COMMUNITY RECREATION JOINT USE AGREEMENT

This Community Recreation Joint Use Agreement ("Agreement"), effective for all purposes on July 1, 2003, ("Effective Date") is made by and between the Santa Clarita Community College District ("College"), a community college district organized and existing pursuant to the laws of the State of California ("State"), and the William S. Hart Union High School District ("District"), a public school district organized and existing pursuant to the laws of the State. The College and the District may be referred to herein individually as "Party" and collectively as "Parties."

RECATALS

A. Section 10900 et seq. of the State Education Code authorizes and empowers public school districts and other public entities to cooperate and to enter into agreements for purposes of organizing, promoting and conducting joint recreational and educational programs.

B. The College operates a community college and related facilities within the boundaries of the District, known as the College of the Canyons, for purposes of providing educational and recreational programs. The College has facilities and a stadium located at the College of the Canyons that is utilized for recreational and educational activities including, but not limited to, football and soccer ("Stadium"). The Parties acknowledge and agree that the Stadium can be used more beneficially for District and College educational and recreational events, programs and activities because a "Synthetic Field System" has been installed at the Stadium. The Synthetic Field System consists, essentially, of synthetic turf covering the surface of the stadium field ("Surface Component") and an underlying base supporting, and providing adequate drainage for, the Surface Component ("Base Component"). The Parties anticipate that the Surface Component shall have a useful life of approximately ten years, and that the Base Component shall have a useful life of at least twenty years.

C. The District has requested that it be permitted to conduct or permit league sports in the Stadium at such times as will not interfere with the educational and recreational events, programs and activities of the College. The District has agreed, as provided in this Agreement, to participate in paying the costs for the College to construct the Synthetic Field System in exchange for the right of the District to use the Stadium to the extent and in the manner provided in this Agreement.

NOW, THEREFORE, in consideration of the covenants and conditions contained herein, the Parties agree as follows:

Section 1. Incorporation of Recitals. The above recitals are incorporated as effective and operative parts of this Agreement.

Section 2. Term. The term of this Agreement ("Agreement Term") shall commence on the Effective Date and, unless modified as provided herein, shall terminate after twenty (20) years on June 30, 2023, at 11:59 p.m. Prior to July 1, 2013, the Parties may agree to extend the Agreement Term until June 30, 2033, at 11:59 p.m., or such other date and time as agreed by the Parties ("Future Extended Term").

Section 3. Design and Construction Costs. The District shall pay fifty percent (50%) of the College's reasonable costs and expenses to obtain and/or develop the Plans and Specifications, to obtain all required approvals for the Synthetic Field System, and to competitively bid and initially construct the Synthetic Field System; provided, however, that such payment by the District shall not exceed a total of Five Hundred and Five Thousand Dollars ($505,000.00). The College shall pay all other costs required to design and initially construct the Synthetic Field System.

Section 4. Replacement of Initial Surface Component.

(a) Within a reasonable time after the Effective Date the Parties shall agree on the estimated cost, as of completion of initial construction of the Synthetic Field System, to replace the Surface Component ("Surface Replacement Cost"). The Parties shall amortize the Surface Replacement Cost on a yearly basis over a ten-year period and assuming two percent (2%) annual inflation in the Surface Replacement Cost ("Annual
Amortization Amount”). On or about July 1 of each of the first ten years of the Agreement Term, commencing with the Effective Date, each Party shall pay one-half of the Annual Amortization Amount for the fiscal year just beginning.

(b) The College shall establish a separate interest-bearing account into which it shall, within seven days of receipt, deposit payments by each Party of its share of the Annual Amortization Amounts (“Sinking Fund”). All interest earned on funds on deposit in the Sinking Fund shall remain on deposit with the principal. Within a reasonable time after any written request by the District, the College shall provide to the District an accounting of the funds on deposit in the Sinking Fund.

(c) At or about the end of the tenth full year after the Effective Date, or at such later time as may be agreed by the Parties because the useful life of the initial Surface Component will exceed ten years, the College shall cause the initial Surface Component to be replaced at a reasonable cost, and the funds and interest on deposit in the Sinking Fund shall be used exclusively for purposes of paying those reasonable costs. Any shortfall in such funds for such purposes shall be borne equally by the Parties and any excess in such funds for such purposes shall be shared equally by the Parties. In the event the Parties have agreed that the initial Surface Component will have a useful life beyond ten years, the Parties shall adjust the Sinking Fund contributions made pursuant to this Section to account for the revised useful life of the initial Surface Component.

Section 5. Replacement of Synthetic Field System. In the event the Parties agree to a Future Extended Term in accordance with Section 2, the Parties shall establish, manage and contribute to a Sinking Fund, in the manner set forth in Section 4, to accumulate the funds necessary to replace the Synthetic Field System on or around July 1, 2023, or such other date as agreed to by both Parties. Unless otherwise agreed in writing by the Parties, the Parties shall make equal contributions to the Future Sinking Fund, which contributions shall be “amortized” based on the anticipated replacement date of the Synthetic Field System and assuming 2% annual inflation in the Synthetic Field System replacement cost. Notwithstanding the foregoing amount of the District’s contributions shall be reduced, if applicable, to reflect a Future Extended Term that is shorter than the anticipated useful life of the replacement Synthetic Field System. In the event the Future Extended Term is terminated prior to natural expiration thereof, funds that are or were on deposit in the Future Sinking Fund shall be payable to the District in a manner consistent with the procedures set forth in Sections 9 or 10, as applicable.

