

Hays school district gives YMCA \$5 million for joint-use natatorium

By Melissa B. Taboada

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With access to just one swimming pool, Hays school officials are working with the YMCA of Austin to build a joint-use natatorium, a 10-lane, 25-yard indoor pool facility.

The Hays school district will spend \$5 million from its reserves for the \$6.2 million facility, which will be operated and maintained by the YMCA. The YMCA will cover the remaining cost.

The Hays pool facility, expected to open in September 2019, will be built on 5 acres as part of the YMCA Camp Moody, an 85-acre, multiuse site along Onion Creek in Buda. The facility will be used daily by Hays students and will include separate men's and women's dressing rooms and lockers for up to 50 students.

Multiple school districts statewide and nationally have worked with outside organizations to run swim facilities. Among them is the Dripping Springs district, which paid \$400,000 in construction costs for a 25-yard, eight-lane shared pool with the YMCA. The pool opened last school year and gave the district an opportunity to host its first swim meet, and the high school girls team won a Class 5A state championship for the first time.

READ: Hays district seeks \$250 million bond for new campuses, upgrades

The YMCA anticipates operating costs for the Hays natatorium to be between \$250,00 and \$300,000.

Other school districts, including Leander and Round Rock, put joint-use natatoriums on ballots as bond proposals, but voters turned them down. The Georgetown school district has included a swim facility in its \$166 million bond package that will go before voters in November, and district leaders probably will search for an operating partner.

Hays district leaders did not consider placing the Buda swim facility in their 2017 bond proposal because the district would not own it, said spokesman Tim Savoy. In August 2017, when the school board approved using money from reserves for a swimming facility, some community members and two of the trustees who opposed the decision said the money could be better used for the district's \$3.4 million deficit or employee bonuses.

"Discussions about funding the pool were robust, and the decision was not easy," Savoy said. "It is a big investment the district is making, but one we believe is worth it for the students and taxpayers. Our agreement with the Y guarantees us long-term access to a pool without the expense of having to maintain it. The biggest benefit of having the pool is expanded space.

The district, which is building a third high school to open at the start of next school year, has outgrown the pool it now uses at the YMCA in Buda, Savoy said.

READ: Hays school board draws six candidates for two seats

"We think it creates added value to the community in terms of what the Y brings to the table," said Sean Doles, a vice president with YMCA of Austin. "It creates a real robust long-term partnership, and it will save the district money in terms of operational expense."

Students from the three high schools will access the pool daily. Swim coaches in the district have said they must annually turn away students from the program because they don't have enough space in the YMCA swimming facility they currently use. Last year, 21 students from Hays High and 16 from Lehman High participated in the program, simultaneously sharing four lanes.

The pool also could be used by Hays district first-graders, who would receive free swim lessons at the site. The YMCA has given more than 15,000 first-graders swimming and water safety instruction through its Project SAFE program, which is being used by 22 campuses in five Central Texas school districts.

**AGREEMENT FOR DEVELOPMENT AND CONSTRUCTION OF NATATORIUM
AND JOINT ACCESS AND USE AGREEMENT
BETWEEN
HAYS CONSOLIDATED INDEPENDENT SCHOOL DISTRICT
AND
YMCA OF AUSTIN**

THIS DEVELOPMENT AGREEMENT AND JOINT ACCESS AND USE AGREEMENT (“Agreement”), is effective this ____ day of _____, 2017, between the **HAYS CONSOLIDATED INDEPENDENT SCHOOL DISTRICT, a political subdivision of the State of Texas (the “District”)**, and the **YOUNG MEN’S CHRISTIAN ASSOCIATION, INC. dba YMCA OF AUSTIN (“YMCA”)**, as follows:

WHEREAS, YMCA owns real property in Hays County, Texas, upon which it operates Camp Cypress (the Premises);

WHEREAS, District’s competitive swim teams need appropriate facilities at which to train and host swim meets;

WHEREAS, YMCA desires to construct a natatorium on a portion of the Premises, located at 959 Old San Antonio Road, Buda, Texas 78610 (the “Natatorium”);

WHEREAS, the District desires to use such Natatorium for its competitive swim teams, and the District, including its students, coaches, and personnel, will derive substantial benefits from the use of the Natatorium;

WHEREAS, it is the mutual desire of the YMCA and the District that the new Natatorium will be constructed, occupied and managed by the YMCA, and that the YMCA and the District will provide funds for the construction of the facility pursuant to the terms provided herein; and

WHEREAS, the YMCA and the District wish to execute this Agreement to govern the distribution of funds from the District to assist with the completion of the construction of the Natatorium, and to set forth the District’s permitted use of the Natatorium after construction has been completed.

NOW THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, District and YMCA agree as follows:

1. Property

The Premises are depicted on Exhibit A. YMCA intends to construct a Natatorium in the approximate location on the Premises depicted in Exhibit B.

