



City of Palo Alto

City Council Staff Report

(ID # 5297)

Report Type: Action Items

Meeting Date: 11/17/2014

Summary Title: Third Amendment to the Lease of the Cubberley Community Center

Title: Approval of Third Amendment to the Lease Between the Palo Alto Unified School District and the City of Palo Alto at the Cubberley Community Center

From: City Manager

Lead Department: Administrative Services

RECOMMENDATION

Staff recommends that Council authorize the Mayor to sign the Third Amendment to the Lease between the City of Palo Alto and Palo Alto Unified School District (PAUSD)/ (District) in substantially the form as contained in Attachment A, extending the Cubberley Community Center (CCC) lease for an additional five years and updating the financial terms to permit additional City investment in the aging infrastructure of the Cubberley Community Center (CCC).

EXECUTIVE SUMMARY

On February 24, 2014, the Council approved a series of recommendations (Attachment B, CMR: 4506) regarding the renewal of the Cubberley Community Center Lease and authorized the City Manager to negotiate with PAUSD to execute a new agreement based on the Council's guidelines. While there were initial negotiations between the City and School District following the Council direction, over the past few months, the City Manager and the School Superintendent had fruitful meetings regarding terms and conditions for the renewal of the Cubberley Lease and have reached a tentative agreement to move forward with a new five (5) year extension of the Lease Agreement.

As part of the new five (5) year term agreement the City and PAUSD have agreed to eliminate the Covenant Not to Develop clause from the Lease, with that funding (\$1.86 million annually) now going into a Property Infrastructure Fund to be used for repairing, renovating, and/or improving the infrastructure at the Cubberley Community Center site.

The new adjusted Cubberley lease payment (less the payment for the Covenant Not to Develop Sites) in the amount \$5.45 million from the City to PAUSD will include two components from the original lease: the base payment for the leased site and the payment for extended day care spaces at a variety of elementary school sites. The Lease also provides a mechanism for a joint planning process between the City and PAUSD to develop a long term master plan for the Cubberley site.

BACKGROUND

History

The background information on the Cubberley Community Center since the City's initial involvement at the Center in 1989 as well as interaction with the PAUSD is extensive (note links to additional reports in Attachment B). Originally opened as a high school in the 1950s, Cubberley was closed due to decreasing enrollment in 1979. At that time, PAUSD was experiencing substantial budget pressures due to a variety of circumstances starting in the late 1970s and early 80s, including Passage of Proposition 13 in 1978 and declining PAUSD enrollment and revenue during the post-Baby Boom era. In response to that stressed financial situation, the PAUSD closed several schools and sold some existing school sites in order to help sustain its educational programs at the level the community expected. This included the closure of Cubberley in 1979 and the City's acquisition of Terman in 1981, as well as the District's sale and/or closure of other school sites.

On September 1, 1989, the City and the PAUSD entered into a lease agreement. Under the lease agreement, the City provided PAUSD with annual revenue in exchange for the City receiving: 1) a lease on the former 35-acre Cubberley High School site, including 180,000 square feet in improvements to be used for community theater, sport and art groups; 2) a *Covenant Not to Develop* five neighborhood elementary school sites (Jordan, Jane Lathrop Stanford, Ohlone, Garland and Greendell); and 3) an agreement that PAUSD provide space for extended day care at each of eleven remaining elementary school sites. On December 10, 2001, City and PAUSD entered into a property exchange agreement whereby City conveyed to the district the Terman site and in exchange received 7.97 acres of the Cubberley site.

The original lease Agreement was for 15 years, beginning January 1, 1990 and ending on December 31, 2004. The option to extend the lease for an additional ten years was exercised by the City and the current term of the lease will expire on December 31, 2014. Since 1989 City staff and PAUSD have entered into several lease amendments and other agreements regarding the site needs.

Cubberley Property and Lease

The Cubberley Community Center currently occupies the entire 35-acre site: the City owns 8 acres in the northeast corner of the site; the remaining 27 acres are owned by PAUSD and leased to the City. Together, this 35-acre site is the last major plot of publicly owned land in the City proper, and its long term future use is critical to both community services and education.

The city's acreage contains campus classroom space, art and dance studios, some parking, a portable building used by Friends of the Palo Alto Library (FOPAL), and the tennis courts. The 27-acre area contains the playing fields, a dance studio, weight room, gymnasiums and pavilion, multi-purpose auditorium and theater with music rooms, three wings of classrooms, a portable building used by Friends of Palo Alto Library (FOPAL), and most of the parking areas.

Facility

According to Cubberley Community Advisory Committee report (CCAC Report, Attachment B), most of the buildings and other facilities at the Cubberley site were completed by 1955. Some additional buildings (Pavilion, Theater, and others) were added in the early 1960's along with a new artificial turf field in 2009. The site was built to then-existing school standards. While the structures have stood up well given their age, they have become increasingly run-down and expensive to maintain and were not designed to support current and future needs. The Cubberley site is inefficiently used by modern standards. Existing buildings are single story, per the 1950s model of Palo Alto school architecture. Single pane windows, poor insulation and louvers contribute to high energy costs. Air conditioning is not provided throughout most of the site, heating is ineffective and aged wiring does not adequately support today's technological needs. The small, largely uniform, individual classroom design also limits the types of groups and activities that can be accommodated and fails to provide appropriate gathering spaces for modern school or community use.

DISCUSSION

The following items described below represent the list of key points that City Council recommended to be pursued in negotiations for new terms and conditions, and those in particular that have been agreed on by the City and the District in this Lease Amendment as the result of the lease negotiation.

Lease Term

The term of the current lease will expire on December 31, 2014. According to section 6.1.3 of the lease, the City and PAUSD can extend the lease for two (2) additional five (5) year periods. The parties have decided to extend the lease for another five (5) years. The new term (five years) is scheduled to commence on January 1, 2015, thru December 31, 2019.

(The Council had recommended a longer term lease. The School District was not prepared to enter into a longer term lease at this time. It is hoped that the Master Plan for the site that will be developed in the next five years will better inform the needs and schedule for changes on the site, in advance of the next lease renewal discussion.

Lease Payment

According to the new term of the new Lease Amendment, the Lease is renamed as the “Lease and Child Care Agreement between the City of Palo Alto and the Palo Alto Unified School District” and the new payment from the City to the District will consist of the Base Payment for the Leased Site and the payment for the Extended Day Care Spaces excluding the payment for Covenanted Sites that City has been paying since 1989. The new payment to the district will be paid monthly and it is projected to start on January 1, 2015 in the amount of \$454,423. This amount would translate into an annual total payment of \$5,453,076 in 2015.

Covenant Not to Develop & Cubberley Property Infrastructure Fund

The parties have agreed to the elimination of the Covenant Not To Develop. The \$1.86 million former annual covenant payment (from the City to the PAUSD) will be transferred to a Cubberley Infrastructure Fund to be used by the City for reasonable and acceptable expenses for repairing, renovating, and/or improving the property infrastructure for the CCC site, (for more information regarding the infrastructure needs of CCC, please refer to Infrastructure Blue Ribbon Commission (IBRC) report link in attachment B).

The Lease Amendment requires the City to notify the District of planned projects and following consultation with the District and consideration of District input, the City will make final determination as to the expenditures. The City annually will provide the District with an annual report as to how the funds were spent in the previous year.

(These conditions align with the Council’s recommendations)

(CPI) Annual Adjustments:

The District and City have agreed to adjust the Lease payment by a 3% annual increase on the anniversary of the Third Lease Amendment date.

(The Council directions had included elimination of the CPI).

Future plan for the use of the 8-Acre Site

The District and the City have agreed to commit to jointly develop a master plan for the entire site in the next five years. The scope of the plan and its funding source will be determined by future mutual agreement. (The Cubberley Community Advisory Committee recommended that the City and the District work jointly to develop shared community/school use plan for the site)

Reconfiguration of the City owned eight (8) acres

The Third Amendment provides a mechanism for allowing, by mutual consent, the parties to change the footprint of the 8 acre City owned site. This allows for the possibility of a new configuration for the site, if both parties agree, as a result of planning for the site for the long term.

(Consistent with the recommendation of the City Council).

Loss of Anchor Tenant

Foothill College represents a significant portion of the current tenant lease income and serves as the anchor tenant at Cubberley paying more than a million dollars to City for rent of its space. Foothill College is planning to move to a new Sunnyvale campus located at the Onizuka Air Force Base in the next three years.

The District and The City have agreed that when Foothill College moves their entire operation or a significant part of it out of Cubberley, the District and City agree to split either the lost revenue or the gain in revenue on a 50/50 basis by either decreasing or increasing the City's lease payments. Alternatively, should the City choose to use some or all of the space for its

own purposes, such as the temporary relocation of the Junior Museum, it would pay the appropriate rent to the District.

(This condition aligns with the Council's earlier recommendation).

Child Care

Cubberley is home to several centers providing both childcare and early education, supporting both the children and their parents. Palo Alto has recognized this since the 1970s with innovative support for such programs. The Lease amendment allows for the continuation of this collaborative support of child care by the City and the District.

(Aligns with Council recommendation).

Playing Fields

The demand for fields is growing faster than the population, yet there are few locations for additional fields in Palo Alto. This agreement includes no new language relating to playing fields. Related to the Council direction to pursue access to fields at Cubberley for the longest possible period, that objective is limited to the new five year term in the lease. The City and the District anticipate working together to develop a long term use plan which can help inform playing fields needs and access at Cubberley. Access to other fields and sites that the School District has would be a relevant corollary to those discussions.

(Partially meets Council's earlier recommendation).

Eliminate PAUSD right to cancel the lease to open a compact high school

Section 10 of the Second Amendment of the Cubberley lease grants the PAUSD the right to terminate the lease by exercising a twenty-four (24) months written notice with respect to all or a portion of Leased Site so it may operate a compact high school at Cubberley. The new lease remains unchanged from the former lease language.

(Council had recommended elimination).

Ventura

The City and School District have a separate agreement related to the Ventura School site. Section “H” of the Purchase Agreement that was executed on October 30, 1980 between the City and PAUSD granted a repurchase right to PAUSD to buy back the Ventura School site from

the City with a one-year prior notice. The School District did not want to eliminate this language at this time.

(Council had recommended elimination)

Eliminate PAUSD’s right to acquire City’s Interest at Cubberley

Section “3” of the Lease Amendment and Land Exchange between City of Palo Alto and PAUSD executed on August 13, 2002 provides the school district with the right-of-first-refusal on the sale, if City offers to sell its 8 acres to another party. There is no new language in in the Lease Amendment regarding this Section.

(While Council had recommended looking at this change, the City’s interest in this is protected, as this condition would only be triggered by the City’s decision to sell its 8 acres.)

RESOURCE IMPACT

The City had budgeted approximately \$1 million in reserve in the FY 2015 Budget, planning for a half-year savings in the Covenant Not To Develop Funds with a successful negotiation on a new lease. With the terms of the lease amendment as proposed that is before Council, once enacted, staff will return at Mid-Year Budget Review to establish the Cubberley Property Infrastructure Fund as required in the Lease Amendment, and “transfer” and adjust this reserve budget item into the new fund.

POLICY IMPLICATIONS

Amending the Lease Agreement at Cubberley Community Center is consistent with policies and programs in the Comprehensive Plan promoting City-PAUSD collaboration and the effective provision of community services.

ENVIRONMENTAL REVIEW

Extension or re-negotiation of an existing lease and agreement does not constitute a project for purposes of the California Environmental Quality Act (CEQA).

Attachments:

- Attachment A: Amendment 3 to Lease Between City of Palo Alto and the PAUSD re Cubberley Community Center (PDF)
- Attachment B - CMR 4506 Cubberley(PDF)

**AMENDMENT NO. 3 TO LEASE BETWEEN
THE CITY OF PALO ALTO AND
THE PALO ALTO UNIFIED SCHOOL DISTRICT**

This Amendment No. 3 to Lease and Covenant Not to Develop (“Third Amendment”) is entered into this January 1, 2015 (“Effective Date”), by and between the Palo Alto Unified School District (“District”), and the City of Palo Alto (“City”). The District and the City are sometimes hereinafter referred to collectively as the “Parties,” or each individually as a “Party.”

RECITALS

A. The Cubberley Community Center Site (“Cubberley Site”) is a 35-acre site, where the City currently owns 8 acres in the northeast corner of the site (referred to in the operative agreements and herein as the “Cubberley Conveyance Property”) and the School District owns and leases to the City the remaining 27 acres (referred to in the operative agreements and herein as the “Leased Site”) pursuant to a Lease and Covenant Not to Develop dated September 1, 1989 (“Lease”).

B. The original term of the Lease was for fifteen (15) years, from January 1, 1990, through December 31, 2004. Per the Lease, the City timely provided notice extending the term for an additional ten (10) years, to December 31, 2014. The Lease further states that the term may be extended further by mutual agreement of the Parties for up to two (2) additional periods of five (5) years each.

C. The Lease includes a covenant by the District not to subdivide, sell, or develop with additional square footage for non-District programs, the Covenanted Sites (as that term is defined in the Lease). In exchange for this covenant not to develop, the City has, under the terms of the Lease, made annual payments to the District that have been subject to annual inflationary adjustments (the “Covenant Payments”). The most recent yearly Covenant Payment paid to the District by the City was in the amount of One Million Eight Hundred Sixty Four Thousand Two Hundred and Forty Eight Dollars (\$1,864,248). The origin of these annual payments is related to declining enrollment in the District as of the date of the Lease. In order to offset resulting budget impacts at that time, the District had begun to close and dispose of underpopulated school sites. The Covenant Payments offset certain of these budget impacts, in exchange for which the District agreed not to dispose of the school sites identified in the Lease.

D. In 1998, the Parties entered into the Amendment No. 1 to Lease and Covenant Not to Develop (“First Amendment”) to replace the District’s Ohlone site as one of the Covenanted Sites with the Walter Hays site and the Juana Briones site.

E. In 2001, The Parties entered into a Lease Amendment and Land Exchange Agreement (“Exchange Agreement”), pursuant to which the District agreed to convey to the City fee title to a portion of the Leased Site, defined in the Exchange Agreement as the “Cubberley Conveyance Property.” In exchange, the City relinquished its right to

acquire the New Terman School Site and reserved the option to acquire such property if the District wished to sell it prior to September 1, 2022 (as defined in the Exchange Agreement). The Exchange Agreement further provides that if the City wishes to sell the Cubberley Conveyance Property at any time prior to September 1, 2022, the City must give notice to the District, and the District has the option to purchase the Cubberley Conveyance Property for fair market value.

F. In 2002, the Parties entered into the Amendment No. 2 to Lease and Covenant Not to Develop (“Second Amendment”) to replace the Garland site as one of the Covenanted Sites with the Addison and El Carmelo sites.

G. As of the Effective Date of this Third Amendment, the District is experiencing rising enrollment, thus reducing the possibility of school closures and disposal of District property for the foreseeable future. As a result, the covenant not to develop has significantly diminished relevance under the current circumstances.

H. The City currently subleases a portion of the Leased Site (the “Subleased Premises”) to Foothill College (“Foothill”). The Parties anticipate that Foothill may relocate from the Subleased Premises, which will result in a loss of revenue to the City.

I. The Parties acknowledge the benefits to the Parties’ mutual constituents of the City’s use of facilities at the Cubberley Site, and desire to provide for such continued use.

J. The Parties also acknowledge the need to keep the facilities being used on the Cubberley Site well maintained and in good repair, with the District and the City further benefiting from such ongoing maintenance and repair of their properties.

K. For these reasons, the Parties now desire to encourage and facilitate the use of City funds to improve, maintain and repair the Leased Site and the Cubberley Conveyance Property with City funds that had previously been appropriated for the Covenant Not to Develop.

L. The Parties therefore desire to extend the term of the Lease for five (5) years; to amend the Lease to remove the District’s covenant not to develop; to ensure that funding is available so that the Leased Site and improvements located thereon and Cubberley Conveyance Property and improvements located thereon are adequately maintained; and to distribute between the City and the District certain gains or losses of revenue that will result in the event of Foothill’s relocation from the Subleased Premises.

Now therefore, for consideration, receipt of which is acknowledged, the Parties agree as follows:

AGREEMENT

1. Extension of Lease Term. The term of the Lease is hereby extended to and including December 31, 2019.
2. Elimination of Covenant Not to Develop. Section 4.0 of the Lease is hereby deleted in its entirety. Throughout the remainder of the term, the Lease shall not contain any restrictions on the District's ability to subdivide, sell, or develop the Covenanted Sites. The Lease is hereby renamed as the "Lease and Child Care Agreement between the City of Palo Alto and the Palo Alto Unified School District."
3. Property Infrastructure Fund. The City shall create a restricted Property Infrastructure Fund ("Fund") for the benefit of the Cubberley Site. On an annual basis, the City shall deposit One Million Eight Hundred Sixty Four Thousand Two Hundred and Forty Eight Dollars (\$1,864,248) into the Fund. This annual Property Infrastructure Fund payment shall not be subject to inflationary adjustments. The Fund shall only be used for expenditures that are directly related to repairing, renovating, and/or improving the Leased Site and improvements located thereon and/or improving the Cubberley Conveyance Property and improvements located thereon. Prior to making any expenditure from the Fund, the City shall notify the District of the intended expenditures in writing, and shall meet and confer with the District regarding such expenditures. After considering the District's input in good faith, the City shall be responsible for making a final determination regarding the intended expenditures. On or before December 31 of each year of the Lease term, the City shall provide the District with a detailed, written report summarizing all expenditures from the Fund, including the amount and purpose of each such expenditure. If the City and the District choose not to extend this Lease after December 31, 2019, and if the entire Fund has not been expended by that date, then prior to that date, the City shall demonstrate to the District how the Fund has been formally committed to expenditures that are consistent with the purposes set forth in this paragraph. City shall continue to provide the District with the report described herein by each December 31 until such time as the Fund is fully expended, at which time City shall provide the District with a final reporting. This section 3 shall survive the earlier termination of the Lease.
4. Master Plan for Leased Site. The Parties shall jointly develop a master plan for the Leased Site and Cubberley Conveyance Property, which shall be completed within five (5) years of the Effective Date of this Third Amendment. The Parties shall meet and confer to determine the scope of the master plan and appropriate funding for the preparation of the plan.
5. Cubberley Conveyance Property. The City and the District may agree by mutual consent to reconfigure or relocate the Cubberley Conveyance Property within the Leased Site to accommodate the construction or relocation of improvements on the Leased Site by the City. If agreed by the Parties in writing, such reconfiguration may include exchange of the City's ownership interest in all or a portion of the Cubberley Conveyance

Property with a portion of the remainder of the Leased Site, and/or adjustment of the boundaries of the Cubberley Conveyance Property.

6. Payment Adjustment.

A. Annual Increases. Section 2.7, consisting of sections 2.7, 2.7.1, 2.7.2, 2.7.3, 2.7.4, and 2.7.5, of the Lease is hereby deleted in its entirety, and replaced with the following:

2.7.1 “Payment” means all payments due from City to District pursuant to this Lease.

2.7.2 The Payment shall be increased by three percent (3%) annually on the anniversary of the commencement date of the Third Amendment to the Lease.

B. Adjustments Related to Foothill College Sublease. If Foothill vacates the Subleased Premises, the City may elect to use the entirety of the Subleased Premises for its own purposes, in which case there shall be no adjustment in the base payment owing by the City under the Lease. (For purposes of this Third Amendment, “elect” shall mean any decision made by the City to use the Subleased Premises, whether at that time or in the future.) If the City does not elect to use the entirety of the Subleased Premises for its own purposes, the City shall take all action reasonably necessary to secure a new sublessee (“Sublessee”) for the Subleased Premises, or that portion of the Subleased Premises that the City does not elect to use. Within 30 days of Foothill’s vacating the Subleased Premises, the City shall provide the District with verifiable documentation of (1) the annual rent paid by Foothill as of the date of termination of the tenancy by Foothill (“Foothill Sublease Amount”), (2) the total square footage of the Subleased Premises, (3) if Foothill vacates only a portion of the Subleased Premises, the square footage that Foothill continues to occupy, and (4) the total square footage of the Subleased Premises that the City elects to use for its own purposes, if any. (In the event the Foothill rent amount at date of termination is different than three months before termination, the parties shall meet and confer to determine the appropriate rent amount to be used for this Third Amendment.)

i. Base Payment While Subleased Premises Are Vacant. If the City does not elect to use any of the Subleased Premises, then unless and until the City secures a Sublessee for the Subleased Premises, the City’s annual base payment shall be reduced by fifty percent (50%) of the Foothill Sublease Amount during the time that the Subleased Premises remain vacant. If the City elects to use only a portion of the Subleased Premises, then the annual payment reduction shall be proportional to the amount of square footage that the City chooses not to use. For illustration purposes only, if the Subleased Premises are 100,000 square feet, and the City elects to use only 40,000 square feet, then the annual base payment shall be reduced by thirty percent (30%) of the Foothill Sublease Amount (100,000 square feet – 40,000 square feet = 60,000; 60,000 divided by 100,000 = 60%; 50% reduction = 30%).

ii. Base Payment If Sublessee Is Secured for Entire Subleased Premises. In the event that the City elects not to use any of the Subleased Premises for its own purposes and is successful in securing a Sublessee for the entirety of the Subleased Premises, the City's base payment shall be adjusted as follows:

a. If the Sublessee's annual rent ("Modified Sublease Amount") is an amount one hundred thousand dollars (\$100,000) or more greater than the Foothill Sublease Amount, then the City's annual base payment shall be increased by fifty percent (50%) of the difference between the Foothill Sublease Amount and the Modified Sublease Amount.

For illustration purposes only, if the Foothill Sublease Amount is \$1,037,000, Foothill vacates the Subleased Premises, and the City secures a Sublessee who will pay a Modified Sublease Amount of \$1,237,000, then the City's annual base payment shall be increased by \$100,000 ($\$1,237,000 - \$1,037,000 = \$200,000$; $50\% \text{ of } \$200,000 = \$100,000$).

b. If the Modified Sublease Amount is an amount at least one hundred thousand dollars (\$100,000) less than the Foothill Sublease Amount, the City's annual base payment shall be decreased by fifty percent (50%) of the difference between the Foothill Sublease Amount and the Modified Sublease Amount.

For illustration purposes only, if the Foothill Sublease Amount is \$1,037,000, Foothill vacates the Subleased Premises, and the City secures a Sublessee who will pay a Modified Sublease Amount of \$837,000, then the City's annual base payment shall be decreased by \$100,000 ($\$837,000 - \$1,037,000 = (-\$200,000)$; $50\% \text{ of } -\$200,000 = (-\$100,000)$).

c. If the Modified Sublease Amount is within one hundred thousand dollars (\$100,000) of the Foothill Sublease Amount, the City's annual base payment shall remain as set forth in the Lease, with no adjustment.

For illustration purposes only, if the Foothill Sublease Amount is \$1,037,000, Foothill vacates the Subleased Premises, and the City secures a Sublessee who will pay a Modified Sublease Amount of \$1,100,000, the City's annual base payment amount will remain as provided for in the Lease, without change ($\$1,100,000 - \$1,037,000 = \$63,000$; $\$63,000 < \$100,000$).

iii. Base Payment If City Uses Part of Subleased Premises and Subleases the Remainder of the Subleased Premises. In the event that the City elects to use only part of the Subleased Premises, and is successful in securing a Sublessee for the entire remainder of the Subleased Premises, the City's base payment shall be adjusted consistent with section 6(B)(ii), above, except that any resulting reduction in the City's annual base

payment shall be further reduced in proportion to the amount of square footage of the Subleased Premises not being used by the City. For illustration purposes only, if the City uses 40% of the Subleased Premises and subleases the remaining 60% to a Sublessee, and if the City's annual base payment would otherwise be reduced by \$100,000 pursuant to section 6(B)(ii), above, that amount would be multiplied by 60%, so that the resulting reduction in the City's annual base payment would be \$60,000.

iv. Base Payment If Sublessee Is Secured for Only A Portion of the Subleased Premises. In the event that the City elects not to use any of the Subleased Premises for its own purposes, or elects to use only part of the Subleased Premises, and is successful in securing a Sublessee for only a portion of the remaining Subleased Premises, the City's base payment shall be adjusted as follows. If the Sublessee (or Sublessees) sublets only a portion of the Subleased Premises, then the base payment reduction to which the City is entitled pursuant to section 6(B)(i), above, shall be proportional to the amount of square footage sublet as compared to the total square footage of the entire Subleased Premises ("Sublessee Proportional Square Footage"). For illustration purposes only, if the total square footage identified by City pursuant to section 6(B), above, were 50,000 square feet, and a Sublessee sublets 25,000 square feet, the Sublessee Proportional Square Footage would be equal to 50%. If the City's annual base payment would otherwise be reduced by \$150,000 pursuant to section 6(B)(i), above, that amount would be multiplied by 50%, so that the resulting reduction in the City's annual base payment would be \$75,000.

v. Base Payment If Foothill Vacates Only A Portion of the Subleased Premises. In the event that Foothill vacates only a portion of the Subleased Premises, the base payment shall be adjusted proportionally to the amount of square footage that Foothill vacates. For illustration purposes only, if Foothill vacates only 50% of the total square footage it currently subleases, any adjustment to the base payment set forth above shall be reduced by 50%.

vi. Other Scenarios. In the event that a scenario occurs relative to Foothill's vacating of the Subleased Premises that is not addressed in sections 6(B)(i), (ii), (iii), (iv) and (v), above, the Parties shall meet and confer to carry out their mutual intent to achieve a result generally consistent with sections 6(B)(i), (ii), (iii), (iv) and (v), above.

C. Pro Rata Application of Base Payment Reductions. All reductions of the base payment pursuant to section 6(B)(i), (ii), (iii), (iv), (v), or (vi), above, shall be applied monthly on a pro rata basis so that the payment reflects only the months remaining in the calendar year in which the reduction takes effect. Thereafter, the reduction will continue to apply on a monthly basis based on a one-twelfth (1/12th) portion of the annual base payment. Any reduction in base payment shall commence the month immediately following the calendar month in which Foothill vacates the Subleased Premises. For illustration purposes only, if Foothill vacates the Subleased Premises on June 15 of a calendar year, the reductions set forth above, if applicable, shall commence as of the payment for the immediately following July in that same calendar year.

D. Re-adjustment of Base Payment Reductions. Any reduction of the base payment pursuant to section 6(B)(i), (ii), (iii), or (iv) above, shall be adjusted annually pursuant to section 2.7.2 of the Lease, as amended herein. Additionally, the reduction may be eliminated, reduced further or diminished to reflect additional City use, a new Sublessee, or a change in the square footage being subleased. Any such adjustment shall become effective in the calendar month immediately following the month in which the event or circumstances occur giving rise to the adjustment.

7. Conflicting Terms. All other terms and conditions contained in the Lease, the First Amendment, and the Second Amendment shall remain in full force and effect and this Third Amendment shall not affect any provisions of the Lease, the First Amendment, or the Second Amendment, except as otherwise set forth herein. In the event there is conflicting language between the Lease, the First Amendment, or the Second Amendment, on the one hand, and this Third Amendment, on the other hand, this Third Amendment shall prevail.

8. Counterparts. This Third Amendment may be executed in counterparts and a facsimile signature shall be sufficient to bind each Party, subject to the terms set forth herein.

9. Definitions. All terms not otherwise defined herein shall have the meaning ascribed to them in the Lease, First Amendment, or the Second Amendment, as applicable.

10. Further Documents and Actions. Each of the Parties agrees to execute such further documents and take such further actions as may be reasonably necessary or appropriate to effectuate the terms of the Third Amendment.

11. Warranty of Authority. Each of the persons signing this Third Amendment represents and warrants that such person has been duly authorized to sign this Third Amendment on behalf of the Party indicated, and each of the Parties by signing this Third Amendment warrants and represents that such Party is legally authorized and entitled to enter into this Third Amendment.

IN WITNESS WHEREOF, District and City have executed this Third Amendment, through their respective officers or representatives duly authorized, as of the Effective Date.

ATTEST:

CITY OF PALO ALTO

City Clerk

Mayor

APPROVED AS TO FORM:

PALO ALTO UNIFIED SCHOOL
DISTRICT, Lessor

Senior Asst. City Attorney

President, Board of Education

APPROVED:

APPROVED:

City Manager

Superintendent of Schools



City of Palo Alto City Council Staff Report

Agenda Item Number 10

(ID # 4506)

Report Type: Action Items

Meeting Date: 2/24/2014

Summary Title: Cubberley Lease Between City of Palo Alto and Palo Alto Unified School District

Title: Direction to Staff on Lease Terms for the Renewal of the Cubberley Lease Between City of Palo Alto and Palo Alto Unified School District

From: City Manager

Lead Department: Administrative Services

RECOMMENDATION

Staff recommends that Council authorize the City Manager to negotiate with the Palo Alto Unified School District (PAUSD) Superintendent to execute a new lease agreement based on the following potential terms and conditions, offered for Council consideration. These terms are intended to provide a balance of flexibility and certainty to both City and PAUSD for the Cubberley site, in the near term and the long term, while enabling most effective investment of public funds. Suggested terms for consideration:

1. Eliminate the *Covenant not to Develop* from the lease. Reallocate that funding towards investment in the Cubberley facilities for long neglected and ongoing maintenance. Consider inclusion of Ventura Community Center site for reinvestment dollars.
2. Eliminate the Consumer Price Index (CPI) annual increases.
3. Create a longer term lease (20 year) with PAUSD to allow creation of a long-term plan for the City owned 8-acre site, investment in facility improvements and public access to playing fields.
4. Explore new terms with PAUSD to allow potential reconfiguration of City 8 acres within the Cubberley site.
5. Eliminate the language allowing PAUSD to purchase the City's 8 acres.
6. Eliminate the buy-back /repurchase option clause that allows PAUSD to repurchase Ventura.
7. Continue Child Care program per terms and condition of the existing lease.
8. Allow for use of the playing fields at Cubberley for maximum time period possible.

Attachment B

Other issues to consider:

- Process for adjustment of rent paid by City to PAUSD, if City loses anchor tenants such as Foothill College?
- 24 month notice clause in the existing lease which gives the PAUSD the right to cancel the lease if PAUSD plans to open a compact high school?
- Discussion of better access to other school site field and facility use?

EXECUTIVE SUMMARY

Over the past few months, the City Manager and School Superintendent have had exploratory negotiation meetings regarding terms for any potential renewal of the Cubberley Lease and *Covenant Not to Develop*, which expires at the end of this year. Both parties see great value in developing a new lease and an agreement seems within reach on a number of terms. We have not been able to reach tentative agreement yet at staff level regarding the Covenant Not to Develop. The District does not want to lose the money provided through the Covenant terms (approximately \$1.8 million out of the \$7.16 million the City will pay in 2014). After this year, the City sees no rationale for continuing to pay for a purpose no longer necessary (preserving school sites from sale) and greater needs that lack funding. Notably, this includes needed maintenance and investment in the Cubberley facilities themselves and planning and funding towards potential redevelopment of the facilities on the City's 8 acres at Cubberley into a true community serving center.

