

**NORTH CAROLINA**

**GUILFORD COUNTY**

**THIS SHARED USE AGREEMENT** (the "Agreement") is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2006 by and between the **GUILFORD COUNTY BOARD OF EDUCATION**, a body corporate organized and existing pursuant to the laws of the State of North Carolina (the "Board"), and **THE CITY OF HIGH POINT**, a North Carolina municipality (the "City");

**WITNESSETH:**

THAT WHEREAS, the predecessor to the Board, the High Point City Board of Education (the "City Board"), owned certain real property vacant land near Simeon Stadium suitable for a future middle school (the "School Site"), which is now held by The Board; and the City owns sports fields that are used by both city residents and the Board for soccer and other sports (the "Athletic Complex"); and the City also owns property adjacent to the School Site (which also includes the "Soccer Area") all as shown on Exhibit A attached hereto (the Athletic Complex and Soccer Area are referred to collectively as the "Facilities" in this Agreement); and

WHEREAS, the City intends to construct sports fields and soccer fields on the Soccer Area using city funds, which facilities will be of benefit to the citizens of High Point and Guilford County and to Guilford County students and the Board needs additional sports fields and uses and intends to continue using the fields and facilities at the Athletic Complex;

NOW, THEREFORE, IN CONSIDERATION OF THE PREMISES AND OF THE MUTUAL COVENANTS AND PROMISES SET FORTH HEREIN, THE PARTIES HERETO AGREE AS FOLLOWS:

**1. Construction of Additional Soccer and Sports Fields on the Property.**

- a. The City shall construct, at its sole effort and expense, with no financial participation whatsoever from the Board, soccer and sports fields, lights, rest room facilities, a snack bar or concession area, seating, irrigation, and parking and vehicle stacking area on the Soccer Area designated in Exhibit A. An area designed and usable as a softball field will be reserved, but may be used for other purposes. If a middle school is constructed on the School Site, the Board will be responsible for constructing the softball field.
- b. The Soccer Area shall be constructed in compliance with all Guilford County, City of High Point, school or other standards, rules and regulations, and it must meet the specifications for school fields set by any supervising or governing agency, entity or body.
- c. Any public street improvements required as a result of the improvements to the Soccer Area or the use by the City or the Board of the Soccer Area shall be the sole responsibility of the City.

**2. Use of The Athletic Complex.**



- a. The City owns the Athletic Complex that is used by both the City and the Board for sports activities including soccer, lacrosse, baseball, track and practice fields.
- b. The Board currently pays a set fee for use of the Athletic Complex. The City agrees to allow the Board free use of the Facilities at times and using the schedule agreed to under Section 4 of this agreement.

**3. Maintenance of all Facilities.**

- a. The City agrees to do the following:
- b. Maintain the Facilities in good condition for use as athletic facilities, including mowing, painting, reasonable repairs, lining, irrigation, maintenance of equipment such as nets and goals, and any other maintenance necessary to use the fields as school athletic facilities;
- c. Pay all utilities on the Facilities, such utilities to include water, electricity, gas, sewer and any other fees for services required for the operation of the Facilities as athletic facilities;
- d. Manage and schedule events at the Facilities when not in use by the Board; and

**4. Shared Use of Facilities.**

- a. The Board shall have the right to use and control the Facilities for school competitions for the schools named in Exhibit C or for any such school regional, conference, state or national competitions. Sports requiring the use of such fields include (but are not limited in the future to), soccer, lacrosse, and track and field.
- b. The parties agree to create a master schedule, which will be maintained by City. The Master schedule will be updated at least twice a year, by August 1 and January 15, outlining all of the projected school events for each semester. The Board will have priority scheduling for all school events including conference and non-conference events, make up or rained out events that are rescheduled and playoff games, meets or matches. The Board will give City reasonable notice of make-up and conference play off events or other eligible events not placed on the master schedule at the designated times above.
- c. The City shall have the right to schedule the Facilities for use by it or others who contract for use with the City at all other times. The City agrees to abide by all of the rules and regulations of the Board upon property owned by the Board, including but not limited to its prohibition of the use of alcohol or tobacco products.

**5. Gate Receipts, Security, Cleanup.**

- a. Each party is entitled to the gate and concession receipts from its use of the Facilities. Each party is responsible for security, cleaning, and trash removal at its events and functions.

**6. Construction of Middle School on School Site.**

If the Board constructs a middle school on the School Site, and if any improvements made by the City on its property in the "Soccer Area" interfere with the siting of the new school, then the City will remove such improvements at its expense immediately upon notice from the



Board. The City and the Board agree that for purposes of calculating impervious surface percentages, the properties of both parties contiguous to each other shall be considered jointly. In the event that the Board of Education is required to construct a retention or detention pond, the parties agree that the pond will be located so as to cause the least interference with the full and complete use of the property owned by the Board. The City agrees to cooperate with the Board and to permit the Board to locate the retention or detention pond upon so much of the property deeded from the Board to the City pursuant to this Agreement as is required in order for the Board's property to be fully utilized as a school facility.

7. Without the express written permission of the other party, which shall not be unreasonably withheld as long as the purposes of this agreement are fulfilled, neither party shall use any of its respective property which is the subject of this agreement except for the purposes described in this agreement, or convey any such property to a third party.

8. **Consideration.**

The City shall pay to the Board, by July 15 of each fiscal year, a use fee of \$10.00 and other good and valuable consideration, including the cost of constructing and maintaining the Facilities and their use by the Board as provided herein.

9. **Insurance.**

Both parties are self-insured for liability, and each shall be responsible for any respective claims or suits arising out of its use of the Property. Each party indemnifies and holds harmless the other party for any claim or suit for damages or injury occurring on the Property.

10. **Property Damage.**

Each party, within thirty (30) days after written demand by the other party, shall reimburse the other party for the costs of repairing or replacing any damaged or stolen property of the other party which has occurred during the first party's control and operation of the other party's property.

11. **Term.**

This term of this Agreement shall commence on January 1, 2006 and shall terminate on December 31, 2016, and shall automatically renew for successive ten year terms unless written notice of non-renewal is given by written notice to the other party at least 90 days before expiration of the term.

12. **Miscellaneous.**

- a. **Severability.** If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or otherwise unenforceable, the remainder of this Agreement shall remain in full force and effect.



- b. Entire Agreement. This Agreement, including the appendices and exhibits hereto which are incorporated herein by reference, constitutes the entire understanding between the parties with respect to the subject matter hereof. No modification of this Agreement shall be valid unless it is in writing and is signed by each party to this Agreement.
- c. No Waiver. The waiver of any term or condition of this Agreement by any party shall not be construed as a waiver of any subsequent breach or failure of the same term or condition, or a waiver of any other term or condition of this Agreement.
- d. Applicable Law. This Agreement shall be governed by, and be construed in accordance with, the laws of the State of North Carolina, without giving effect to procedural rules or legal principles respecting conflicts of laws.
- e. Headings. Section and paragraph titles and headings herein contained are inserted only for convenience and are not intended to be construed as a part of this Agreement or as a limitation upon the scope of the particular portion of this Agreement to which they refer.
- f. Counterparts. This Agreement may be executed in multiple counterparts, the combination of which shall constitute a single Agreement.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be duly executed by their authorized representatives, by authority duly given, all on or as of the date first above written.

**GUILFORD COUNTY BOARD OF EDUCATION**

ATTEST:

By: \_\_\_\_\_

Chairman

By: \_\_\_\_\_

Secretary

**THE CITY OF HIGH POINT**

ATTEST:

By: \_\_\_\_\_

Title: \_\_\_\_\_

By: \_\_\_\_\_