2. Design and Construction

2.1 YMCA will design and construct the Natatorium (herein the “Natatorium” or the “Project”). The Natatorium will have these features:

- Separate men's and women's dressing facilities, to include lockers for programs of up to 50 students each for three schools and coaching staff;
- Locked storage space sufficient to store swim-related equipment and supplies;
- Ten lane, 25 yard, indoor pool compliant with UIL competition standards and specifications;
- Flexible pool configuration with ability to remove lane ropes as necessary for different workout opportunities; and
- Possibility to allow for informal water polo matches/scrimmages (the pool depth will not meet regulation standards for matches).

2.2 On the basis of preliminary design documents for the Project, approved by both Parties, the YMCA shall contract with a qualified licensed design professional for preparation of construction drawings showing the character and scope of the work to be performed by contractors on the Project (hereinafter called the "Construction Documents"). The YMCA shall be responsible for payment of all costs associated with the Project as such costs become due and payable.

2.3 The District shall have the right to review and approve the final plans and contract documents, and construction documents for the Project, which approval shall not be unreasonably withheld or delayed. YMCA will coordinate with the District to address any reasonable issues or comments that are raised. The final Construction Documents shall be agreed upon by the YMCA and the District Superintendent, or their respective designees, no later than 130 calendar days after the Effective Date, unless extended by mutual agreement. Mutual consent to such plans and specifications is a condition subsequent to the continuing enforceability of this Agreement.

2.4 Upon approval of final Construction Documents by both Parties, the YMCA shall procure and contract for the services of one or more contractors to construct the Project. Such contract shall require that the Project be built in strict accordance with the final Construction Documents approved by both parties, and in accordance with existing legal requirements of the City of Buda and Hays County as applicable. Such construction contract shall provide for insurance coverage satisfactory to both parties to this Agreement and be executed in a form which both parties agree protect the interests of the respective Parties hereunder. The YMCA will acquire all easements and right-of-ways from third-parties necessary for the construction of the Project. YMCA shall not commence work on the Project until the required insurance is obtained by the Contractor and/or subcontractors and Design Professional. Such certificates of insurance must be received by the YMCA prior to the commencement of work on the Improvements to be made pursuant to the agreement with the contractor and/or subcontractors, and for all A/E and other professionals prior to the commencement of work under their respective agreements.

3. Completion of Work

3.1 YMCA agrees that the Construction Documents shall provide that, subject to Force Majeure (as set forth in the Construction Documents), the Project shall be completed or before 11 months following approval of the final Construction Documents (the "Completion Deadline"). Additionally, YMCA represents that the Construction Documents shall include terms and conditions that provide that the Work shall be performed in a good and workmanlike manner and in accordance with plans and specifications as set for the in the approved Construction Documents prepared by YMCA's design professional, and to be reasonably approved by the District, and in compliance with all existing legal requirements of the City of Buda and/or Hays County.

3.2 For purposes of this Agreement, the Work shall be deemed to be "Complete" when (a) YMCA has delivered to the District the YMCA's design professional's written certification that the Work has been constructed substantially in accordance with the Plans; (b) YMCA has delivered to the District written evidence issued by the City of Buda, Hays County or applicable utility purveyor that the Improvements and any associated rights-of-way or easements housing same have been platted (via recorded plat) and accepted by the City of Buda, Hays County or applicable utility purveyor, if applicable; and (c) the YMCA has received a certificate of occupancy from the City of Buda.

4. Cost Sharing for Project.

The Parties agree that the District's share of the Cost of Construction of the Project, as defined herein, that is available for the YMCA to use for Construction is as follows:

4.1 District will contribute an amount not to exceed \$5,000,000.00 as its share of the Cost of Construction of the Project, and the YMCA shall be responsible for all Cost of Construction in excess of \$5,000,000.00.

4.2 As used in this Agreement the term "Cost of Construction" shall include:

- a. Any cost incurred after the Effective Date hereof for acquisition of easements from third parties, if any;
- b. Construction costs paid to the successful contractor(s) for construction of the Project;

4.3 The term "Cost of Construction" shall not include:

- a. Any cost that is unrelated to the construction of the Project.

4.4 The Parties acknowledge that they are each responsible for prompt and proper payment of their respective share of the Costs of Construction under this Agreement. The Parties also acknowledge that the YMCA intends to seek reimbursement from the District for its share of the said Cost of Construction of the Project under this Agreement in accordance with the terms of this Agreement.