A recommendation to reinvest covenant funds into Cubberley, negates any need from the School District towards shared maintenance costs.

BACKGROUND

Originally opened as a high school in the 1950's, Cubberley was closed due to decreasing Enrollment in 1979. At that time, substantial budget pressures were being experienced by the PAUSD due to a variety of circumstances starting in the late 1970s and early 80s, including Passage of Proposition 13 in 1978 and declining PAUSD enrollment and revenue during the post-Baby Boom era. In response to that stressed financial situation, the PAUSD closed several schools and sold some existing school sites in order to help sustain its educational programs at the level the community expected. This included the closure of Cubberley in 1979 and the City's acquisition of Terman in 1981, among the sale and/or closure of other sites.

Attachment B

The City realized that the PAUSD is one of the City's defining assets and its decline would have severely negative impacts on the City as a whole. The City and the PAUSD also recognized that sites once sold would never again be available for school use should the trends reverse in the future. In 1987, the City put Measure B on the ballot with the intent to create a 5 percent utility users tax (UUT). (Infrastructure Blue Ribbon Commission (IBRC) Final Report)

On September 1, 1989, the City and the PAUSD entered into a lease agreement (Lease). Under the lease agreement, the City provided PAUSD with annual revenue in exchange for the City receiving: 1) a lease on the former 35-acre Cubberley High School site, including 180,000 square feet in improvements to be used for community theater, sport and art groups; 2) a *Covenant Not to Develop* five neighborhood elementary school sites (Jordan, Jane Lathrop Stanford, Ohlone, Garland and Greendell); and 3) an agreement that PAUSD provide space for extended day care at each of eleven remaining elementary school sites.

In July 1998, the Agreement was amended (Amendment #1) to provide for the reopening of one of the covenanted sites (the "old" Ohlone site, now renamed Hoover School) and the substitution of two operating sites, Walter Hays and Juana Briones, for the covenanted site to be reopened. The amendment also provided for the addition of a twelfth extended day care site to be opened at the Hoover School.

On December 10, 2001, City and PAUSD entered into a property exchange agreement whereby City conveyed to the district the Terman site and in exchange received 7.97 acres of the Cubberley site. The original lease Agreement was for 15 years, beginning January 1, 1990 and ending on December 31, 2004. The option to extend the lease for an additional ten years was exercised by the City and the current term of the lease will expire on December 31, 2014.

Background information on the Cubberley Lease agreement with the City as well as Communication with the PAUSD is extensive. Specifically, since 1989 City staff and PAUSD have entered into several lease amendments and other agreement regarding the site needs.

DISCUSSION

Much has been studied and written about Cubberley over the past decade. Some facts and excerpts from earlier reports and other discussion factors have been included (below). Additional background information can be found in the attachments and reports

Cubberley Property:

The Cubberley Community Center currently occupies the entire 35-acre site, the City owns 8 acres in the northeast corner of the site; the remaining 27 acres are owned by PAUSD and leased to the City. Together, this 35-acre site is the last major plot of publicly owned land in the City proper, and its long term future use is critical to both community services and education. (Note attachment A). The city's acreage contains campus classroom space, art and dance studios, some parking, a portable building used by Friends of the Palo Alto Library (FOPAL), and the tennis courts. The 27-acre area contains the playing fields, a dance studio, weight room, gymnasiums and pavilion, multi-purpose auditorium and theater with music rooms, three wings of classrooms, a portable building used by Friends of Palo Alto Library(FOPAL), and most of the parking areas.

Facility:

According to Cubberley Community Advisory Committee report (CCAC Report), most of the buildings and other facilities at the Cubberley site were completed by 1955. Some additional buildings (Pavilion, Theater, and others) were added in the early 1960's along with a new artificial turf field in 2009. The site was built to then-existing school standards. While the structures have stood up well given their age, they have become increasingly run-down and expensive to maintain and were not designed to support current and future needs. The Cubberley site is inefficiently used by modern standards. Existing buildings are single story, per the 1950's model of Palo Alto school architecture. The building layout results in long distances between buildings through low, covered walkways that give a foreboding tunnel effect block natural light and require costly repair and replacement. Single pane windows, poor insulation and louvers contribute to high energy costs. Air conditioning is not provided throughout most of the site, heating is ineffective and aged wiring does not adequately support today's technological needs. The small, largely uniform, individual classroom design also limits the types of groups and activities that can be accommodated and fails to provide appropriate gathering spaces for modern school or community use. In addition to being inefficiently designed and poorly suited to the structural needs of modern school and community programming, the aged site is costly to maintain.

Covenant Not to Develop

Section 4.1 of the Lease indicates that the purpose of the covenant is "to prevent further burden on the City's infrastructure and in order to preserve a substantial amount of the City's remaining open space." The Lease includes a "Covenant Not To Develop" payment that was intended to safeguard District owned properties from being sold. It is the City's agreement to pay the District in return for the District not selling its land. This is no longer an immediate issue as the school sites identified in the Covenant are now all in use. (Source CCAC Report)

Attachment B

This clause now appears to be obsolete given the district's recently expressed intent to reopen existing sites. Further, there is no current plan for any sites to be sold for development, and the district has just recently purchased additional property at 525 San Antonio Road. Ironically, the \$1.78 million annual covenant payment (from the City to the PAUSD) directly or indirectly puts a burden on the City's infrastructure budgeting because these funds are not available to support infrastructure needs including Cubberley maintenance. (Note IBRC Final Report)

The Cubberley Community Advisory Committee (CCAC) Report recommends the removal of the "Covenant not to Develop" from the Lease; however the reports states the recommendation should not be understood to imply deleting the dollars associated from the covenant.

Lease Term:

The term of the current lease will expire on December 31, 2014. According to section 6.1.3 of the lease, City and PAUSD can extend the lease for two (2) additional Five (5) year periods. The parties can also extend the lease term base on mutual agreement by a longer term period. The lease provides a hold-over clause that allows the continuation of the tenancy after the expiration date. The City and School District have discussed a new lease.

Future plan for the use of the 8- Acre Site:

If City develops a specific plan for the City owned 8 acre site, the City may need to have the flexibility of being able to change the footprint of the 8 acre site with the cooperation of PAUSD to create a new configuration to maximize its potential to support the City plan and vision. Requires agreement from PAUSD.

Child Care:

Cubberley is home to several high quality centers providing both childcare and early education, supporting both the children and their parents. Good early care and education are part of the infrastructure of any vibrant city and are especially valued in our city. Palo Alto has recognized this since the 1970s with innovative support for such programs. City needs to continue this support as the city grows and develops.

(CPI) Annual Adjustments:

The Cubberley Lease calculates annual lease payment adjustments using the Consumer Price Index which has been steadily increasing over time. This is an inconsistent correlation of income and expense for the City. Recommend elimination.

Playing Fields:

The demand for fields is growing faster than the population, yet there are few locations for additional fields in Palo Alto. The proposed new fields near the golf course will help a bit, but these fields are not funded, are likely to be windy and will not be easily accessible. If a full high school reopens on this site, it will not be possible to continue the same recreation programs unless additional fields become available somewhere else. The City needs the fields for as long as possible at Cubberley in order to develop a long term use plan and be able to meet the future demands for playing field by the users.

Loss of Anchor Tenant:

Foothill College represents a significant portion of the current tenant lease income and serves as the anchor tenant at Cubberley paying approximately a million dollars to City for rent of its space. Foothill College is planning to move to a new Sunnyvale campus located at the Onizuka Air Force Base in the next three years. The new lease agreement with PAUSD should allow reduction in rent payment from the City to the District in the event of loss of a major tenant.

Capital Improvement & Maintenance:

According to the recent Infrastructure Blue Ribbon Commission (IBRC) report, current, ongoing maintenance requires a minimum annual expenditure of \$330,000 (optimal maintenance should be closer to \$800,000 per year). On top of that, the IBRC concluded that an additional \$10.2 million in major deferred maintenance would be required between now and 2016, followed by \$4.9 million before 2026 and another \$3.7 million by 2036.

CCAC recommended for the School District to pay for its share of the projected capital improvements, and for City to negotiate regarding contribution toward ongoing maintenance and repairs beyond routine maintenance. As discovered through our Commission's infrastructure investigations, this maintenance liability – not included in the above figures – cumulatively totals about \$18.8 million through 2036, with \$10.2 million scheduled between now and 2016. Public works indicates that optimal maintenance expenditures should be about \$800,000 versus the \$330,000 currently expended. This projected aggregate maintenance liability has several implications. Long term, the City has identified \$18.8 million in infrastructure improvements that must be made at Cubberley. Of those, \$8.4 million is on City Buildings and \$10.4 is on School District Buildings. This would cover infrastructure improvements which would extend the life of the buildings for 25 years but most would need to be accomplished within 10 years. These improvements have not yet been funded. The nature of both agencies' budgets requires that capital investment in the Cubberley site be well-planned, deliberate and suited to a long term vision for the site. Presently the City is responsible for all

Attachment B

maintenance expenses for the site but does not have adequate funding. The cost of maintenance for the site rises as the buildings age and continue to deteriorate.

Eliminate PAUSD right to cancel the lease to open a compact high school:

Section 10 of the Second Amendment of the Cunnberley lease grants the PAUSD the right to terminate the lease by exercising a twenty-four (24) months written notice with respect to all or a portion of Leased Site so it may operate a compact high school at Cubberley. Recommend elimination.

Eliminate the buy-back / repurchase option clause that allows PAUSD to repurchase Ventura:

Section "H" of the Purchase Agreement that was executed on October 30, 1980 between City of Palo Alto and PAUSD grant a repurchase right to PAUSD to buy back the Ventura School site from the City by exercising a one-year prior notice. Staff recommends the elimination of this clause in conjunction with development and negotiation of the new Cubberley lease agreement.

Eliminate the PAUSD's right to acquire City's Interest at Cubberley:

Section "3" of the Lease Amendment and Land Exchange between City of Palo Alto and PAUSD executed on August 13, 2002 provides the school district with the right-of-first-refusal on the sale until September 1, 2022, if City offers to sell its 8 acres to another party. (This is dependent on renewal of lease on existing terms). After that time the City has an unencumbered right to sell the 8 acres, if it decides to do so. Of course, the City and the district can negotiate a sale to the district at any time. The clause restricts the City's ability to make much needed infrastructure improvements.

TIMELINE

Does Council want to establish a negotiation completion deadline?

RESOURCE IMPACT

The District has developed a dependency on the lease payment funds, comprising now approximately 4.4% of the District's annual budget as revenue. These funds also constitute approximately 4.6% of the City's annual budget as an expense (CCAC Report). PAUSD's 27 acres is currently leased to the City for approximately \$7.16 million per year including Covenant Not to Develop plus all maintenance costs, expenses which are supported by the City's General Fund.

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Cubberley Finances

There are three components to the Lease and Covenant Not to Develop, (Office of Management & Budget) that will total to the amount of \$7,159,827 for the Calendar year 2014:

1. The lease of the Cubberley Facility – cost in calendar Year 2014 = \$4.7 million
2. The Covenant Not to Develop – cost in calendar year 2014 = \$1.8 million
3. Payment for provision of space at each elementary school for child care – current cost in calendar year 2014 = \$ 615 thousand;

According to CCAC Finance Committee Report, there is an annual CPI adjustment built into the document so that each component increases each year. Aside from the lease payments, Cubberley has expenses for:

General operating maintenance:	\$430,000
Operations expense (CSD):	\$1,325,000

In 2013, Cubberley generated revenues of, (Office of Management & Budget):

Tenant leases (Foothill-DeAnza, artists, nonprofits, etc.)	\$1,602,143
Hourly rentals (events, use of theater, etc.)	\$907,098
Office space rental by City	<u>\$73,000</u>
Total:	\$2,582,241

History of Payments City to PAUSD

Between 1989 to 2013 City has paid approximately a total of \$136 million (maintenance cost and operating expenses are not included) to PAUSD for lease of the Cubberley site, *Covenant not to Develop* and child care program.

Projected Future Payment to PAUSD

Extending the Lease Agreement without the “Covenant not to Develop” and the “CPI” increases, for 20 years (2014 -2034), will result in projected cost of \$106,714,200 to City’s General Fund for payments to PAUSD, plus additional costs for maintenance and operating expenses.

POLICY IMPLICATIONS

Exercising the option to extend or entering into a new Lease Agreement is consistent with policies and programs in the Comprehensive Plan promoting City-PAUSD collaboration and the effective provision of community services.

ENVIRONMENTAL REVIEW

Extension or re-negotiation of an existing lease and agreement does not constitute a project for purposes of the California Environmental Quality Act (CEQA).

Links to additional reports:

G– CMR 2861- 5/14/2012 Cubberley Guiding principles Link

<http://tinyurl.com/mhkg49a>

H– CMR 3824 – 5/13/2013 Discussion of Cubberley Report & Lease Link

<http://www.cityofpaloalto.org/civica/filebank/blobdload.asp?BlobID=34285>

I– CMR 4476 2/18/2014 Artists Studio Program Hyper Link

<http://www.cityofpaloalto.org/civica/filebank/blobdload.asp?BlobID=39050>

Below are four links to the four volumes of the CCAC final report:

Volume 1

<http://www.cityofpaloalto.org/civicax/filebank/documents/33438>

Volume 2

<http://www.cityofpaloalto.org/civicax/filebank/documents/33439>

Volume 3

<http://www.cityofpaloalto.org/civicax/filebank/documents/33440>

Volume 4

<http://www.cityofpaloalto.org/civicax/filebank/documents/33441>

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Infrastructure Blue Ribbon Commission (IBRC) Final Report

<http://www.cityofpaloalto.org/civicax/filebank/documents/29729>

Cubberley Master Plan

<http://www.city.palo-alto.ca.us/civicax/filebank/documents/30937>

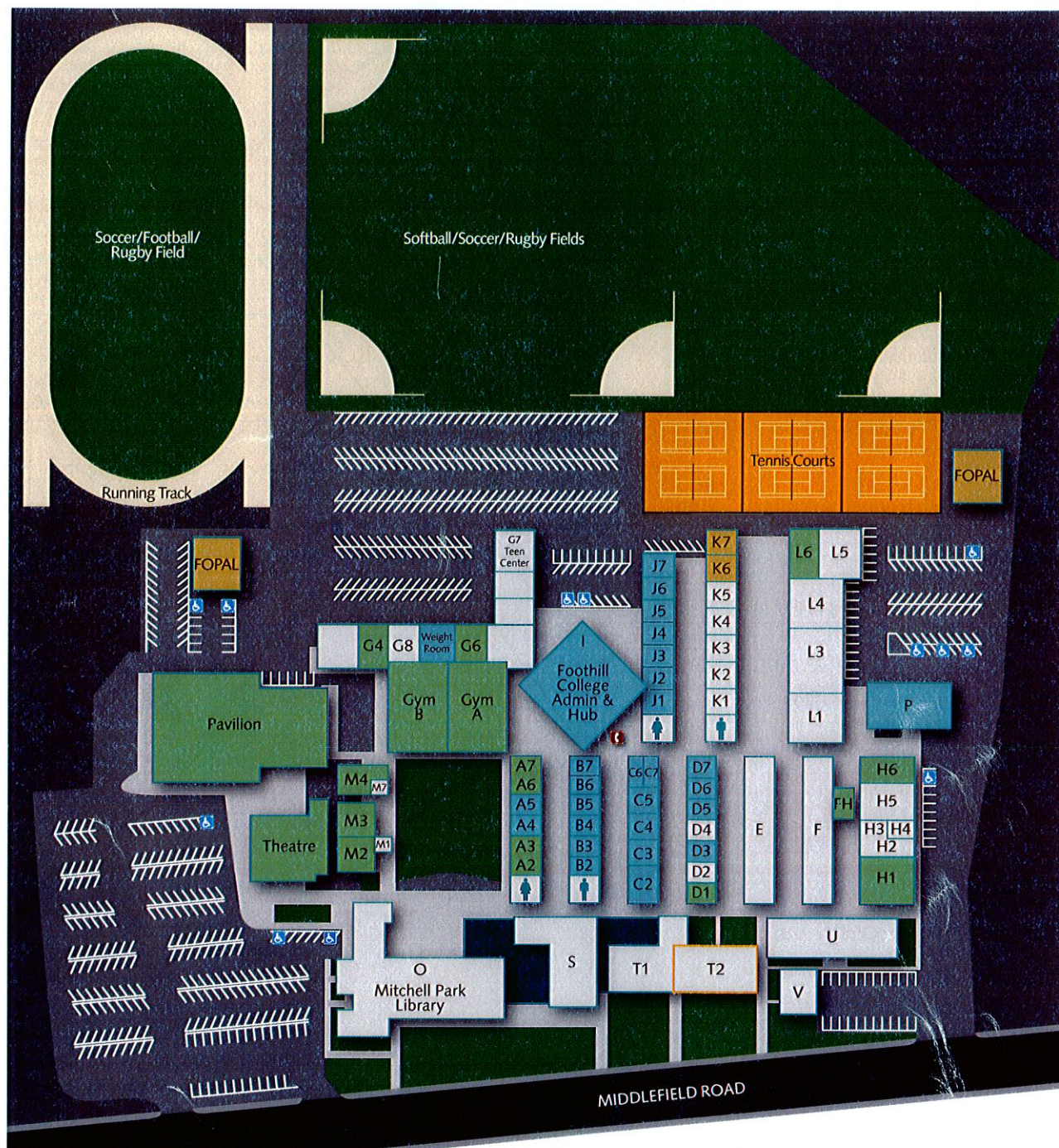
Attachments:

- Attachment: A. Cubberley CC - Map (PDF)
- Attachment: B Exh 1. Amendment 1 to CCC Lease (PDF)
- Attachment: B Exh 2. Amendment 2 to CCC Lease (PDF)
- Attachment: B Exh 3. CCC Lease Amendment and Land Exchange (PDF)
- Attachment: B. CCC Lease and Covenant Not To Develop (PDF)
- Attachment: C. CMR Staff Report 535-9 (PDF)
- Attachment: D. CMR Staff Report 448-01 (PDF)
- Attachment: E. CMR Staff Report 498-03 (PDF)
- Attachment: F. CMR Staff Report 556-03 (PDF)



City of Palo Alto Cubberley Community Center

Sports, education, dance, arts, meeting rooms, music, child care, special events, and so much more...



Map Legend

T2 Cubberley Community Center
Administrative Office

Office Hours:
Monday - Friday
8:30am to 5:30pm

Accessible Parking

Public Pay Phone

Restrooms

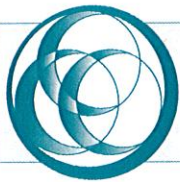
In Case of Emergency Dial 911

Fire Extinguishers Located in Every Room

Cubberley Community Center

4000 Middlefield Road, Palo Alto, CA 94303
Tel. 650.329.2418
Fax 650.856.8756

www.cityofpaloalto.org
cubberley@cityofpaloalto.org



City of Palo Alto Directions to Cubberley Community Center

From San Francisco

101 South toward San José
Exit San Antonio Road South, Los Altos
Turn RIGHT onto Middlefield Road
Turn LEFT at first traffic light into
parking lot, opposite Montrose

...or take 280 South
Exit Page Mill Road East
(Page Mill becomes Oregon Expressway)
Cross El Camino Real and
drive through underpass
Turn RIGHT onto Middlefield Road
Travel approximately 2 miles past
East Meadow and past Charleston
Turn RIGHT at first traffic light into
parking lot, opposite Montrose

From San José

101 North toward San Francisco
Exit San Antonio Road South
Turn RIGHT onto Middlefield Road
Turn LEFT at first Traffic Light into parking lot,
opposite Montrose

...or take 280 North
Exit at El Monte Road, towards Los Altos
Turn LEFT onto Foothill Expressway
Turn RIGHT onto San Antonio Road
Turn LEFT onto Middlefield Road
Turn LEFT at first traffic light into
parking lot, opposite Montrose

Map Legend

- ★ Cubberley Community Center
- AC Art Center
- LS Lucie Stern Community Center
- MP Mitchell Park Community Center



Cubberley Community Center

4000 Middlefield Road, Palo Alto, CA 94303
Tel. 650.329.2418
Fax 650.856.8756

www.cityofpaloalto.org
cubberley@cityofpaloalto.org

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AMENDMENT NO. 1
TO LEASE AND COVENANT NOT TO DEVELOP BETWEEN
THE CITY OF PALO ALTO AND
THE PALO ALTO UNIFIED SCHOOL DISTRICT

THIS AMENDMENT to the Lease and Covenant Not to Develop ("Lease") between the City of Palo Alto ("City") and the Palo Alto Unified School District ("District"), dated September 1, 1989, is made and entered into by City and District this 21st day of July, 1998.

R E C I T A L S:

A. Pursuant to Section 4.1 of the Lease, District covenants with City and City covenants with District that, in order to prevent further burden on City's infrastructure and preserve a substantial amount of City's remaining open space, certain school sites shall not be subdivided, sold or developed with additional square footage to be used for non-school district purposes.

B. The "Covenanted Sites" are described in Exhibits B, C, D, E, F and G, which are made a part of the Lease by reference. One of the Covenanted Sites is the Ohlone site, commonly known as "old" Ohlone, and more recently renamed "Hoover School."

C. Section 6.5.2(b) of the Lease provides that in the event District wishes to reopen, as an operating school, any of the Covenanted Sites described in Exhibits D, E, and F, it may do so upon written notice to City, provided that in such event, City and District shall amend the Lease to include within the Covenant Not to Develop two operating elementary school sites of District within the city limits of the City of Palo Alto.

D. District has resolved to reopen the Ohlone site and to designate the Walter Hays site and the Juana Briones site, both sites being within the city limits of the City of Palo Alto, as the two operating school sites to be substituted for the Ohlone site.

E. Pursuant to Section 5 of the Lease, City has operated extended day care services at eleven school sites described in Exhibit L; and City, at its sole discretion, may agree to operate an extended day child care program at additional elementary school sites.

F. City believes that the public interest will be served by operating an additional extended day care program, at the Ohlone site, and therefore, agrees to do so.

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E. City and District desire to amend the Lease to provide for the reopening of the Ohlone site and the substitution of the Walter Hays site and the Juana Briones site within the Covenant Not to Develop, and to provide for City's operation of an extended day care program at the Ohlone site.

NOW, THEREFORE, in consideration of their mutual covenants and agreements, the parties hereto agree to amend the Lease as follows:

SECTION 1. Paragraph 1.1.8 is hereby amended to read as follows:

"1.1.8 Covenanted Sites. The term "Covenanted Sites" means all of that certain property situated in the City described in *Exhibits B, C, D-1, D-2, E, F and G* attached hereto and made a part hereof."

SECTION 2. Paragraph 1.1.9 is hereby deleted.

SECTION 3. Paragraphs 1.1.9.1 and 1.1.9.2, respectively, are hereby added to read as follows:

"1.1.9.1 Walter Hays Site. The term 'Walter Hays Site' means all of that certain real property situated in the City described in *Exhibit D-1* attached hereto and made a part hereof.

"1.1.9.2 Juana Briones Site. The term 'Juana Briones Site' means all of that certain real property situated in the City described in *Exhibit D-2* attached hereto and made a part hereof."

SECTION 4. Paragraph 2.2 is hereby amended to read as follows:

"Walter Hays		(this amount attributable
Juana Briones	\$204,742	to both school sites
		together)
Garland	\$182,804	
Greendell	\$182,804	
Jane Lathrop Stanford	\$236,000	
Jordan	\$164,000"	

SECTION 5. Paragraph 2.3 is hereby amended to read as follows:

"2.3 Payment for Extended Day Care Spaces. As consideration for use of the eleven spaces pursuant to Section 5.0 of this agreement, City shall pay

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annually to District the sum of \$300,000 or \$27,273 per space. All payments to District by City shall be made in twelve (12) equal installments payable monthly commencing on January 31, 1990.

"As of September 1, 1998, City's annual payment to District shall be increased by the sum of \$34,792 to reflect the operation by City of an extended day care program at the "old" Ohlone (now Hoover) school site.

"Payment for additional spaces shall be at the adjusted rate for child care space as provided for in Sections 2.3 and 2.7 of this agreement."

SECTION 6. Section 4.1 is hereby amended to read as follows:

"4.1 District hereby covenants with City and City hereby covenants with District that, in order to prevent a further burden on the City's infrastructure and in order to preserve a substantial amount of the City's remaining open space, which contributes to the welfare of the City's residents, the Covenanted Sites situated in the City of Palo Alto and described in *Exhibits B, C, D-1, D-2, E, F and G* attached hereto and made a part hereof, shall not be (1) subdivided, (2) sold or (3) developed with additional square footage to be used for non-school district purposes for the term of this Lease, for the consideration and upon all the conditions set forth herein, provided that the district may add portable non-permanent structures totaling no more than 2,000 square feet per Covenanted Site. If the District adds such square footage on any Covenanted Site, it shall give written notice to the City within 30 days of such addition.

Upon the expiration or earlier termination of this Lease, except as provided in Section 4.2, the City shall execute and deliver to District a quitclaim deed for the Covenanted Sites, unless otherwise agreed to by the parties."

SECTION 7. Exhibit D to the Lease is deleted and replaced with Exhibits D-1 and Exhibits D-2, respectively; and the Summary of Exhibits is amended accordingly.

SECTION 8. As amended herein, the Lease dated September 1, 1989 remains in full force and effect. In case of any conflict

Attachment B

between any of the amendments made in this Amendment No. 1 and the remaining provisions of the Lease as entered into September 1, 1989, the Lease shall be interpreted so as to give effect to the provisions of this Amendment No. 1.

IN WITNESS WHEREOF, the parties have caused this Amendment No. 1 to be executed by their respective officers as of the day and year first above written.

ATTEST:

Blair L. Gony
City Clerk

CITY OF PALO ALTO, Lessee

Richard Rosenbaum
Mayor

APPROVED AS TO FORM:

Susan W. Case
Senior Asst. City Attorney

PALO ALTO UNIFIED SCHOOL
DISTRICT, Lessor

J. W. P. L.
President, Board of
Education

APPROVED:

E. Hansen
Assistant City Manager

APPROVED:

Don [Signature]
Superintendent of Schools

AMENDMENT NO. 2 TO THE LEASE AND COVENANT NOT TO DEVELOP

THIS AMENDMENT No. 2 (Amendment) to the Lease and Covenant Not To Develop (Lease) of December 22, 1987, as amended by Amendment No. 1 dated April 19, 1988, is made and entered into by and between the Palo Alto Unified School District (District) and The City of Palo Alto (City), a municipal corporation, as of January 24, 1989.

1. AMENDMENTS.

(a) Section 4(b) of the Lease is amended to read as follows:

(b) The commencement date for leasing the Jordan site shall be February 1, 1990, and the payment, as set forth in Section 6, shall be adjusted according to Exhibit I; provided, however, that the commencement date shall be a date earlier than February 1, 1990, if the District gives the City at least thirty (30) days written notice of such date.

(b) Section 4(c) of the Lease is amended to read as follows:

(c) Upon thirty (30) days written notice, provided such notice is given no later than ~~December 15, 1989~~, the District may remove,* for District purposes, either the Jordan site or the JLS site, but not both, from the Lease, and the payment due under Lease shall be reduced by the amount specified for the Site as set forth in Exhibit I.

(c) Section 6.8 is added to the Lease to read as follows:

6.8 Payment for Additional Improvements

(a) During the term of the Jordan Interim Lease Agreement between the City and District dated April 19, 1988, as amended by Amendment #1 to Jordan Interim Lease Agreement dated January 24, 1989, City shall fund the following improvements to District property used by the public in an amount not to exceed \$330,670.**

*See also Section 22.3 hereof for City's right to re-lease a Leased Site removed from this Lease.

**This sum represents \$262,806 which represents the balance remaining unexpended under Section 6.7 and the additional sum of \$67,864. Neither party shall have any further obligations under Section 6.7.

<u>Improvement</u>	<u>Maximum Cost</u>
1. Installation of back flow preventors at playing fields of twelve (12) elementary schools and JLS (for list of schools see Exhibit AA incorporated herein by this reference).	\$150,000
2. Refurbish the playing fields and replace irrigation systems as needed at twelve (12) elementary schools and JLS (see Exhibit BB for list of schools).	The difference between \$330,670 and the amount actually expended for Item 1 above

These improvements shall be funded by City in the priority order listed above until the sum of \$330,670 is exhausted. Once said sum is exhausted, no further expenditures for any individual items shall be made by City.

(b) The District will undertake, complete and pay for these items. District will install back flow preventors (item 1) to City specifications (Exhibit CC). The District will undertake and complete items 1 and 2. The District shall submit bills to City for the amounts actually expended on said items, and the City shall pay said bills not to exceed \$330,670. Said billings shall be paid by City within 30 days of their receipt by City; provided that City shall not be obligated to pay for any back flow preventor installed by District which City has not been given a reasonable opportunity to inspect, and, provided further that City shall not be obligated to pay for any back flow preventor which, upon inspection, in the opinion of the City inspector, does not meet the City's specifications as set forth in Exhibit CC.

(c) All improvements will be completed and all billings and payments will be made for these improvements by ~~December 31, 1991~~ ~~1991~~. The City Manager may authorize an extension of this date in writing if water rationing is in effect or drought conditions exist during the term of agreement. The City shall not be required to reimburse the District for any monies which have not been expended by December 31, 1991, or any extension date authorized by the City Manager. City may then expend such monies which have not been expended by the deadline for improvement on other mutually agreed District property. ✓

(d) In the event the City commences leasing the entire Jordan Site prior to February 1, 1990, there shall be a pro rata reduction in the amount which the City is obligated to make available for the various improvement items set forth in subparagraph (a) of this section. This reduction shall be the sum of \$16,966 multiplied by the number of months remaining on the term of the Jordan Interim Lease at the time the City commences leasing the entire Jordan site.

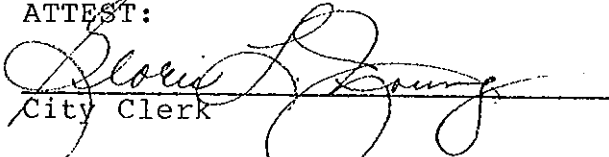
In the event the parties agree to amend the Jordan Interim Lease to increase the rental paid thereunder or in the event there is a rental increase in the Cubberley Gymnasium Lease, there shall be a pro rata reduction in the amount which the City is obligated to make available for the various improvement items set forth in subparagraph (a) of this section. This reduction shall be the amount of the monthly rental increase multiplied by the remaining months on the term of the Jordan Interim Lease.

2. Limited Construction.

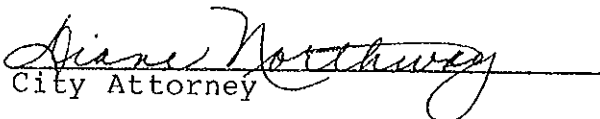
No other sections of the Lease, other than Section 4(b), 4(c), and 6.7 are amended in any way by this Amendment, and the Lease shall remain in full force and effect.

