON, ARIZONA, APPROVING AND AUTHORIZING THE EXECUTION OF AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF BENSON AND THE BENSON UNIFIED SCHOOL DISTRICT #9 (THE "DISTRICT") TO PERMIT RECIPROCAL USE OF THE BUILDINGS AND GROUNDS OF THE CITY OF BENSON AND THE DISTRICT

WHEREAS, the City of Benson believes that it would be in the public interest to enter into an Intergovernmental Agreement with the District to permit reciprocal use of the buildings and grounds of the City of Benson and the District; and

WHEREAS, the staffs of the City of Benson and the District have developed an Intergovernmental Agreement (the "Agreement"), which is attached hereto as Exhibit "A" and incorporated herein by this reference; and

WHEREAS, the Agreement may be renewed for a one-year successive term by resolution of the governing body of each party and notice to the office in which the original agreement was filed; and

WHEREAS, on November 24, 2008, the City of Benson and the District entered into the Agreement and on May 11, 2009, elected to renew the Agreement by such resolution as permitted by the Agreement; and

WHEREAS, the City of Benson and the District desire to avail themselves of all provisions of law applicable to the Agreement and desire to jointly exercise their powers as provided for in A.R.S. § 11-951 *et seq.*; and

WHEREAS, the Mayor and Council of the City of Benson have reviewed the terms and conditions of the Agreement and have determined that approval of the Intergovernmental Agreement is in the best interests of the City and its residents.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Benson, Arizona that the City hereby approves the Intergovernmental Agreement between the City of Benson and the Benson Unified School District #9, attached hereto as Exhibit "A", and the Mayor is hereby directed to execute said Agreement on behalf of the City of Benson.

BE IT FURTHER RESOLVED that the staff of the City is hereby directed to take all actions necessary and proper to implement the Intergovernmental Agreement and further its purposes.

PASSED AND ADOPTED BY THE MAYOR AND COUNCIL OF THE CITY OF BENSON, ARIZONA this 26th day of July, 2010.

MARK M. FENN, Mayor

ATTEST:

Dianne M Judd for

VICKI L. VIVIAN, CMC, City Clerk

APPROVED AS TO FORM:

MICHAEL J. MASSE, City Attorney

Exhibit "A"
Intergovernmental Agreement

INTERGOVERNMENTAL AGREEMENT
PUBLIC PARKS, RECREATION AND SPORTS FACILITIES

This Intergovernmental Agreement is between the City of Benson, hereinafter referred to as "City" and Benson School District, hereinafter referred to as "District," subject to the following terms and conditions:

I. Purpose

The purpose of this Agreement is to permit the parties to use each other's buildings and grounds to provide to the public an organized program of recreation and athletic activities that contribute to the physical, mental and moral welfare of the citizens of the community.

II. Authorization

Cities and school districts are authorized to carry out all activities included in this Agreement, pursuant to A.R.S. §§ 9-276(A)(1), 9-494, 15-363 and 15-364, and to enter into intergovernmental agreements, pursuant to A.R.S. §§ 15-342.13 and 11-952.

III. Term

This Agreement will commence after it has been reviewed by counsel and executed by all parties and will end on the 30th day of June, 2011. Thereafter, it may be renewed for a one-year successive term by resolution of the governing body of each party.

IV. Responsibilities of Districts

The District agrees to:

1. Allow the City to use its facilities (e.g. gymnasiums, weight room, classrooms and athletic fields) for public parks/recreation and supervised activities, provided that the City's use does not interfere with the operation or activities of the District.
2. Notify the City Manager or his designee in a timely manner if a proposed City use of facilities pursuant to this Agreement will interfere with the District's activities or operations or a custodial or maintenance schedule.
3. Continue, at no cost to the City, maintenance and custodial services of facilities, at a level at least equal to that during the year immediately preceding the initiation of this Agreement.
4. Pay any reasonable utility charges attributed to the City's use of District's facilities pursuant to this Agreement. "Reasonable" shall mean that the utility cost to the District during the time in which additional utility costs are incurred by the City shall not to exceed five (5%) of District's utility usage for the same time period during the 2009-2010 school year.
5. Issue all keys deemed essential for City use. City agrees such keys shall not be copied or distributed beyond those named by the City as being entitled to the keys for City use.