- 4.5 The District hereby confirms to the YMCA that it has budgeted and is in possession of sufficient funds to fulfill its obligations under this Agreement, and in light of the fact that the District is a bona fide governmental entity; YMCA fully accepts said confirmation as proof of the District's financial capacity to perform hereunder.
- 4.6 YMCA hereby represents to the District that it has budgeted (and/or is actively arranging for financing of sufficient funds to fulfill its obligations under this Agreement). YMCA acknowledges that the District intends to act, in part, in reliance on this representation.
- 4.7 Within thirty (30) days of the District's receipt of the YMCA's written draw request and verification from the YMCA and its design professional that the proposed costs associated with the planning, platting, development, and construction of the Project referenced in such draw request are proper, appropriate, and in specific accordance with the Construction Documents, the District shall issue appropriate payment therefor. At no time shall the District be required to pay an amount that, when taken cumulatively with other payments, exceeds the total of \$5,000,000.00.
- 4.8 The YMCA shall keep proper records of all payments made to consultants and contractors, including copies of contracts, payment requests, invoices, checks, cancelled checks, bidding documents, notices of bids, and related information that may be required for submittal of the reimbursement requests for the Costs of Construction to the District. Said information and a construction status report will be reported by the YMCA to the District upon a monthly basis for the duration of the construction of the Project.
- 4.9 The YMCA agrees that the contracts for construction for the Project will contain liquidated damages provisions in the event a contractor fails to complete construction as provided in the construction agreement. The YMCA agrees that the District shall receive a Pro Rata Share of the net amount actually recovered, after deduction of all costs attributable to recovery including, without limitation, costs of court and attorney's fees.
- 4.10 All disbursements made by the District will be made by the District's option: (a) by the District's check, delivered to the YMCA; or (b) by wire transfer from the District to a federally insured account as directed by YMCA.

5. Commencement Date of Agreement.

The term of this Agreement shall commence upon this Agreement being executed by all of the Parties.

6. Remedies for Benefited Parties.

- 6.1 Should a party hereto fail to perform an obligation hereunder in accordance with the terms, provisions and conditions of this Agreement (the "Failing Party"), then the other party (the "Affected Party") may provide written notice of such failure

to the Failing Party and the Failing Party shall thereupon have thirty (30) days to cure such failure.

- 6.2 If such failure has not been cured after the expiration of such thirty (30) days period, then the Affected Party, may elect to either:
- (i) institute suit for specific performance against the Failing Party to compel performance of the obligation, and the costs of compelling performance (including, without limitation, reasonable attorneys' fees and expenses) shall be reimbursable to the prevailing Affected Party in such litigation plus Interest (hereafter defined); and/or
 - (ii) pursue the recovery of any and all actual damages suffered by the Affected Party as a result of the Failing Party's breach of its obligations hereunder (including reasonable attorneys' fees); and/or
 - (iii) proceed to perform the obligation of the Failing Party and, to the extent that the cost of performance is the obligation of the Failing Party, the Affected Party shall be entitled to reimbursement from the Failing Party for the costs of effecting performance that have not otherwise been repaid.
- 6.3 Should the Affected Party elect the remedy set forth in the aforesaid subsection (iii), the Affected Party shall be deemed to have all access and easement rights including temporary construction and/or turnaround easement rights necessary for such performance, which access and easement rights including temporary construction and/or turnaround easements shall survive the expiration of this Agreement for as long as such easements are reasonably necessary for the Affected Party to perform the remedy set forth herein. Should the Failing Party fail to pay any amount due hereunder when same is due, such amount due shall thereafter accrue interest at the rate of 10% per annum from the date due until same is paid ("Interest").

7. **License and Operation**

7.1 **Grant of License.** Subject to the terms, conditions and limitations contained in this Agreement, the YMCA grants to District the exclusive and priority rights to use the Natatorium, during the times set forth below, for 30 years, commencing on the date the City of Buda, Texas, issues its Certificate of Occupancy for the YMCA Natatorium ("Effective Date"). The YMCA shall provide the District with immediate written notice of its receive of a Certificate of Occupancy for the Natatorium facility.

7.2 **Use by District.**

7.2.1 **Natatorium.** District shall have the exclusive first right of use of the Natatorium for the swim team, swim classes, swim practices, competitions, and other District uses between the hours of 6 A.M. through 9 A.M. and 4 P.M. to 7 P.M. Central Standard Time, Monday through Friday, from September 1 until May 31 each school year, and from 6 A.M. to 8 A.M. during August. In addition, on or

before June 1 of each year, District will submit a proposed schedule for additional use of the pool during June and July, which will be subject to reasonable approval by YMCA. If District requests the use of the pool for a period not included in the pool schedule for the year, District must submit a written request at least 10 days before the time period of the requested use. YMCA, its general manager, or its pool manager may approve or deny the request for additional use in their reasonable discretion.

7.2.2 Storage. District shall have the right to store materials and equipment related to swim team, swim classes, swim practices, and competitions at the Natatorium during the term of this Agreement in a secure location.

7.2.3 Concession. District shall have the right, but not the obligation, to operate its own portable and removable concession equipment during periods of District use.

