

**ACTION AGENDA ITEM
BOARD MEETING
December 11, 2012**

**TOPIC: APPROVE THE INTERLOCAL AGREEMENT COMPREHENSIVE
TRUANCY INTERVENTION PROGRAM BETWEEN THE CITY OF
FORT WORTH AND FORT WORTH INDEPENDENT SCHOOL
DISTRICT FOR THE 2012-2013 SCHOOL YEAR**

BACKGROUND:

The Comprehensive Truancy Initiative Program (CTIP) is a collaborative effort between the Fort Worth Independent School District, City of Fort Worth Municipal Courts, Fort Worth Police Department, Tarrant County Juvenile Probation Department, and various mental health and social service providers based in our community. One of the most significant portions of the program is the School Attendance Court which has the ability to exclusively hear truancy cases in a timely and relevant manner.

Original jurisdiction for Truancy cases fall to the 323rd District Family Court. However, the volume and severity of Juvenile cases generally render Truancy cases a low priority in the Family Courts. The Texas Family Code (TFC) Section 54.021 allows the transfer of these cases to a Municipal Court. The City of Fort Worth agreed to establish a dedicated Municipal Court that hears only Truancy Cases. This court is staffed by a full time Municipal Court Judge with an extensive background and knowledge of Family Law and specifically School Attendance Laws. This Judge has the full authority of the courts, which allows deferred adjudication. This also allows the Judge the leeway to order students into counseling for substance abuse, anger management, self esteem, job skills, grief counseling or mentoring programs; as well as provide family counseling and parenting classes to the parents.

The Courts can also chart the student's progress over the course of the school year to monitor their compliance. The Municipal Court has the ability to move beyond simply collecting fines, and also has the ability to hear the cases in a timely and proficient manner. The Comprehensive Truancy Intervention Program's Interlocal Agreement designates a judge and other support personnel needed by the City to hear truancy cases in the School Attendance Court.

The City of Fort Worth's budgetary cost of the School Attendance Court for the 2012-2013 school year for FWISD is **\$379,606.00**.

ALTERNATIVES:

1. Approve the Interlocal Agreement Comprehensive Truancy Intervention Program between the City of Fort Worth and FWISD for the 2012-2013 school year.
2. Decline to approve the Interlocal Agreement Comprehensive Truancy Intervention Program between the City of Fort Worth and FWISD for the 2012-2013 school year.
3. Remand to staff for further study.

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SUPERINTENDENT'S RECOMMENDATION:

Approve the Interlocal Agreement Comprehensive Truancy Intervention Program between the City of Fort Worth and FWISD for the 2012-2013 school year.

FUNDING:

General Funds.

COST:

\$379,606.00 includes shared expenses for salaries and benefits.

RATIONALE:

The School Attendance Court provides a designated court setting which ensures students a timely referral for consistent and equitable disposition of their truancy cases while also addressing contributing social causes of truancy. FWISD and the Tarrant County Commissioner's Court are actively engaging in negotiations to establish a county-wide cooperative court; such a court could not be logistically or physically operational during the 2012-2013 school year.

INFORMATION SOURCES:

Sherry Breed
Michael Steinert
Bertha Bailey Whatley
Danna Diaz
Barry Smith

STATE OF TEXAS §
COUNTY OF TARRANT §

INTERLOCAL AGREEMENT

This INTERLOCAL AGREEMENT ("Agreement") is made and entered into this the _____ day of _____, 2012, by and between the CITY OF FORT WORTH, a home rule municipal corporation of the State of Texas (hereinafter referred to as the "CITY"), and the BOARD OF TRUSTEES of the FORT WORTH INDEPENDENT SCHOOL DISTRICT, a political subdivision of the State of Texas and a legally constituted Independent School District located within Tarrant County, Texas (hereinafter referred to as "FWISD").

RECITALS

This Agreement is made under the authority granted to the CITY and FWISD by and pursuant to the Texas Government Code, Chapter 791, known as the INTERLOCAL COOPERATION ACT.