Section 6. District Use of Stadium and Synthetic Field System.

(a) All use of the Stadium and Synthetic Field System for District recreational or educational events, programs and activities shall be in accordance with the provisions of this Section and any other reasonable procedures established by the College that are necessary or agreed to by the Parties. The District’s use of the Stadium pursuant to this Agreement shall, at a minimum, include the following numbers and types of events or uses: (i) 22 football games; (ii) 11 track meets; (iii) 3 graduation ceremonies; (iv) 2 band events; and (v) 10 (ten) other events as mutually agreed upon by the College and the District.

(b) The Parties shall confer and shall cooperate with respect to scheduling District use of the Stadium as provided in Subsection (a) of this Section. After conferring with the College, but not less than 120 days prior to the date the season for any organized league or team sports commences, the District shall provide a proposed schedule of such activities to the College. The College shall notify the District within ten calendar days after receipt of the proposed schedule as to whether the College approves the proposed schedule, which approval the College shall not unreasonably withhold. Thereafter, the District and the College may agree to amend or modify the schedule(s) for the uses specified in Subsection (a) of this Section, as and when circumstances require. Any use of the Stadium other than as specified in Subsection (a) of this Section (each an “Additional Use”) shall be based on availability of the Stadium and consent of the College, which consent the College shall not unreasonably withhold or delay. However, any use of the Stadium scheduled by the College shall have precedence over any Additional Use thereafter requested by the District. In addition, the Parties may agree to reschedule any scheduled Additional Use to accommodate a use of the Stadium that the College subsequently desires to schedule.

(c) The District may use or permit use of portable concession facilities in connection with any District recreational or educational event, program or activity at or in the Stadium for purposes of selling food, soft drinks and/or other concession items to those in attendance at such event, program or activity. In connection with the operation of such portable concession facilities, the District shall be responsible for compliance with all applicable fire, health and safety standards, laws and regulations, including any reasonable rules and regulations of the College. With respect to such operations, the District shall be liable to the extent provided in Section 14, and
shall indemnify, defend and hold-harmless the College, to the extent provided in Section 15. The College shall not be entitled to share in any portion of the proceeds of such concession sales.

(d) The Parties may agree, in writing, to the use of existing concession facilities at or in the Stadium in connection with District recreational and educational events, programs and activities. In such case, the written agreement shall include, without limitation, provisions for reimbursement or payment to the College, which, as agreed by the Parties, may be based on actual utility service, personnel, maintenance, custodial and other costs, allocation of concession proceeds, payment of rent, or some other basis.

(e) The District may determine that it is not practical or desirable to provide concessions in accordance with Subsection (c) of this Section. In such event, the Parties shall agree to reasonable terms for the College to operate existing concession facilities at or in the Stadium in connection with District recreational and educational events, programs and activities. As soon as reasonably practicable, the Parties shall enter into written agreement setting forth the terms and conditions pursuant to which the College will so operate the concession facilities. The terms and conditions of such agreement shall include, but are not limited to, provisions for reimbursement or payment to the College, which, as agreed by the Parties, may be based on actual utility service, personnel, maintenance, custodial and other costs, allocation of concession proceeds, payment of rent, or some other basis.

(f) In the event the College modifies the existing board policy or adopts procedures for charging of per-vehicle parking fees in connection with events held at or in the Stadium ("Parking Fee"), the Parties may mutually agree to amend this agreement accordingly.

(g) The District shall provide those who use the Stadium in conjunction with any District recreational or educational event, program or activity with one or more District telephone numbers that the users may call in the event of an emergency. The College shall provide the District with a telephone number that the District may call in the event of an emergency or if other assistance is required during non-school hours. The District shall not release such College telephone number to any unauthorized District personnel or any non-District party without the College's express written consent.

(i) The District shall not use any areas or facilities at College of the Canyons pursuant to this Agreement except as expressly authorized in this Agreement or as agreed in writing by the Superintendent of the College or his or her designee.

(i) During such periods as it uses the Stadium or permits the use of the Stadium pursuant to this Agreement, the District, at its sole cost and expense, shall provide such employees as are necessary for the efficient and safe operation of the District's recreational and educational events, programs and activities.

(j) The District, at its sole cost and expense, shall provide or cause to be provided such supplies and equipment as are deemed necessary by the District for the efficient and safe operation of the District's recreational and educational events, programs and activities.

(k) The District shall conduct its recreational and educational events, programs and activities in keeping with the best accepted practices to ensure proper standards of user conduct and safety.

Section 7. Utility and Other Services.