7.2.4 Exclusivity of Allotted Use of Natatorium. For those periods of time during which the YMCA and District have agreed that District shall have the exclusive first right of use of the YMCA Natatorium, District's right to use the pool shall be exclusive unless District consents in writing to another person or entities' use of the Natatorium during District's use as set forth herein.

7.2.5 Use of Parking Lot. During its exclusive use periods as described in section 3.2.1 above, District shall have the non-exclusive priority right of access to use the Natatorium parking lot for District sponsored events and meetings, and to the extent that District use does not interfere with YMCA's use of the Natatorium parking lot.

7.3 Operation. YMCA shall be solely responsible for the maintenance and operation of the Natatorium. The YMCA warrants that the Natatorium will be maintained in good working order and repair for acceptable use. The YMCA shall provide, during periods of District use, staffing sufficient for supervision and routine maintenance, excluding lifeguards, and staffing trained and responsible for ensuring the YMCA Natatorium is safe, clean, and in an acceptable condition for swim-related uses.

7.4 Criminal History and Background Checks. YMCA shall conduct a national criminal history record information review on those employees or applicants for employment, any subcontractor who has or will have continuing duties related to this Agreement, and those employees or applicants who have or will have direct contact with District students. As provided by the Texas Education Code § 22.0834, YMCA will provide all necessary certifications to District. YMCA shall use its best efforts to prevent persons from providing services to District or having contact with District students if the employee, applicant, or subcontractor has been convicted of a felony or misdemeanor offense that would prevent a person from being employed under the Texas Education Code § 22.085.

8. Indemnification

District and YMCA shall indemnify and defend each other, to the extent permitted by law, against:

- (a) any liability, loss, damages (including punitive damages), claim, settlement payment, cost and expense, interest, award, judgment, diminution in value, fine, fee, penalty, or other charge arising out of or relating to the negligence, misconduct, legal violation, or breach of this Agreement committed by the other contract party or its agents; and
- (b) any court filing fee, court cost, arbitration fee or cost, witness fee, and each other fee and cost of investigating and defending or asserting any claim for indemnification under this Agreement, including, without limitation, in each case, attorneys’ fees, other professionals’ fees, and disbursements (collectively, “Litigation Expenses”).
- (c) If a claim is asserted against any Party to this Agreement relating to the Project or this Agreement, this Agreement shall continue in effect until such claim is resolved, whether such claim is asserted prior to or after acceptance of the completed Project.

9. Insurance

9.1 During the term of this Agreement YMCA shall obtain and maintain the following types of insurance and minimum limits of coverage:

- (a) Commercial General Liability \$1,000,000 each occurrence
 \$2,000,000 aggregate limit

Coverage shall include but not be limited to the following: premises/operations, independent contractors, products/completed operations, personal injury and contractual liability.

- (b) Umbrella or Excess Liability \$5,000,000 Each occurrence
 \$5,000,000 Aggregate

Additionally, throughout the term of this Agreement, the YMCA shall obtain insurance or self-insure, at the YMCA’s option, for loss, damage or destruction to or of the property and Project during the construction phase and after construction is completed, caused by or resulting from fire, flood, windstorm, or hail. The YMCA shall be solely responsible for the costs for such coverage and any claim or cause of action arising out of or with respect to any act, omission or failure to act by the YMCA or its agents, officers, employees and subcontractors, while performing any function or providing or delivering any service undertaken by the YMCA pursuant to this Agreement. The YMCA shall be solely responsible for procuring and maintaining in effect any insurance coverage necessary or appropriate to protect its interests and the interests of the District, and shall provide for coverage at a minimum for the fair market value of the Natatorium or the cost of construction of the Natatorium, including the District’s \$5,000,000 payment toward such cost.

If the Natatorium is damaged or destroyed by fire or other casualty, the YMCA shall proceed with reasonable diligence and at its sole cost and expense to rebuild and repair the Natatorium within 270 days after occurrence of the casualty, and the License granted to the District under this Agreement shall toll for amount of time of rebuilding or until such time the Natatorium is acceptable for use by the District pursuant to the License granted herein. If the Natatorium (i) shall be destroyed or materially damaged by a casualty not covered by YMCA's insurance; or (ii) shall be destroyed or damaged by a casualty to such an extent that in the YMCA's opinion the Natatorium cannot economically be repaired or restored, then the YMCA will endorse a pro rata share of its insurance proceeds over to the District commensurate with the District's payment toward the construction of the Natatorium as noted herein, and this Agreement shall terminate upon such proper endorsement.

Any requirement for payment of or endorsement of insurance proceeds to the District shall expire 30 years after the Effective Date as set forth under 7.1 above or on the expiration of the License granted herein, whichever is later.