WHEREAS, the majority of criminal justice experts agree that truancy can lead to victimization, criminal acts, drug abuse, teen pregnancy, and illiteracy; all of which are deterrents to student opportunity and success; and

WHEREAS, early intervention in truancy behavior and referral to the court are necessary in order to encourage students to attend school on a regular basis; and

WHEREAS, while the CITY can hear cases within its existing municipal court system, FWISD and the CITY have determined that a dedicated court is effective in discouraging truancy; and

WHEREAS, FWISD and the CITY established a specialized Municipal Court entitled "School Attendance Court" funded by FWISD to hear all FWISD truancy cases, and both parties authorized and agreed to the execution of this Agreement; and

WHEREAS, the establishment of the School Attendance Court resulted in offenses being heard quickly and punishments being consistently imposed from case to case; and

WHEREAS, the City Council of Fort Worth and the Fort Worth Independent School District Board of Trustees determined that the continued need for expedient, consistent, and equitable sanctions for all truancy offenses is of paramount importance to both government entities; and

WHEREAS, FWISD historically reimbursed the CITY for the full cost of all necessary court personnel, including the judge, marshals, and assistant court clerks; and

WHEREAS, in accordance with Article 102.0174 of the Texas Code of Criminal Procedure, the Fort Worth City Council adopted an ordinance creating a juvenile case manager fund and requiring defendants to pay a juvenile case manager fee as a cost of court for offenses occurring on or after October 1, 2010, with such funds being available, in accordance with Article 45.056 of the Texas Code of Criminal Procedure, to offset the salary and benefit costs of assistant court clerks who assist the School Attendance Court in administering its docket and supervising its court orders and who give priority to cases brought under Sections 25.093 and 25.094 of the Texas Education Code and therefore qualify as juvenile case managers; and

WHEREAS, due to current budgetary shortfalls, FWISD has requested a reduction in court personnel, specifically two deputy marshals, and a reallocation of benefit costs for all remaining personnel as well as costs for supplies associated with operation of the court; and

WHEREAS, the CITY has determined that the juvenile case manager fund contains sufficient monies to pay the salary and a portion of the benefit costs of one assistant court clerk/juvenile case manager as well as a portion of the benefit costs of the other two assistant court clerks/juvenile case managers; and

WHEREAS, the CITY and FWISD wish to execute a new agreement to continue operation of the School Attendance Court for the 2012-2013 school year with reallocation of the funding of certain personnel and supply costs and an associated adjustment of the number of cases to be processed by the court.

NOW THEREFORE, in consideration of the mutual covenants herein expressed, the parties agree as follows:

AGREEMENT

1. **ADMINISTRATION.** CITY and FWISD covenant and agree to fully cooperate in operation of the Attendance Court and both parties consent, under the terms of this Agreement, to the following:
 - A. The School Attendance Court ("Court") shall be conducted on a schedule and a location agreed upon by the parties. FWISD shall provide, at no cost to the CITY, a site reasonably acceptable to the CITY, for the School Attendance Court. CITY municipal court personnel, as determined by the designated City representative in Subsection G. below, shall have full access to any areas of the FWISD School Attendance Court for conducting the day-to-day administration of the Court.

B. A Municipal Court Judge, who is a licensed attorney in good standing in the State of Texas, shall be selected by the City Council according to the Texas Government Code (Texas Government Code § 30.00381 *et seq.* (Vernon 2004)) and the City of Fort Worth Charter and Ordinances to preside over all FWISD truancy cases presented to School Attendance Court.

C. The CITY shall be responsible for the day-to-day administration of the School Attendance Court and the selection of all personnel necessary, for the effective operation of the Court. The CITY shall determine which City municipal court personnel shall be assigned to the Court. Said personnel shall possess the necessary qualifications and skill sets to perform the required duties, including bilingual skills when necessary. FWISD understands that the CITY may re-assign City personnel as the CITY deems necessary for the effective and efficient operation of the Court and FWISD agrees to fully support any assignment decisions made by the CITY. CITY agrees to provide to FWISD reports of court activity in a format and on a schedule as agreed upon between the parties.