IN WITNESS WHEREOF, the District and the City have caused this Lease to be executed by their respective officers as of the day and year first above written.

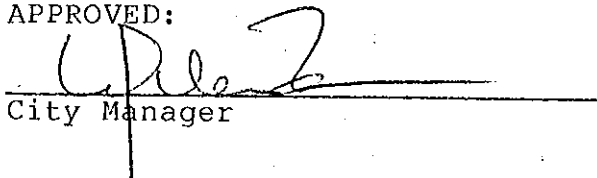
ATTEST:


City Clerk

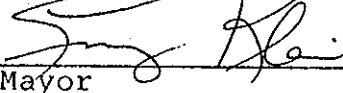
APPROVED AS TO FORM:


City Attorney

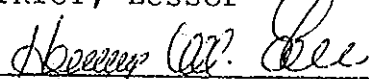
APPROVED:


City Manager

CITY OF PALO ALTO, Lessee

By 
Mayor

PALO ALTO UNIFIED SCHOOL DISTRICT, Lessor

By 
President, Board of Education

APPROVED:

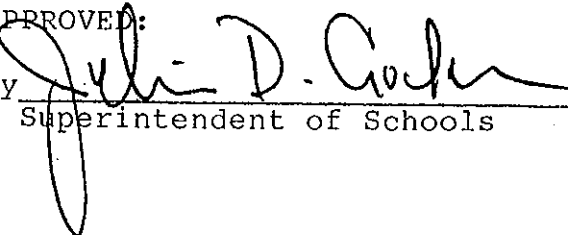
By 
Superintendent of Schools

EXHIBIT AA

LIST OF SCHOOLS FOR INSTALLATION OF BACK FLOW PREVENTERS:

- | | | | |
|-----|-----------------------|---|---------------|
| 1. | Greendell | - | Grade school |
| 2. | Escondido | - | " " |
| 3. | Palo Verde | - | " " |
| 4. | Briones | - | " " |
| 5. | Duveneck | - | " " |
| 6. | Addison | - | " " |
| 7. | Hoover | - | " " |
| 8. | Ohlone | - | " " |
| 9. | Fairmeadow | - | " " |
| 10. | El Carmelo | - | " " |
| 11. | Walter Hays | - | " " |
| 12. | Nixon | - | " " |
| 13. | Jane Lathrop Stanford | - | Middle school |

District Priority Listing
for field renovation

BB

1. Palo Verde turf area - Installation of new Irrigation system and complete renovation of turf area. Principal prefers work to be completed during summer, however, if spring is the best time to perform the work then the school will "live with it". This will be a problem since the play area at that school is small in comparison with other sites.
2. Walter Hays turf area - Installation of new Irrigation system and complete renovation of turf area. Principal not available for comment as to feasibility of performing work during the spring, however this site possesses a larger area and it is felt that children would still have an abundant play area.
3. Escondido turf area adjacent to Stanford property (back turf) - Installation of new Irrigation system and complete renovation of turf area. Principal relates that it would be difficult to cope with the loss of this play area but would also "live with it" if the spring was considered to be the best time to contract the work.
4. Greendell - Installation of new sprinkler heads only and renovation of turf area.
5. Addison - Installation of new sprinkler heads only and renovation of turf area.
6. Ohlone - Installation of new sprinkler heads only and renovation of turf area.
7. Hoover - Installation of new sprinkler heads only and renovation of turf area.
8. Fairmeadow - Installation of a few new sprinkler heads and renovation of turf area.
9. Briones - renovation of turf area.
10. Nixon - renovation of turf area.
11. El Carmelo - renovation of turf area.
12. Duveneck - renovation of turf area.

EXHIBIT CC

IRRIGATION

PART 1 - GENERAL

1.1 DESCRIPTION

- A. Contractor shall furnish all labor, tools, equipment, products, materials and transportation and perform all operations necessary to properly execute and complete all work in accordance with the Drawings and these Specifications. The intent is to accomplish the work of installing backflow prevention devices and other related items. This intention is to be met foregoing any deficiency in setting a complete detailed description of the work to be done.

1.2 QUALITY ASSURANCE

A. Reference Standards:

1. ASTM: American Society for Testing and Materials
 - a. D2241: Standard Specification for polyvinyl chloride (PVC) plastic pipe, class 200, class 315.
 - b. D2466: Standard Specification for polyvinyl chloride (PVC) plastic pipe fittings, schedule 40 and schedule 80.
2. NSF: National Sanitation Foundation

B. Drawings:

1. For purposes of clarity and legibility, drawings are essentially diagrammatic to the extent that many offsets, bends, unions, special fittings, and exact locations of items are not indicated, unless specifically dimensioned.
2. Exact routing of piping, etc., shall be governed by existing piping, structural conditions, obstructions. Contractor shall make use of data in Contract Documents.

1.3 VISIT TO THE SITE

The contractor shall visit the construction site and shall take all measurements and obtain any other information as may be necessary for a complete and conclusive bid.

1.4 SUBMITTALS

A. Substitutions:

Prior to installation, any proposed substitution from the plans or these specifications is to be forwarded, in writing, to the irrigation consultant for approval.

B. Record Drawings:

1. The contractor shall maintain in good order in the field office one complete set of prints of all drawings which form a part of this contract. In the event any work is not installed as indicated on the drawings, such work shall be indicated and dimensioned accurately on record drawings as changes occur. Dimension from two permanent points of reference, building corners, sidewalk, road intersections, etc., the location of the following items:
 - a. Connection to existing water lines
 - b. Routing of pressure lines (dimension max. 10 feet long along routing)
 - c. Underground stubouts and tees
 - d. Other related equipment as directed by the irrigation consultant
2. Upon completion of the work, obtain reproducible sepias from the landscape architect and neatly correct the plans (to be done by a competent draftsman) to show the as-built conditions. After the as-builts are reviewed and approved by the irrigation consultant, obtain reduced copies of "as-built" sepias (8 1/2" x 11" sheets or to the smallest readable size), and laminate with weather proof coating.

C. Operation and Maintenance Manuals:

1. Prior to the final inspection of the installations, furnish two (2) individually bound Service Manuals to the owner. The manuals shall contain the following:
 - a. Index sheet indicating the contractor's name, address, and phone number.
 - b. A copy of the completed guarantee-following the form in these specifications.
 - c. Certificate of insurance verifying coverage for completed operations.
 - d. List of equipment with names, addresses and telephone numbers of all local manufacturer's representatives.
 - e. Copies of equipment warranties and certificates.
 - f. Complete operating and maintenance instructions of all equipment including exploded drawings and spare parts lists.

D. Hardware Items:

1. Two (2) sets of any special tool required for the maintenance of each type of component used.

1.5 PROJECT CONDITIONS

A. Sequencing and Scheduling:

Coordinate backflow prevention device installation work with Palo Alto Schools.

B. Environmental conditions:

Site work such as trenching and backfilling shall not be performed during wet, muddy or frozen conditions.

C. Rules and Regulations:

All work and materials shall be in full accordance with the latest rules and regulations of the Uniform Plumbing Code and other applicable state or local laws or regulations. Nothing in these drawings or specifications is to be construed to permit work not conforming to these codes.

1. The contractor shall furnish any additional material and labor required to comply with these rules and regulations, though the work is not mentioned in these particular specifications or shown on the drawings.
2. When the Specifications call for materials or construction of a better quality or larger size than required by the above mentioned rules and regulations, the provision of the specifications shall take precedence over the requirements of the said rules and regulations.

D. Safety:

1. The contractor shall erect and maintain barricades, guards, warning signs and lights as required for the protection of the public and workmen.
2. All work shall be performed in a safe manner. All regulations, all OSHA requirements and other authoritative agencies shall be followed.
3. Prior to commencement of work, locate all underground utilities so that proper precautions may be taken not to damage such improvements.

E. Maintaining Traffic:

It is the responsibility of the contractor to ensure adequate protection and controls for pedestrian and vehicular traffic in the vicinity of the project areas. The contractor shall provide all signs, barricades, flagmen, etc., necessary to meet all traffic requirements for this project at his own expense.

F. Permits and Fees:

The contractor shall obtain all permits and pay all required fees to any governmental agency having jurisdiction over the work and arrange for inspections specified by local ordinances during the course of construction as necessary.

PART 2 - PRODUCTS

2.1 PRODUCT DELIVERY, STORAGE AND HANDLING

Handling of backflow prevention devices, pipe and fittings: The contractor is cautioned to exercise care in handling, loading, unloading, and storing of pipe and fittings. Cracks can occur from sudden impact. Protect all plastic products from excessive exposure to sunlight. Any section of pipe that has been dented or damaged shall be removed from the site and, if installed, shall be replaced with new undamaged piping.

2.2 MATERIALS

A. PVC pressure main line pipe and fittings:

1. Match existing materials.
2. All fittings shall bear the manufacturer's name or trademark, material designation, size, applicable I.P.D. schedule and NSF seal of approval.

B. Copper pipe shall be Type L and conform to ASTM B88 and copper fittings shall be solder type to conform to ANSI B16.22 and B16.18.

C. Galvanized steel pipe shall be schedule 40; ASTM (A120) and steel fittings shall be schedule 40 hot dipped, double banded malleable steel.

D. Asbestos cement pipe shall conform to the requirements of AWWA C-400-65, class 150. pipe shall have "Ring-Tite" or "Fluid-Tite" couplings, consisting of an asbestos cement sleeve of the same composition as the pipe, and two rubber rings conforming to ASTM D-1869-63T. Fittings shall conform to the AWWA specifications for Class 150 pipe and shall be for the pipe used.

E. PVC Schedule 80 nipples shall be used with molded threads. Machined threaded nipples will not be allowed.

- F. Backflow preventer(s) and sprinkler heads shall be as specified and/or detailed on the drawings.
- G. Miscellaneous installation materials:
 - 1. Solvent weld joints shall be of make and type approved by manufacturer(s) of pipe and fittings. Solvent cement shall be a proper consistency throughout use. Mixing thinner with solvent will not be allowed.
 - 2. Pipe joint compound shall be non-hardening, non-toxic materials designed specifically for use on threaded connections in water carrying pipe.
- H. Thrust Blocks: Concrete thrust blocks shall be as detailed on the plans.

PART 3 - EXECUTION

3.1 GENERAL

- A. Backflow prevention devices and other related items shall be installed in accordance with all applicable local and state codes and ordinances by a licensed contractor.
- B. Follow manufacturer's directions except as shown or specified.

3.2 INSPECTION OF SITE CONDITIONS

- A. All scaled dimensions are approximate. The contractor shall check and verify all size dimensions prior to proceeding with work under this Section.
- B. Exercise extreme care in excavating and working near existing utilities. Contractor shall be responsible for damages to utilities which are caused by his operations or neglect. Check existing utilities drawings for existing utility locations.
- C. Avoid excavating within drip line of trees where possible. When not possible, all damaged roots over 1 1/2" in diameter shall be cut leaving clean face, seal cuts with tree seal, then immediately install pipe, wire, etc., refill trench and soak.
- D. Coordinate the work of this Section with that of other Sections for the location of pipe sleeves through walls paving, etc.
- E. The design is diagrammatic. All backflow prevention devices, piping, valves, etc., shown within paved areas is design clarification only. Install piping, valves, etc., in planting areas unless otherwise detailed or shown.

3.2 INSTALLATION

A. Trenching:

1. Dig trench straight and support pipe continuously on bottom of trench. Lay pipe to an even grade. Trenching excavation shall follow layout shown on drawings.
2. Pipe and backflow prevention devices depths will vary depending upon existing conditions.
3. Provide for a minimum cover of 24 inches over pipe under asphalt pavement.

B. Backfilling:

1. Do not backfill trenches until all required tests are performed. Carefully backfill trenches with specified excavated materials for backfilling, consisting of earth, loam, sandy clay, sand, or other acceptable materials, free from large clods of earth or stones. Backfill shall be mechanically compacted in landscaped areas to a dry density equal to adjacent undisturbed soil in planting areas. Backfill shall conform to adjacent grades without dips, sunken areas, humps or other surface irregularities.
2. Surround pipe with sand in rocky terrain with a 4" bed and 4" cover.
3. Backfill in proposed asphalt paved areas shall have sand covering pipe with a 6" minimum depth.

C. Pipe and Fitting Installation and Connections:

1. Install all assemblies specified herein in accordance with details shown on drawings where possible.
2. Thoroughly clean pipe and fittings of dirt, dust and moisture before installation. Installation and solvent welding methods shall be as recommended by the PVC pipe and fitting manufacturer.
3. On PVC to metal connections, the contractor shall work the metal connections first. Use Teflon tape, or equal, on all threaded PVC to PVC, and on all threaded PVC to metal joints.

Do not over-tighten. Where threaded PVC connections are required, use threaded PVC adapters into which the pipe may be welded.

4. Install piping under existing walks by boring whenever possible. Where any cutting or breaking of sidewalks and/or concrete is necessary, it shall be done and replaced at no increase in contract sum. Obtain permission to cut or break sidewalks and/or concrete from the architect before proceeding. No hydraulic driving will be permitted under concrete paving.

D. Line clearance:

All lines shall have a minimum clearance of 6 inches from each other and from lines of other trades. Parallel lines shall not be installed directly over one another.

3.4 FIELD QUALITY CONTROL

A. Testing:

1. Notify the consultant at least three (3) days in advance of testing.
2. Tests to be done at no extra cost to the owner.
3. Center load piping with sufficient amount of backfill to prevent arching or slipping under pressure. No fitting shall be covered.
4. Pressure Test for Solvent Weld Pipe:
 - a. Apply tests after welded plastic pipe joints have cured at least 4 hours or more if manufacturer of solvent cement requires.
 - b. Test supply lines per ASTM-F690 as follows: (1) add water slowly to pipe to avoid water hammer damage, (2) bleed system to insure all air is out of pipes, (3) pressurize system to 125% of design operating pressure for one hour. Visually inspect for leaks while system is holding pressure constant. Note-use hydraulic pump or other safe method - do not use air compressor.
 - c. Test sprinkler lines at line pressure and visually inspect for leaks.

3.5 CLEAN-UP

Clean-up shall be made as each portion of work progresses. Refuse and excess dirt shall be removed from the sites, all walks and paving shall be broomed or washed down, and any damage sustained on the work of others shall be repaired to original conditions.

3.6 FINAL REVIEW PRIOR TO ACCEPTANCE

- A. Final review shall take place after submission of all specified lists, record drawings, and manuals.

3.7 INSPECTIONS

The contractor shall be subject to inspections at any and all times by authorized representatives of the owner.

GUARANTEE FOR BACKFLOW PREVENTION DEVICE INSTALLATIONS

WE HEREBY GUARANTEE THAT THE BACKFLOW PREVENTION DEVICES AND OTHER RELATED EQUIPMENT WE HAVE FURNISHED AND INSTALLED ARE FREE FROM DEFECTS IN MATERIALS AND WORKMANSHIP, AND THE WORK HAS BEEN COMPLETED IN ACCORDANCE WITH THE DRAWINGS AND SPECIFICATIONS. WE AGREE TO REPAIR OR REPLACE ANY DEFECTS IN MATERIAL OR WORKMANSHIP, ANY SETTLING OF BACKFILLED TRENCHES, WHICH MAY DEVELOP DURING THE PERIOD OF ONE YEAR FROM DATE OF ACCEPTANCE AND ALSO TO REPAIR OR REPLACE ANY DAMAGE CAUSED BY ANY DEFECTS IN THE BACKFLOW PREVENTION DEVICES AND OTHER RELATED EQUIPMENT OR RESULTING FROM THE REPAIRING OR REPLACING OF SUCH DEFECTS AT NO ADDITIONAL COST TO THE OWNER. ORDINARY WEAR AND TEAR, UNUSUAL ABUSE OR NEGLECT ARE EXCEPTED. WE SHALL MAKE SUCH REPAIRS OR REPLACEMENTS, INCLUDING COMPLETE RESTORATION OF ALL DAMAGED PLANTING, PAVING, OR OTHER IMPROVEMENTS OF ANY KIND, WITHIN A REASONABLE TIME, AS DETERMINED BY THE OWNER, AFTER RECEIPT OF WRITTEN NOTICE. IN THE EVENT OF OUR FAILURE TO MAKE SUCH REPAIRS OR REPLACEMENTS WITHIN A REASONABLE TIME AFTER RECEIPT OF WRITTEN NOTICE FROM THE OWNER, WE AUTHORIZE THE OWNER TO PROCEED TO HAVE SAID REPAIRS OR REPLACEMENTS MADE AT OUR EXPENSE AND WE WILL PAY THE COSTS AND CHARGES THEREFORE UPON DEMAND.

PROJECT: _____

LOCATION: _____

CONTRACTOR: _____

LICENSE NO: _____

ADDRESS: _____

TELEPHONE: _____

GUARANTEE TO: _____

DATE OF ACCEPTANCE: _____

AUTHORIZED REPRESENTATIVE: _____

END OF SECTION

LEASE AMENDMENT AND LAND EXCHANGE AGREEMENT

This Lease Amendment and Land Exchange Agreement is entered into this 13th day of AUGUST, 2002 by and between the Palo Alto Unified School District ("District") and the City of Palo Alto, a municipal corporation ("City").

RECITALS

A. The District is the owner of the certain property as described and shown in Exhibit A attached hereto and commonly referred to as the Cubberley Site.

B. The District and the City have entered into a Lease and Covenant Not to Develop dated September 1, 1989 whereby the District leased to the City the Cubberley Site.

C. The District is the legal owner of certain property as shown in Exhibit B attached hereto and commonly referred to as the Terman Site.

D. In 1981, the District entered into a Lease to Purchase Agreement (the "Terman Lease Purchase Agreement") with the City whereby the City leased the Terman Site, including both the New Terman School Site and the adjacent Terman Park, from the District for 20 years with the right to acquire the Terman Site on November 1, 2000. The City exercised its option under the lease in a timely fashion, but with the consent of City, the District has not yet delivered title to the Terman Site to the City, and the City has remained in possession of the Terman Site.

E. The District has determined that in order to provide a quality education experience the desired range of school size for middle schools is 600 to 900 students. The District currently operates two middle schools, one of which has an enrollment of 1,076 students and the other of which has an enrollment of 1,179 students. In order to ensure that middle school students in the District receive the best education possible, the District has determined that it is necessary to open a third middle school in order to reduce the enrollments at the middle schools to the range of 600 to 900 students.

F. The District has conducted an extensive search for a site of the new middle school. Based on the residences of

the current middle school population, the District has determined that a portion of the Terman Site, as shown in Exhibit C attached hereto and incorporated herein ("the New Terman School Site") is the most appropriate location for the middle school.

G. In order to permit the District to reopen a middle school at the New Terman School Site the City has agreed to exchange its right to acquire the New Terman School Site for a fee interest in a portion of the Cubberley School Site which portion is of equal size to the New Terman School Site.

H. The City, with the consent of the District, and the Albert L. Schultz Jewish Community Center ("the JCC") entered into a sublease for a portion of the New Terman School Site ("the JCC Sublease") in 1982. The JCC Sublease has not expired. Under the terms of a Lease Termination and Mutual Release Agreement approved by the City Council on September 10, 2001 between the City and the JCC and a separate Settlement and Relocation Agreement between the District and the JCC, the sublease between the City and the JCC will continue in effect after transfer of title to the New Terman School Site.

I. The City and the District recognize and acknowledge that if the parties did not enter into this Agreement, and the parties and the JCC had not entered into the Lease Termination and Mutual Release Agreement and the Settlement and Relocation Agreement, the District would consider instituting eminent domain action to acquire the New Terman School Site and there would likely be opposition to such eminent domain action.

NOW, THEREFORE, for good and valuable consideration, the City and the District agree as follow:

1. Terman Site

The Terman Lease currently provides that upon expiration of the Lease Term, which expiration occurred on November 9, 2000, the District was to have conveyed to the City fee title to the "Terman Site". Due to the District's determination that a portion of the Terman Site, namely the New Terman School Site, is the most appropriate place to open a middle school that is needed to serve the community, the City and the District hereby agree to amend the Terman Lease as follows:

Attachment B

(a) The Term of the Terman Lease is hereby extended to September 1, 2002.

(b) The City shall make no further rental payments.

(c) Notwithstanding anything to the contrary in the Terman Lease, the District agrees that on or before September 1, 2002, the District shall convey to the City by grant deed fee title to that portion of the Terman Site identified in Exhibit D attached hereto and incorporated herein as Terman Park, subject to those exceptions shown on the Preliminary Report attached hereto as Exhibit E. The City shall chose the escrow company and title company to be used and shall pay all costs of escrow and title insurance; the District shall sign and deliver a grant deed and such other documents as are reasonably required to close escrow within thirty days after they are presented to District for signature.

(d) Notwithstanding anything to the contrary in the Terman Lease, the City agrees that on or before September 1, 2002, the City shall execute a quitclaim deed or such other document as the District may request relinquishing any leasehold rights or rights of ownership the City has to the New Terman School Site, as shown in Exhibit C.

(e) The City and the District agree to execute and record in the Official Records of the County of Santa Clara a termination of lease terminating the Terman Lease effective as of September 1, 2002.

(f) The City shall convey its interest in the New Terman School Site subject to the sublease to the JCC.

(g) The City and the District shall enter into a joint use agreement regarding Terman Site in substantially the form attached hereto as Exhibit F.

2. Cubberley Property

(a) The District in consideration for the City relinquishing control of the New Terman School Site hereby agrees to convey fee title by way of a grant deed a portion of the Cubberley Site ("Cubberley Conveyance Property") as set forth in Exhibit G attached hereto and incorporated herein

simultaneously with City's relinquishments of its rights to the New Terman School Site subject to those exceptions shown on the Preliminary Report attached hereto as Exhibit H. The City shall chose the escrow company and title company to be used and shall pay all costs of escrow and title insurance; the District shall sign and deliver a grant deed and such other documents as are reasonably required to close escrow within thirty days after they are presented to District for signature.

(b) Prior to the conveyance of the Cubberley Conveyance Property, the City and the District will agree on the legal description and surveyor's map describing the Cubberley Conveyance Property, which legal description and map shall generally conform to the property lines set forth in Exhibit G. At the time the Cubberley Conveyance Property is conveyed to the City, the City and the District shall execute the Amendment No. 2 to Lease and Covenant Not to Develop attached hereto and incorporated herein as Exhibit I.

3. District Right to Acquire

If the City wishes to sell its fee interest in the Cubberley Conveyance Property any time prior to September 1, 2022, the City shall give written notice of such intention to the District. The District shall have the option to acquire the Cubberley Conveyance Property for fair market value. If the City and the District are unable to agree on fair market value, the purchase price for the Cubberley Conveyance Property shall be determined as follows: The fair market value of the property shall be determined by a state-certified appraiser acceptable to City and District with the cost of the appraisal to be shared by City and District equally. Should City and PAUSD not agree upon a State certified designated appraiser, one shall be appointed by the presiding judge of the Superior Court of Santa Clara County. The district must provide the City with written notice of its intent to acquire the Cubberley Conveyance Property within ninety (90) days of receiving notice from the City of its intent to sell the Cubberley Conveyance Property.

4. City Right to Acquire

If the District wishes to sell its fee interest in the New Terman School Site any time prior to September 1, 2022, the District shall give written notice of such intention to the City. The City shall have the option to acquire the New Terman School Site for fair market value. If the District and the City are unable to agree on fair market value, the purchase

price for the District Portion of the Terman Site shall be determined as follows: The fair market value of the property shall be determined by a state-certified appraiser acceptable to City and District with the cost of the appraisal to be shared by City and District equally. Should City and PAUSD not agree upon a State certified appraiser, one shall be appointed by the presiding judge of the Superior Court of Santa Clara County. The City must provide the District with written notice of its intent to acquire the New Terman School Site within ninety (90) days of receiving notice from the District City of its intent to sell the new Terman School Site.

5. Settlement of Potential Litigation

The City and the District acknowledge that this Agreement is being entered into in order to settle potential litigation regarding the possession of the New Terman School Site. The Parties agree that no part of this Agreement will be admissible as evidence in a court of law in the event the District institutes eminent domain actions to acquire possession of the New Terman School Site and that this Settlement Agreement shall be subject to the applicable California Evidence Code Section related to the inadmissibility of settlement discussions.


6. Mutual Release

Upon performance of the parties' obligations under this Agreement, and in consideration for the conveyance of the Cubberley Conveyance Property, and other consideration set forth herein, the City hereby releases and forever discharges, on behalf of the City, and its successors, assigns, heirs, executors and administrators, the District and its board members, officers, directors, employees, agents, contractors and affiliates from any and all demands, claims or causes of action against the District, including without limitation all claims, demands or causes of action arising out of or pertaining to any occurrence, event, circumstances or matter of any kind or nature arising out of, directly or indirectly, the acquisition of the New Terman School Site by the District, including, but not limited, to any claims for compensation for leasehold value, fixtures and equipment, loss of business goodwill, severance damages, interest, litigation expenses, attorneys' fees and costs (including, but not limited to, costs incurred to negotiate this Agreement), loss or damages for inverse condemnation, unreasonable precondemnation delay, unreasonable precondemnation activities and statutory relocation benefits.

Upon performance of the parties' obligations under this Agreement, and in consideration for the City relinquishing its rights to the New Terman School Site and other consideration herein set forth, the District hereby releases and forever discharges, on behalf of the District, its successors, assigns, heirs, executors and administrators, the City and its council members, officers, directors, employees, agents, contractors and affiliates from any and all demands, claims or causes of action against the City relating to the City's occupancy of the New Terman School Site including attorneys' fees and costs (including costs to negotiate this Agreement).

In giving this release, the City and the District expressly waive the protection of Civil Code Section 1542, which statute provides as follows:

"A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with debtor."

District 

City 15

7. Headings

The title and headings of the various Section of this Agreement are intended for means of reference and are not intended to place any construction on the provisions of this Agreement.

8. Invalidity

If any provisions of this Agreement shall be invalid or unenforceable, the remaining provisions shall not be affected thereby, and every provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

9. Entire Agreement

The terms of this Agreement are intended by the Parties as a final expression of their agreement and may not be contradicted by evidence of any prior or contemporaneous agreement. No provision of this Agreement may be amended except

Attachment B

by an agreement in writing signed by the Parties hereto or their respective successors in interest. The Parties were represented by attorneys with regard to the drafting of this Agreement, and neither party shall be deemed to be the drafter of this Agreement.

10. Successors

This Agreement shall be binding upon and inure to the benefit of the heirs, executors, administrators, successors and assigns of the Parties hereto.

11. Governing Law

This Agreement shall be governed by the laws of the State of California.

12. Execution

This Agreement may be executed in multiple counterpart originals.

13. Attorneys' Fees

In the event of a breach of this Agreement, the non-breaching party shall recovery all attorneys' fees and litigation expenses incurred as a result of such breach and/or to enforce this Agreement, including without limitation costs of appeal.

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Attachment B

IN WITNESS WHEREOF, the Parties have executed this Agreement on or as of the date first above written.

ATTEST:

Donna J. Rogers
City Clerk

CITY OF PALO ALTO, Lessee

Vince Quinn
Mayor

APPROVED AS TO FORM:

Wynne Smith
Senior Asst. City Attorney

PALO ALTO UNIFIED SCHOOL DISTRICT, Lessee

Mark B. Smith
President, Board of Education

APPROVED:

Frank
City Manager

APPROVED:

Harry Francis Hollan
Superintendent of Schools

EXHIBITS:

- Exhibit A: Legal Description and Map of entire Cubberley Site
- Exhibit B: Map of the Terman Site, (including both New Terman School Site and Terman Park, both of which are identified on Exhibit B.)
- Exhibit C: Map of New Terman School Site, (which City will quitclaim to District.)
- Exhibit D: Map of Terman Park
- Exhibit E: Preliminary Report on Terman Park
- Exhibit F: Joint Use Agreement for Terman Site
- Exhibit G: Map of Cubberley Conveyance Property
- Exhibit H: Preliminary Report on Cubberley Conveyance Property
- Exhibit I: Amendment No. 2 to Lease and Covenant Not to Develop

Attachment B
EXHIBIT A

CUGBERLEY SITE
Legal Description

PARCEL 1 (continued)

Beginning at a point on the Southwesterly line of Middlefield Road at the most Northerly corner of that certain parcel of land conveyed by Ralph Grebmeier, et ux, to Rolf Grebmeier, a married man, by Deed dated August 14, 1954 and recorded October 15, 1954 in Book 2983 of Official Records, Page 211; thence leaving said line of Middlefield Road and running along the Northwesterly line of said Grebmeier parcel, South 57° 42' 46" West 221.83 feet; thence leaving said Northwesterly line of said Grebmeier parcel and running North 32° 04' 46" East 200.00 feet to a point on the Southwesterly line of Middlefield Road; thence along said line of Middlefield Road, South 57° 55' 14" East 95.97 feet to the point of beginning and being a portion of the Rancho Rincon de San Francisquito.

PARCEL 2

Beginning at the most Southerly corner of Lot 11 in Block 1, as shown on the Map of Tract 1310, Greenmeadow, which Map was filed for record in the office of the Recorder of the County of Santa Clara, State of California on July 7, 1954 in Book 50 of Maps, Pages 50 and 51; thence along Southwesterly line of said Lot 11, North 33° 33' 18" West 40.00 feet; thence along a Southeasterly line of Lots 11 and 12, block 1, as shown on the Map hereinabove referred to, South 56° 26' 42" West 50.00 feet; thence along a Northeasterly line of said Lot 12, South 33° 33' 18" East 40.00 feet; thence along the Northeasterly prolongation of the most Southerly line of said Lot 12, North 56° 26' 42" East 50.00 feet to the point of beginning, and being a portion of the Santa Rita Rancho.

PARCEL 3

Beginning at a point on the Northwesterly line of that certain parcel of land conveyed by Ralph Grebmeier, et ux, to Rolf Grebmeier, a married man by Deed dated August 14, 1954 and recorded October 15, 1954 in Book 2983 of Official Records, Page 211, distant thereon, South 57° 42' 46" West 221.83 feet from the point of intersection of said Northwesterly line with the Southwesterly line of Middlefield Road; thence along the Northwesterly line of said Grebmeier parcel, South 57° 42' 46" West 221.83 feet to the most Westerly corner thereof; thence along the Southwesterly line of said Grebmeier parcel and parallel with said line of Middlefield Road, South 57° 55' 14" East 95.97 feet; thence leaving the Southwesterly line of said Grebmeier parcel and running North 32° 04' 46" East 200.00 feet to the point of beginning and being a portion of the Rancho Rincon de San Francisquito.