9.2 Commencing with the Effective Date of the License granted to the District as set forth under 7.1 above, the District shall obtain and maintain the following types of insurance and minimum limits of coverage:

- | | | |
|-----|------------------------------|--|
| (a) | Workers' Compensation | Statutory limits |
| (b) | Commercial General Liability | \$1,000,000 each occurrence
\$2,000,000 aggregate limit |

9.3 Upon the completion of the construction of the Natatorium, the YMCA shall obtain and maintain the following types of insurance and minimum limits of coverage in addition to the other additional requirements provide under this section:

- | | | |
|-----|-----------------------|---|
| (a) | Workers' Compensation | Statutory limits
Employer's liability
\$100,000 Each accident/occurrence
\$100,000 Disease – each employee |
| (b) | Automobile Liability | \$1,000,000
Each accident on a combined
single limit basis |

A commercial business policy shall provide coverage on "Any Auto", defined as autos owned, hired and non-owned.

9.4 Additional Insurance Requirements: (a) The District shall be named as an additional insured on the Commercial General Liability policies required under 9.1. (b) Thirty days (30) prior written notice of cancellation or non-renewal to either party is required. (c) The insurers for all policies must be licensed and/or approved to do business in the State of Texas. Except for workers' compensation, all insurers must have a minimum

rating of A: VII in the current A. M. Best Key Rating Guide or have reasonably equivalent financial strength and solvency.

10. Assignment

Neither this Agreement nor the license granted hereunder may be assigned.

11. Notice & Contact Persons

Any notice required under this Agreement shall be delivered to the contact person below by certified mail, return receipt requested, or in person with proof of delivery. The Board and the City designate the following persons as contact persons for this Agreement:

District Contact: Superintendent of Schools

Mailing Address: Hays CISD
21003 IH-35
Kyle, Texas 78640

YMCA Contact: James P. Finck, President

Mailing Address: YMCA of Austin, Inc.
3208 Red River
Austin, Texas 78705

With a copy to:
Branch Director, Camp Cypress
959 Old San Antonio Rd.
Buda, Texas 78610

12. Entire Agreement; Modifications; Enforceability.

This Agreement constitutes the entire Agreement of the parties, and is intended as a complete and exclusive statement of the promises, representations, negotiations, discussions and agreements that have been made in connection with this subject. No modification or amendment to this Agreement shall be binding on the parties unless the same is in writing and signed by the parties.

13. Compliance with Laws

Each party shall comply, at its own cost, with all applicable federal and state laws, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

14. No Third Party Beneficiary

This Agreement inures to the benefit of and obligates only the parties executing it. No term or provision of this Agreement shall benefit or obligate any person or entity not a party to it. The parties hereto shall cooperate fully in opposing any attempt by any third

party person or entity to claim any benefit, protection, release, or other consideration under this Agreement.

15. Relationship of the Parties

YMCA and District acknowledge and agree that nothing contained herein or inferable herefrom shall be deemed or construed to create any partnership, joint venture, or other association between the YMCA and the District. The District to the extent it is involved in coordination of the construction of the Project, will act on its own behalf, and the YMCA shall seek consultation with the District as it deems reasonably necessary. Any material decisions by the YMCA with respect of the design or construction of the Facilities shall be approved by both parties. Additionally the parties agree that the relationship between them is solely that of Licensor and Licensee, and nothing herein shall be construed to constitute the parties as employer/employee, partners, joint ventures, co-owners, or otherwise as participants in a joint or common undertaking. Neither party, nor its agents, or representatives, shall have any right, power, or authority to act or create an obligation, express or implied, on behalf of the other.

16. Severability

In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, unlawful, unenforceable or void in any respect, the invalidity, illegality, unenforceability, unlawful or void nature of that provision shall not affect any other provision and this Agreement shall be construed as if such invalid, illegal, unlawful, unenforceable or void provision had never been included herein.

17. Applicable Law; Venue

This Agreement and the rights and obligations of the parties shall be governed by and construed according to the laws of the State of Texas. Venue shall be in Hays County, Texas with respect to any lawsuit arising out of or construing the terms and provisions of this Agreement.

18. Survival

Any term, condition, covenant, or obligation which requires performance by either party subsequent to termination or expiration of this Agreement shall remain enforceable against such party subsequent to termination or expiration.

19. Force Majeure

In the event that performance by either the YMCA or the District of any of the obligations under the terms of this Agreement shall be interrupted or delayed by any act of God, by acts of war, riot, or civil commotion, by an act of State, by strikes, fire, flood, or by the occurrence of any other catastrophic event beyond the control of Parties hereto, that party shall be excused from such performance for such period of time as is reasonably necessary after such occurrence abates for the effects thereof to have dissipated.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

Hays Consolidated Independent School District

By: _____
_____, _____ Superintendent

Attest:

Secretary of the Board of Trustees

YMCA of Austin, Inc.