D. FWISD and the CITY understand that the Municipal Court Judge is duty-bound by the Code of Judicial Conduct and must perform his/her judicial duties so that the integrity, impartiality and independence of the judiciary are preserved.

E. The act of providing funding for the School Attendance Court will not influence the judicial conduct or judgment of the appointed Judge, nor does it create, in any manner, a relationship between FWISD and City municipal court personnel, including the Judge and other staff.

F. The City Manager, or designee, and the Fort Worth Independent School District Superintendent, or designee, shall meet four times a year on a quarterly basis, including once during the month of June, to discuss concerns related to the current operation of the Court and the location of the Court for the next contract year at its current location or at a city-owned and operated facility. CITY agrees to coordinate with FWISD to arrange the time, location and date of the meeting, which shall be mutually acceptable.

G. For the purposes of this Agreement, the City Manager, or designee, shall be the representative for the City Council of Fort Worth for administrative or operational decision-making. For the purposes of this Agreement, the Fort Worth Independent School District Superintendent, or designee, shall be the representative for the FWISD for day-to-day administrative or operational decision-making. No later than August 31 each year, CITY and FWISD shall provide written notice to the other party of its designated representative who will be responsible for the day-to-day administration and operational decision-making for the Court.

2. GOALS AND MISSION STATEMENT.

A. The mission of the School Attendance Court Program shall be:

To provide a court setting that will ensure students a timely referral to the Court for the consistent and equitable disposition of their truancy cases.

B. The goals of the School Attendance Court shall include, at a minimum:

- Timely referral of students to the court for disposition
- Competent jurisdiction based on knowledge of applicable laws
- Consistent and equitable sanctions from one court
- Expedient resumption of regular school attendance
- Early intervention in juvenile behavior that is a precursor to other juvenile crime activities

3. FUNDING.

A. FWISD shall pay, subject to the terms set out in Subsection 3(C), the following staffing and operational costs associated with the operation and administration of the School Attendance Court:

1. FWISD agrees to provide funding for the full salary and benefit costs of the following essential courtroom personnel: a municipal court judge, and two deputy city marshals. In addition, FWISD agrees to pay a portion of the salary and all the benefit costs for the following essential courtroom personnel, with the remainder of the salary being paid by the CITY: Senior Human Services Specialist. The estimated salary and benefit costs for the year for the listed personnel and the cost allocation as between the CITY and FWISD are detailed in Exhibit "A," which is attached hereto and incorporated herein for all purposes as though it were set forth at length.
2. FWISD agrees to reimburse the CITY for all costs associated with the use of an assistant city attorney to prosecute cases. It is anticipated that an assistant city attorney will be needed at the Attendance Court a maximum of five (5) days per week to cover bench and jury trials. The hours and amount of time needed for the use of an assistant city attorney shall be at the discretion of and determined by the CITY. The estimated salary and benefit costs for such personnel for the year are detailed in Exhibit "A."
3. FWISD shall provide certain supplies and other minor equipment as determined by mutual agreement between the CITY and FWISD. FWISD agrees to sign any necessary security or CITY IT-computer related agreements and provide the necessary access to the Attendance Court building for installation of CITY computers, printers and other auxiliary computer equipment. The allocation of the costs of supplies and equipment as between the CITY and FWISD is reflected in Exhibit "A."

4. CITY agrees to submit an invoice to FWISD on or before the 19th business day of each month for services rendered by the CITY for the previous month. City agrees to notify FWISD of any necessary unbudgeted items prior to purchase by the City. FWISD agrees to submit full payment as indicated on each invoice within 45 calendar days of receipt of the invoice. Within ten (10) business days of receipt of any disputed invoices, FWISD shall submit written notice to the CITY specifying the contested charges. Within ten (10) business days of receipt, CITY will respond with additional information. If, after receipt of additional information, the charges are still in dispute, the City Manager, or designee, and the Fort Worth Independent School District Superintendent, or designee, shall meet to reach a resolution to the contested charges. Failure of the City and FWISD to reach resolution of the disputed charges shall be grounds for termination pursuant to Section 5 of this Agreement.