(a) The College shall perform or provide for the regular, on-going maintenance of the Synthetic Field System, the Stadium and all other areas of the College of the Canyons that may be used pursuant to this Agreement for purposes of the College's recreational or educational events, programs or activities. The College shall maintain such areas in keeping with the best accepted practices to ensure reasonably safe conditions for all users of the Stadium. The District shall reimburse the College for the reasonable cost of maintenance, custodial, utilities, and other associated services attributable to District programs, activities or events held in the Stadium in accordance with the negotiated fee based on the actual cost for these services.

(b) The Parties shall agree as to (i) which Party shall repair any damage other than normal wear and tear that may occur to the Stadium or other areas of the College of the Canyons and that is a result of or attributable to any District event, program or activity and (ii) if such repairs are to be performed by the College, the reasonable cost thereof. The District shall reimburse the College for the reasonable cost of any such repairs performed by the College. All such repairs performed by the District shall be done to the satisfaction of the College or to such extent that the Stadium or other areas of College of the Canyons are returned to the condition that existed prior to the damage thereto.

Section 8. Invoicing of Payment Amounts. The College shall at appropriate times provide invoices to the District requesting payment of amounts that the District is required to pay pursuant to Sections 3, 4, 5 and 7 of
this Agreement. The College shall, together with each such invoice, provide reasonably sufficient documentation in support of the invoice amount. The District shall pay the undisputed portion of each such invoice within thirty days of receipt. If the District disputes any portion of an invoiced amount, it shall notify the College within seven calendar days after receipt of the invoice. In such event, the District may request additional information regarding the invoiced amount, and the period for payment of such amount shall be extended by the time required for the College to provide such information. If the District disputes any portion of an invoiced amount, or after receipt of information requested from the College, the District continues to dispute any portion of an invoiced amount, such dispute shall not be considered a default by the District and shall be resolved as provided in Section 33.

Section 9. Termination After 10 Years. In addition to any other bases for termination of this Agreement set forth herein, at any time after ten full years from the Effective Date, the Parties may mutually agree to terminate this Agreement. In the event of such termination, the College shall pay to the District an amount equal to the net funds paid by the District pursuant to Subsection (c) of Section 4, plus any interest earned on account of funds paid by the District pursuant thereto, but reduced for usage through amortization on a straight-line basis for the period representing the projected useful life of the Replacement Surface Component (approximately the second ten years of the Agreement Term). In the event the Parties have agreed to a Future Extended Term and a Future Sinking Fund has been established in accordance with Section 5, upon any such mutual termination the funds on deposit in the Future Sinking Fund shall be allocated and paid to the District in the manner provided in this Section for funds in the Sinking Fund, but reduced for any usage through amortization on a straight-line basis for the period representing the projected useful life of the Replacement Synthetic Field (approximately the third ten years of the Agreement Term) if applicable. In the event the District’s contributions have been adjusted due to the Future Extended Term being shorter than the anticipated useful life of the replacement Synthetic Field System as allowed for in Section 5, then the amortization period will also be adjusted to be consistent with the agreed upon Future Extended Term ending date.

Section 10. Reimbursement Upon Early Termination. At any time on or after July 1, 2013, the College, in its sole discretion, may terminate this Agreement. In the event, for any reason, the College terminates this Agreement prior to natural expiration of the Agreement Term (as may be modified as provided herein), within thirty days of such termination, the College shall:

(i) if at such time the initial Surface Component has not yet been replaced in accordance with Section 4, pay to the District an amount equal to the funds paid by the District pursuant to Section 3 (which amount shall be reduced through (a) amortization of one-half of such amount on a straight-line, monthly basis over the agreed upon useful life of the initial component to account for the portion of such amount relating to the Surface Component, and (b) amortization of the other one-half of such amount on a straight-line, monthly basis over a twenty year period to account for the portion of such amount relating to the Base Component) plus one-half of all funds (including accrued interest) in the Sinking Fund; or

(ii) if at such time the initial Surface Component has been replaced in accordance with Section 4, pay to the District an amount equal to one-half of the funds paid by the District pursuant to Section 3 which amount shall be reduced through amortization on a straight-line, monthly basis over a twenty year period to account for the portion of such amount relating to the Base Component), plus one-half of the final total of all funds (including accrued interest) that accumulated in the Sinking Fund (less any overage paid to the District, or plus any shortfall paid by the District, in accordance with Section 4), reduced for usage through amortization on a straight-line, monthly basis over the portion of the original Agreement Term remaining after replacement of the initial Surface Component.

(iii) if at such time the Parties have agreed to a Future Extended Term, a Future Sinking Fund has been established in accordance with Section 5 and the Synthetic Field System has not yet been replaced, pay to the District an amount equal to all District contributions (including accrued interest) that accumulated in the Future Sinking Fund.

(iv) if at such time the Parties have agreed to a Future Extended Term, a Future Sinking Fund has been established in accordance with Section 5, and the Synthetic Field System has been replaced, pay to the District an amount equal to all District contributions (including accrued interest) that accumulated in the Future Sinking Fund, reduced for usage through amortization on a straight-line basis for the period representing the projected useful life of the Replacement Synthetic Field (approximately the third ten years of the Agreement Term) if applicable. In the event the District’s contributions have been adjusted due to the Future Extended Term being shorter than the
anticipated useful life of the Replacement Synthetic Field System as allowed for in Section 5, then the amortization period will also be adjusted to be consistent with the agreed upon Future Extended Term ending date.