By: _____
James P. Finck, President

Attest:

Secretary, YMCA of Austin

CITY COUNCIL AGENDA



COUNCIL ACTION: Approved on 9/25/2018 - Resolution No. 4989-09-2018

DATE:	9/25/2018	REFERENCE NO.:	G-19388	LOG NAME:	80NWCC RESOLUTION
CODE:	G	TYPE:	NON- CONSENT	PUBLIC HEARING:	NO
SUBJECT:	Authorize a Resolution Supporting the Negotiation of All Necessary Agreements Between the City of Fort Worth, Eagle Mountain-Saginaw Independent School District, and YMCA of Metropolitan Fort Worth for the Purpose of Development and Operation of a Joint Use Facility in the 5800 Block of Marine Creek Parkway with a City Contribution of Approximately \$6,000,000.00 in 2018 Bond Funds (COUNCIL DISTRICT 2)				

RECOMMENDATION:

Authorize a resolution supporting the negotiation of all necessary agreements between the City of Fort Worth, Eagle Mountain-Saginaw Independent School District, and YMCA of Metropolitan Fort Worth for the purpose of development and operation of a joint use facility.

DISCUSSION:

The purpose of this Mayor and Council Communication is to authorize a resolution supporting the negotiation of all necessary agreements between the City of Fort Worth, Eagle Mountain-Saginaw Independent School District, and YMCA of Metropolitan Fort Worth for the purpose of development and operation of a joint use facility.

The 2018 Bond Program allocated \$10,000,000 for the design and construction of a community center in northwest Fort Worth. This facility is to include, but is not limited to, a gymnasium, fitness area, fitness equipment, and meeting rooms with a goal of leveraging City funds through partnerships with other organizations, agencies, municipalities or school districts and create expanded recreational opportunities.

On November 7, 2017, the voters within the Eagle Mountain-Saginaw Independent School District (EMSISD) approved a bond program which allocated \$5,000,000 as contingency funding for the development of a natatorium in partnership with the YMCA of Metropolitan Fort Worth (YMCA).

During the development of the 2018 Bond Program, representatives from the YMCA approached the City with a proposal to develop a joint use facility with the EMSISD on property owned by the EMSISD. Under the current proposal, the partnering organizations would participate as follows:

- YMCA would contribute \$6,000,000
- EMSISD would contribute \$5,000,000 and \$1,000,000 (land value)
- CFW would contribute \$6,000,000

On June 23, 2009, the City Council authorized Resolution No. 3755-06-2009 which expressed support for joint use of facilities between the City of Fort Worth and EMSISD. Additionally, the City of Fort Worth Comprehensive Plan, the Park, Recreation and Open Space Master Plan, and the Neighborhood and Community Park Dedication Policy recommend that the Park & Recreation Department should seek partnerships with area independent school districts and local non-profits to provide programs and facilities in a way that best maximizes public resources.

The proposed partnership with the EMSISD and YMCA represents a unique opportunity to leverage public funds resulting in the development of a joint use facility that will provide aquatics, fitness equipment, meeting space and educational programs in one facility. With extended operating hours

and maximum use of the facility, utility and other operating costs can be shared between the EMSISD, the YMCA and the City of Fort Worth resulting in savings to the taxpayer. The proposed partnership will significantly increase the hours and use of the occupied space.

Upon approval of the proposed resolution by the City Council, staff from the partnering organizations will collaborate in the development of the agreement which will specify the lease terms, development guidelines, management structure and operational conditions for the facility. The fully-negotiated agreements will be brought to City Council for consideration for approval.

On August 22, 2018 the Park & Recreation Advisory Board endorsed the proposed resolution for a joint facilities agreement with EMSISD and YMCA of Metropolitan Fort Worth for the NWCC.

The proposed facility will be located in COUNCIL DISTRICT 2.

This M&C does not request approval of a contract with a business entity.

FISCAL INFORMATION/CERTIFICATION:

The Director of Finance certifies that this action will have no material effect on City Funds.

TO

Fund	Department ID	Account	Project ID	Program	Activity	Budget Year	Reference # (Chartfield 2)	Amount
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FROM

Fund	Department ID	Account	Project ID	Program	Activity	Budget Year	Reference # (Chartfield 2)	Amount
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Submitted for City Manager's Office by: Fernando Costa (6122)

Originating Department Head: Richard Zavala (5704)

Additional Information Contact: David Creek (5744)

ATTACHMENTS

[M and C Location Map.pdf](#)

[NWCC EMSISD YMCA Resolution 09072018 - final draft REVISED 2.docx](#)

A Resolution

NO. _____

SUPPORTING THE NEGOTIATION OF ALL NECESSARY AGREEMENTS BETWEEN THE CITY OF FORT WORTH, EAGLE MOUNTAIN-SAGINAW INDEPENDENT SCHOOL DISTRICT, AND YMCA OF METROPOLITAN FORT WORTH FOR THE PURPOSE OF DEVELOPMENT AND OPERATION OF A JOINT USE FACILITY