B. The CITY agrees to pay the following staffing and operational costs associated with the operation and administration of the School Attendance Court:

1. CITY agrees to use monies from the Juvenile Case Manager Fund to pay the full salary and benefit costs for one customer service representative and one senior customer service representative. The CITY further agrees to use the Juvenile Case Manager Fund to pay for a portion of the salary of one senior human services specialist . All are assigned to work at the School Attendance Court. The parties acknowledge that, effective October 1, 2010, certain defendants convicted in the CITY'S municipal court are required to pay a juvenile case manager fee as a cost of court and that such fees are deposited in a juvenile case manager fund and used toward paying salary and benefit costs of juvenile case managers. It is the opinion of the parties that the customer service representative, senior customer service representative, and senior human services specialist assigned to work at the School Attendance Court qualify as juvenile case managers for purposes of Articles 45.056 and 102.0174 of the Texas Code of Criminal Procedure. The estimated salary and benefit costs for the year for the listed personnel and the cost allocation as between the CITY and FWISD are detailed in Exhibit "A."
2. CITY has determined that two deputy city marshals are required at the School Attendance Court to provide for the safety of court personnel and the general public. The estimated salary and benefit costs for the year for the listed personnel and the cost allocation as between the CITY and FWISD are detailed in Exhibit "A."
3. CITY agrees to provide, at its cost, all necessary computers, printers and other auxiliary computer equipment necessary for the operation of the Court, as determined by the CITY, as well as other supplies and equipment as determined by mutual agreement between the CITY and FWISD. The allocation of the costs of supplies and equipment as between the CITY and

FWISD is reflected in Exhibit "A," which is attached hereto and incorporated herein.

C. CITY and FWISD agree all of the above personnel are necessary for the smooth administration and operation of the Court in order to process a maximum of 1,500 Failure to Attend student cases plus up to 1,500 associated Parent Contributing to Non Attendance cases filed for the 2012-2013 school year. City and FWISD agree that FWISD's agreed contribution toward the staffing and operational costs associated with the administration of a maximum 1,500 Failure to Attend student cases plus up to 1,500 associated Parent Contributing to Non Attendance cases for the Court shall be \$379,606.00 for the 2012-2013 school year as set out in Exhibit "A." If FWISD elects to file more than 3,000 cases total or more than 1,500 Failure to Attend student cases or more than 1,500 associated Parent Contributing to Non Attendance cases for the 2012-2013 school year, FWISD agrees to pay 1% of the adopted budget per 100 additional cases to cover the additional staffing and operational costs associated with the increased caseload.

CITY agrees to submit a proposed budget for the next Attendance Court school year to FWISD no later than May 31, of 2013.

D. FWISD and CITY agree that all contractual payments provided herein compensate the CITY in accordance with the terms of this Agreement.

E. FWISD agrees and understands that under § 791.011 of the Local Government Code, payment for the performance of the governmental functions or services under this Agreement must be made from current revenues available to the CITY.

4. TERM. The term of this agreement is for a period beginning on October 1, 2012 and ending on June 30, 2013. This term may be extended for multiple years based upon the mutual agreement of the City and the FWISD.

5. TERMINATION OF AGREEMENT.

A. Termination for Cause If the CITY or the FWISD fails, for any reason, to perform any provision of this Agreement, the other party shall send the defaulting party written notice of the default and of the party's intention to declare this Agreement terminated. The defaulting party shall have thirty (30) calendar days from the date of receipt of the notice to cure or correct the default. If the defaulting party does not cure or correct the default within the thirty (30) calendar day period, the notifying party shall have the right to declare this Agreement immediately terminated, and neither party shall have further responsibility or liability hereunder.

B. Termination at Will Either party may terminate this Agreement, in whole or in part, at any time and for any reason. Such termination shall be effected by providing the

other party written notice that specifies the extent to which the work under the contract is being terminated and the effective date of termination.

6. COURTROOM. FWISD will provide, at its sole cost and expense, courtroom space, administrative offices, and related facilities on FWISD-owned property within the City of Fort Worth that conforms to accepted courtroom standards. FWISD shall provide CITY court personnel with all required access to said courtroom, assigned administrative offices and selected spaces within the Attendance Court Building to conduct the School Attendance Court.