Section 11. Indemnification of District by College. The College shall, except to the extent of any related negligence or willful misconduct of the District, defend, indemnify and hold harmless the District, its agents, officers, and employees from and against any and all liability, expense (including defense costs and legal fees), and claims for damages of any nature whatsoever, including, but not limited to, bodily injury (including death) to any person or property damage, arising from or connected with (i) the College's negligent or willful failure to maintain the Stadium in a reasonably safe condition or (ii) any negligent act or omission by, or the willful misconduct of, the College or any party acting by or on behalf of, or pursuant to the authority of, the College pursuant to this Agreement. The College's duty to indemnify the District pursuant to this Section, with respect to acts or incidents occurring during the Agreement Term, shall survive the expiration or termination of this Agreement.

Section 12. College Insurance Policy. The College shall maintain throughout the Agreement Term, at its own cost and expense, a policy of commercial general liability insurance or self-insurance, written on an occurrence basis, providing coverage for all claims, demands, actions, damages, losses, costs, and expenses, including attorneys' fees and expenses, arising from or attributable to the College's operation or maintenance of the Synthetic Field System, the Stadium and the College of the Canyons ("College Policy"). The College Policy shall also provide coverage for the contractual liability assumed pursuant to Section 11 of this Agreement. The College Policy shall contain a cross-liability endorsement and a waiver of the insurer's rights of subrogation against the District with respect to any act or omission of a Party pursuant to, or claim, action or liability arising from or related to, this Agreement. The College Policy shall provide coverage in a face amount not less than one million dollars ($1,000,000.00) per occurrence and four million dollars ($4,000,000.00) aggregate specifically applicable to this Agreement. The Parties may from time to time agree to reevaluate and adjust the level and scope of insurance coverage required pursuant to this Section. Within thirty (30) days after delivery of this Agreement, the College shall provide the District with a certificate of insurance to demonstrate compliance with the requirements of this Section. The certificate of insurance and the College Policy shall name the District as an additional insured, and shall specify that the insurer shall provide the District with written notice not less than thirty (30) days prior to any cancellation, expiration without renewal, termination, or change in limits of the College Policy, except in the case of cancellation for nonpayment of premium, in which case the notice shall be provided not less than ten (10) days prior to cancellation. Language in the certificate of insurance and the College Policy to the effect that the insurer shall "endeavor" to provide such notice shall not be acceptable.

Section 13. License for District Operations. The College hereby grants a non-exclusive license for the District to enter in, on and/or within the Stadium and, as reasonably required, other portions of the College of the Canyons for all purposes of, and in accordance with, this Agreement ("District License"). The District License shall be limited to: (i) allowing the District or its staff, employees, consultants, and contractors ("District Representatives") to enter, cross over, on, along, through and across the Stadium and, as reasonably required, other areas of the College of the Canyons, for purposes of operating its recreational or educational events, programs and activities; (ii) allowing participants in, and spectators of, the District's programs and activities ("District Invited") to enter, cross over, on, along, and across the Stadium and such portions of the College of the Canyons as is necessary for ingress and egress to and from the Stadium; and (iii) parking of personal and District vehicles within the parking areas at the College of the Canyons and/or the Stadium in connection with the activities authorized pursuant to this Agreement.

Section 14. Liability of District. Except to the extent of the College's liability as provided in Section 11, the District shall be solely responsible and liable for the welfare and control of all District Representatives and District Invited at all times they are present in, on or within the Stadium and/or the College of the Canyons as a result of, or in connection with, this Agreement or for purposes related to the District's programs and activities. The District shall not do, bring or keep, or permit anything to be done, brought or kept, in, on or about the Stadium or the College of the Canyons that will in any way increase or adversely affect the existing rate of fire or other insurance maintained by the College. District recreational or educational events, programs and activities permitted pursuant to this Agreement shall be deemed not to increase or adversely affect the existing rate of fire or other insurance maintained by the College. Except as provided herein, the District shall not do or permit anything to be done that
will in any way obstruct or interfere with College of the Canyons personnel or the legal or contractual rights or duties of the College.

Section 15. Indemnification of College by District. The District shall, except to the extent of any related negligence or willful misconduct of the College, defend, indemnify, and hold harmless the College, its agents, officers, and employees from and against any and all liability, expense (including defense costs and legal fees), and claims for damages of any nature whatsoever, including, but not limited to, bodily injury (including death) or property damage, arising from or connected with District’s operations, services, programs or activities in, on or within the Stadium and/or College of the Canyons pursuant to this Agreement. The District’s obligation pursuant to this Section shall include the obligation to defend, indemnify and hold harmless the College from and against any Worker’s Compensation suits, liability, or expense, arising from or connected with services performed by or on behalf of the District pursuant to, or as a result of, this Agreement. The District’s duty to indemnify the College pursuant to this Section, with respect to acts or incidents occurring during the Agreement Term, shall survive the expiration or termination of this Agreement.