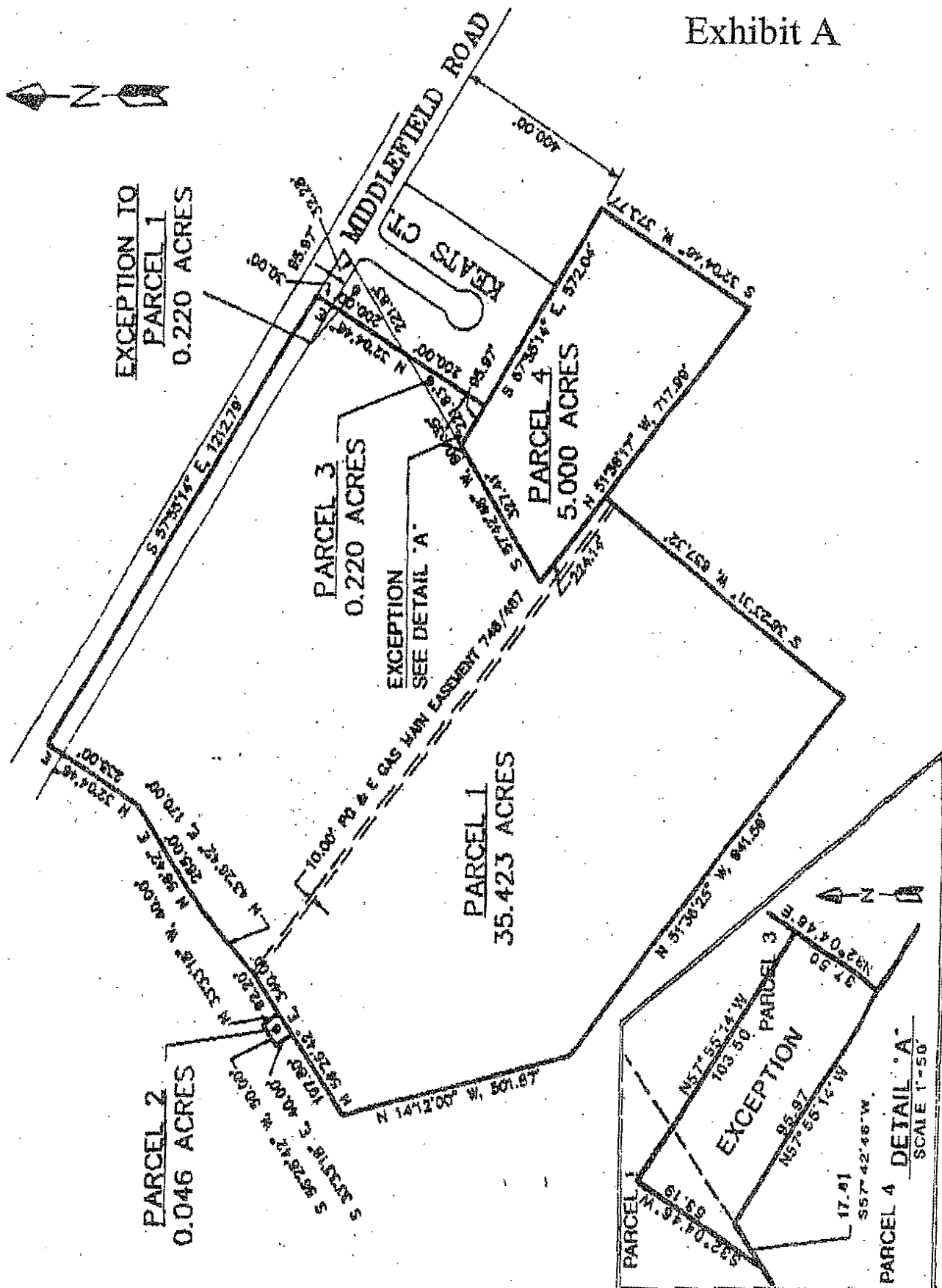
EXCEPTION

Excepting therefrom a portion of Parcel 1 and Parcel 3 described as follows:

Beginning at the most Southerly corner of the above described Parcel 3; thence North 57° 55' 14" West 95.97 feet; thence South 57° 42' 46" West 17.41 feet; thence North 32° 04' 46" East 53.19 feet; thence South 57° 55' 14" East 103.50 feet; thence South 32° 04' 46" West 37.50 feet to the point of beginning.

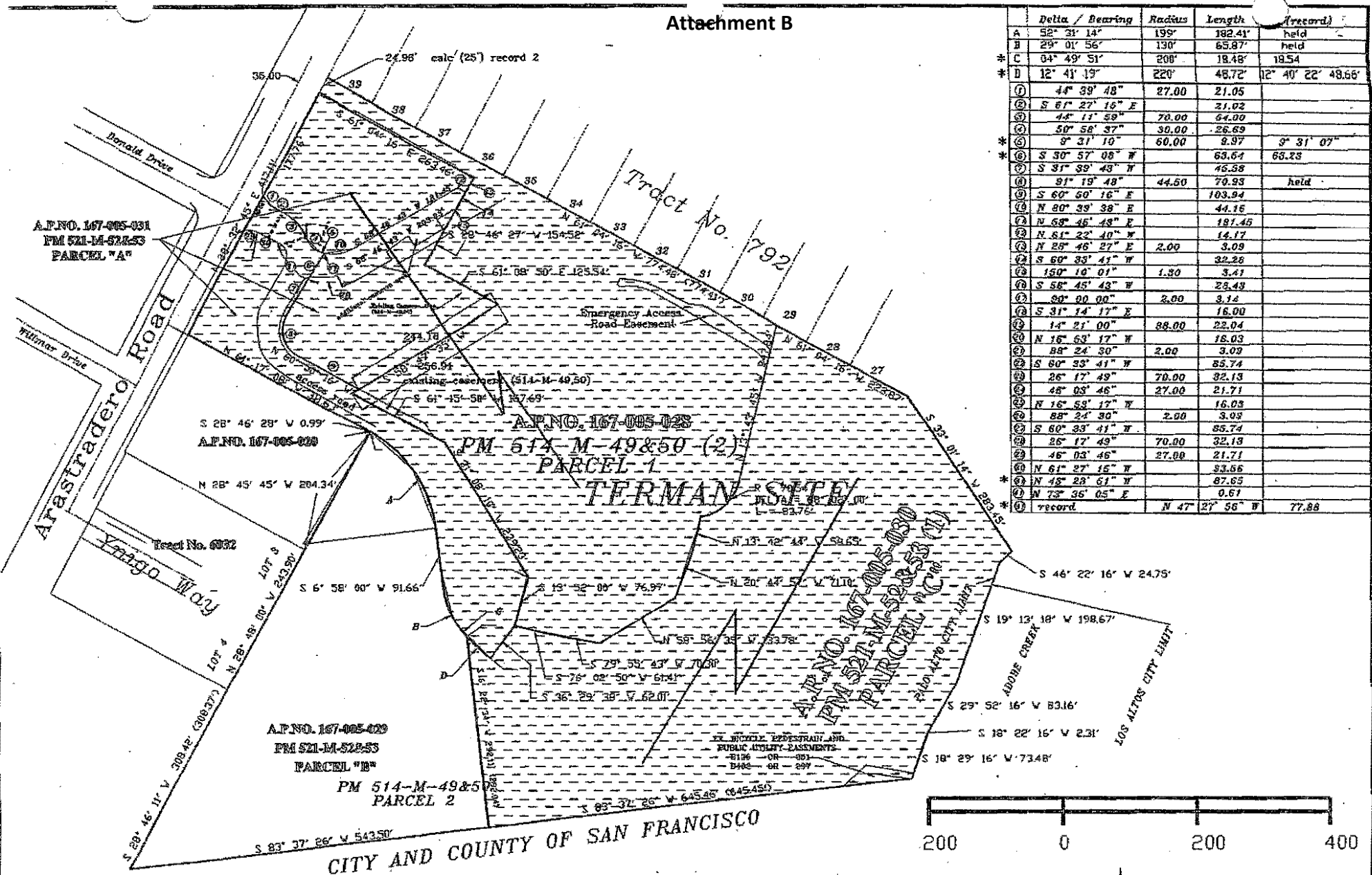
Containing 0.0905 acres.

Exhibit A



FIELD BOOK _____	DATE _____	CUBBERLEY/GREENDELL SCHOOL SITES	APPROVED: <u>Nov. 6</u> 19 <u>87</u> <u>D. A. Matson</u> ENGINEER R.E.
PAGE _____	8/87		
DRAWN BY: VILEBAS II	10/87	CITY OF PALO ALTO, CALIFORNIA	REVISION:
CHECKED BY: REMLEY			

Attachment B

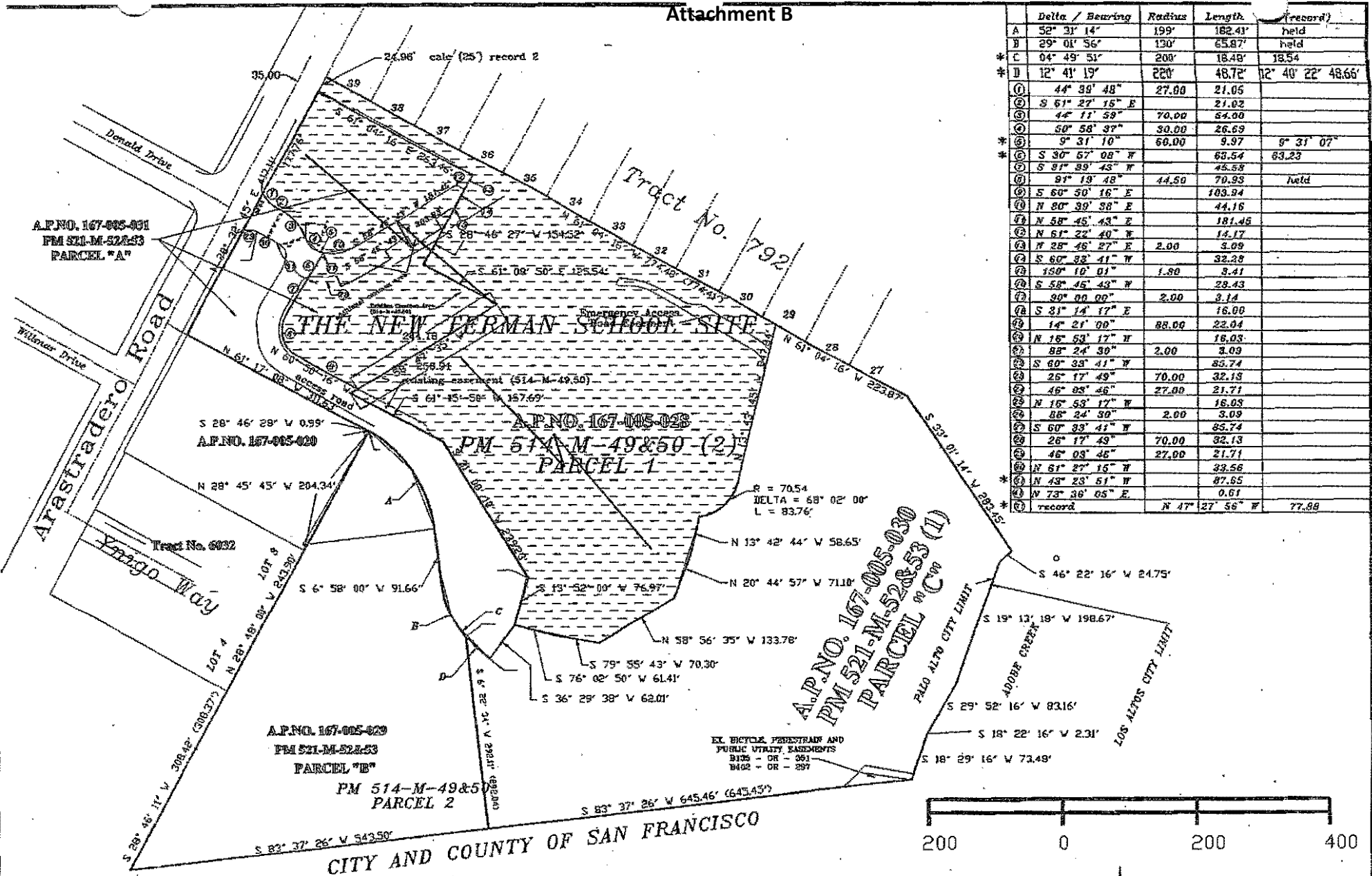


	Delta / Bearing	Radius	Length	(Record)
A	52° 31' 14"	199'	182.41'	held
B	29° 01' 56"	130'	65.87'	held
C	04° 49' 51"	208'	18.48'	18.54
* D	12° 41' 19"	220'	46.72'	12° 40' 22" 48.66'
①	44° 39' 48"	27.00	21.05	
②	S 61° 27' 16" E		21.02	
③	44° 11' 59"	70.00	64.00	
④	50° 58' 37"	30.00	26.69	
* ⑤	9° 31' 10"	60.00	9.97	9° 31' 07"
* ⑥	S 30° 57' 08" W		63.64	65.23
⑦	S 31° 39' 43" W		46.58	
⑧	91° 19' 48"	44.60	70.93	held
⑨	S 60° 50' 16" E		103.94	
⑩	N 80° 39' 38" E		44.16	
⑪	N 58° 45' 48" E		191.46	
⑫	N 81° 22' 40" W		14.17	
⑬	N 25° 46' 27" E	2.00	3.09	
⑭	S 60° 33' 41" W		32.26	
⑮	150° 10' 01"	1.30	3.41	
⑯	S 58° 45' 43" W		23.43	
⑰	90° 00' 00"	2.00	3.14	
⑱	S 31° 14' 17" E		16.00	
⑲	14° 21' 00"	88.00	22.04	
⑳	N 16° 53' 17" W		18.03	
㉑	88° 24' 30"	2.00	3.09	
㉒	S 60° 33' 41" W		55.74	
㉓	26° 17' 49"	70.00	32.13	
㉔	48° 03' 46"	27.00	21.71	
㉕	N 16° 53' 17" W		16.03	
㉖	88° 24' 30"	2.00	3.03	
㉗	S 60° 33' 41" W		55.74	
㉘	26° 17' 49"	70.00	32.13	
㉙	46° 03' 46"	27.00	21.71	
㉚	N 61° 27' 16" W		33.66	
㉛	N 48° 28' 61" W		87.65	
㉜	N 73° 36' 05" E		0.61	
㉝	record	N 47° 27' 56" W	77.88	

EXHIBIT B

<p>EXHIBIT "B" DRAWN BY: JAMES D. KIEHL CHECKED BY: JAMES BOURQUIN CHECKED BY: JAY E. REMLEY LEGAL FILENAME: 16705003 DRAWING FILENAME: 16705003.DWG</p>	<p>TERMAN SITE CITY OF PALO ALTO, CALIFORNIA</p>	<p>SCALE: 1" = 200' REVISION: (4) 12/03/2001 REVISION: (3) 11/21/01 REVISION: (2) 2/12/2001 REVISION: (1) 11/09/2000</p>
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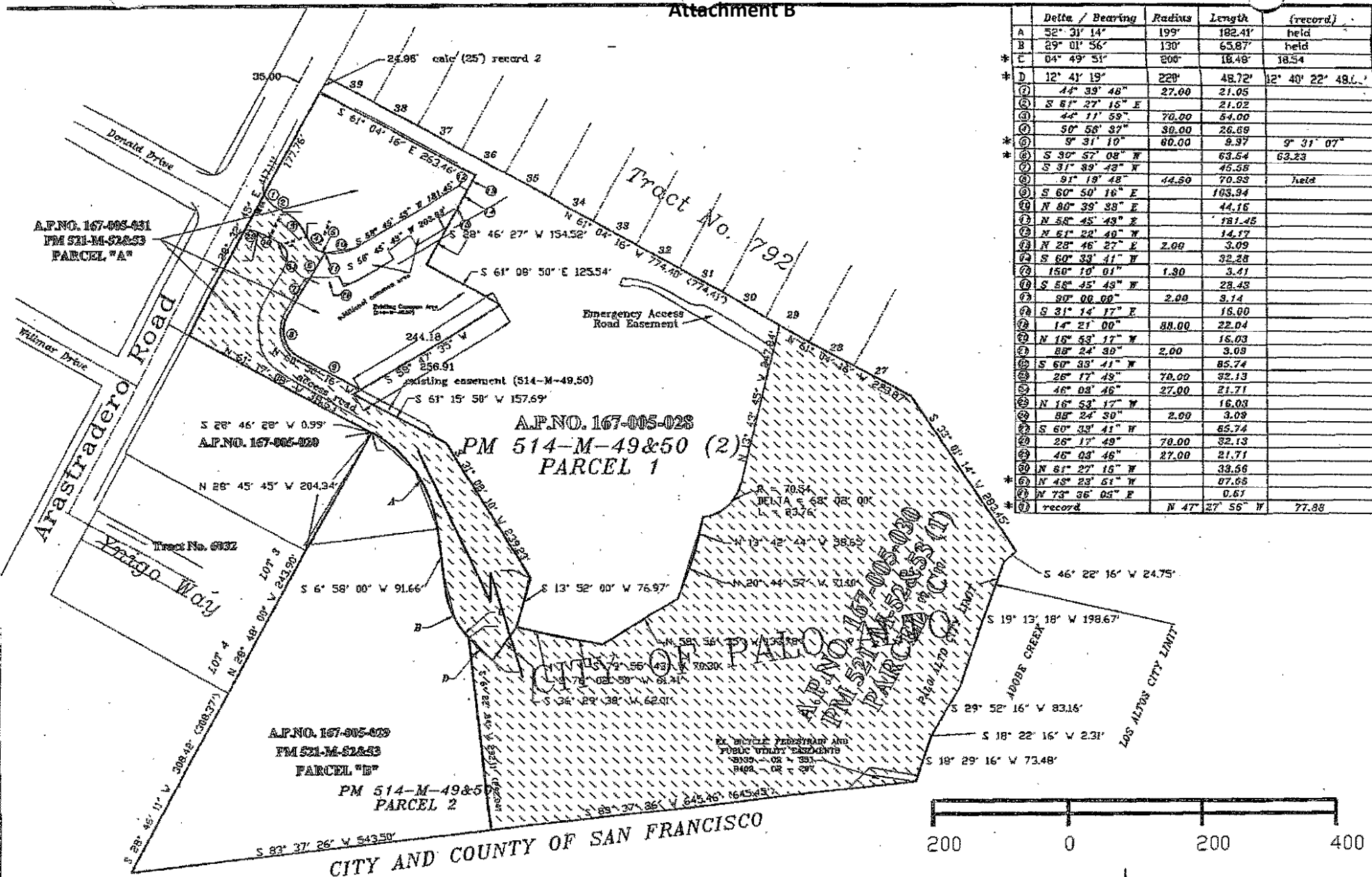
Attachment B



	Delta / Bearing	Radius	Length	(record)
A	52° 31' 14"	199'	182.41'	held
B	29° 01' 56"	130'	65.87'	held
* C	04° 49' 51"	208'	18.48'	18.54
* D	12° 41' 19"	220'	48.72'	12° 40' 22" 48.66'
①	44° 38' 48"	27.00	21.05	
②	S 61° 27' 15" E	70.00	21.02	
③	4° 11' 59"	70.00	64.00	
④	50° 58' 37"	30.00	26.69	
* ⑤	9° 31' 10"	60.00	9.97	9° 31' 07"
* ⑥	S 30° 57' 08" W		63.54	63.23
⑦	S 81° 39' 43" W		45.58	
⑧	91° 19' 48"	44.50	70.93	held
⑨	S 60° 50' 16" E		103.94	
⑩	N 80° 39' 38" E		44.16	
⑪	N 58° 45' 43" E		181.46	
⑫	N 61° 22' 40" E		14.17	
⑬	N 38° 46' 27" E	2.00	3.09	
⑭	S 60° 38' 41" W		32.28	
⑮	150° 10' 01"	1.80	3.41	
⑯	S 58° 45' 43" W		29.43	
⑰	30° 00' 00"	2.00	3.14	
⑱	S 21° 14' 17" E		16.00	
⑲	14° 21' 00"	88.00	22.04	
⑳	N 16° 53' 17" W		16.03	
㉑	88° 24' 30"	2.00	3.09	
㉒	S 60° 33' 41" W		85.74	
㉓	26° 17' 49"	70.00	32.13	
㉔	46° 03' 46"	27.00	21.71	
㉕	N 16° 53' 17" W		16.03	
㉖	88° 24' 30"	2.00	3.09	
㉗	S 60° 33' 41" W		85.74	
㉘	26° 17' 49"	70.00	32.13	
㉙	46° 03' 46"	27.00	21.71	
㉚	N 61° 27' 15" W		33.56	
* ㉛	N 43° 23' 51" W		87.65	
* ㉜	N 73° 36' 05" E		0.61	
㉝ record	N 47° 27' 56" W		77.88	

EXHIBIT C

EXHIBIT "C" DRAWN BY: JAMES D. KIEHL CHECKED BY: JAMES BOURQUIN CHECKED BY: JAY E. REMLEY LEGAL FILENAME: 16705003 DRAWING FILENAME: 16705003.DWG	THE NEW TERMAN SCHOOL SITE CITY OF PALO ALTO, CALIFORNIA	SCALE: 1" = 200'
		REVISION: (4) 12/03/2001 REVISION: (3) 11/21/01 REVISION: (2) 2/12/2001 REVISION: (1) 11/09/2000



	Delta / Bearing	Radius	Length	(record)
A	S 52° 31' 14" E	199'	182.41'	held
B	S 29° 01' 56" E	130'	65.87'	held
* C	S 04° 49' 51" E	800'	18.49'	18.54
* D	S 12° 41' 19" E	220'	48.72'	12° 40' 22" 48.6'
(1)	S 44° 39' 48" E	27.00	21.05	
(2)	S 61° 27' 15" E		21.02	
(3)	S 44° 11' 59" E	70.00	54.00	
(4)	S 50° 58' 37" E	30.00	26.69	
* (5)	S 9° 31' 10" E	80.00	9.97	9° 31' 07"
* (6)	S 30° 57' 08" N		63.54	63.23
(7)	S 31° 39' 48" N		46.58	
(8)	S 91° 19' 48" E	44.50	70.93	held
(9)	S 60° 50' 16" E		103.94	
(10)	N 80° 39' 38" E		44.16	
(11)	N 58° 45' 49" E		181.45	
(12)	N 61° 22' 40" N		14.17	
(13)	N 28° 46' 27" E	2.00	3.09	
(14)	S 60° 33' 41" W		32.28	
(15)	S 150° 10' 01" W	1.30	3.41	
(16)	S 58° 45' 49" W		28.43	
(17)	S 90° 00' 00" W	2.00	3.14	
(18)	S 31° 14' 17" E		16.00	
(19)	S 14° 21' 00" E	88.00	22.04	
(20)	N 18° 53' 17" W		16.03	
(21)	S 88° 24' 30" W	2.00	3.09	
(22)	S 60° 33' 41" W		85.74	
(23)	S 26° 17' 49" E	70.00	32.13	
(24)	S 46° 03' 46" E	27.00	21.71	
(25)	N 18° 53' 17" W		16.03	
(26)	S 88° 24' 30" W	2.00	3.09	
(27)	S 60° 33' 41" W		65.74	
(28)	S 26° 17' 49" E	70.00	32.13	
(29)	S 46° 03' 46" E	27.00	21.71	
(30)	N 61° 27' 15" W		33.56	
(31)	N 48° 23' 51" W		87.66	
(32)	N 73° 36' 05" E		0.61	
(33) record	N 47° 27' 56" W		77.88	

EXHIBIT "D"

DRAWN BY: JAMES D. KIEHL
 CHECKED BY: JAMES BOURQUIN
 CHECKED BY: JAY E. REMLEY
 LEGAL FILENAME: 16705003
 DRAWING FILENAME: 16705003.DWG

CITY OF PALO ALTO
 ROADWAY AND TERMAN PARK
 CITY OF PALO ALTO, CALIFORNIA

SCALE: 1" = 200'

REVISION: (4) 12/03/2001
 REVISION: (3) 11/21/01
 REVISION: (2) 2/12/2001
 REVISION: (1) 11/09/2000

Attachment B



DIRECT ALL INQUIRES TO:
Escrow Officer: DEBORAH MINARIK
Telephone No. 650-917-5699
Our No.: 50370029

February 8, 2000

Exhibit E

CITY OF PALO ALTO
250 HAMILTON AVENUE
PALO ALTO, CALIFORNIA 94301
ATTN: ELAINA CHAN

PROPERTY ADDRESS
NO SITUS GIVEN

Preliminary Report

IN RESPONSE TO THE ABOVE REFERENCED APPLICATION FOR A POLICY OF TITLE INSURANCE,

North American Title Company, Inc.

HEREBY REPORTS THAT IT IS PREPARED TO ISSUE, OR CAUSE TO BE ISSUED, AS OF THE DATE HEREOF, A POLICY OR POLICIES OF TITLE INSURANCE, DESCRIBING THE LAND AND THE ESTATE OR INTEREST HEREINAFTER SET FORTH, INSURING AGAINST LOSS WHICH MAY BE SUSTAINED BY REASON OF ANY DEFECT, LIEN, OR ENCUMBRANCE NOT SHOWN OR REFERRED TO AS AN EXCEPTION BELOW OR NOT EXCLUDED FROM COVERAGE PURSUANT TO THE PRINTED SCHEDULES, CONDITIONS AND STIPULATIONS OF SAID POLICY FORMS.

THE PRINTED EXCEPTIONS AND EXCLUSION FROM THE COVERAGE OF SAID POLICY OR POLICIES ARE SET FORTH ON THE ATTACHED COVER, COPIES OF THE POLICY FORMS SHOULD BE READ, THEY ARE AVAILABLE FROM THE OFFICE WHICH ISSUED THIS REPORT.

PLEASE READ THE EXCEPTIONS SHOWN OR REFERRED TO BELOW AND THE EXCEPTIONS AND EXCLUSIONS SET FORTH IN EXHIBIT A OF THIS REPORT CAREFULLY. THE EXCEPTIONS AND EXCLUSIONS ARE MEANT TO PROVIDE YOU WITH NOTICE OF MATTERS WHICH ARE NOT COVERED UNDER THE TERMS OF THE TITLE INSURANCE POLICY AND SHOULD BE CAREFULLY CONSIDERED.

IT IS IMPORTANT TO NOTE THAT THIS PRELIMINARY REPORT IS NOT A WRITTEN REPRESENTATION AS TO THE CONDITION OF TITLE AND MAY NOT LIST ALL LIENS, DEFECTS, AND ENCUMBRANCES AFFECTING TITLE TO THE LAND.

THIS REPORT (AND ANY SUPPLEMENTS OR AMENDMENTS THERETO) IS ISSUED SOLELY FOR THE PURPOSE OF FACILITATING THE ISSUANCE OF A POLICY OF TITLE INSURANCE AND NO LIABILITY IS ASSUMED HEREBY. IF IT IS DESIRED THAT LIABILITY BE ASSUMED PRIOR TO THE ISSUANCE OF POLICY TITLE INSURANCE, A BINDER OR COMMITMENT SHOULD BE REQUESTED.

Dated as of JANUARY 28, 2000
at 7:30 A.M.

DONNA HARNDEN
Title Officer

Attachment B

The form of policy of title insurance contemplated by this report is:

ALTA Loan Policy - Form 1 (10-17-92) and/or CLTA Standard Coverage Policy - 1990

The estate or interest in the land hereinafter described or referred to covered by this report is:

A FEE

Title to said estate or interest at the date hereof is vested in:

PALO ALTO UNIFIED SCHOOL DISTRICT

Attachment B

Description: The land referred to herein is situated in the State of California, County of SANTA CLARA, CITY OF PALO ALTO, and is described as follows:

PARCELS A AND C AS SHOWN ON PARCEL MAP FILED 12/5/83 IN BOOK 521 OF MAPS AT PAGES 52 AND 53; AND

PARCEL 1 AS SHOWN ON PARCEL MAP FILED 7/13/83 IN BOOK 514 OF MAPS AT PAGES 49 AND 50.

ASSESSOR'S PARCEL NO.: 167-05-003, 028, 030, 031

Attachment B

PARCEL MAP

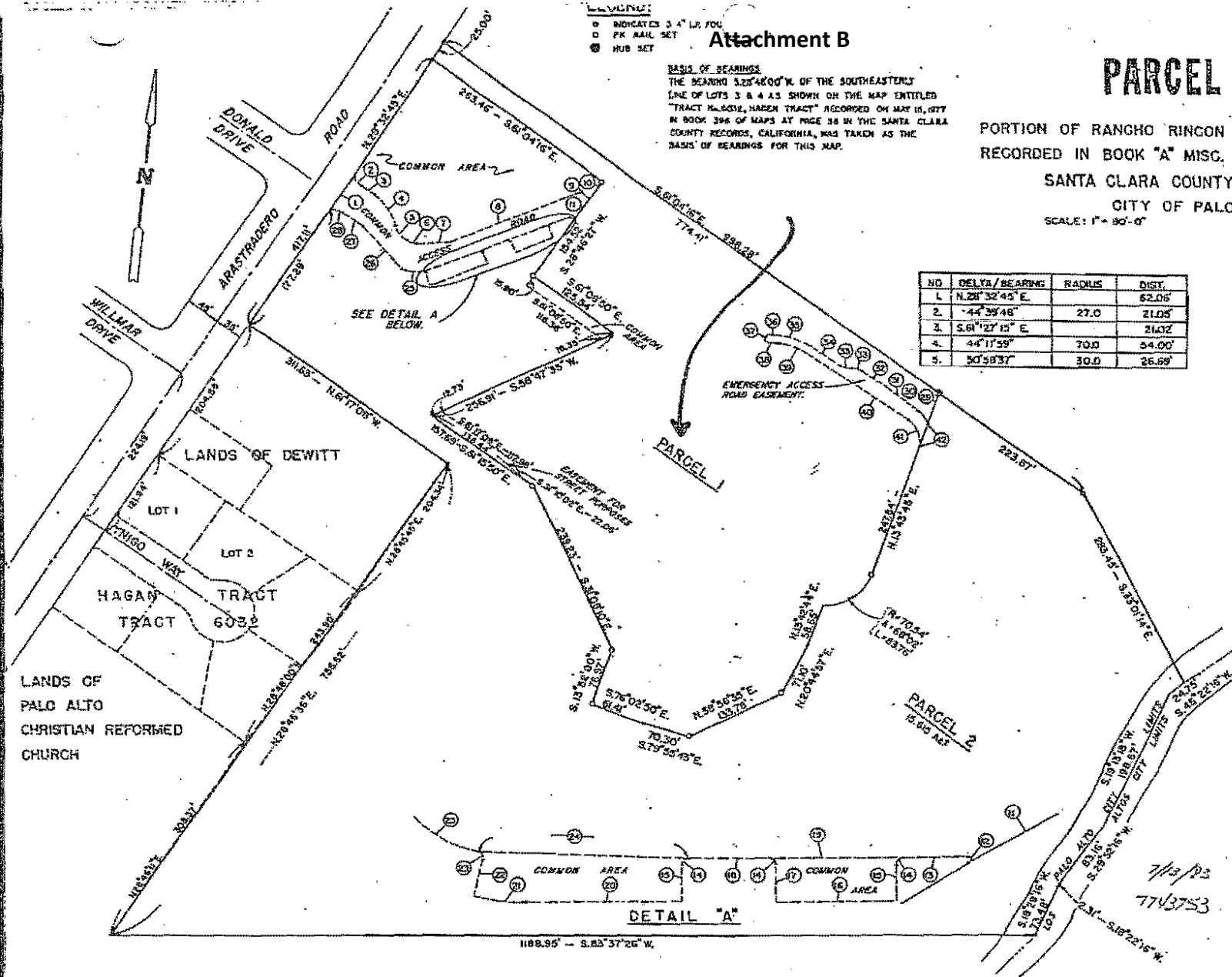
PORTION OF RANCHO RINCON DE SAN FRANCISCO
RECORDED IN BOOK "A" MISC. PAGE 66--RECORDS OF
SANTA CLARA COUNTY -- CALIFORNIA
CITY OF PALO ALTO
SCALE: 1" = 90'-0"
FEBRUARY 1963

LEGEND:
• INDICATES 3/4" IR. PIV.
□ P.K. NAIL SET
● HUB SET

BASIS OF BEARINGS
THE BEARING S28°40'00"W. OF THE SOUTHEASTERLY
LINE OF LOTS 3 & 4 AS SHOWN ON THE MAP ENTITLED
"TRACT N.6032, HAGEN TRACT" RECORDED ON MAY 15, 1977
IN BOOK 396 OF MAPS AT PAGE 38 IN THE SANTA CLARA
COUNTY RECORDS, CALIFORNIA, WAS TAKEN AS THE
BASIS OF BEARINGS FOR THIS MAP.