6. Provide to the City Manager a list of City facilities the District wishes to use, together with a proposed use schedule, in sufficient time to allow the City to review the proposed use and notify the District of any conflicts.

V. Responsibilities of City

The City agrees to:

1. Allow the District to use City athletic fields and the City's pool for District educational and recreational programs, so long as District's activities are all appropriately supervised, and provided that the School District's use does not interfere with the operating activities of the City.
2. Use District facilities solely for school sponsored recreational, educational and athletic activities; provide adequate adult supervision of any activities, and conduct all activities in a safe, responsible manner.
3. Furnish appropriate trash receptacles on an agreed upon schedule.
4. Provide to the District Superintendent a list of the District facilities the City wishes to use for its recreational activities, together with a proposed use schedule, in sufficient time to allow the District to review the proposed use and notify the City whether a conflict exists, and if so, whether there are alternate facilities available.
5. Keep a log of keys issued. City agrees that should individuals who have been issued keys utilize the facilities for personal use or permit others to use the facilities for their personal use, City shall discipline those individuals and require such individuals to return the issued keys. "Personal use" shall be defined as any use other than City approved public parks/recreation activities.
6. Insure that any use of the District facilities complies with District prohibitions against the possession or use of drugs, alcohol, tobacco products or weapons on school property. Weapons may be carried by law enforcement officers while enforcing state law on district property and others may secure permission from the District to carry or use weapons for specific limited purposes including, but not limited to, firearm safety courses, Junior Reserved Officer Training Corps (JROTC) classes or martial arts demonstrations.

VI. Responsibility/Liability Insurance

Each party agrees both to be responsible for its own operations and the acts and omissions of its officials, employees and agents and to maintain, throughout the Agreement term, sufficient liability insurance to cover its activities pursuant to this Agreement, but in no event less than one million dollars ($1,000,000.00) per occurance. Each party agrees to name the other party as an additional insured upon its liability policies. Upon request, parties will provide each other and any other party with proof of such liability insurance. Parties may comply with this provision by providing evidence of a "blanket policy" so long as coverage per individual occurrence does not fall below the listed amount.

VII. Administrative Contacts

The contact for each party for administration of this Agreement will be:

City of Benson:	City Manager
Benson School District:	Superintendent of Schools

VIII. Financing

Each party will be responsible for financing its own activities and responsibilities pursuant to this Agreement. Should any party establish fees for participation in an activity that it is providing as part of this Agreement, the fee shall be limited to the actual cost of providing the activity. Collection of the fee shall be the responsibility of the party providing the activity and fee proceeds shall be retained by and be exclusive to such party.

IX. Termination

This Agreement may be terminated by the governing board of either party upon thirty (30) days written notice to the other party.

X. Disposal of Property upon Termination

The parties do not anticipate any joint acquisition of property pursuant to this Agreement. Property acquired solely for the purposes of this Agreement shall be retained by the purchasing party upon termination of this Agreement.

XI. Preparation of Agreement – Disclosure

This Agreement was prepared with the assistance of the Office of the Cochise County Attorney and the law firm of Udall, Shumway & Lyons which act as legal counsel on a general and continuing basis for the District participating in this Agreement.

XII. Cancellation

The parties reserve the right to cancel this Agreement for conflicts of interest pursuant to A.R.S. §38-511, the applicable provisions of which are incorporated herein by reference.

XIII. Entire Agreement

This document constitutes the entire agreement between the parties with respect to the subject matter hereof and shall supersede all previous proposals, both oral and written, negotiations, representation, commitments, writings, agreements and all other communications between parties. It may not be released, discharged, changed or modified except by an instrument in writing, formally executed.

City of Benson:

Mark M. Fenn, Mayor, City of Benson

7-26-10
Date

Benson School District:

David Woodall, Superintendent of Schools

Date

The undersigned legal representatives, have reviewed the intergovernmental agreement on behalf of the parties and find it to be within the scope of the powers authorized by the respective entities.

City's Attorney	District's Attorney
Date	Date