Section 16. District Insurance Policy. The District shall maintain throughout the Agreement Term, at its own cost and expense, a policy of commercial general liability insurance or self-insurance, written on an occurrence basis, providing coverage for all claims, demands, actions, damages, losses, costs, and expenses, including attorneys’ fees and expenses, arising from or attributable to the District’s operations, services, programs or activities pursuant to this Agreement (“District Policy”). The District Policy shall also provide coverage for the contractual liability assumed pursuant to Section 15 of this Agreement. The District Policy shall contain a cross-liability endorsement and a waiver of the insurer’s rights of subrogation against the College with respect to any act or omission of a Party pursuant to, or claim, action or liability arising from or related to, this Agreement. The District Policy shall provide coverage in a face amount not less than one million dollars ($1,000,000.00) per occurrence and four million dollars ($4,000,000.00) aggregate specifically applicable to this Agreement. The Parties may from time to time agree to reevaluate and adjust the level and scope of insurance coverage required pursuant to this Section. Prior to entering onto the College of the Canyons or the Stadium, the District shall provide the College with a certificate of insurance to demonstrate compliance with the requirements of this Section. The certificate of insurance and the District Policy shall name the College as an additional insured, and shall specify that the insurer shall provide the College with written notice not less than thirty (30) days prior to any cancellation, expiration without renewal, termination, or change in limits of the District Policy, except in the case of cancellation for nonpayment of premium, in which case the notice shall be provided not less than ten (10) days prior to cancellation. Language in the certificate of insurance and the District Policy to the effect that the insurer shall “endeavor” to provide such notice shall not be acceptable.

Section 17. Property Insurance. The College shall obtain and, at all times during the Agreement Term, maintain insurance covering all damage to or destruction of the Synthetic Field System, the Stadium and the College of the Canyons, with coverage limits as are determined by the College in its reasonable discretion.

Section 18. Reconstruction, Replacement or Repair. During the Agreement Term, if all or any portion of the Synthetic Field System, the Stadium and/or College of the Canyons is destroyed or damaged, as fee owner thereof, the College shall be entitled to receive all insurance proceeds related to such destruction or damage. In the event of such destruction or damage preventing the District’s use of the Stadium in accordance with this Agreement, the District and the College shall meet and confer with respect to whether the College should reconstruct, replace or repair the destroyed or damaged facilities. In the event (i) insurance proceeds attributable to the destruction or damage are not sufficient to pay the full cost of reconstructing, replacing or repairing the Synthetic Field System, the Stadium and/or the College of the Canyons to the standards required pursuant to the then-existing provisions of all applicable federal, State and local laws, and (ii) the College and District are unable to reach an agreement with respect to an alternative funding source for reconstruction, replacement, or repair thereof, the College, in its reasonable discretion, may determine not to reconstruct, replace, or repair the Synthetic Field System, Stadium and/or College of the Canyons. This Agreement shall terminate in the event the College does not, as applicable, reconstruct, replace or repair the Synthetic Field System, Stadium and/or College of the Canyons and the District is, therefore, reasonably prevented from using those facilities in accordance with this Agreement, or in the event, as determined by the District in its reasonable discretion, that any such reconstruction, replacement or repair does not result in the District having full use of those facilities as contemplated by this Agreement.
Section 19. **Default.** If a Party fails to perform all duties and obligations as and when required pursuant to this Agreement, that Party shall be in default of this Agreement ("Defaulting Party"). Unless a different period is specified elsewhere in this Agreement, the Defaulting Party shall cure any and all defaults within a reasonable time, which in no event shall exceed sixty (60) days, after notice from the other Party ("Non-Defaulting Party"). The Non-Defaulting Party may, in its sole discretion, after request of the Defaulting Party, grant additional time for the Defaulting Party to cure any default, if the Defaulting Party has made reasonable and continuous efforts to cure the default after notice thereof, but has been unable to cure such default. If the Defaulting Party fails to cure any such default within the foregoing sixty (60) day period or extension thereto, the Defaulting Party shall be in breach of this Agreement and the Agreement shall terminate. In the event of any such termination, the Non-Defaulting Party shall be entitled to recover from the Defaulting Party (and, upon request, the Defaulting Party shall pay to the Non-Defaulting Party) any and all costs, expenses, and damages incurred or suffered by the Non-Defaulting Party proximately caused by the Defaulting Party’s breach. Notwithstanding any costs, expenses and damages payable to a Party in the event this Agreement is terminated as a result of a default by a Party, upon any such termination the District shall be entitled to reimbursement of payments pursuant to Section 10 only in the event that the District is the "Non-Defaulting Party." In the event that the District is the Defaulting Party, the District shall not be entitled to any reimbursement of payments pursuant to Section 9 or 10.

Section 20. **Entire Agreement.** The making, execution, and delivery of this Agreement by the Parties has not been induced by any representations, statements, warranties, or agreements, other than those expressed herein. This Agreement fully and completely expresses the entire agreement between the Parties hereto with respect to the subject matter hereof. Except as expressly set forth herein, there are no writings, conversations, representations, warranties, or agreements that the Parties intend to be a part hereof, and this Agreement represents the entire agreement between the Parties hereto and supersedes any and all previous written or oral agreements or discussions between the Parties and any other person or legal entity concerning the transaction(s) contemplated herein.