NO	DELTA/BEARING	RADIUS	DIST.
1.	N.28°32'45"E.	22.05	22.05'
2.	44°39'48"	27.0	21.05'
3.	S.61°27'15"W.		21.02'
4.	44°11'59"	70.0	54.00'
5.	S.0°58'37"	30.0	26.59'

NO	DELTA/BEARING	RADIUS	DIST.
6.	09°31'07"	60.00	9.97'
7.	N.80°38'38"E.		4.41'
8.	N.58°45'43"W.		181.45'
9.	N.61°22'40"W.		14.17'
10.	N.28°46'27"E.		25.00'
11.	S.28°46'27"W.		32.28'
12.	150°10'01"	1.30	3.41'
13.	S.58°45'43"W.		28.43'
14.	90°00'00"	2.00	3.14'
15.	S.31°14'17"E.		18.00'
16.	S.58°45'43"W.		50.00'
17.	N.31°14'17"W.		16.00'
18.	S.58°45'43"W.		35.66'
19.	S.58°45'43"W.		54.00'
20.	S.58°45'43"W.		54.47'
21.	14°21'00"	88.00	22.04'
22.	N.16°53'17"W.		16.03'
23.	98°24'30"	2.00	3.09'
24.	S.60°33'41"W.		85.79'
25.	26°17'49"	70.00	32.13'
26.	N.47°27'56"W.		77.88'
27.	N.61°27'15"W.		33.56'
28.	46°05'46"	27.00	21.71'
29.	S.13°43'45"W.		39.50'
30.	24°02'02"	52.00	21.81'
31.	N.57°59'59"W.		56.53'
32.	N.61°05'49"W.		40.00'
33.	36°52'12"	25.00	18.09'
34.	N.61°05'49"W.		47.02'
35.	31°58'53"	100.00	55.52'
36.	32°00'26"	8.00	4.41'
37.	S.28°46'27"W.		10.00'
38.	32°00'26"	18.00	10.06'
39.	31°58'53"	90.00	50.24'
40.	S.61°05'49"E.		171.05'
41.	74°49'34"	35.00	43.71'
42.	N.13°43'45"E.		38.46'



SHEET 2 OF 2 SHEETS

FILE # 7743753 Map Book 514 Pg 50.

"THE INFORMATION ON THIS PLAT IS PROVIDED FOR
YOUR CONVENIENCE AS A GUIDE TO THE GENERAL
LOCATION OF THE SUBJECT PROPERTY. THE ACCURACY
OF THIS PLAT IS NOT GUARANTEED, NOR IS IT A PART
OF ANY POLICY REPORT OR GUARANTEE TO WHICH IT
MAY BE ATTACHED."

Attachment B

EXHIBIT F

AGREEMENT FOR
JOINT USE OF TERMAN SITE

This AGREEMENT FOR JOINT USE OF TERMAN SITE, entered into this _____ day of _____, 2001, by and between City of Palo Alto and Palo Alto Unified School District, hereinafter referred to as "City" and "School District".

RECITALS

1. The City and School District have entered into a property exchange agreement in which the City obtains fee title to approximately eight (8) acres of land at the Cubberley Community Center and the School District obtains fee title to an equivalent area at the Terman Site. At the Terman Site, the City will own a dedicated public park, Terman Park, which includes playing fields and tennis courts. The School District will own the Terman Middle School, developed with school buildings, including a gymnasium, a parking lot, and a swimming pool. A map showing the Terman Site, Terman Park, and the Terman Middle School is attached as Exhibit A. As part of the land exchange agreement, the City and the School District have agreed to enter into this joint use agreement for the Terman Site. The purpose of the agreement is to cooperatively use the Terman Site so that both educational and community services can be provided to those living in the City and the School District.

2. The City and the School District also have power to assist each other under Education Code Sections 17051(a) and 35275 and Government Code Section 6500 et seq. of the State of California, which authorize and empower public school districts and municipalities to cooperate with each other and to that end enter into agreements with each other for the purpose of organizing, promoting and conducting such programs of community recreation and education for children and adults of the state.

3. The School District has need of the Terman Park playing fields for its middle school, and the City has need of a portion of the Terman Middle School buildings for its library and related activities. Both City and School District wish to have the City provide recreational programs for middle school children and others that will make use of both the Park and the Middle School. Terman Park is a dedicated park and use of the Park by the School District must be consistent with that designation; Terman Middle School will be a public school

Attachment B

facility, and its use as a middle school will have priority over all other uses.

NOW, THEREFORE, the City and School District mutually covenant and agree with each other as follows:

A. Principles

1. The City and School District shall cooperate in the use of the Terman Site.

2. The City shall control use of the Terman Park and the School District shall control use of the Terman Middle School, in a manner that is consistent with this Joint Use Agreement.

B. Joint Use of the Terman Site.

1. The School District shall make Terman Middle School facilities and equipment available to the City as described in Attachment 1. The School District shall also make such facilities and equipment available upon application of the City provided that their use for City purposes does not interfere with the School District's use of such facilities and equipment for Terman Middle School or constitute a violation of provisions of the California Education or Government Codes. No charges shall be made for such use other than those specifically described in this Agreement.

2. The City shall make Terman Park facilities available to the School District as described in Attachment 2. The City shall also make such facilities and equipment available upon application of the School District, provided that their use for School District purposes does not interfere with the use of the facilities or equipment by the City in connection with its stated purposes or with City Charter provisions and ordinances regulating the use of dedicated park land. No charges shall be made for such use other than those specifically described in this Agreement.

3. The City Manager and the Superintendent of Schools do hereby delegate the responsibility for establishing schedules for facilities and equipment use to the City Director of Community Services and the School District Business Manager.

4. Each party using facilities or equipment owned by the other pursuant to this agreement shall furnish qualified personnel for the proper conduct and supervision of the use.

5. The party using facilities or equipment of the other under this agreement shall repair, or cause to be repaired, or will reimburse the owner for the actual cost of repairing damage done to the facilities or equipment during the period of such use, excluding damage attributed to ordinary wear and tear.

C. Scheduling and Supervision

1. Subject to the limitations in Section A above and to the specific commitments set forth in Attachment 1, in scheduling the use of Terman Middle School, Terman Middle School events and programs shall have first priority and City recreation programs and City co-sponsored programs shall have second priority. In cases of emergencies or errors in scheduling, the Terman Middle School events and programs shall have first priority for use. Every reasonable attempt will be made to avoid such conflict. City activities shall not be scheduled on Terman Middle School facilities between the hours of seven thirty a.m. and three-thirty p.m. on days when school is in session without the permission of the school principal.

2. Subject to the limitations in Section A above and to the specific commitments set forth in Attachment 2 below, in scheduling the use of Terman Park, City recreation programs and City co-sponsored programs shall have first priority. Terman Middle School events and programs shall have second priority. In cases of emergencies or errors in scheduling, the City programs and events shall have first priority for use. Every reasonable attempt will be made to avoid such conflict. School activities shall not be scheduled before seven thirty a.m. or after three-thirty p.m.

3. The City will have a responsible adult representative present at all times at any City event held on the Terman Middle School. That representative may be a volunteer or a paid City employee responsible to see that School District rules and regulations are observed and complied with and that the facilities and grounds are returned to existing condition upon completion of the activity. The City will have a City employee on call at all times that a City-sponsored or scheduled activity is occurring in the Terman Middle School in order to respond and investigate any questions or improper action at such activities and events.

4. The School District will have a responsible adult representative present at all times at a School District

Attachment B

activity or event is held in Terman Park. That representative may be a volunteer or a paid School District employee responsible to see that City rules and regulations are observed and complied with and that the facilities and grounds are returned to existing condition upon completion of the activity. The School District will have a School District employee on call at all times that a School District-sponsored or scheduled activity is occurring in Terman Park in order to respond and investigate any questions or improper action at such activities and events.

5. The City and School District shall submit to each other written use requests in advance. Requests for advance scheduling shall be submitted annually according to the following schedule:

July 1st for the School Year

February 1st for the summer months

The Terman Site Joint Use Committee shall approve a master calendar for each of these periods within thirty (30) days of the submittal of the requests for advance scheduling. Each schedule will be arranged so as to avoid any conflict between the School District's and City's uses of the facilities and equipment. The City or the School District shall not schedule other uses until first and second priorities are set as prescribed herein.

D. Maintenance of Terman Site Facilities.

1. Basic Standard. Facilities jointly used shall be adequately maintained to insure appropriate and safe use, appearance and longevity.

2. Basic Responsibility. Except as may otherwise be specified herein, the responsibility for maintenance, repair and renovation of facilities shall be the responsibility of the owner of the real property on which the facility is situated.

E. Maintenance of Athletic Fields.

1. Turf Areas and Tennis Courts on Terman Site.

a. The City will continue its existing maintenance program for turf areas of the Terman Site. These areas are shown on Attachment 3. Pursuant to that Master

Maintenance Agreement, the City will mow, trim, fertilize and irrigate and perform other maintenance work of a general nature at the fields at the frequencies and times in accordance with the field maintenance standards adopted by the City. The School District will pay one half of the City's actual cost to maintain the fields.

b. The City will also maintain the drainage and irrigation systems of the fields under the terms and conditions described in the Master Maintenance Agreement between the City and the District. If these systems need repair or replacement, the City will consult with the School District on the scope of work and estimated cost to perform it, and the School District shall confirm its approval of the scope of work. The School District shall pay one half of the City's actual costs for such approved repair or replacement work.

c. The City will continue its existing maintenance program for tennis courts in Terman Park. The City will wash and air blow the surfaces of the courts, repair and/or replace, as reasonably necessary, the tennis nets and screens, and perform other maintenance work of a general nature at the frequencies and times in accordance with the maintenance standards adopted by the City. The City will also resurface and restripe the courts. Such resurfacing and restriping will be scheduled to match the City's existing tennis court resurfacing program at an approximate five year interval for such work. The School District shall pay one half of the City's actual cost of maintaining and resurfacing the courts.

d. Money owed by the School District to the City under this Agreement will first be credited against any monthly lease payments due and payable by the City under its lease agreement with the District entitled "Lease and Covenant Not to Develop," as amended from time to time. If the sums owed under this agreement exceed those payments, the City shall bill the School District and the School District shall pay the City within forty-five days after receipt of its invoice.

2. Custodial Services. The School District shall provide all custodial services for the Terman Middle School. If the Terman Middle School is used by the City at a time when custodial staff is not regularly on duty, or when a custodian is required to open a facility, the City shall pay the cost of the custodial time to the School. Alternatively, the City may arrange with the School District to open and close a facility itself.

F. Library Facilities.

City will continue its existing library at the Terman Middle School until such time as the District gives it notice that all or a portion of those facilities are needed for district purposes. Upon six months written notice that all or a portion of the facilities are needed for district purposes, the City shall vacate the identified portions of the premises.

G. Restrooms at Terman Middle School.

1. The restroom facilities located at Terman Middle School shall be available for public use while City programs are scheduled at either Terman Middle School or Terman Park, and while the Terman Library is open to the public. They shall also be available to library staff during their working hours.

2. The School District shall perform custodial maintenance of the restrooms on a daily basis when its custodians are on duty. On days when its custodians are not on duty, the School district shall make arrangements in advance, as part of the scheduling agreements, to provide supplies to the City on site so that it may restock the restrooms on those days.

H. Establishment of City and School District Joint Use Committee.

The City Manager and the Superintendent shall each designate two staff members to the Terman Joint Use Committee which is hereby established. The Committee shall meet at least three times a year, but may meet additional times each year as necessary to administer this agreement. The Committee shall be responsible for administering this joint use agreement.

I. Term of Agreement.

This agreement shall commence upon the date first entered above and shall end upon termination of the Cubberley Lease between the City and the School District unless otherwise terminated by consent of the parties.

J. Indemnification.

The City shall investigate, defend and indemnify the School District from any and all claims, demands, actions or damages arising out of the City's use of School District Facilities to which the School District may be subjected as a direct consequence of this agreement except for those claims,

Attachment B

demands, actions or damages resulting solely from the negligence of the School District, its officers, agents and employees.

The School District shall investigate, defend and indemnify the City from any and all claims, demands, actions or damages arising out of the School District's use of City Facilities to which the City may be subjected as a direct consequence of this agreement except for those claims, demands, actions or damages resulting solely from the negligence of the City, its officers, agents and employees.

K. Complete Understanding and Amendments.

This agreement and the attached exhibits set forth the complete agreement and understanding of the parties; any modification must be in writing executed by both parties.

L. Notices.

If at any time after the execution of this agreement, it shall become necessary or convenient for one of the parties hereto to serve any notice, demand or communication upon the other party, such notice, demand or communication shall be in writing and shall be served personally or by depositing the same in the United States mail, return receipt requested, first class postage prepaid and (1) if intended for City shall be addressed to:

City Clerk
City of Palo Alto
P.O. Box 10250
Palo Alto, CA 94301

with a copy to:

Director of Community Services
Department
P.O. Box 10250
Palo Alto, CA 94301

and (2) if intended for PALO ALTO UNIFIED SCHOOL DISTRICT shall be addressed to:

Palo Alto Unified School District
25 Churchill Avenue
Palo Alto, CA 94306

Attachment B

or to such other address as either party may have furnished to the other in writing as a place for the service of notice. Any notice so mailed shall be deemed to have been given as of the time the same is deposited in the United States mail.

IN WITNESS WHEREOF, the parties have executed this agreement on the date and year first above written.

CITY OF PALO ALTO
A municipal corporation

PALO ALTO UNIFIED
SCHOOL DISTRICT

Frank Benest
City Manager

Robert Golton
Acting Superintendent

ATTEST:

City Clerk

APPROVED AS TO FORM:
Ariel Pierre Calonne, City Attorney

By _____

APPROVED AS TO CONTENT:
Paul Thiltgen, Parks and Recreation Director

By _____



	Delta / Bearing	Radius	Length	(record)
A	52° 31' 14"	199'	182.41'	held
B	29° 01' 56"	130'	65.87'	held
* C	04° 45' 51"	200'	18.48'	18.54
* D	12° 41' 19"	220'	48.72'	12° 40' 22" 48.65'
(1)	44° 33' 48"	27.00	21.05	
(2)	S 61° 27' 16" E		21.02	
(3)	44° 11' 59"	70.00	54.00	
(4)	60° 58' 37"	30.00	25.69	
* (5)	3° 31' 10"	60.00	9.37	3° 31' 07"
* (6)	S 30° 57' 08" W		63.64	63.23
(7)	S 91° 39' 43" W		45.58	
(8)	31° 18' 48"	44.50	70.93	held
(9)	S 60° 50' 16" E		103.54	
(10)	N 80° 39' 38" E		44.15	
(11)	N 58° 46' 43" E		191.45	
(12)	N 61° 22' 40" W		14.17	
(13)	N 28° 48' 27" E	2.00	3.09	
(14)	S 60° 33' 41" W		32.28	
(15)	150° 10' 01"	1.30	3.41	
(16)	S 58° 45' 43" W		28.43	
(17)	30° 00' 00"	2.00	3.14	
(18)	S 31° 14' 12" E		16.00	
(19)	14° 21' 00"	88.00	22.04	
(20)	N 16° 53' 77" W		16.03	
(21)	85° 24' 30"	2.00	3.08	
(22)	S 60° 33' 41" W		85.74	
(23)	26° 17' 49"	70.00	32.13	
(24)	46° 03' 46"	27.00	21.71	
(25)	N 16° 53' 17" W		18.03	
(26)	85° 24' 30"	2.00	3.09	
(27)	S 60° 33' 41" W		85.74	
(28)	26° 17' 49"	70.00	32.13	
(29)	46° 03' 46"	27.00	21.71	
(30)	N 51° 27' 15" W		33.58	
* (31)	N 43° 23' 61" W		37.65	
(32)	N 73° 36' 05" E		0.61	
* record		N 47° 27' 55" W		77.89

REVISION: (4) 12/03/2001
REVISION: (3) 11/21/01
REVISION: (2) 2/12/2001
REVISION: (1) 11/09/2000

ATTACHMENT 1

CITY USE OF TERMAN MIDDLE SCHOOL

ATTACHMENT 1

The JCC shall have priority over the City for use of the pool and the gymnasium for its programs year round until it relocates to its permanent facilities or until August 31, 2009, whichever is earlier. All exceptions to this can be found in Attachment 1A.

The City's use of the Terman site following August 2003 will include:

1. Swimming Pool

a. School year- After school, evening and weekends for instructional programs and lap swimming.

b. Summer- Seven-day and night uses for instructional programs, recreational swimming and lap swimming.

2. Gymnasium

a. School Year- After school for middle school athletics, youth and teen programs evenings; Weeknights for youth and adult programs; Weekend and night use for youth, teen and adult programs.

b. Summer- Seven-day and night uses for youth, teen and adult programming.

3. Library Wing

Use of that wing as a neighborhood library subject to section F of this agreement. This use may be converted to City/School joint library services at some time in the future.

City of Palo Alto

Department of Community Services

December 5, 2001

Mr. Sandy Elvrad
Albert Schultz Jewish Community Center
655 Arastradero Road
Palo Alto, CA 94306

Dear Sandy:

Division
Art & Culture
Human Services
Laboratory
Parks & Golf
Rec Center
Open Space
& Recreation

The intention of this document is to pave the way to allow the Jewish Community Center interim use of Gym A at the Cubberley Community Center. In this regard, the JCC will have exclusive use of Gym A at the Cubberley Community Center, throughout the year, with the exception of Fridays, 6:30 p.m. to 10:30 p.m., and Saturdays, 8:30 a.m. to noon, starting August 1, 2003. In order to extend such use of Gym A to the JCC all of the recreational programs that presently exist in Gym A must be transferred to the Terman gym. Should the City change its programming activities in the future, the JCC would have first right of use of the Terman Gym. Additionally, the City will be flexible in its programming of the Terman Gym, and, whenever possible, collaborate with the JCC on programs.

The conditions of this document are subject to the successful approval of a release between the JCC and the City of Palo Alto for the interim use of the Cubberley Community Center site, and cannot be relied upon by any third party (including the PAUSD) until such approval. This letter will become an addendum to the City of Palo Alto/Palo Alto Unified School District Agreement for Joint Use of the Terman Site.

Conditions at Terman Middle School gymnasium:

- The use of the Terman gym, outside of PAUSD use, will be scheduled first by the JCC. The City can schedule all other times not used by the JCC and PAUSD. Exceptions to this policy are as follows:
- Beginning in September 2003, the Palo Alto Recreation Division will have use of the Terman Gym Monday through Friday, September through June, from 3:30 p.m. to 10:30 p.m. and Saturday and Sundays, 8:30 a.m. through 10:30 p.m.

City of Palo Alto
Department of Community Services

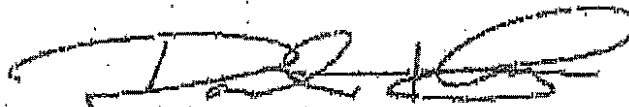
* Beginning in 2003, YMCA Basketball will use the Terman Gym January through March of each year, 8:30 a.m. through 6:00 p.m. on Saturdays.

* The JCC has informed the City of its intention to continue sponsorship of summer camps at the Terman Gym, as it has for the last 20 years. If the JCC does not sponsor summer camp activities in the Terman gym, the City of Palo Alto requests the space to program camps from June through August, beginning in 2003 from 8:00 a.m. through 3:00 p.m., Monday through Friday.

Division
Arts & Culture
Community Services
Parks & Recreation
Public Works
Police Department
Fire Department
Public Works
Public Works
Public Works

The above conditions are understood and approved by:


For the Albert Schweitzer Jewish Community Center Date 12-5-01


For the City of Palo Alto Date 12-5-01

ATTACHMENT 2

SCHOOL DISTRICT USE OF Terman PARK

School District shall be entitled to the issuance of a City permit under Chapter 22 of the Palo Alto Municipal Code for use of portions of Terman Park during certain hours. School District shall not be required to pay for such permit, and in any case where there is a contradiction between the terms of the permit and the terms of this Agreement, this Agreement shall govern.

1. Terman Tennis Courts

a. Terman Middle School shall have first call on the tennis courts between the hours of 7:30 a.m. and 3:30 p.m. on days when Terman Middle School is in regular session.

b. School District shall pick up all litter and leave courts in good condition at end of every day of use.

2. Terman Playfields.

a. Terman Middle School shall have first call on the playing fields between the hours of 7:30 a.m. and 3:30 p.m. on days when Terman Middle School is in regular session. School District will not have the right to routinely exclude members of the public from any dedicated playing field or parkland. School District will have the right to take reasonable actions to protect both its first call on the playing fields and the safety of the students. No permanent fence or other barriers to public access will be constructed.

b. School District shall pick up all litter and leave fields in good condition at end of every day of use.

The public will have unrestricted access to those portions of Terman Park not being used by the Terman Middle School.

TRACT NO. 870
BOOK 33 OF MAPS
AT PAGE 26 & 27

MIDDLEFIELD ROAD (86')

S57°56'07"E 440.06'

A PORTION OF
PARCEL TWO
BOOK 2508
PAGE 124
SANTA CLARA COUNTY

LANDS
OF
MIDTOWN RETAIL
PARTNERS LP

TRACT NO. 1310
GREENMEADOW
BOOK 50 OF
MAP AT PAGE
50 & 51

LANDS OF
PALO ALTO
SCHOOL DISTRICT
345,322 SQ. FT.
7.92 ACRES



10' PG&E GAS
MAIN EASEMENT
BK. 748 PG. 487

N43°26'42"E
170.00'

N56°26'42"E
92.20'

P.O.B.

N17°54'07"E
37.65'

PARCEL TWO

N51°30'00"W 548.44'

N51°30'00"W
19.80'

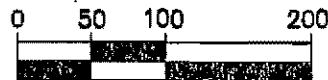
S38°30'00"W 190.50'

S38°30'00"W 187.50'

N51°30'00"W
30.20'

S51°30'00"E
71.13'

164.21'
S38°30'00"W



SCALE: 1" = 100'



LEA & SUNG ENGINEERING, INC.

CIVIL ENGINEERS • LAND SURVEYORS
2495 INDUSTRIAL PARKWAY WEST
HAYWARD, CALIFORNIA 94545
(510) 887-4086
FAX (510) 887-3019

EXHIBIT "G"

PROPOSED LOT-LINE ADJUSTMENT
PALO ALTO UNIFIED SCHOOL DISTRICT
CUBBERLEY SCHOOL
4000 MIDDLEFIELD ROAD
PALO ALTO, CALIFORNIA

SANTA CLARA COUNTY

APN: 147-08-003

Attachment B



Our No.: 56901-51990229-PRT
Customer No.: 4000 Middlefield Road

City of Palo Alto
Attn: Janet Freeland
250 Hamilton Avenue
Palo Alto CA 94303

Exhibit H

Property Address:
4000 Middlefield Road
Palo Alto, California

Preliminary Report

IN RESPONSE TO THE ABOVE REFERENCED APPLICATION FOR A POLICY OF TITLE INSURANCE,

North American Title Company, Inc.

HEREBY REPORTS THAT IS PREPARED TO ISSUE, OR CAUSE TO BE ISSUED, AS OF THE DATE HEREOF, A POLICY OR POLICIES OF TITLE INSURANCE, DESCRIBING THE LAND AND THE ESTATE OR INTEREST HEREINAFTER SET FORTH, INSURING AGAINST LOSS WHICH MAY BE SUSTAINED BY REASON OF ANY DEFECT, LIEN, OR ENCUMBRANCE NOT SHOWN OR REFERRED TO AS AN EXCEPTION BELOW OR NOT EXCLUDED FROM COVERAGE PURSUANT TO THE PRINTED SCHEDULES, CONDITIONS AND STIPULATIONS OF SAID POLICY FORMS.

THE PRINTED EXCEPTIONS AND EXCLUSION FROM THE COVERAGE OF SAID POLICY OR POLICIES ARE SET FORTH ON THE ATTACHED COVER, COPIES OF THE POLICY FORMS SHOULD BE READ, THEY ARE AVAILABLE FROM THE OFFICE WHICH ISSUED THIS REPORT.

PLEASE READ THE EXCEPTIONS SHOWN OR REFERRED TO BELOW AND THE EXCEPTIONS AND EXCLUSIONS SET FORTH IN EXHIBIT A OF THIS REPORT CAREFULLY. THE EXCEPTIONS ARE MEANT TO PROVIDE YOU WITH NOTICE OF MATTERS WHICH ARE NOT COVERED UNDER THE TERMS OF THE TITLE INSURANCE POLICY AND SHOULD BE CAREFULLY CONSIDERED.

IT IS IMPORTANT TO NOTE THAT THIS PRELIMINARY REPORT IS NOT A WRITTEN REPRESENTATION AS TO THE CONDITION OF TITLE AND MAY NOT LIST ALL LIENS, DEFECTS, AND ENCUMBRANCES AFFECTING TITLE TO THE LAND.

THIS REPORT (AND ANY SUPPLEMENTS OR AMENDMENTS THERETO) IS ISSUED SOLELY FOR THE PURPOSE OF FACILITATING THE ISSUANCE OF A POLICY OF TITLE INSURANCE AND NO LIABILITY IS ASSUMED HEREBY. IF IT IS DESIRED THAT LIABILITY BE ASSUMED PRIOR TO THE ISSUANCE OF A POLICY OF TITLE INSURANCE, A BINDER OR COMMITMENT SHOULD BE REQUESTED.

Dated as of October 15, 2001
at 07:30 am

Pam Thompson/pu
Title Officer/Examiner

Attachment B

The form of policy of title insurance contemplated by this report is:

Preliminary Report Only

The estate or interest in the land hereinafter described or referred to covered by this report is:

A fee

Title to said estate or interest at the date hereof is vested in:

Palo Alto Unified School District aka Palo Alto Unified School District of Santa Clara County

Attachment B

Description:

The land referred to herein is situated in the State of California, County of Santa Clara, City of Palo Alto, and is described as follows:

BEGINNING AT THE MOST WESTERLY CORNER OF THE PARCEL OF LAND CONTAINING 42.27 ACRES DESCRIBED IN THE DECREE OF DISTRIBUTION MADE IN THE ESTATE OF JOHN MILLER, RECORDED OCTOBER 7, 1937 IN BOOK 849 OF OFFICIAL RECORDS, AT PAGE 61, RECORDS OF SANTA CLARA COUNTY, CALIFORNIA; THENCE FROM SAID POINT OF BEGINNING NORTH 57° 42' 46" EAST ALONG THE NORTHWESTERLY LINE OF SAID 42.27 ACRE PARCEL 327.41 FEET TO THE POINT OF INTERSECTION THEREOF WITH A LINE DRAWN PARALLEL WITH AND DISTANT 400 FEET, SOUTHWESTERLY AT A RIGHT ANGLE, FROM THE SOUTHWESTERLY LINE OF MIDDLEFIELD ROAD 60 FEET IN WIDTH; THENCE SOUTH 57° 55' 14" EAST PARALLEL WITH AND DISTANT 400 FEET SOUTHWESTERLY AT A RIGHT ANGLE FROM SAID SOUTHWESTERLY LINE OF MIDDLEFIELD ROAD 572.04 FEET; THENCE AT RIGHT ANGLES TO THE LAST COURSE SOUTH 32° 04' 46" WEST 373.77 FEET TO THE SOUTHWESTERLY LINE OF THE 42.27 ACRE PARCEL; THENCE NORTH 51° 38' 17" WEST 717.99 FEET ALONG SAID LINE TO THE POINT OF BEGINNING.