7. USE OF COURTROOM. The courtroom, offices, waiting areas, holding cells and other space related to School Attendance Court (which shall be located on the first floor of the FWISD building located at 5701 Meadowbrook Drive, Building #3, Fort Worth, Texas 76112) shall be used to conduct hearings and proceedings related to FWISD truancy cases. All proceedings and hearings shall be held in accordance with the established practices and procedures of the City of Fort Worth Municipal Courts. Use of the courtroom, offices, waiting areas, holding cells and other space related to Attendance Court located on FWISD property for any other juvenile purpose other than School Attendance Court shall be mutually agreed upon between the FWISD designee and the CITY designee as set out in Section 1G of this Agreement. In no event shall these areas be used for any purpose other than for juvenile use nor shall any other proposed use interfere with the operation of the School Attendance Court. FWISD and CITY agree that School Attendance Court will have priority over any other use of the courtroom, offices, waiting areas, holding cells and other space related to School Attendance Court. The CITY agrees and understands that school district employees will occupy the second floor of the FWISD building and that these employees will need access on a daily basis to the foyer and the elevator located on the first floor. CITY employees will have access to all assigned areas and offices located on the second floor. For security purposes, after-hours access by the City to School Attendance Court will be coordinated through FWISD night security.

8. IMPROVEMENTS. FWISD shall have exclusive right, title and interest in all structures and improvements relating to School Attendance Court constructed by FWISD that are located on premises belonging to FWISD. The CITY retains the right, at its discretion and own cost, to add any furniture, equipment, supplies, or other items necessary for the operation of the Attendance Court. FWISD agrees that any such furniture, equipment, supplies, or other items shall remain the sole property of the CITY and may be added, changed, removed, or altered at the discretion of the CITY. The CITY retains the right, subject to the written approval of FWISD, to add any permanent improvements necessary for the operation of the Attendance Court.

9. RULES, REGULATIONS AND OPERATION. The courtroom and its premises shall be subject to the same rules, regulations and methods of operation as other municipal courtrooms operated by the City of Fort Worth. The CITY and FWISD shall

comply with all ordinances and regulations of the CITY of Fort Worth, the laws of the State of Texas and of the United States of America applicable to the use of said premises.

In order to ensure the safety of school and city personnel and persons attending the Court, all persons (including CITY and FWISD personnel) entering the Court area shall be required to submit to security measures as determined necessary by the City Marshal.

10. ALLOCATION OF FINES. Any fines collected as a result of truancy violations will be allocated between FWISD and the CITY according to state law. Any allocation of fines not dictated by state law will be according to the current established procedures of the Municipal Court of the CITY. City will pay any fines due and owing FWISD by U.S. MAIL to the Assistant Superintendent in the month following the collection of such fines.

11. RELEASE OF STUDENT EDUCATION RECORDS AND OTHER DOCUMENTS. To the extent permitted by law, FWISD agrees to release and make available any information from a student's education record to the presiding judge over the School Attendance Court. To the extent allowable under the CITY'S Court Management System, the CITY agrees to provide the FWISD with access to the disposition of all cases filed in the Student Attendance Court. The FWISD agrees to provide the CITY with access to the FWISD's Student Information System in order to access student attendance profiles.

12. INDEPENDENT CONTRACTOR. CITY shall operate hereunder as an independent contractor and not as an officer, agent, servant or employee of the FWISD. FWISD shall operate hereunder as an independent contractor and not as an officer, agent, servant or employee of the CITY. CITY shall have the exclusive control of, and the exclusive right to control the work designated to the CITY to be performed hereunder, and all persons performing the same, and shall be solely responsible for the acts and omissions of its officers, members, agents, and employees. Neither CITY nor FWISD shall be responsible under the Doctrine of Respondeat Superior for the acts and omissions of its officers, members, agents, employees, or officers of the other.