WHEREAS, the City of Fort Worth (“City”) values opportunities for joint use of facilities as highly beneficial to the taxpayers and residents of participating local governments; and

WHEREAS, on June 23, 2009 the City Council authorized adoption of a resolution (Resolution No. 3755-06-2009) which expressed support for joint use facilities between the City and the Eagle Mountain-Saginaw Independent School District (“EMSISD”); and

WHEREAS, the City’s 2018 Bond Program allocated \$10,000,000 for the design and construction of a community center in northwest Fort Worth; and

WHEREAS, EMSISD held a bond election on November 7, 2017 which included \$5,000,000 in contingency funding for the purpose of developing a natatorium in partnership with the YMCA of Metropolitan Fort Worth (“YMCA”); and

WHEREAS, the joint use facility / YMCA facility will be constructed on property owned by the Eagle Mountain-Saginaw Independent School District with an estimated value of \$1,000,000; and

WHEREAS, representatives from the YMCA approached the City with a proposal to develop a joint use facility with the EMSISD on property owned by the EMSISD, with a City contribution of approximately \$6,000,000 in 2018 Bond Program funds; and

WHEREAS, the YMCA has committed to a fund raising campaign to raise \$6,000,000 towards the development of a joint use facility; and

WHEREAS, On August 22, 2018 the Park & Recreation Advisory Board endorsed a proposed joint use facilities agreement with EMSISD and YMCA of Metropolitan Fort Worth for the NWCC; and

WHEREAS, the City Manager has determined that the development of a joint use community center / natatorium / YMCA facility with the EMSISD and YMCA will: (1) improve the quality of life for the residents in the participating communities; (2) encourage and provide opportunities for recreational and leisure activities to enhance physical and mental development of the residents in these



communities; (3) enhance economic development in the participating communities; and (4) will result in prudent fiscal stewardship on behalf of the City's taxpayers.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FORT WORTH:

SECTION 1: The City Council does hereby express its interest in and commitment to negotiating all necessary agreements with EMSISD and the YMCA for the development of a joint use facility, which will mutually benefit the residents of the City of Fort Worth and the Eagle Mountain-Saginaw Independent School District;

SECTION 2: The City Council authorizes the City Manager to negotiate all necessary agreements with EMSISD and the YMCA for the joint development of a joint use facility, with a City contribution of approximately \$6,000,000 in 2018 Bond Program funds;

SECTION 3: Upon completion of the fully negotiated agreements the City Council directs the City Manager to present the agreements to the City Council for consideration;

SECTION 4: This resolution shall take effect immediately upon its passage.

Adopted this _____ day of _____, 2018

ATTEST:

By: _____
Mary J. Kayser, City Secretary





The Georgetown ISD Administration Building is located at 603 Lakeway Drive.

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By [Ali Linan](#) | 4:34 AM
Oct 17, 2018 CDT



Georgetown ISD Board of Trustees voted on Tuesday to move forward with a memorandum of understanding between the district and the YMCA in building a potential swim facility, should voters allow.

The potential swim facility is part of the GISD 2018 bond election that would allow for a \$15.5 million joint swimming pool between the two entities. The facility is its own proposition from the rest of the \$150.5 million bond.

Josh Schroeder, an attorney working with the GISD on the agreement who presented to the board, said the memorandum is a non-binding legal document that will act as a framework for more definitive agreements that will come later, including a construction agreement, a lease agreement and an operating agreement.

The document states the district will pay for and build the swim facilities and the YMCA would pay for and build additional portions of the facility. There will also be jointly-used portions such as the locker and weight rooms where each party will pay their proportional share, Schroeder said.

The facility will also remain the district's property, he said.

Schroeder added that "there will be no operating costs for the district whatsoever," and that the YMCA has committed to that agreement.

Lastly, the YMCA committed to teaching swim safety to every second grader in the district and will help in designing of the facility.

GISD first presented the idea of a possible partnership during its September meeting, where the district and the YMCA would split expenses and building responsibilities of the swim facility.

"As we move along in this process, there will be further discussion and working with (the YMCA) to get some definitive legal agreements, but I think we've got a good framework," Schroeder said.

GISD will host two final community presentations on the 2018 bond to answer any questions GISD residents may have.

- Monday, Oct. 22 at 6 p.m. in the Purl Elementary School cafeteria *Spanish presentation
- Tuesday, Oct. 23 at 6 p.m. in the Ford Elementary School cafeteria

Memorandum of Understanding
GISD Aquatic Center/YMCA of GWC Joint Facility

This Memorandum of Understanding (MOU) is made between the Georgetown Independent School District (GISD) and the YMCA of Greater Williamson County (YMCA of GWC).