PARCEL TWO:

BEGINNING AT A POINT ON THE CENTERLINE OF MIDDLEFIELD ROAD AT THE MOST SOUTHERLY CORNER OF TRACT 870 CHARLESTON GARDENS UNIT NO. 1 AS SHOWN ON A MAP THEREOF WHICH WAS FILED IN BOOK 33 OF MAPS AT PAGES 26 AND 27 IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF SANTA CLARA; THENCE FROM SAID POINT OF BEGINNING SOUTH 57° 42' 46" WEST 804.35 FEET TO AN IRON PIPE ON THE NORTHEASTERLY LINE OF LAND FORMERLY OF D.L. SLOAN; THENCE SOUTH 51° 37' 17" EAST 224.14 FEET TO A POST MARKED P.S. 7 AT THE MOST NORTHERLY CORNER OF LOT 11 OF THE J. J. MORRIS REAL ESTATE CO'S SUBDIVISION OF THE LOUKS TRACT, A MAP OF WHICH IS OF RECORD IN THE OFFICE OF THE COUNTY RECORDER OF THE SANTA CLARA, STATE OF CALIFORNIA, IN BOOK "L" OF MAPS, PAGE 35 RECORDS OF SANTA CLARA; THENCE ALONG THE NORTHERLY LINE OF LOTS 10 AND 11 OF SAID SUBDIVISION SOUTH 38° 23' 31" WEST 657.32 FEET TO A POINT WHICH IS DISTANT ALONG THE NORTHERLY LINE OF LOTS 9 AND 10 OF SAID SUBDIVISION NORTH 38° 23' 31" EAST 520.00 FEET FROM THE MOST EASTERLY CORNER OF LOT 6 OF SAID SUBDIVISION; THENCE PARALLEL WITH AND DISTANT NORTHEASTERLY 520 FEET FROM THE NORTHEASTERLY LINE OF LOTS 4, 5 AND 6 NORTH 51° 36' 25" WEST 941.59 FEET TO A POINT WHICH IS DISTANT NORTHEASTERLY, MEASURED AT RIGHT ANGLES, 260 FEET FROM THE NORTHEASTERLY, BANK OF ADOBE CREEK; THENCE PARALLEL WITH AND DISTANT NORTH EASTERLY 260 FEET FROM SAID CREEK NORTH 14° 12' WEST 501.67 FEET TO A POINT WHICH IS DISTANT 657 FEET SOUTHEASTERLY MEASURED AT RIGHT ANGLES FROM THE CENTERLINE OF CHARLESTON ROAD; THENCE PARALLEL WITH AND DISTANT 657 FEET SOUTHEASTERLY FROM THE CENTER LINE OF CHARLESTON ROAD NORTH 56° 26' 42" EAST 340.00 FEET TO A POINT ON THE CENTERLINE OF A 10 FOOT EASEMENT GRANTED TO THE PACIFIC GAS & ELECTRIC COMPANY BY DEED DATED NOVEMBER 21, 1935 AND RECORDED DECEMBER 11, 1935 IN BOOK 748 OF OFFICIAL RECORDS, PAGE 487; THENCE NORTH 43° 26' 42" EAST 170.00 FEET TO A POINT WHICH BEARS SOUTH 57° 55' 14" EAST 70.00 FEET; SOUTH 32° 04' 46" WEST 235.00 FEET AND SOUTH 56° 26' 42" WEST 265.00 FEET FROM A POINT ON THE CENTERLINE OF MIDDLEFIELD ROAD AT THE MOST WESTERLY CORNER OF THE ABOVE MENTIONED CHARLESTON GARDENS UNIT NO. 1; THENCE NORTH 56° 26' 42" EAST 265.00 FEET; THENCE NORTH 32° 04' 46" EAST 235.00 FEET TO THE CENTERLINE OF MIDDLEFIELD ROAD; THENCE ALONG THE CENTERLINE OF MIDDLEFIELD ROAD SOUTH 52° 55' 14" EAST 1212.79 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM, THAT PORTION CONVEYED TO ROLF GRABMEIER BY DEED RECORDED APRIL 8, 1955, 3138-82

PARCEL THREE:

Attachment B

BEGINNING AT A POINT ON THE NORTHWESTERLY LINE OF THAT CERTAIN PARCEL OF LAND CONVEYED BY RALPH GROBMEIER, ET UX, TO ROLF GROBMEIER, A MARRIED MAN BY DEED DATED AUGUST 14, 1954 AND RECORDED OCTOBER 15, 1954 IN BOOK 2983 OF OFFICIAL RECORDS, PAGE 211, DISTANT THEREON, S. 57 DEG. 42' 46" W. 221.83 FEET, FROM THE POINT OF INTERSECTION OF SAID NORTHWESTERLY LINE WITH THE SOUTHWESTERLY LINE OF MIDDLEFIELD ROAD; THENCE ALONG THE NORTHWESTERLY LINE OF SAID GROBMEIER PARCEL, S. 57 DEG. 42' 46" W. 221.83 FEET TO THE MOST WESTERLY CORNER THEREOF; THENCE ALONG THE SOUTHWESTERLY LINE OF SAID GROBMEIER PARCEL AND PARALLEL WITH SAID LINE OF MIDDLEFIELD ROAD, S. 57 DEG. 55' 14" E. 95.97 FEET; THENCE LEAVING THE SOUTHWESTERLY LINE OF SAID GROBMEIER PARCEL AND RUNNING, N. 32 DEG. 04' 46" E. 200.00 FEET TO THE POINT OF BEGINNING AND BEING A PORTION OF THE RANCHO RINCONDE SAN FRANCISQUITO.

PARCEL FOUR:

BEGINNING AT THE MOST SOUTHERLY CORNER OF LOT 11 IN BLOCK 1, AS SHOWN ON THE MAP OF TRACT 1310, GREENMEADOW, WHICH MAP WAS FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA ON JULY 7, 1954, IN BOOK 50 OF MAPS, PAGES 50 AND 51; THENCE ALONG A SOUTHWESTERLY LINE OF SAID LOT 11, N. 33° 33' 18" W., 40.00 FEET; THENCE ALONG A SOUTHEASTERLY LINE OF LOTS 11 AND LOT 12, IN BLOCK 1, AS SHOWN ON THE MAP HEREINABOVE REFERRED TO, S. 56° 26' 42" W., 50.00 FEET; THENCE ALONG A NORTHEASTERLY LINE OF SAID LOT 12, S. 33° 33' 18" E., 40.00 FEET; THENCE ALONG THE NORTHEASTERLY PROLONGATION OF THE MOST SOUTHERLY LINE OF SAID LOT 12, N. 56° 26' 42" E., 50.00 FEET TO THE POINT OF BEGINNING, AND BEING A PORTION OF THE SANTA RITA RANCHO.

ASSESSOR'S PARCEL NUMBER: 147-08-003

Attachment B

At the date hereof exceptions to coverage in addition to the printed exceptions and exclusions contained in said policy form would be as follows:

1. The Lien of Supplemental Taxes, if any, assessed pursuant to the provisions of Chapter 3.5 (commencing with Section 75) of the Revenue and Taxation Code of the State of California.
2. Rights of the public, county and/or city in that portion lying within the street as it now exists:
Middlefield Road.
3. An easement affecting the portion of said land and for the purpose stated herein, and incidental purposes.

In Favor of: Pacific Gas and Electric Company, a California corporation

No representation is made as to the present ownership of said easement.

Purpose: Gas pipeline
Recorded: December 11, 1935
Book: 748
Page: 487
Affects: As therein described

4. An easement affecting the portion of said land and for the purpose stated herein, and incidental purposes.

In Favor of: City of Palo Alto

No representation is made as to the present ownership of said easement.

Purpose: Public street
Recorded: July 22, 1954
Book: 2920
Page: 557
Affects: The Southwesterly boundary of Parcel Two, as therein described

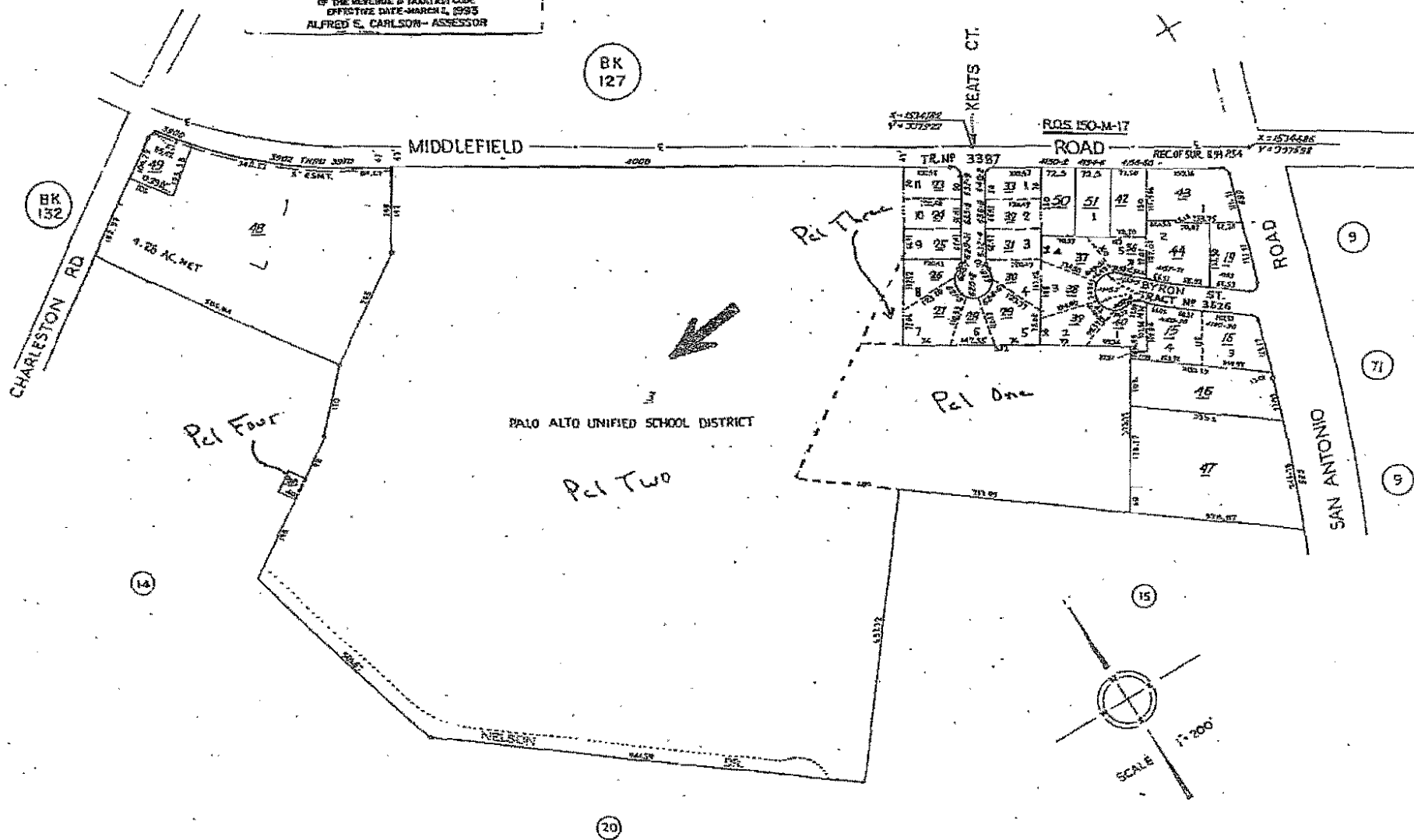
5. Any rights of parties in possession of said land, based on any unrecorded lease or leases, as disclosed by an inspection of said land and/or inquiry.

Note: Please submit copies of leases for review.

6. Matters which may be disclosed by an inspection or survey of said land or by inquiry of the parties in possession thereof.

Note: An inspection of said land should be ordered prior to close of escrow and upon its completion, we will advise you of our findings.

COMPOSED IN CONFORMANCE WITH SEC. 327
OF THE REVENUE & TAXATION CODE
EFFECTIVE DATE-MARCH 1, 1993
ALFRED E. CARLSON-ASSESSOR



"THE INFORMATION ON THIS PLAT IS PROVIDED FOR
YOUR CONVENIENCE AS A GUIDE TO THE GENERAL
LOCATION OF THE SUBJECT PROPERTY. THE ACCURACY
OF THIS PLAT IS NOT GUARANTEED, NOR IS IT A PART
OF ANY POLICY REPORT OR GUARANTEE TO WHICH IT
MAY BE ATTACHED."

Attachment B

EXHIBIT I

AMENDMENT NO. 2 TO LEASE AND
COVENANT NOT TO DEVELOP BETWEEN
THE CITY OF PALO ALTO AND
THE PALO ALTO UNIFIED SCHOOL DISTRICT

This Amendment No. 2 to Lease and Covenant Not to Develop is entered into this ____ day of _____, 200__ by and between the Palo Alto Unified School District ("District") and the City of Palo Alto, a municipal Corporation ("City").

RECITALS

A. The City and the District entered into that certain Lease and Covenant Not to Develop on September 1, 1989 ("Lease") which provides in part that the City leases from the District certain property commonly referred to as the Cubberley Site. The parties entered into the Amendment No. 1 to Lease and Covenant Not to Develop on July 20, 1998.

B. The City and the District have now entered into a property exchange agreement whereby the City will convey to the District a portion of a site known as the Terman site in exchange for the District conveying fee title to the City of 7.97 acres of the Cubberley Site. The City will continue to lease from the District the remaining portion of the Cubberley Site.

C. Pursuant to Section 4.1 of the Lease, District covenants with City and City covenants with District that, in order to prevent further burden on City's infrastructure and preserve a substantial amount of City's remaining open space, certain school sites shall not be subdivided, sold or developed with additional square footage to be used for non-school district purposes.

D. Section 6.5.2(b) of the Lease provides that in the event District wishes to reopen, as an operating school, any of the Covenanted Sites described in Exhibits D, E, and F, it may do so upon written notice to City, provided that in such event, City and District shall amend the Lease to include within the Covenant Not to Develop two operating elementary school sites of District within the city limits of the City of Palo Alto. Amendment No. 1 to the Lease and Covenant Not to Develop

Attachment B

substituted the Walter Hays Site and Juana Briones Site as replacements for the "old" Ohlone site which has been renamed "Hoover School."

E. The District has now re-opened the Garland Site and wishes to designate Addison and El Carmelo as the two operating school sites to be substituted for the Garland Site.

F. Section 4.1 of the Lease limits additional development on any Covenanted Site for non-school district purposes to 2,000 square feet. As part of the re-opening of the Terman Middle School, the District will grant a license to use the Greendell Site to the Albert L. Schultz Jewish Community Center ("JCC") for interim childhood development programs. The JCC wishes to use nine (9) portable classrooms and one portable bathroom, each with an area of approximately 960 square feet, on the Greendell Site. City is willing to amend the Lease to permit the installation and use of these portable facilities by the JCC without additional consideration; however, the installation and use of such portable facilities requires a conditional use permit from the City.

G. City and District wish to amend the Lease and Covenant Not to Develop to provide for the reduction in area of the Cubberley Site and reduction in rent; the reopening of the Garland Site and the substitution of the Addison site and the El Carmelo site within the Covenant Not to Develop; to permit the interim use of portable buildings at the Greendell Site; and to grant to District the right to open a compact high school at Cubberley after the JCC has ceased relocated its operations from Cubberley.

NOW, THEREFORE, for consideration, receipt of which is acknowledged, the parties agree as follows:

1. Site Description. Section 1.1.5 of the Lease is hereby amended in its entirety to read as follows:

"1.1.5 Leased Site-Cubberley Site. Effective September 1, 2002, the term 'Leased Site' means all of that certain real property situated in the City described in Exhibit A attached hereto and made a part hereof, and all improvements thereon as of September 1, 2002."

Attachment B

2. Covenanted Sites. Paragraph 1.1.8 is hereby amended to read as follows:

"1.1.8 Covenanted Sites. The term 'Covenanted Sites' means all that certain property situated in the City described in Exhibits B, C, D-1, D-2, E-1, E-2, F, and G attached hereto and made a part hereof."

3. Reopening of Garland Site. Paragraph 1.1.10 is hereby deleted.

4. Substitution of Addison and El Carmelo. Paragraphs 1.1.10.1 and 1.1.10.2 are, respectively, are hereby added to read as follows:

"1.1.10.1 Addison Site. The term 'Addison Site' means all that certain real property situated in the City described in Exhibit E-1 attached hereto and made a part hereof.

1.1.10.2 El Carmelo Site. The term 'El Carmelo Site' means all that certain real property situated in the City described in Exhibit E-2 hereto and made a part hereof."

5. Covenant Payments. Section 2.2 is hereby amended to read as follows:

Walter Hayes/Juana Briones	\$204,742
Addison/El Carmelo	\$182,804
Greendell	\$182,804
Jane Lathrop Stanford	\$236,000
Jordan	\$164,000

6. Lease Payments. Section 2.8 is added to the Lease and Covenant Not to Develop to read as follows:

"2.8 Reduction in Rent. City obligation to pay rent to the District for the Cubberley Site shall be reduced, commencing September 1, 2002, by an amount equal to \$23,490 per month, ('the Offset Amount.') Whenever the Payment is adjusted pursuant to Section 2.7, the Offset Amount shall be adjusted by the same method."

Attachment B

7. Cubberley Lease. Section 3.0 of the Lease is hereby amended in its entirety to read as follows:

"3.0 Cubberley Lease. District hereby leases to City and City hereby leases from District for the term, at the rental, and upon all of the conditions set forth herein, the Leased Site commonly known as 'Cubberley School' situated in the City of Palo Alto described in Exhibit A attached hereto and made a part hereof and all improvements thereon. As of September 1, 2002, the total acreage of the Leased Site is approximately 27.48 acres of which 15.94 acres is outdoor recreation area; the remaining 11.54 acres is comprised of parking lot area, walkways, and approximately 80,150 square feet of buildings; however, it is understood that such acreage and square footage figures are only approximate and have not been precisely determined.

8. Covenant Not to Develop. Section 4.1 of the Lease is hereby amended in its entirety to read as follows:

"4.1 District hereby covenants with City and City hereby covenants with District that, in order to prevent a further burden on the City's infrastructure and in order to preserve a substantial amount of the City's remaining open space, which contributes to the welfare of the City's residents, the Covenanted Sites situated in the City of Palo Alto and described in Exhibits B, C, D-1, D-2, E-1, E-2, F and G attached hereto and made a part hereof, shall not be (1) subdivided, (2) sold or (3) developed with additional square footage to be used for non-school district purposes for the term of this Lease, for the consideration and upon all the conditions set forth herein, provided that the district may add portable non-permanent structures totaling no more than 2,000 square feet per Covenanted Site. If the District adds such square footage on any Covenanted Site, it shall give written notice to the City within 30 days of such addition. Provided, City hereby agrees that placement of up to nine portable class rooms and one portable bathroom, each consisting of approximately 960 square feet, on the Greendell Site, to be used by the JCC as

an interim relocation site for childhood development programs for not more than eight years, shall not be a violation of this Covenant. City acknowledges that location and use of such facilities by District itself for school-district purposes is not a violation of the Covenant and does not require City consent. JCC may not place or use portable facilities on the Greendell Site prior to obtaining a conditional use permit from City.

Upon the expiration or earlier termination of this Lease, except as provided in Section 4.2, the City shall execute and deliver to District a quitclaim deed for the Covenanted Sites, unless otherwise agreed to by the parties."

9. Exhibit E to the Lease is deleted and replaced with Exhibits E-1 and Exhibits E-2, respectively; and the Summary of Exhibits is amended accordingly.

10. District Option to Open Compact High School. Notwithstanding any other provision of the Lease, after the JCC has removed its programs from the City-owned property at the former Cubberley School and from the Leased Site, District may terminate the Lease with respect to all or a portion of the Leased Site so that it may operate a compact high school at Cubberley. District must provide twenty-four (24) months written notice to City of such termination or partial termination. If the District elects a partial termination, the notice shall include a map and legal description specifying the new Leased Site, and the City's payment for the Leased Site, shall be reduced in proportion to the reduction in the land area of the Leased Site. Further, if the District elects a complete or partial termination of the Lease under this Section 10, the District and City shall enter into a joint use agreement regarding the gym, cafeteria, theatre and fields. The Covenant Not to Develop shall remain in effect.

11. Effect of Amendment No. 2.

(a) As amended herein, the Lease dated September 1, 1989 and Amendment No. 1 remain in full force and effect. In case of any conflict between any of the amendments made in this Amendment No. 2 and the remaining provisions of the Lease as entered into September 1, 1989 and Amendment No. 1, the

Attachment B

Lease and Amendment No. 1 shall be interpreted so as to give effect to the provisions of this Amendment No. 2.

(b) This Amendment No. 2 shall be effective upon the date first written above. By separate agreement, parties have agreed that prior to September 1, 2002, District shall transfer to City fee title to that portion of the Cubberley Site removed from the leasehold by Section 7 of this Amendment No. 2. If, pursuant to that agreement, the transfer of Cubberley property to City and the release of City's interest in the reduction in City rent will be accelerated to coordinate with that closing, and the transfer to the District of the City's right to receive rental income for the Terman Site from the JCC.

IN WITNESS WHEREOF, the District and the City have caused this Amendment No. 2 to be executed by their respective officers as of the day and year first above written.

ATTEST:

CITY OF PALO ALTO

City Clerk

Mayor

APPROVED AS TO FORM:

PALO ALTO UNIFIED SCHOOL
DISTRICT, Lessor

Senior Asst. City Attorney

President, Board of Education

APPROVED:

APPROVED:

City Manager

Superintendent of Schools

Exhibit E-1 Addison Site (Legal Description and Map)
Exhibit E-2 El Carmelo Site (Legal Description and Map)

Attachment B

A.P.NO. 120-006-010
650 ADDISON AVENUE

April 24, 2002

EXHIBIT E1
ADDISON SITE
PROPERTY DESCRIPTION

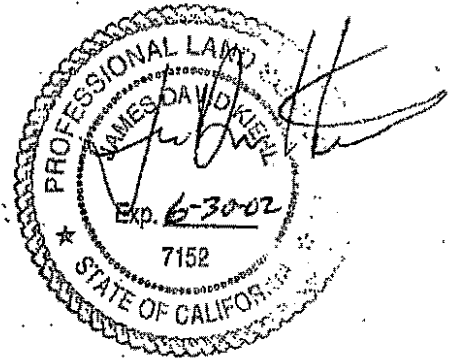
A portion of real property situated in the City of Palo Alto, County of Santa Clara, State of California more particularly described as follows;

ALL of Lots 1, 2, 3 and 4 of Block 81 as shown on the map titled "ORIGINAL MAP SHOWING SUBDIVISION OF UNIVESTITY PARK, SANTA CLARA CO, CALIFORNIA" and recorded in the office of the County Recorder of said Santa Clara County on February 27, 1889 in Book "D" of maps, at page 69

Parcel contains 200,000 square feet or 4.5913 acres more or less.

Parcel is shown on attached map EXHIBIT E-1 and made a part hereof.

END OF DESCRIPTION



_____, expires 6-30-03
JAMES DAVID KIEHL P.L.S. 7152
PREPARED BY / APPROVED

LEGAL: 1200610.Word
PLAT: 1200610.DWG
TITLE REPORT: #56901-52990147-PRT

REVISION (1) 34-24-2002

REFERENCE:

Dated March 28, 2002.

This description are based upon information from record data and said title Report

Attachment B

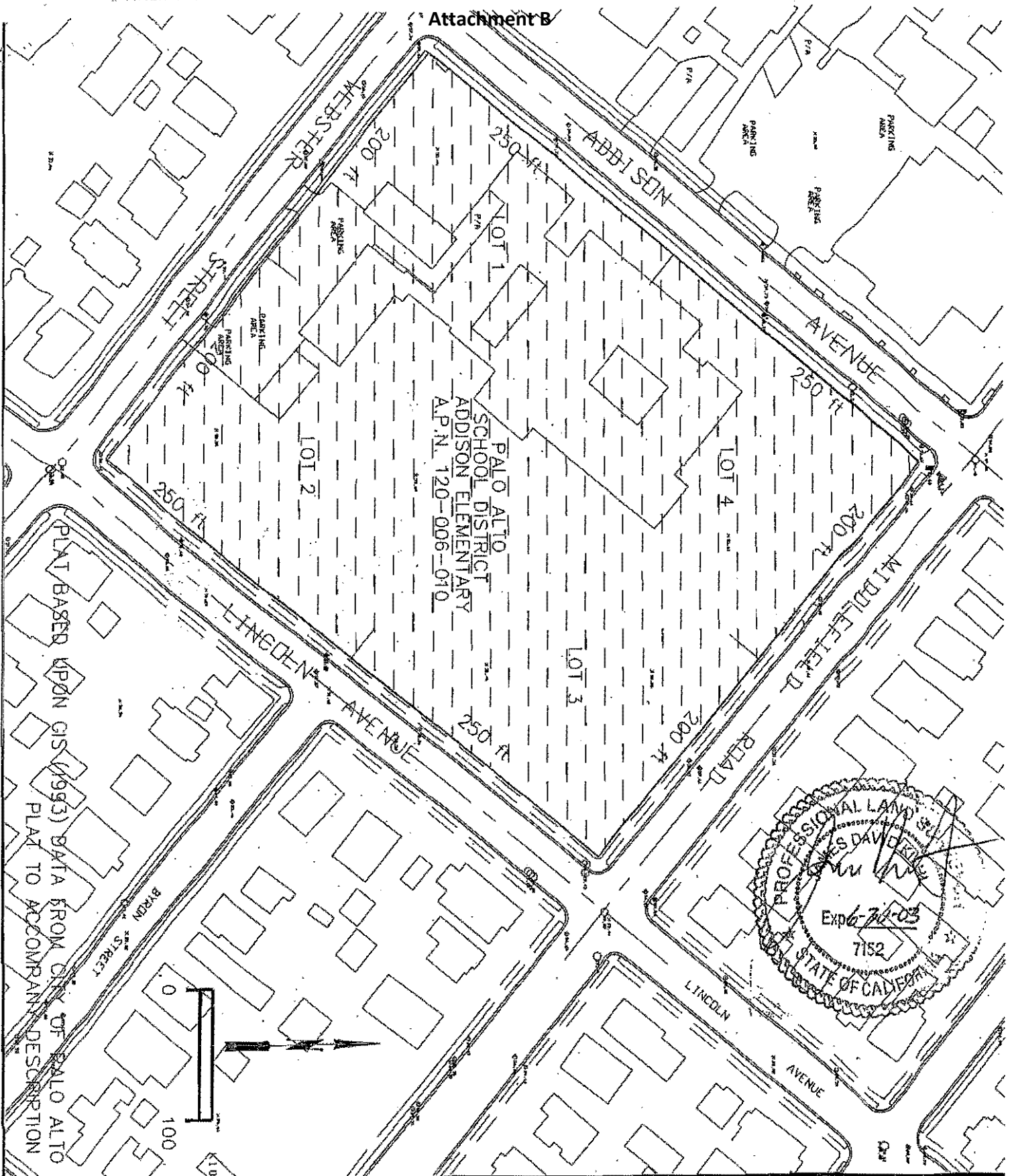


EXHIBIT "E1"

DRAWN BY: JAMES D. KIEHL

LEGAL FILENAME: 12000610.WORD
DRAWING FILENAME: 12000610.DWG

PALO ALTO HIGH SCHOOL DISTRICT
OF, SANTA CLARA COUNTY
650 ADDISON AVENUE

CITY OF PALO ALTO, CALIFORNIA

SCALE: 1" = 100'

REVISION: (1) 04/24/2002

**EXHIBIT E2
EL CARMELO SITE
PROPERTY DESCRIPTION**

A portion of real property situated in the City of Palo Alto, County of Santa Clara, State of California more particularly described as follows;

(Grant Deed Book 2126 page 525, dated July 2, 1951)

ALL of Block 20 as laid down designated and delineated upon that certain map entitle, "Map No. 1 Map of Stanford City, Santa Clara County, California " recorded May 3, 1910 in the office of the Recorder of the County of Santa Clara, State of California, in Vol. "M" of Maps, page 97 records of said County and

(Resolution and order proclaiming the Abandonment of a County Road Book 2140 page 146, dated January 22, 1951)

El Capitan Road from its intersection with Ramona Street to its intersection with Bryant Street, as the same is delineated and designated upon that certain Map entitled "Map No. 1 Map of Stanford City, Santa Clara County, California " recorded May 3, 1910 in the office of the Recorder of the County of Santa Clara, State of California, in Vol. "M" of Maps, page 97 records of said County and

(Corporation Grant Deed Book 2143 page 235, dated January 30, 1951)

Lots 1 to 18 inclusive in Block 21 as laid down, designated and delineated upon that certain Map entitled, "Map No. 1 Map of Stanford City, Santa Clara County, California " recorded May 3, 1910 in the office of the Recorder of the County of Santa Clara, State of California, in Vol. "M" of Maps, page 97 records of said County and **excepting** therefrom:

(Grant Deed Book 2455 page 584, dated February 13, 1952)

Beginning at a point on the northwesterly line of Loma Verda Avenue, formerly called College Avenue, distant northeasterly upon said line 10.78 feet from the most southerly corner of Lot 14, Block 21. Map No. 1 Map of Stanford City, Santa Clara County, California " recorded May 3, 1910 in the office of the Recorder of the County of Santa Clara, State of California, in Vol. "M" of Maps, page 97, records of Santa Clara County, California:

thence southwesterly along a curve to the right, having a radius of 370 feet and a central angle of $18^{\circ} 12'$, an arc distance of 117.53 feet;

thence South $56^{\circ} 42'$ West 4.82 feet;

thence southwesterly along a curve to the right, having a radius of 20.00 feet and a central angle of $36^{\circ} 48' 34''$, an arc distance of 12.84 feet to a point on the southwesterly line of Lot 18 of said Block;

thence South $51^{\circ} 30'$ East 27.56 feet to the most southerly corner of said Lot 18,

thence North 38° 30' East along said line of Loma Verda Avenue 130.28 feet to the point of beginning, being a part of Lots 14, 15, 16, 17 and 18 of said Block 21 and contain 0.025 acres, more or less.

Parcel contains 189,963 square feet or 4.3609 acres more or less.

Parcel is shown on attached map Exhibit "E2" and made a part hereof.

END OF DESCRIPTION

Requested by: Bill Fellman _____
Check by: Jay Remley JR _____
Check by: James Bourquin _____

Expires 6-30-03

JAMES DAVID KIEHL P.L.S. 7152
PREPARED BY / APPROVED



LEGAL: 13204834, Word

REVISION (1) 4-29-2002

PLAT: 13204834.DWG

TITLE REPORT: #56901-52990146-PRT

dated March 28, 2002.

This description is based upon information from record data and said title report.