It is understood and agreed that the FWISD is not involved as a party to any activities that may be carried on by CITY pursuant to this agreement. No provision of this agreement shall operate or be construed as a waiver by either party of any immunity from liability which it has or could be asserted under the doctrine of governmental immunity or any other immunity which it has under law.

13. DAMAGES OR LAWSUIT.

A. FWISD and CITY agrees to notify the other promptly upon the receipt of any claim or lawsuit brought in connection with any injury, death or damages on the premises. FWISD and the CITY agree to make its officers, agents, and employees available at all reasonable times for any statements and case preparation necessary for the

defense of any claims or litigation for which the CITY or FWISD may be responsible hereunder.

B. Nothing herein shall be deemed to constitute a waiver of any immunity or affirmative defense, which may be asserted by FWISD or the CITY as to any claim of any third party.

C. Nothing herein shall be construed in any manner, to create a cause of action for the benefit of any person not a party to this Agreement, or to create any rights for the benefit of any person not a party to this Agreement not otherwise existing at law.

14. NONDISCRIMINATION. The CITY, FWISD, and their respective officers, members, agents, employees, program participants, or subcontractors, while engaged in performing this contract, shall not, in connection with the employment, advancement, or discharge of employees, or in connection with the terms, conditions or privileges of their employment, discriminate against persons because of their age, except on the basis of a bona fide occupational qualification, retirement plan, or statutory requirement.

The CITY and FWISD agree that in the execution, performance or attempted performance of this contract and agreement, they will not discriminate against any person or persons because of sex, race, religion, color, national origin or sexual orientation nor will CITY or FWISD permit its agents, employees, subcontractors or program participants to engage in such discrimination.

15. SEVERABILITY. The provisions of this agreement are severable and if for any reason a clause, sentence, paragraph or other part of this agreement shall be determined to be invalid by a court or federal or state agency, board or commission having jurisdiction over the subject matter thereof, such invalidity shall not affect other provisions which can be given effect without the invalid provision.

16. WAIVER OF DEFAULT. No waiver by the parties hereto of any default or breach or the failure to insist upon the performance of any term, condition, provisions or covenant of this Agreement shall be deemed to be a waiver or relinquishment to any extent of any other breach of the same or any other term, condition, provision, or covenant contained herein or the right of the parties to assert or rely upon any such term.

17. APPLICABLE LAW.

- (a) This contract shall be construed in accordance with the laws of the State of Texas.
- (b) Should any action, whether real or asserted, at law or in equity, arise out of the execution, performance, attempted performance or non-performance of this contract and agreement, venue for said action shall lie in Tarrant County, Texas or the Federal Court of the Northern District.

18. SOLE AGREEMENT. This written instrument constitutes the entire agreement by the parties hereto concerning the work and services to be performed and any prior or contemporaneous, oral or written agreement, which purports to vary from the terms hereof, shall be void.

19. AMENDMENT. No amendment, modification or alteration of the terms hereof shall be binding unless the same is in writing, dated subsequent to the date hereof and duly executed by the parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed this agreement in multiples in Fort Worth, Tarrant County, Texas, this the _____ day of _____, 2012.

[SIGNATURES APPEAR ON NEXT PAGE]

CITY OF FORT WORTH

By: _____
Charles W. Daniels
Assistant City Manager

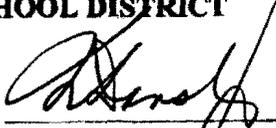
ATTEST:

City Secretary

APPROVED AS TO FORM
AND LEGALITY:

By: _____
Assistant City Attorney

**FORT WORTH INDEPENDENT
SCHOOL DISTRICT**

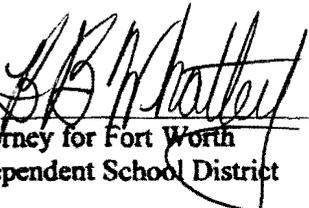
By: 
Superintendent, Fort Worth
Independent School District

By: 
President
Board of Education

ATTEST:

By: 
Secretary, Board of Education

APPROVED AS TO FORM
AND LEGALITY:

By:  12/13/2012
Attorney for Fort Worth
Independent School District