Section 21. **Not for Benefit of Third Parties.** This Agreement and every provision hereof is for the exclusive benefit of the Parties, and, other than in the sense that this Agreement is made for the general public benefit, it is not for the benefit of any specific third party.

Section 22. **Assignment.** The Parties acknowledge that this Agreement is particular to the Parties and agree that neither Party shall assign any right or obligation hereunder except in the limited manner provided in this Section. The District may not assign any portion of this Agreement except, in the event of a school district reorganization pursuant to Education Code Sections 35500 et seq. and/or 35700 et seq., to the successor public educational entity. In the event of any such reorganization, the successor public educational entity shall automatically assume all obligations and be entitled to all rights of the District hereto. Each of the provisions, terms, covenants and conditions herein that are to be performed by the District shall be binding upon any transferee thereof.

Section 23. **Title.** Fee title to the Synthetic Field System and the College of the Canyons, at all times, including after expiration or termination of this Agreement, shall remain with the College.

Section 24. **Waiver.** The failure of either Party at any time to require a performance by the other Party of any provision hereof shall not affect in any way the full right to require such performance at any time thereafter. The waiver of any breach of any provision of this Agreement shall not be deemed to be a waiver of any preceding or subsequent breach of the same or any other provision of this Agreement.

Section 25. **Severability.** If any Section, Subsection, term, provision, covenant or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining Sections, Subsections, terms, provisions, covenants and conditions of this Agreement shall be unaffected thereby and shall continue in full force and effect.

Section 26. **Force Majeure.** Except for the Parties’ indemnification and insurance obligations, non-performance by a Party of any obligation set forth in this Agreement shall be excused if reasonably prevented or delayed by reason of any act, event, or condition reasonably beyond the control of that Party including: (i) war, acts
of public enemy, insurrection, significant and substantial civil commotion or riot; (ii) earthquake, fire, flood or other severe, inclement weather; (iii) governmental restriction or the act or failure to act of any governmental agency or entity other than the non-performing Party; (iv) litigation (including, without limitation, litigation contesting the validity of, or seeking the enforcement or clarification of, this Agreement); and (v) strike, lockout, labor dispute, delay of any contractor, subcontractor or supplier, or inability after best efforts to secure necessary labor, materials or tools.

Section 27. Notices. All notices, demands and other communications required or given pursuant to this Agreement shall be in writing, duly addressed as indicated below, and given by personal delivery, registered or certified mail (postage prepaid and return receipt requested), Federal Express or other reliable private express delivery, or by facsimile transmission (with original to follow via first-class U.S. Mail). Such notices, demands or other communications shall be deemed to have been given or served only upon actual receipt. Any party specified below may, for purposes of this Agreement, change its name, address, facsimile number, or person to whom attention should be directed by giving notice in the manner specified in this Section. A copy of any notice, demand or communication sent to the District should also be sent to the District’s legal counsel, and a copy of any notice, demand, or communication sent to the College should also be sent to the College’s legal counsel. Notices, demands and communications shall be duly addressed as follows:

To the District:  
William S. Hart Union High School District  
Attention: Asst. Supt. of Business Services  
21515 Redview Drive  
Santa Clarita, CA 91350  
Facsimile: (661) 259-4762

To the College:  
Santa Clarita Community College District  
Attention: Chief Business Official  
26455 Rockwell Canyon Road  
Santa Clarita, CA 91355  
Facsimile: (661) 259-8301

To the District’s Legal Counsel:  
Bowie, Arneson, Wiles & Giannone  
Attention: Brian W. Smith  
4920 Campus Drive  
Newport Beach, CA 92660  
Facsimile: (949) 851-2014

To the College’s Legal Counsel:  
Liebert, Cassidy, Whitmore  
Attention: Mary Dowell  
6033 W. Century Bl., Suite 500  
Los Angeles, CA 90045  
Facsimile: (310) 337-0837

Section 28. Cooperation of the Parties. Each Party shall execute and deliver to the other Party all such other further instruments and documents as are reasonably necessary to carry out this Agreement, in order to provide and secure to the other Party the full and complete enjoyment of its rights and privileges hereunder.

Section 29. Time Limits. Any time limits set forth in this Agreement may be extended by mutual consent of the Parties in accordance with the respective procedures for adoption by the Parties of an agreement.

Section 30. Compliance with Laws. Each Party shall, at its own cost and expense, comply with all laws and governmental rules and regulations applicable to the transaction contemplated in this Agreement, including, but not limited to, any required filings with governmental authorities.

Section 31. Governing Law. This Agreement shall be construed in accordance with California law.

Section 32. Venue for Resolving Disputes. Any arbitration, mediation, litigation or other proceeding arising out of, or connected with, this Agreement shall be conducted only in the County of Los Angeles.