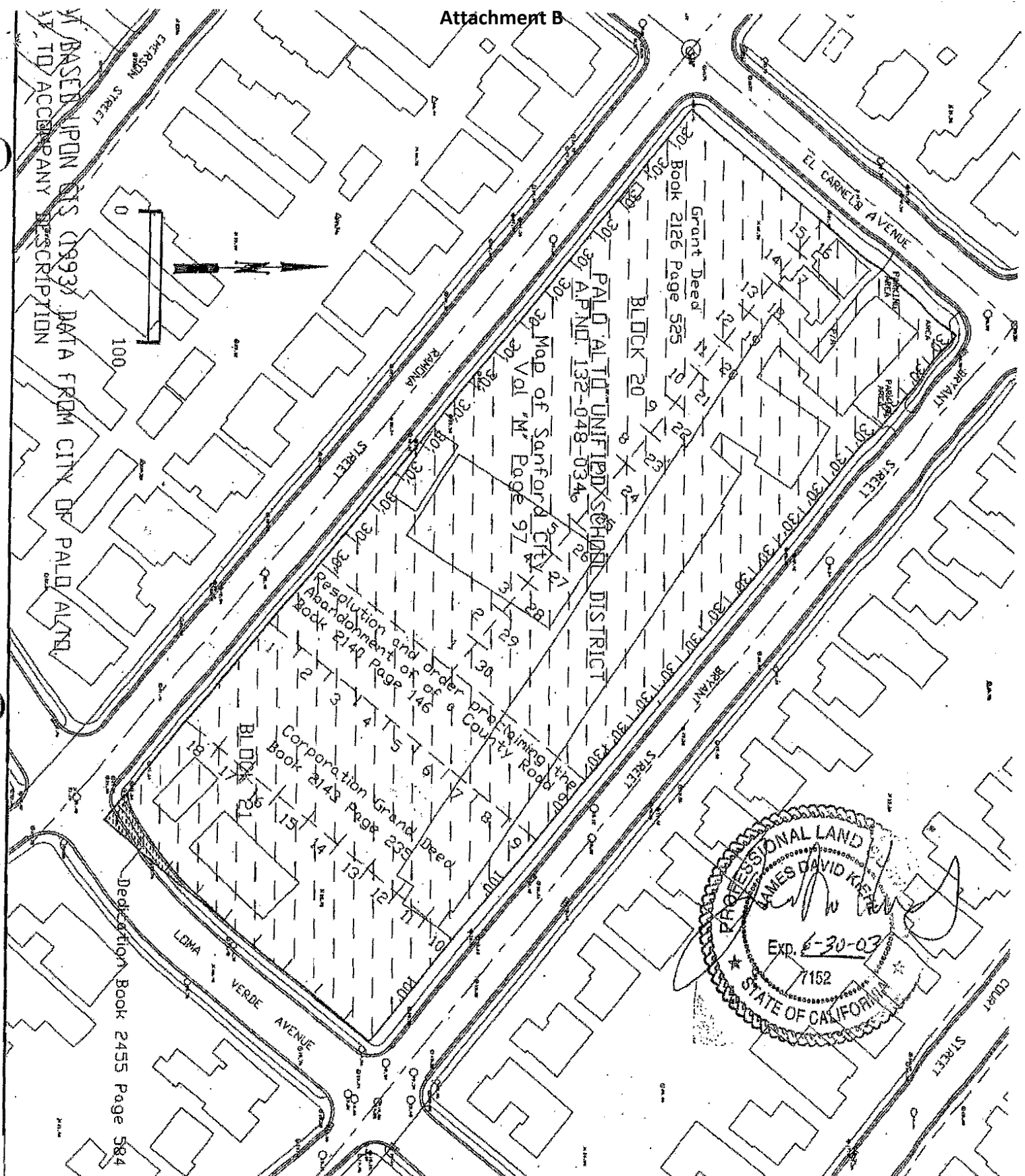


EXHIBIT "E2"

DRAWN BY: JAMES D. KIEHL

LEGAL FILENAME: 13204834.DOC
DRAWING FILENAME: 13204834.DWG

PALO ALTO HIGH SCHOOL DISTRICT
OF, SANTA CLARA COUNTY
A.P.NO. 132-048-034

CITY OF PALO ALTO, CALIFORNIA

SCALE: 1" = 100'

REVISION: 004/29/2006

Attachment B

A.P.NO. 120-006-010
650 ADDISON AVENUE

April 24, 2002

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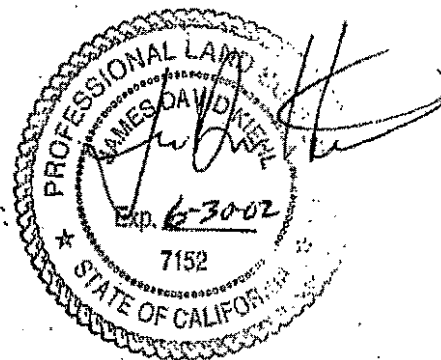
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END OF DESCRIPTION

JAMES DAVID KIEHL P.L.S. 7152
PREPARED BY / APPROVED

expires 6-30-03



LEGAL: 1200610.Word
PLAT: 1200610.DWG
TITLE REPORT: #56901-52990147-PRT
This description are based upon information from record data and said title Report

REVISION (1) 34-24-2002
REFERENCE:
Dated March 28, 2002.

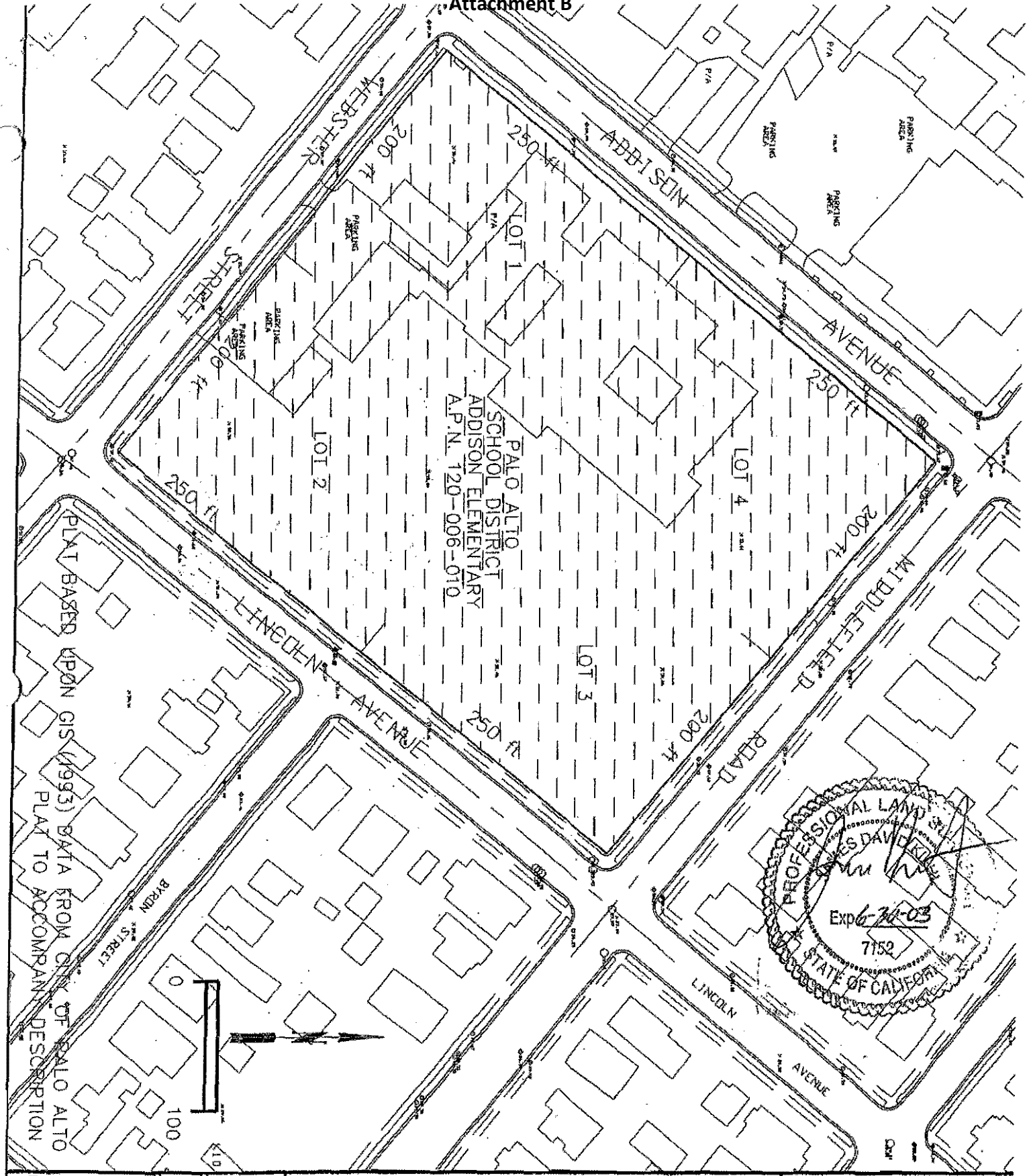


EXHIBIT "E1"

DRAWN BY: JAMES D. KIEHL

PALO ALTO HIGH SCHOOL DISTRICT
OF, SANTA CLARA COUNTY
650 ADDISON AVENUE

CITY OF PALO ALTO, CALIFORNIA

LEGAL FILENAME: 12000610.WORD
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REVISION: (1) 04/24/2002

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thence North 38° 30' East along said line of Loma Verda Avenue 130.28 feet to the point of beginning, being a part of Lots 14, 15, 16, 17 and 18 of said Block 21 and contain 0.025 acres, more or less.

Parcel contains 189,963 square feet or 4.3609 acres more or less.

Parcel is shown on attached map Exhibit "E2" and made a part hereof.

END OF DESCRIPTION

Requested by: Bill Fellman _____
Check by: Jay Remley *JR* _____
Check by: James Bourquin _____

Expires 6-30-03
JAMES DAVID KIEHL P.L.S. 7152
PREPARED BY / APPROVED



LEGAL: 13204834.Word

REVISION (1) 4-29-2002

PLAT: 13204834.DWG

TITLE REPORT: #56901-52990146-PRT

dated March 28, 2002.

This description is based upon information from record data and said title report.

Attachment B

NOT BASED UPON GIS (1993) DATA FROM CITY OF PALO ALTO
 NOT TO ACCOMPANY DESCRIPTION

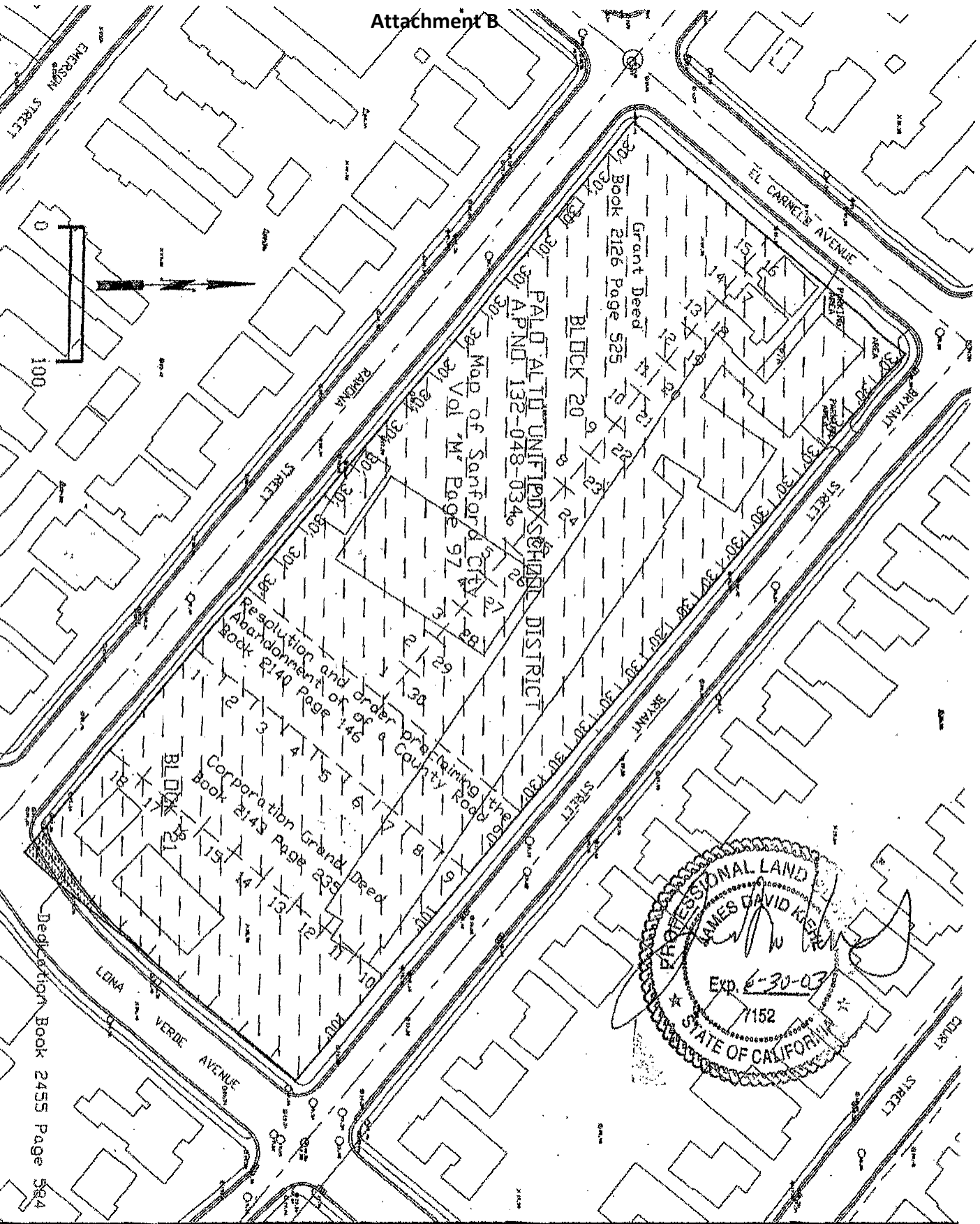


EXHIBIT "E2"

DRAWN BY: JAMES D. KIEHL

PALO ALTO HIGH SCHOOL DISTRICT
 OF, SANTA CLARA COUNTY
 A.P.NO. 132-048-034

CITY OF PALO ALTO, CALIFORNIA

SCALE: 1" = 100'

LEGAL FILENAME: 13204834.DOC
 DRAWING FILENAME: 13204834.DWG

REVISION: (1)04/29/2002

City of Palo Alto

Department of Community Services

December 5, 2001

Mr. Sandy Blavaz
Albert Schultz Jewish Community Center
655 Arastradero Road
Palo Alto, CA 94306

Dear Sandy:

Division
Arts & Culture
Human Services
Laboratory
Parks & Child
Recreation
Open Space
& Athletics

The intention of this document is to pave the way to allow the Jewish Community Center interim use of Gym A at the Cubberley Community Center. In this regard, the JCC will have exclusive use of Gym A at the Cubberley Community Center, throughout the year, with the exception of Fridays, 6:30 p.m. to 10:30 p.m., and Saturdays, 8:30 a.m. to noon, starting August 1, 2003. In order to extend such use of Gym A to the JCC all of the recreational programs that presently exist in Gym A must be transferred to the Terman gym. Should the City change its programming activities in the future, the JCC would have first right of use of the Terman Gym. Additionally, the City will be flexible in its programming of the Terman Gym, and, whenever possible, collaborate with the JCC on programs.

The conditions of this document are subject to the successful approval of a sublease between the JCC and the City of Palo Alto for the interim use of the Cubberley Community Center site, and cannot be relied upon by any third party (including the PAUSD) until such approval. This letter will become an addendum to the City of Palo Alto/Palo Alto Unified School District Agreement for Joint Use of the Terman Site.

Conditions at Terman Middle School gymnasium:

- The use of the Terman gym, outside of PAUSD use, will be scheduled first by the JCC. The City can schedule all other times not used by the JCC and PAUSD. Exceptions to this policy are as follows:
- Beginning in September 2003, the Palo Alto Recreation Division will have use of the Terman Gym Monday through Friday, September through June, from 3:30 p.m. to 10:30 p.m. and Saturday and Sundays, 8:30 a.m. through 10:30 p.m.

City of Palo Alto
Department of Community Services

Beginning in 2003, YMCA Basketball will use the Terman Gym January through March of each year, 8:30 a.m. through 6:00 p.m. on Saturdays.

The JCC has informed the City of its intention to continue sponsorship of summer camps at the Terman Gym, as it has for the last 20 years. If the JCC does not sponsor summer camp activities in the Terman gym, the City of Palo Alto requests the space to program camps from June through August, beginning in 2003 from 8:00 a.m. through 3:00 p.m., Monday through Friday.

The above conditions are understood and approved by:

Division
Arts & Culture
Community Services
Library
Parks & Golf
Recreation
City of Palo Alto
& Retention

Sandy Blum Date 12-5-01
For the Albert Schweitzer Jewish Community Center

[Signature] Date 12-5-01
For the City of Palo Alto

ATTACHMENT 2

SCHOOL DISTRICT USE OF TERMAN PARK

School District shall be entitled to the issuance of a City permit under Chapter 22 of the Palo Alto Municipal Code for use of portions of Terman Park during certain hours. School District shall not be required to pay for such permit, and in any case where there is a contradiction between the terms of the permit and the terms of this Agreement, this Agreement shall govern.

1. Terman Tennis Courts

a. Terman Middle School shall have first call on the tennis courts between the hours of 7:30 a.m. and 3:30 p.m. on days when Terman Middle School is in regular session.

b. School District shall pick up all litter and leave courts in good condition at end of every day of use.

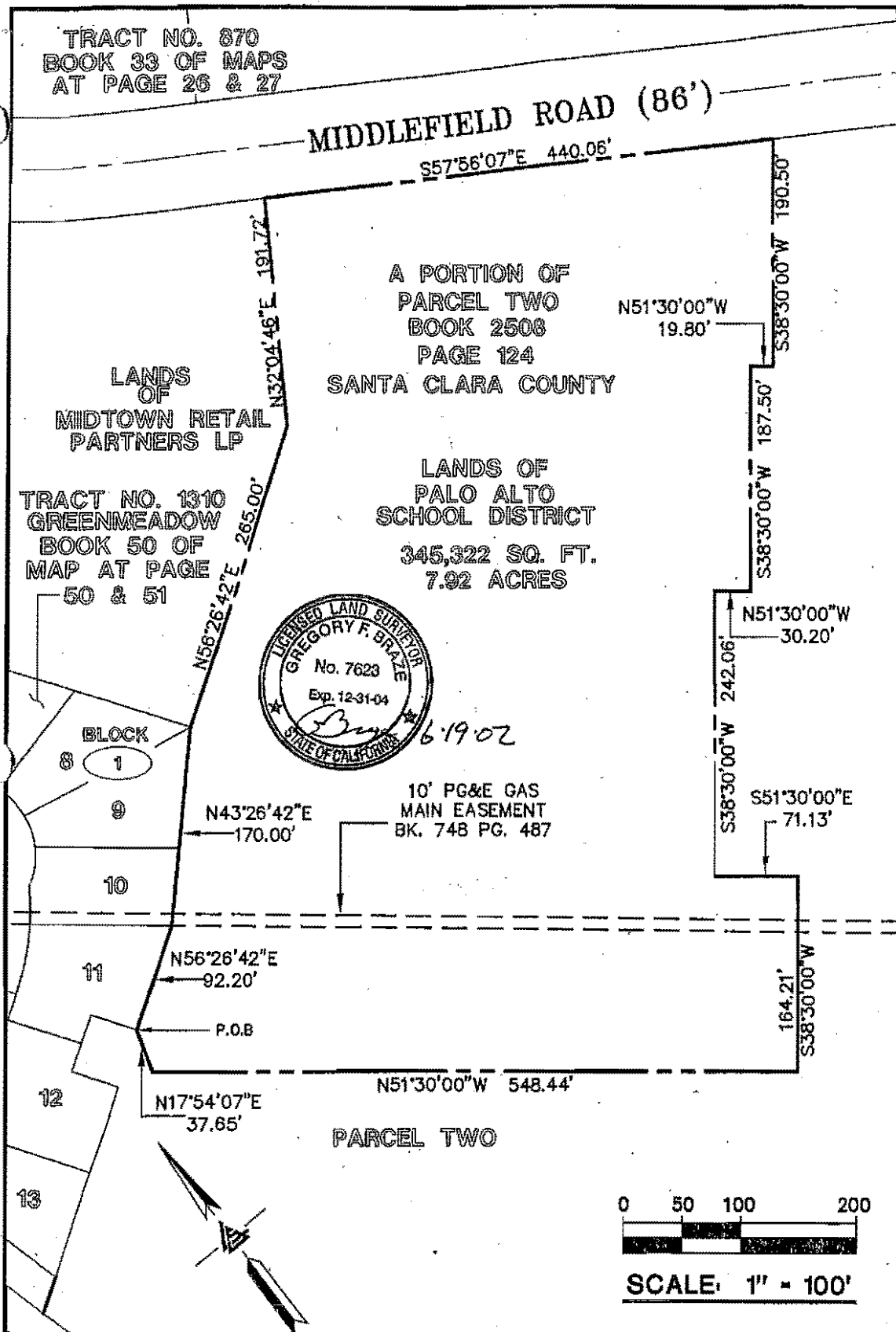
2. Terman Playfields.

a. Terman Middle School shall have first call on the playing fields between the hours of 7:30 a.m. and 3:30 p.m. on days when Terman Middle School is in regular session. School District will not have the right to routinely exclude members of the public from any dedicated playing field or parkland. School District will have the right to take reasonable actions to protect both its first call on the playing fields and the safety of the students. No permanent fence or other barriers to public access will be constructed.

b. School District shall pick up all litter and leave fields in good condition at end of every day of use.

The public will have unrestricted access to those portions of Terman Park not being used by the Terman Middle School.

EXHIBIT G



LEA & SUNG ENGINEERING, INC.

CIVIL ENGINEERS • LAND SURVEYORS

2495 INDUSTRIAL PARKWAY WEST

HAYWARD, CALIFORNIA 94545

(510) 887-4088

FAX (510) 887-3019

EXHIBIT "G"

PROPOSED LOT-LINE ADJUSTMENT
PALO ALTO UNIFIED SCHOOL DISTRICT
CUBBERLEY SCHOOL
4000 MIDDLEFIELD ROAD
PALO ALTO, CALIFORNIA

SANTA CLARA COUNTY

APN: 147-08-003

Attachment B



Our No.: 56901-51990229-PRT
Customer No.: 4000 Middlefield Road

City of Palo Alto
Attn: Janet Freeland
250 Hamilton Avenue
Palo Alto CA 94303

Exhibit H

Property Address:
4000 Middlefield Road
Palo Alto, California

Preliminary Report

IN RESPONSE TO THE ABOVE REFERENCED APPLICATION FOR A POLICY OF TITLE INSURANCE,

North American Title Company, Inc.

HEREBY REPORTS THAT IS PREPARED TO ISSUE, OR CAUSE TO BE ISSUED, AS OF THE DATE HEREOF, A POLICY OR POLICIES OF TITLE INSURANCE, DESCRIBING THE LAND AND THE ESTATE OR INTEREST HEREINAFTER SET FORTH, INSURING AGAINST LOSS WHICH MAY BE SUSTAINED BY REASON OF ANY DEFECT, LIEN, OR ENCUMBRANCE NOT SHOWN OR REFERRED TO AS AN EXCEPTION BELOW OR NOT EXCLUDED FROM COVERAGE PURSUANT TO THE PRINTED SCHEDULES, CONDITIONS AND STIPULATIONS OF SAID POLICY FORMS.

THE PRINTED EXCEPTIONS AND EXCLUSION FROM THE COVERAGE OF SAID POLICY OR POLICIES ARE SET FORTH ON THE ATTACHED COVER. COPIES OF THE POLICY FORMS SHOULD BE READ, THEY ARE AVAILABLE FROM THE OFFICE WHICH ISSUED THIS REPORT.

PLEASE READ THE EXCEPTIONS SHOWN OR REFERRED TO BELOW AND THE EXCEPTIONS AND EXCLUSIONS SET FORTH IN EXHIBIT A OF THIS REPORT CAREFULLY. THE EXCEPTIONS ARE MEANT TO PROVIDE YOU WITH NOTICE OF MATTERS WHICH ARE NOT COVERED UNDER THE TERMS OF THE TITLE INSURANCE POLICY AND SHOULD BE CAREFULLY CONSIDERED.

IT IS IMPORTANT TO NOTE THAT THIS PRELIMINARY REPORT IS NOT A WRITTEN REPRESENTATION AS TO THE CONDITION OF TITLE AND MAY NOT LIST ALL LIENS, DEFECTS, AND ENCUMBRANCES AFFECTING TITLE TO THE LAND.

THIS REPORT (AND ANY SUPPLEMENTS OR AMENDMENTS THERETO) IS ISSUED SOLELY FOR THE PURPOSE OF FACILITATING THE ISSUANCE OF A POLICY OF TITLE INSURANCE AND NO LIABILITY IS ASSUMED HEREBY. IF IT IS DESIRED THAT LIABILITY BE ASSUMED PRIOR TO THE ISSUANCE OF A POLICY OF TITLE INSURANCE, A BINDER OR COMMITMENT SHOULD BE REQUESTED.

Dated as of October 15, 2001
at 07:30 am

Pam Thompson/pu
Title Officer/Examiner

Attachment B

The form of policy of title insurance contemplated by this report is:

Preliminary Report Only

The estate or interest in the land hereinafter described or referred to covered by this report is:

A fee

Title to said estate or interest at the date hereof is vested in:

Palo Alto Unified School District aka Palo Alto Unified School District of Santa Clara County

Attachment B

Description:

The land referred to herein is situated in the State of California, County of Santa Clara, City of Palo Alto, and is described as follows:

BEGINNING AT THE MOST WESTERLY CORNER OF THE PARCEL OF LAND CONTAINING 42.27 ACRES DESCRIBED IN THE DECREE OF DISTRIBUTION MADE IN THE ESTATE OF JOHN MILLER, RECORDED OCTOBER 7, 1937 IN BOOK 849 OF OFFICIAL RECORDS. AT PAGE 61, RECORDS OF SANTA CLARA COUNTY, CALIFORNIA; THENCE FROM SAID POINT OF BEGINNING NORTH 57° 42' 46" EAST ALONG THE NORTHWESTERLY LINE OF SAID 42.27 ACRE PARCEL 327.41 FEET TO THE POINT OF INTERSECTION THEREOF WITH A LINE DRAWN PARALLEL WITH AND DISTANT 400 FEET, SOUTHWESTERLY AT A RIGHT ANGLE, FROM THE SOUTHWESTERLY LINE OF MIDDLEFIELD ROAD 60 FEET IN WIDTH; THENCE SOUTH 57° 55' 14" EAST PARALLEL WITH AND DISTANT 400 FEET SOUTHWESTERLY AT A RIGHT ANGLE FROM SAID SOUTHWESTERLY LINE OF MIDDLEFIELD ROAD 572.04 FEET; THENCE AT RIGHT ANGLES TO THE LAST COURSE SOUTH 32° 04' 46" WEST 373.77 FEET TO THE SOUTHWESTERLY LINE OF THE 42.27 ACRE PARCEL; THENCE NORTH 51° 38' 17" WEST 717.99 FEET ALONG SAID LINE TO THE POINT OF BEGINNING.

PARCEL TWO:

BEGINNING AT A POINT ON THE CENTERLINE OF MIDDLEFIELD ROAD AT THE MOST SOUTHERLY CORNER OF TRACT 870 CHARLESTON GARDENS UNIT NO. 1 AS SHOWN ON A MAP THEREOF WHICH WAS FILED IN BOOK 33 OF MAPS AT PAGES 26 AND 27 IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF SANTA CLARA; THENCE FROM SAID POINT OF BEGINNING SOUTH 57° 42' 46" WEST 804.35 FEET TO AN IRON PIPE ON THE NORTHEASTERLY LINE OF LAND FORMERLY OF D.L. SLOAN; THENCE SOUTH 51° 37' 17" EAST 224.14 FEET TO A POST MARKED P.S. 7 AT THE MOST NORTHERLY CORNER OF LOT 11 OF THE J. J. MORRIS REAL ESTATE CO'S SUBDIVISION OF THE LOUOKS TRACT, A MAP OF WHICH IS OF RECORD IN THE OFFICE OF THE COUNTY RECORDER OF THE SANTA CLARA, STATE OF CALIFORNIA, IN BOOK "L" OF MAPS, PAGE 35 RECORDS OF SANTA CLARA; THENCE ALONG THE NORTHERLY LINE OF LOTS 10 AND 11 OF SAID SUBDIVISION SOUTH 38° 23' 31" WEST 657.32 FEET TO A POINT WHICH IS DISTANT ALONG THE NORTHERLY LINE OF LOTS 9 AND 10 OF SAID SUBDIVISION NORTH 38° 23' 31" EAST 520.00 FEET FROM THE MOST EASTERLY CORNER OF LOT 6 OF SAID SUBDIVISION; THENCE PARALLEL WITH AND DISTANT NORTHEASTERLY 520 FEET FROM THE NORTHEASTERLY LINE OF LOTS 4, 5 AND 6 NORTH 51° 36' 25" WEST 941.59 FEET TO A POINT WHICH IS DISTANT NORTHEASTERLY, MEASURED AT RIGHT ANGLES, 260 FEET FROM THE NORTHEASTERLY, BANK OF ADOBE CREEK; THENCE PARALLEL WITH AND DISTANT NORTH EASTERLY 260 FEET FROM SAID CREEK NORTH 14° 12' WEST 501.67 FEET TO A POINT WHICH IS DISTANT 657 FEET SOUTHEASTERLY MEASURED AT RIGHT ANGLES FROM THE CENTERLINE OF CHARLESTON ROAD; THENCE PARALLEL WITH AND DISTANT 657 FEET SOUTHEASTERLY FROM THE CENTER LINE OF CHARLESTON ROAD NORTH 56° 26' 42" EAST 340.00 FEET TO A POINT ON THE CENTERLINE OF A 10 FOOT EASEMENT GRANTED TO THE PACIFIC GAS & ELECTRIC COMPANY BY DEED DATED NOVEMBER 21, 1935 AND RECORDED DECEMBER 11, 1935 IN BOOK 748 OF OFFICIAL RECORDS, PAGE 487; THENCE NORTH 43° 26' 42" EAST 170.00 FEET TO A POINT WHICH BEARS SOUTH 57° 55' 14" EAST 70.00 FEET; SOUTH 32° 04' 46" WEST 235.00 FEET AND SOUTH 56° 26' 42" WEST 265.00 FEET FROM A POINT ON THE CENTERLINE OF MIDDLEFIELD ROAD AT THE MOST WESTERLY CORNER OF THE ABOVE MENTIONED CHARLESTON GARDENS UNIT NO. 1; THENCE NORTH 56° 26' 42" EAST 265.00 FEET; THENCE NORTH 32° 04' 46" EAST 235.00 FEET TO THE CENTERLINE OF MIDDLEFIELD ROAD; THENCE ALONG THE CENTERLINE OF MIDDLEFIELD ROAD SOUTH 52° 55' 14" EAST 1212.79 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM, THAT PORTION CONVEYED TO ROLF GRABMEIER BY DEED RECORDED APRIL 8, 1955, 3138-82

PARCEL THREE:

Attachment B

BEGINNING AT A POINT ON THE NORTHWESTERLY LINE OF THAT CERTAIN PARCEL OF LAND CONVEYED BY RALPH GROBMEIER, ET UX, TO ROLF GROBMEIER, A MARRIED MAN BY DEED DATED AUGUST 14, 1954 AND RECORDED OCTOBER 15, 1954 IN BOOK 2983 OF OFFICIAL RECORDS, PAGE 211, DISTANT THEREON, S. 57 DEG. 42' 46" W. 221.83 FEET, FROM THE POINT OF INTERSECTION OF SAID NORTHWESTERLY LINE WITH THE SOUTHWESTERLY LINE OF MIDDLEFIELD ROAD; THENCE ALONG THE NORTHWESTERLY LINE OF SAID GROBMEIER PARCEL, S. 57 DEG. 42' 46" W. 221.83 FEET TO THE MOST WESTERLY CORNER THEREOF; THENCE ALONG THE SOUTHWESTERLY LINE OF SAID GROBMEIER PARCEL AND PARALLEL WITH SAID LINE OF MIDDLEFIELD ROAD, S. 57 DEG. 55' 14" E. 95.97 FEET; THENCE LEAVING THE SOUTHWESTERLY LINE OF SAID GROBMEIER PARCEL AND RUNNING, N. 32 DEG. 04' 46" E. 200.00 FEET TO THE POINT OF BEGINNING AND BEING A PORTION OF THE RANCHO RINCONDE SAN FRANCISQUITO.