RECITALS

WHEREAS, the (GISD) has identified a need for a (GISD) aquatics center (Center) to serve its athletes and various student aquatic needs; and

WHEREAS, the (GISD) is planning to construct the (Center) on land owned by the (GISD) located at (location); and

WHEREAS, the (GISD) is intending on funding the design and construction of the (Center) which would include all site infrastructure, a natatorium (pool enclosure), pool tank(s), equipment pump rooms, spectator seating area, locker rooms, coaches area, lobby, parking, and potentially a fitness area; and

WHEREAS, the (GISD) will lease to the (YMCA of GWC) land to construct a YMCA facility in conjunction with and which will attach to the (GISD) aquatics center. The (YMCA of GWC) will fund the design and construction of the following components in its facility group exercise areas, socialization areas, gymnasium, and child watch areas. A fitness center will also be constructed in the YMCA facility. It is possible that the fitness center area will be funded by (GISD) or jointly between (GISD) and the (YMCA of GWC). It is fully intended that the parking areas, lobby, locker rooms, and aquatics center will be shared by both (GISD) and the (YMCA of GWC); and

WHEREAS, the (GISD) requests the (YMCA of GWC) to operate the (joint center) and it will be identified as the (GISD aquatic center/ Georgetown YMCA; and whereas, the (GISD) would enter into a long-term operating agreement with the (YMCA of GWC) to provide first right of aquatics areas usage and agreed access to the fitness center for (GISD) student-athletes; and

WHEREAS, the (YMCA of GWC) will be responsible for all operating costs of the joint facility because (GISD) has agreed to fund the cost of all aquatics areas (see above) and a fitness area (size approximately 9,000 sq. ft. to be determined); and

WHEREAS, the (YMCA of GWC) will be responsible for providing the (GISD) with design input so that the (joint facility) can be constructed together in an effective manner; and

WHEREAS, the (YMCA of GWC) will be responsible for developing the community use schedule for the (joint center); and

WHEREAS, the (YMCA of GWC) will be responsible for establishing the pricing structure for day use fees, annual use fees, and program fees for usage of the (joint center) and or programs associated with the (joint center), which include the (YMCA of GWC)'s financial assistance programs for individuals and families in the community who want and need the (YMCA of GWC)'s programs but cannot afford them; and

WHEREAS, the (YMCA of GWC) will provide (GISD) second-grade students (exact number annually to be determined) with a safe swim program at no cost; and

WHEREAS, the (GISD) and (YMCA of GWC) in order to facilitate the expeditious development of the (joint center), the parties desire to outline their respective duties and responsibility in this MOU; and

WHEREAS, the parties acknowledge the goals set forth in this MOU recognize that future agreements formalizing these goals must be drafted and approved by the respective boards, councils, and commissions representing the parties; and

WHEREAS, the parties recognize that the content of this MOU is not legally binding, but merely serve as an outline of duties and responsibilities to meet our joint goal.

NOW, THEREFORE, (GISD) and (YMCA of GWC) agree to work cooperatively and in good faith to develop the future agreements necessary to construct the (joint center) in the manner set forth herein.

**ARTICLE I
DEVELOPMENT OF GENERAL SCOPE OF THE JOINT CENTER**

The (YMCA of GWC) will provide the (GISD) with the facility component requirements that relate to the (YMCA of GWC) and common use areas.

**ARTICLE II
ISD RESPONSIBILITIES**

The (GISD) will develop a funding plan and implement the plan with the intent to successfully fund the construction of the Aquatics Center (see all components above) and potentially a fitness center.

**ARTICLE III
YMCA DUTIES & RESPONSIBILITIES**

The (YMCA of GWC) will develop a funding plan and implement the plan with the intent to successfully underwrite equipping and operating the YMCA's portion of the (joint center) in a manner that the (GISD) is satisfied with.

**ARTICLE IV
JOINT RESPONSIBILITY
LEASE AGREEMENT**

The (YMCA of GWC) and the (GISD) will develop a lease agreement that allows the (YMCA of GWC) to operate programs in the (joint center). The (YMCA of GWC) will develop a list of activities and programs that the (YMCA of GWC) will offer at the (joint center). The goal will be to provide traditional recreation activities similar to those offered by the YMCAs throughout Williamson County and work cooperatively to accommodate (GISD) aquatic usage as a priority.

**ARTICLE V
LEGAL EFFECT OF MOU**

This MOU is intended to provide an outline for the expeditious construction of a (joint center). It is not intended to legally bind the parties to any of the content of the items presented in the MOU. The parties, however, agree that the terms and conditions stated herein are reasonable and provide an outline for future actions by ISD Board of Directors and the YMCA of Greater Williamson County Board of Directors.

Executive and effective this 12 day of October 2018

GEORGETOWN ISD

By: 

(name)

**YMCA OF GREATER
WILLIAMSON COUNTY**

By: 

Jeff Andresen, President/CEO