Section 33. Arbitration of Disputes. The Parties desire to quickly and cost-effectively resolve any disputes related to the interpretation or enforcement of this Agreement. Therefore, each Party shall make its best efforts to resolve informally any such disputes. If, not less than thirty (30) calendar days after first making informal attempts to resolve any such dispute, the attempts have been unsuccessful, either Party may thereafter initiate binding arbitration.
Section 35. **Comparative Fault.** Notwithstanding anything in this Agreement to the contrary, in the event any settlement, court judgment, or arbitration or mediation award allocates or determines the comparative fault of the Parties, either Party, consistent with such allocation or determination, may seek reimbursement from the other Party with respect to defense costs, settlement payments, judgments and awards.

Section 36. **Attorneys’ Fees.** In any action or other proceeding between the Parties seeking enforcement or interpretation of any provision of this Agreement or in connection with (i) the design, construction, use or maintenance of the Synthetic Field System, (ii) operation, use or maintenance of the Stadium or the College of the Canyons, or (iii) any other act or omission of a Party pursuant to this Agreement, the prevailing Party in such action or other proceeding shall be awarded its reasonable costs and expenses, including, but not limited to, reasonable attorneys’ fees, disbursements, and court costs, in addition to any damages, injunctive, or other relief awarded, and, without limitation, attorneys’ fees, disbursements, and court costs, incurred in any post-judgment proceedings to collect or enforce any judgment.

Section 37. **Representation by Independent Counsel.** The Parties agree and acknowledge that they have been represented by independent legal counsel of their own choice throughout all negotiations preceding the execution of this Agreement, and that they have executed this Agreement with the consent of, and upon the advice of, their own legal counsel.

Section 38. **Interpretation of Agreement.** In interpreting this Agreement, it shall be deemed to have been prepared by the Parties jointly, and no ambiguity shall be resolved against either Party on the premise that it was, or its attorneys were, responsible for drafting this Agreement or any provision hereof. The captions or headings set forth in this Agreement are for purposes of reference only and shall not limit or define the meaning of the provisions contained herein. Unless specified otherwise, all references in this Agreement to the words “Section” or “Subsection” shall be references to a Section or Subsection, respectively, contained within this Agreement. Where necessary or useful in the context of this Agreement, use of the singular shall be deemed to include the plural, and use of the plural shall be deemed to include the singular. For all purposes of this Agreement, “shall” shall be interpreted as mandatory and “may” shall be interpreted as permissive.

Section 39. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be an original but all of which shall constitute one and the same instrument.

Section 40. **Due Authority of Signatories.** Each individual signing this Agreement warrants and represents that he or she has been authorized by appropriate action of the Party which he or she represents to enter into this Agreement on behalf of that Party.

**In Witness Whereof,** the Parties have caused this Agreement to be executed on their behalf by their respective duly-authorized representatives.

**William S. Hart Union High School District**

By: [Signature]

President of the Governing Board

By: [Signature]

Clerk of the Governing Board

Approved as to Form:

Bowie, Arneson, Wiles & Giannone

By: [Signature]

Brian W. Smith, Attorneys for the William S. Hart Union High School District

**Santa Clarita Community College District**

By: [Signature]

President of the Board of Trustees

By: [Signature]

Clerk of the Board of Trustees

Approved as to Form:

Liebert, Cassidy & Whitmore

By: [Signature]

Mary Dowell, Attorneys for the Santa Clarita Community College District

7/16/03
AGENDA CATEGORY: BUSINESS SERVICES

ITEM TITLE: Approval of Community Recreation Agreement Between Santa Clarita Community College District and William S. Hart Union High School District

BACKGROUND ANALYSIS:

On January 22, 2003, the Santa Clarita Community College District Board of Trustees approved the installation of artificial turf in the College's stadium. The cost of this project is $1,005,000 and the project life is estimated at 20 years for the substructure and ten years for the surface turf. After ten years, the replacement cost of the surface turf is projected at $500,000.

The William S. Hart Union High School District has proposed to contribute 50% of the initial cost of the project in the amount of $505,000 as well as 50% of the ten-year replacement cost in the amount of $250,000, prorated over ten years. In conjunction with this contribution, a joint use agreement in the form of a Community Recreation Agreement (Ed Code §10900) has been developed and is attached for review.

A sinking fund will be established for the replacement cost of the surface turf at the end of ten years, the life of the top layer of FieldTurf. An amount of $50,000 per year, increased annually by 2%, will be contributed equally by the William S. Hart Union High School District and the Santa Clarita Community College District to the sinking fund. This will result in an amount of $500,000 in the account at the end of year ten, sufficient to replace the FieldTurf layer that sits upon the subgrade construction.

The term of the agreement is 20 years, allowed by the provisions of the Ed Code §10900. There is an option for the parties to mutually terminate the agreement after ten years, on July 1, with a minimum of 60 days notice. The July 1 annual termination option allows each party the opportunity to make other arrangements for a new venue and funding for the replacement turf prior to the beginning of a new season. Upon termination of the agreement, the William S. Hart Union High School District would be reimbursed a prorated amount of their portion of the sinking fund, on deposit at that time, and a prorated amount of the original $505,000 investment.

The William S. Hart Union High School District averages 35 games/events on 20 separate dates. The agreement provides that the William S. Hart Union High School District will be guaranteed usage of the Stadium/FieldTurf System based on current usage, updated for any additional, anticipated events. A schedule of events will be submitted by the Hart District, for approval by COC, ninety days in advance of the season.

The William S. Hart Union High School District will continue to be charged a per event fee to cover the basic costs of providing the Stadium facilities, including: utilities, security, maintenance and a separate fee for clean-up after each event. In the event COC decides to charge for parking, the agreement provides for a mutual arrangement with the Hart District for Hart events. Also, provided for in the agreement is the opportunity for the Hart District to establish a “portable” concession area and/or to contract with COC to provide concessions. A copy of the agreement is available from the Business Office upon request.

FISCAL IMPLICATIONS:

A contribution to College of the Canyons in the amount of $505,000 in 2002/2003. This amount is not included in the 2002/2003 Adopted Budget.

RECOMMENDATIONS:

Move Approval of Community Recreation Agreement Between Santa Clarita Community College District and William S. Hart Union High School District.

Submitted by:
Shariene L. Coleal

Recommended by:

Approved for submission to Board of Trustees:
Dianne G. Van Hook, Ed.D.
Superintendent-President

5.2, Page 1
June 25, 2003
AGENDA CATEGORY         BUSINESS SERVICES  Board of Trustees Meeting  8/13/03

ITEM TITLE  Approval of Changes to Community Recreation Agreement Between Santa Clarita Community College District and William S. Hart Union High School District

ACTION/CONSENT

ACTION

INFORMATION

DISCUSSION

BACKGROUND ANALYSIS:

On January 22, 2003, the Santa Clarita Community College District Board of Trustees approved the installation of artificial turf in the College’s stadium. The cost of this project is $1,005,000 and the project life is estimated at 20 years for the substructure and ten years for the surface turf. After ten years, the replacement cost of the surface turf is projected at $500,000.

On June 25, 2003, the College of the Canyons Board of Trustees approved a Community Recreation Agreement (Ed Code §10900) with the William S. Hart Union High School District that provides for a contribution by the Hart District of 50% of the initial cost of the project in the amount of $505,000 as well as 50% of the ten-year replacement cost in the amount of $250,000, prorated over ten years.

The term of the agreement is 20 years, allowed by the provisions of Ed Code §10900. There is an option for the parties to mutually terminate the agreement after year ten, on July 1, with a minimum of 60 days’ notice. The July 1 annual termination option allows each party the opportunity to make other arrangements for a new venue and funding for the replacement turf prior to the beginning of a new season. Upon termination of the agreement, the William S. Hart Union High School District would be reimbursed a prorated amount of their portion of the sinking fund, on deposit at that time, and a prorated amount of the original $505,000 investment. The agreement also allows College of the Canyons to terminate the agreement after year ten, if the need arises, and reimburse the Hart District as above.

The William S. Hart Union High School District averages 35 games/events on approximately 20 separate dates. The agreement provides that the William S. Hart Union High School District will be guaranteed usage of the Stadium/FieldTurf System based on current usage, updated for any additional, anticipated events. A schedule of events will be submitted by the Hart District, for approval by COC, 120 days in advance of the season (approximately May 1).

(Continued . . .)

FISCAL IMPLICATIONS:

A contribution to College of the Canyons in the amount of $505,000 in 2003/2004. This amount is not included in the 2003/2004 Adopted Budget. In addition, a contribution of approximately $25,000 per year, for ten years, to the FieldTurf replacement sinking fund that will provide for 50% of the replacement cost of the top layer of turf in ten years.

RECOMMENDATIONS:

Move Approval of Changes to Community Recreation Agreement Between Santa Clarita Community College District and William S. Hart Union High School District.

Submitted by:
Sharlene L. Coleal

Recommended by:

Approved for submission to Board of Trustees:

Philip Hartley

Executive Vice President/Assistant Superintendent

5.11, Page 1
August 13, 2003
BACKGROUND ANALYSIS (Continued):

A copy of the agreement is available from the Business Office upon request.

On July 23, 2003, the William S. Hart Union High School District Board of Trustees approved the Community Recreation Agreement with the following changes included:

- **Concessions:**
  A third option was added that allows the William S. Hart High School District the opportunity to lease the COC Concession stand in the stadium for the purpose of providing food during their events. This is in addition to the other two options, including: 1) a “portable” concession stand operated by Hart District or 2) the Hart District contracting with COC to run the concession stand.

- **Parking:**
  Language was added to indicate that COC currently has no desire and no Board approved policy to charge for event parking. However, in the case that this changes, the agreement may be modified by the Parties.

- **Stadium Use:**
  The agreement was modified to increase the number of “Other” events from 2 to 10 with the prospect of soccer being added to the current football and track schedule. In addition, language was added that provided for additional events being scheduled by the Hart District with COC, as mutually agreed upon with the provision that COC events would take precedence.

- **Per Event Usage Fee:**
  This section was combined from multiple sections into one section to reflect a “composite” fee that would include all aspects of the cost of leasing the stadium to the Hart District for each event, including: utilities, maintenance, custodial, etc.