PARCEL FOUR:

BEGINNING AT THE MOST SOUTHERLY CORNER OF LOT 11 IN BLOCK 1, AS SHOWN ON THE MAP OF TRACT 1310, GREENMEADOW, WHICH MAP WAS FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA ON JULY 7, 1954, IN BOOK 50 OF MAPS, PAGES 50 AND 51; THENCE ALONG A SOUTHWESTERLY LINE OF SAID LOT 11, N. 33° 33' 18" W., 40.00 FEET; THENCE ALONG A SOUTHEASTERLY LINE OF LOTS 11 AND LOT 12, IN BLOCK 1, AS SHOWN ON THE MAP HEREINABOVE REFERRED TO, S. 56° 26' 42" W., 50.00 FEET; THENCE ALONG A NORTHEASTERLY LINE OF SAID LOT 12, S. 33° 33' 18" E., 40.00 FEET; THENCE ALONG THE NORTHEASTERLY PROLONGATION OF THE MOST SOUTHERLY LINE OF SAID LOT 12, N. 56° 26' 42" E., 50.00 FEET TO THE POINT OF BEGINNING, AND BEING A PORTION OF THE SANTA RITA RANCHO.

ASSESSOR'S PARCEL NUMBER: 147-08-003

Attachment B

At the date hereof exceptions to coverage in addition to the printed exceptions and exclusions contained in said policy form would be as follows:

1. The Lien of Supplemental Taxes, if any, assessed pursuant to the provisions of Chapter 3.5 (commencing with Section 75) of the Revenue and Taxation Code of the State of California.
2. Rights of the public, county and/or city in that portion lying within the street as it now exists:
Middlefield Road.
3. An easement affecting the portion of said land and for the purpose stated herein, and incidental purposes.

In Favor of: Pacific Gas and Electric Company, a California corporation

No representation is made as to the present ownership of said easement.

Purpose: Gas pipeline
Recorded: December 11, 1935
Book: 748
Page: 487
Affects: As therein described

4. An easement affecting the portion of said land and for the purpose stated herein, and incidental purposes.

In Favor of: City of Palo Alto

No representation is made as to the present ownership of said easement.

Purpose: Public street
Recorded: July 22, 1954
Book: 2920
Page: 557
Affects: The Southwesterly boundary of Parcel Two, as therein described

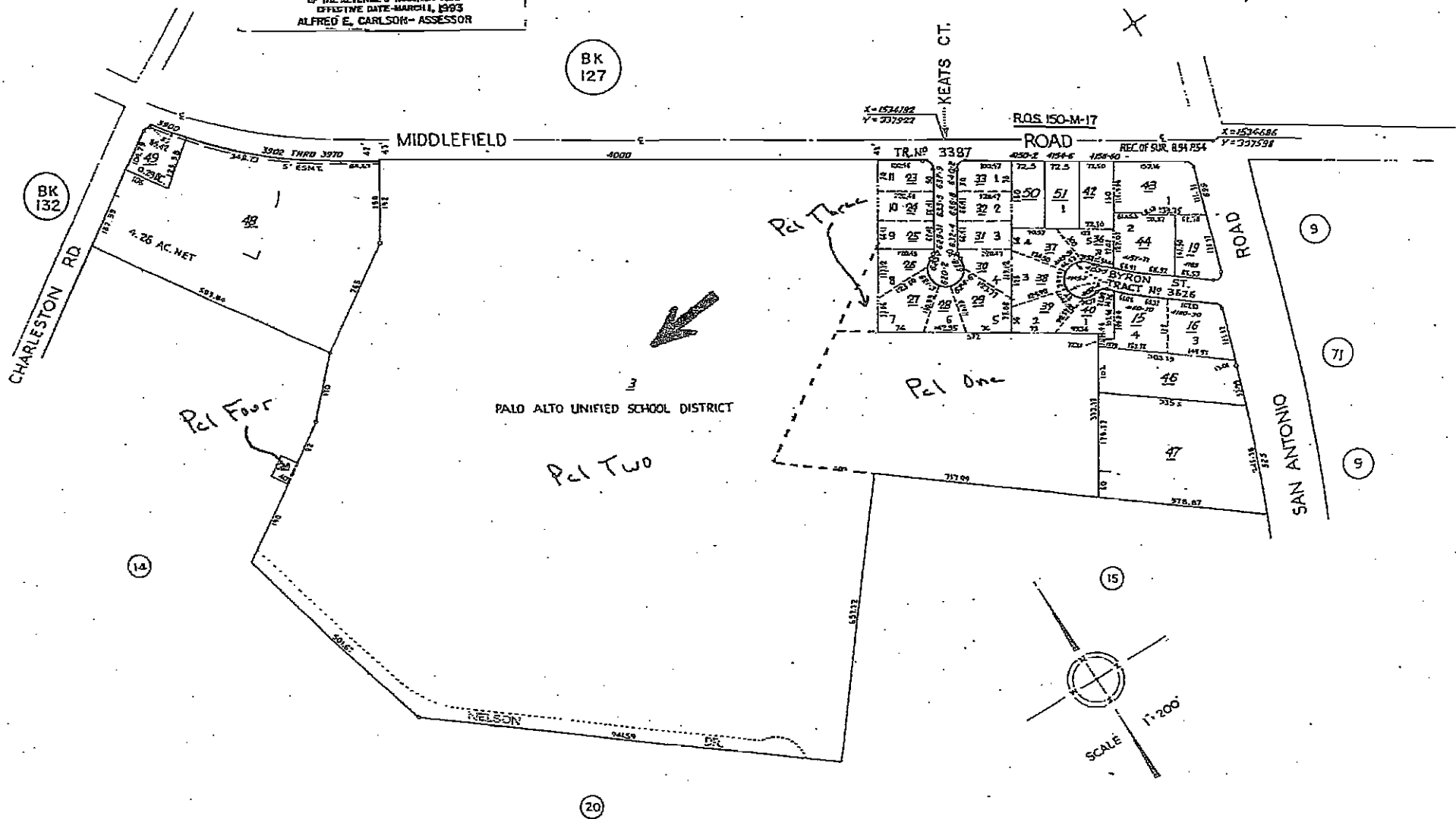
5. Any rights of parties in possession of said land, based on any unrecorded lease or leases, as disclosed by an inspection of said land and/or inquiry.

Note: Please submit copies of leases for review.

6. Matters which may be disclosed by an inspection or survey of said land or by inquiry of the parties in possession thereof.

Note: An inspection of said land should be ordered prior to close of escrow and upon its completion, we will advise you of our findings.

COMPILED IN CONFORMANCE WITH SEC. 327
OF THE REVENUE & TAXATION CODE
EFFECTIVE DATE-MARCH 1, 1993
ALFRED E. CARLSON - ASSESSOR



"THE INFORMATION ON THIS PLAT IS PROVIDED FOR
YOUR CONVENIENCE AS A GUIDE TO THE GENERAL
LOCATION OF THE SUBJECT PROPERTY. THE ACCURACY
OF THIS PLAT IS NOT GUARANTEED, NOR IS IT A PART
OF ANY POLICY REPORT OR GUARANTEE TO WHICH IT
MAY BE ATTACHED."

LEASE AND COVENANT NOT TO DEVELOP

This Lease and Covenant Not To Develop ("Lease") dated September 1, 1989, for reference purposes only, is made and entered into by and between the Palo Alto Unified School District ("District") and the City of Palo Alto ("City"), a municipal corporation.

1.0 DEFINITIONS AND PREVIOUS AGREEMENTS

1.1 Definitions

1.1.1 City. The term "City" means the City of Palo Alto, a charter city and municipal corporation duly organized and existing pursuant to the Constitution and laws of the State of California.

1.1.2 District. The term "District" means the Palo Alto Unified School District, a unified school district organized and existing pursuant to the laws of the State of California.

1.1.3 District Purposes. The term "District purposes" means the District's using a Site for any District purpose, including but not limited to classrooms, administrative offices, and training centers for District personnel, but not for the purpose, either direct or indirect, of selling the Site or any other District school site or leasing that Site or any other District school site for non-district uses.

1.1.4 Sites. The term "Sites" means all of that certain real property situated in the city described in *Exhibits A through G*, attached hereto.

1.1.5 Leased Site - Cubberley Site. The term "Leased Site" means all of that certain real property situated in the City described in *Exhibit A* attached hereto and made a part hereof, and all improvements thereon as of the date of execution hereof.

1.1.6 Jordan Site. The term "Jordan Site" means all of that certain real property situated in the City described in *Exhibit B* attached hereto and made a part hereof.

1.1.7 Jane Lathrop Stanford Site. The term "Jane Lathrop Stanford Site" means all of that certain real property situated in the City described in *Exhibit C* attached hereto and made a part hereof.

1.1.8 Covenanted Sites. The term "Covenanted Sites" means all of that certain real property situated in the City described in *Exhibits B, C, D, E, F* and *G* attached hereto and made a part hereof. D-1, D-2

1.1.9 Ohlone Site. The term "Ohlone Site" means all of that certain real property, commonly known as the "Old Ohlone Site", situated in the City described in *Exhibit D* attached hereto and made a part hereof.

1.1.9.1 - Walter Hayes
1.1.9.2 - Juana Bonilla

1.1.10 Garland Site. The term "Garland Site" means all of that certain real property situated in the City described in *Exhibit E* attached hereto and made a part hereof.

1.1.11 Greendell Site. The term "Greendell Site" means all of that certain real property situated in the City described in *Exhibit F* attached hereto and made a part hereof.

1.1.12 Jordan Turf Site. The term "Jordan Turf Site" means all of that certain real property situated in the City described in *Exhibit G* attached hereto and made a part hereof.

1.1.13 Extended Day Care. Extended Day Care means 1) childcare services provided during the school year to grade school students for the periods a) 6:30 am and the scheduled start of school and b) the earliest scheduled end of school and 6:30 pm Monday through Friday. 2) childcare services provided on non-school days from 6:30 am to 6:30 pm Monday through Friday, or as City deems appropriate.

1.2 Previous Agreements

1.2.1 The District and City have previously entered into the following agreements:

- (a) Lease and Covenant Not to Develop dated December 22, 1987 and amended on March 29, 1988 and on January 24, 1989.
- (b) Interim Lease for the Jordan School dated March 29, 1988 and amended on January 24, 1989.
- (c) Jordan Turf and Outdoor Recreation Area Lease dated April 8, 1986.
- (d) Cubberley Turf and Outdoor Recreation Area Lease dated January 17, 1985.
- (e) Cubberley Gym B Lease dated March 29, 1988.
- (f) Garland Turf and Outdoor Recreation Area Lease dated April 8, 1986.

1.2.2 All of the above listed agreements between the City and the District shall terminate on December 31, 1989 provided, however, the City's and District's obligations shall remain in full force regarding installation of back flow preventers, refurbishing playing fields and installation of sprinkler system as specified in Section 6.8 of that certain document titled "Amendment No. 2 to the Lease and Covenant Not to Develop dated January 24, 1989".

2.0 PAYMENT

2.1 Base Payment for Leased Site. City shall pay to District for each calendar year of the term of this Lease, a base payment (the "base payment") of \$2,700,000 dollars to be paid in twelve monthly installments for lease of the Cubberley Site more fully described in Section 3.0 of this agreement.

2.2 Payment for Covenanted Sites. The City shall pay annually to District the following amounts for the Covenant Not to Develop, more fully described in Section 4.0 of this agreement.

Walter Hayes	\$204,742
Juanita Gonzales	
Ohlone	\$204,742
Garland	\$182,804
Greendell	\$182,804
Jane Lathrop Stanford	\$236,000
Jordan	\$164,000

970,350

90-9 3,970,350
91- 4,208,571
2,104,285
1,985,175
90-9 4,089,460

2.3 Payment for Extended Day Care Spaces. As consideration, for use of the eleven spaces pursuant to Section 5.0 of this agreement, City shall pay annually to District the sum of \$300,000 or \$27,273 per space. All payments to District by City shall be made in twelve (12) equal installments payable monthly commencing on January 31, 1990.

Insert: As of 9-1-98, City's annual payment to District shall be increased by the sum of \$64,742 to reflect the operation by City of an extended day care program.
Payment for additional spaces shall be at the adjusted rate for child care space as provided for in Sections 2.3 and 2.7 of this agreement.

2.4 Covenant to Budget and Appropriate. Subject to Section 6.5.2(a), City covenants to take such action as may be necessary to include Lease payments due hereunder in its annual budget and annually to appropriate an amount necessary to make such Lease payments.

2.5 Manner of Payment. District shall annually invoice the City for the monthly payments to be made to the District during the following year provided, however, the failure of the District to provide City with such invoice shall not relieve the City of its responsibility to make full and appropriate payments to District. Payment shall be payable in lawful money of the United States to the order of the District at 25 Churchill Avenue, Palo Alto, CA 94306, Attention: Business Manager, or such other place as the City and the District shall mutually agree. City's obligation to make payments for any partial month shall be prorated on the basis of a thirty (30) day month.

2.6 Late Payment Charge. If any installment of payment or any other sum due from City is not received by District within fifteen (15) days after the due date, City shall pay to District an additional sum equal to a half percent (1/2%) of the amount overdue for each month the payment is delinquent.

2.7 Payment Adjustment.

2.7.1 "Payment" means all payments due from City to District pursuant to this Lease.

2.7.2 There shall be three types of payment adjustments. They shall be called:

1. the annual payment adjustment
2. the five year payment adjustment
3. the last year payment adjustment

2.7.3 Determining the Annual Payment Adjustment. The Payment shall be adjusted annually on the anniversary of the commencement date of this Lease in the following manner: The most recently published monthly Consumer Price Index (All Urban Consumers 1982-84 = 100) for the San Francisco-Oakland-San Jose Metropolitan Area published by the United States Department of Labor, Bureau of Labor Statistics ("Index"), for the month preceding anniversary date of the commencement date of this Lease ("New Index"), shall be compared with the Index published in the same month of the previous year ("Current Index"). If the New Index is greater than the Current Index, the Payment shall be adjusted by multiplying the current annual Payment by a number comprised of 1 + a fraction, the numerator of which is the New Index minus the Current Index and the denominator of which is the Current Index. If the New Index is less than the Current Index, the Payment shall remain the same as the previous year, but the percentage decrease shall be applied to offset subsequent annual Payment increases, if any, or used to calculate the Five-Year Payment Adjustment provided in Section 2.7.4.

Adjustment is illustrated by the following formula (for example calculations, see *Exhibit H*):

$$R = P \left[1 + \frac{(A-B)}{B} \right]$$

R = Annual Payment for upcoming lease year (New payment)

P = Current annual Payment

A = New Index: the most recently published Index prior to the month in which the adjustment is to become effective.

B = Current Index: the Index published for the same month as the Index used in "A" prior to the commencement of the previous lease year.

If the quotient of the New Index minus the Current Index divided by the Current Index $\frac{(A-B)}{B}$

is greater than 7.5%, the difference between the quotient and 7.5% shall be divided by two and added to 7.5%, but in no event shall the new annual Payment exceed

108% of the current annual Payment for the years 1991 and 1992. After 1992, the new annual Payment shall not exceed 110% of the current annual Payment in each succeeding year unless the City elects to apply the full adjustment instead of accumulating the Index change in excess of the adjustment caps as provided in the next section for the Five Year Payment Adjustments. Both the maximum adjustments of one-half the increase over 7.5% up to the respective 108% and 110% maximums and the 108% and 110% limits themselves are referred to as "adjustment caps".

After 1992, to the extent that there is an increase in the Index that is not incorporated in the annual Payment because it exceeds the adjustment cap, and the City does not elect to pay the full increase in the year in which it is due, such increase in excess of the adjustment cap shall be added to the subsequent annual revision in the Index, provided the adjustment cap is not exceeded for that year.

There shall not be a decrease in the annual Payment if the new Index is less than the Current Index; however, if in any given year or years after 1992 the New Index is less than the Current Index, the resulting decrease shall be applied against subsequent annual Index increases in making the annual Payment adjustment.

2.7.4 Determining the Five-Year Payment Adjustments.

Notwithstanding the limitation imposed by the adjustment caps and limitation imposed on applying Index decreases, both of which limitations are provided in Section 2.7.3, the actual change in the Index, expressed as a percentage increase or percentage decrease and which change is not incorporated in an adjustment of the annual Payment in any given year, at the election of the City, shall accrue as an aggregate percentage, whether or not such percentage is greater than 10% or represents a decrease in the Index over time. This aggregate percentage may be referred to as a "bank". The ending annual Payment in the 5th, 10th, 15th, and 20th years shall be adjusted by the aggregate percentage in the "bank" at that time without regard to any limitations (except limitations which occur in 1991 or 1992) in order to arrive at the annual Payment for the sixth, eleventh, sixteenth and twenty-first years of the Lease.

The annual Payment for the final year in any five year period shall be multiplied by a number comprised of $1 +$ the accrued balance of the "bank" at the end of the five year period regardless of the fact that this balance may exceed 1.10 or be less than 1.0.

That recalculated fifth year annual Payment shall serve as the base annual Payment which shall be adjusted by the change in the Consumer Price Index between the fifth and sixth years, the tenth and eleventh years, the fifteenth and sixteenth years and the twentieth and twenty-first years of this Lease according to the methodology described in Section 2.7.3.

To the extent that there is an increase or decrease not incorporated in annual Payment after calculating the annual adjustment for the 6th, 11th, 16th, and 21st years, such increase or decrease shall accrue in the "bank" to be

reconciled at the end of the next five year period.

The recalculation of the payment at the commencement of each new 5-year period shall incorporate all the provisions contained in paragraph 1 of this Section and Section 2.7.3.

Each 5-year Adjustment is illustrated by the following formula (for example calculations, see *Exhibit H*):

$$R_6 = [R_5 (1 + Y)] \times [1 + \frac{(A_6 - B_6)}{B_6}]$$

R_6 = 6th year annual Payment

R_5 = 5th year annual Payment

Y = "Bank" balance of aggregated Index changes as yet unadjusted according to the formula or at the election of City and expressed as a percentage (a three place decimal)

A_6 = New Index: the most recently published Index prior to the month in which the adjustment is to become effective in year 6.

B_6 = Current Index: the Index published for the same month as the new Index prior to the commencement of the previous lease year (A_5).

Subsequent five year Payment adjustments (R_{11} , R_{16} , R_{21} , and R_f where f = the annual Payment in the final year of the Lease) shall be made according to the same formula.

2.7.5 Determining the Last Year Payment Adjustment. This adjustment occurs at whatever point the lease terminates.

The annual Payment for the final year shall be adjusted in the manner provided for the Five Year Payment Adjustment in Section 2.3.4, except that the recalculation of what the annual Payment would have been without adjustment caps or the limitation on the application of Index decreases shall be performed with respect to the year immediately preceding the year of termination.

3.0 CUBBERLEY LEASE

District hereby leases to City and City hereby leases from District for the term, at the rental, and upon all the conditions set forth herein, the Leased Site commonly known as "Cubberley School" situated in the City of Palo Alto described in *Exhibit A* attached hereto and made a part hereof and all improvements thereon. The total acreage of the Leased Site is approximately 35 acres of which 11.8 acres is outdoor recreation area; the remaining 24.2 acres is comprised of parking lot area, walkways, and approximately 180,000 square feet of buildings;

however, it is understood that such acreage and square footage figures are only approximate and have not been precisely determined.

3.1 Condition, Possession, and Surrender of Leased Site

3.1.1 No Representation Regarding Leased Site. District has made no representations or warranties with respect to the Leased Site and no rights, easements or licenses are acquired by City by implication or otherwise except as are expressly set forth herein. District shall not be responsible for any latent defect or change in the condition of the Leased Site, except as set forth in Section 3.3 hereto, and the payments due hereunder shall in no case be withheld or diminished on account of any defect in the Leased Site nor for any change of condition, nor for any damage occurring thereto, nor because of any violation of law.

3.1.2 Condition of Leased Site. City does hereby represent and warrant to District that City is fully acquainted with the nature and condition, in all respects, except with respect to underground tanks or toxic materials as set forth in Section 3.3 hereto, of the Leased Site, including, but not limited to, the title of District, the soil and geology of the land, and the condition of the improvements. City agrees that the Leased Site is adequate and suitable for its purposes and accepts the Leased Site in its existing condition "as is", except as set forth in Section 3.3 hereto.

3.1.3 Acceptance and Surrender of Leased Site. Prior to entry of the Leased Site hereunder, District shall disclose in writing all defects in the structures on the Leased Site known to the District and any law that the District knows is not currently being complied with. Notwithstanding the preceding sentence, District shall not be required to conduct any inspections or review any applicable law, but shall only be required to disclose information regarding defects or laws which it has on hand or in its files. City and District shall inspect the Leased Site and City and District agree that the Leased Site is in the condition as described in *Exhibit I* hereto.

3.1.4 District shall surrender the Leased Site to City at the commencement of this Lease free of any tenant obligations, except as set forth on *Exhibit J*, and the City shall likewise surrender the Leased Site at the termination of this Lease free of any tenant obligations.

City understands that a portion of the Leased Site is presently subject to the leases set forth on *Exhibit J* and agrees to an assignment of said leases from District to City. District shall, upon execution of this Lease, assign its rights as Lessor under the leases set forth in *Exhibit J* to City.

3.1.5 Delay in Delivery of Possession. The District shall deliver possession of the Leased Site to City on the commencement date. If District does not deliver possession on commencement date, then City, at its option, may terminate the Lease by written notice delivered to District within ten (10) days of scheduled commencement date, in which event neither party shall have any

further obligation or liability to the other, unless delay is caused by acts of God, strikes, war, governmental bodies other than the City, weather, destruction and any delays beyond District's reasonable control.

3.1.6 Early Occupancy. If City is permitted by District to occupy the Leased Site prior to the Commencement Date for the purposes of repairing or installing fixtures or for any other purpose permitted by District, all of the terms and provisions hereof shall be applicable as of the date of such occupancy, except for the obligation to pay rent which shall commence on the Commencement Date.

3.2 Uses of Leased Site

3.2.1 Permitted Uses. The Leased Site shall be used and occupied for any lawful purpose.

3.3 Toxic Materials

3.3.1 "Toxic Materials" for the purposes of this Section are defined as any hazardous, toxic, or radioactive materials, including, but not limited to those materials identified in Sections 66680 and 66685 of Title 22 of the California Administrative Code, Division 4, Chapter 30, as amended from time to time.

3.3.2 City shall indemnify and hold District harmless from any and all costs, claims, judgments, including District's attorneys' fees and court costs, relating to the storage, placement or use of Toxic Materials by City on or about the Leased Site. City shall reimburse District for (i) all costs of cleanup or other alterations to the Leased Site necessitated by City's use, storage, or disposal of Toxic Materials; and (ii) any diminution in the fair market value of the Leased Site caused by City's use, storage, or disposal of Toxic Materials. The obligations of City under this Section 3.3.2 shall survive the expiration of the Lease term.

3.3.3 In the event of an emergency, City may act without District approval to cure or eliminate any dangerous condition which may give rise to a claim against the City. An emergency shall be defined as an unforeseen combination of circumstances or resulting state that calls for immediate action.

3.3.4 District has provided City with an asbestos report on the Leased Site attached hereto as *Exhibit K*. To District's knowledge, no other asbestos conditions exist on the Leased Site. City accepts the Leased Site subject to its existing conditions and shall bear any costs associated with encapsulation and/or removal of asbestos. City shall also be responsible for compliance with the Asbestos Hazard Emergency Response Act and any other state or federal regulations, existing or subsequently enacted, relating to asbestos conditions on the Leased Site.

3.3.5 District shall indemnify and hold City harmless from any and all costs, claims, judgments, losses, demands, causes of action, proceedings or hearings, including City's attorneys' fees and court costs, relating to the storage, placement or use of Toxic Materials or underground tanks existing on or

Start here
 about the Leased Site before the commencement of this lease, whether or not the parties are aware of the existence of any such underground tanks or any such use of Toxic Materials. District shall pro rata reduce rent and reimburse City for (i) losses in or reductions to rental income or City's use of the Leased Site resulting from District's use, storage or disposal of Toxic Materials or underground tanks, and (ii) if required by law to clean up the Leased Site, all costs of clean-up or other alterations to the Leased Site necessitated by District's use, storage or disposal of Toxic Materials or underground tanks. If not required by law to so clean up the Leased Site and if District elects not to clean up said site, City shall have the right to terminate this lease as to the Leased Site upon sixty (60) days notice to the District and the lease payment shall be adjusted accordingly. The obligations of District under this Section 3.3.5 shall survive the expiration of the lease term.

3.3.6 In the event that money has become available from the State of California for the cleanup of asbestos, District shall attempt in good faith to obtain a share of such funds to be applied to necessary cleanup work at the Cubberley Site.

3.4 Utilities and Maintenance

3.4.1 City Responsibility. It shall be the responsibility of City to provide and pay the cost of all maintenance and repair on the Leased Site including, but not limited to, all interior and exterior work on the Buildings on the Leased Site and all plumbing, fire sprinkler, sewage, heating, ventilation, air conditioning, roof repair and replacement, electrical and lighting facilities, irrigation systems, tennis courts, fences, athletic equipment, attendant landscaping, litter collection and removal. Such maintenance shall be in accord with standards acceptable to the City and such standards shall be, at a minimum, those of the District in maintaining school sites not being used for classroom purposes as of June 30, 1989.

City shall, at City's expense, promptly comply with the requirements of every applicable law with respect to the condition, maintenance, use or occupation of the Leased Site including the making of any alteration or addition to, or any structure upon, connected with, or pertinent to the land, whether or not such alteration be structural, or be required on account of any particular use to which the Leased Site or any part thereof, may be or is now put, and whether or not such law be of a kind now within the contemplation of the parties hereto, except as set forth in Section 3.3 hereto; and shall likewise comply with any applicable regulation or order of any applicable Board of Fire Underwriters or other body having similar functions, or of any liability or fire insurance company by which City may be insured. However, City and District agree to renegotiate this Lease if any new law or regulation necessitates the City's expending, in any calendar year, \$250,000 or more.

3.4.2 District Responsibility. District shall not be required or obligated to make any changes, alterations, additions, improvements or repairs in, on, or about the Leased Site, or any part thereof, during the term of this Lease, except as set forth in Section 3.3 hereto except to the extent District may have

obligations and responsibilities as a Lessee.

3.4.3 Utility Costs. City shall pay all costs of utility and scavenger services delivered to the Leased Site.

3.4.4 Notice. The person to whom the District may report any maintenance problems associated with the Leased Site is the City's Manager, Real Property.

3.5 Alterations and Improvements

3.5.1 City may make such alterations, additions, improvements, or structural changes of whatever nature it deems necessary for its effective use of the Leased Site without District approval. The cost of any alteration, addition, improvement, or structural change shall be borne by City, unless otherwise agreed in writing by District. City shall give District thirty (30) days prior notice before making any improvement, demolition or reconstruction estimated to cost more than \$100,000 for the purpose of providing an opportunity for District comment. At the termination of this Lease, at its cost, City shall:

(a) Restore those portions of the Leased Site improved by City or Subtenants to a condition equal to or better than then applicable requirements of the State Architect or other appropriate State agency for school buildings unless otherwise agreed by District in writing; and

(b) Notwithstanding the fact that the buildings on the Leased Site contain 180,000 sf+, return Leased Site to District containing a minimum of 150,000 square feet of buildings unless otherwise agreed by District in writing.

3.5.2 In the event of an emergency, City may act without notice to District to cure or eliminate any dangerous condition which may give rise to a claim against the City. An emergency shall be defined as an unforeseen combination of circumstances or resulting state that calls for immediate action.

3.5.3 The improvements, including the additions and alterations, when completed, shall comply with all applicable laws and shall likewise comply with any applicable regulations or order of the applicable Board of Fire Underwriters or other agency having similar functions, or of any liability or fire insurance company by which City may be insured. District will, upon thirty days prior written notice from City, execute any documents required to be signed on its part to obtain any necessary final inspection report (except that District shall not be obligated to incur any obligation or liability thereby.)

3.5.4 The parties recognize that under current law, including the California Law of Mechanics Liens, a lien cannot attach to publicly owned property. However, if at any time such laws have changed, thereby permitting any lien, charge or encumbrance upon the Leased Site, neither City nor District shall permit to remain, and shall promptly discharge, at the appropriate party's

expense, all stop notices, liens, encumbrances or charges upon the Leased Site or any part thereof. Neither party shall permit any mechanic's or materialmen's liens or any other claims or demands of any nature, arising from any work by such party of construction, repair, restoration, or removal as herein provided, to be foreclosed against the Leased Site or any part thereof. In the event either party permits any mechanic's or materialmen's liens to be levied upon the Leased Site, the failure of such party to remove said liens within 90 days thereafter, shall be a material default hereunder.

3.6 Operating Expenses. City shall pay all Operating Expenses for the Leased Site. The term "Operating Expenses" shall mean all costs and disbursements which City shall pay or become obligated to pay in connection with the maintenance, repair and operation of the Leased Site.

3.7 Taxes

3.7.1 Real and Personal Property Taxes. City shall pay, prior to delinquency, any taxes, fees, assessments or public charges, assessed to District or City, including but not limited to, assessments for public improvements or benefits, which shall be imposed upon the Leased Site, City's estate in this Lease or City's leasehold improvements, trade fixtures, furnishings, equipment and other personal property of City located on the Leased Sites.

3.7.2 Possessory Interest. In the event a possessory interest tax accrues to the Leased Site, it is understood that City shall pay all such tax in its entirety prior to delinquency. City shall be responsible for filing any required possessory interest forms for the Leased Site with the County of Santa Clara.

3.7.3 Nonuse Tax. City and District shall divide equally any nonuse taxes for the Leased Site, as required by Education Code Section 39015, or successor legislation.

3.8 Insurance

3.8.1 City's Liability Insurance. City shall keep in force during the term hereof, at City's expense, and City shall cause District to be named as "additional insured" thereunder, liability insurance for coverage up to \$5 million per person and \$5 million per accident, and property damage of \$1 million combined single limit. The City's insurance shall be primary and any coverage maintained by the District shall be excess to the coverage required to be provided by the City and not contributive to City's insurance. Copies of said policies or certificates thereof shall be deposited with District and the City shall obtain the written agreement of insurers to notify the District in writing 30 days prior to any termination or nonrenewal of insurance. City may satisfy such insurance requirements by endorsement to existing policies. Should the City choose not to purchase insurance, coverage will be provided by either the City's self-insuring for the required amounts or the City's entering into a pooling program with applicable coverage. Coverage in excess of the City's \$1 million self-insured retention may be provided by the City's participation within the ACCEL Joint

Powers Agreement. Coverage by ACCEL must be approved by said board of directors. City shall inform District within thirty (30) days of any change relating to specific lines of coverage.

3.8.2 City's Property Insurance. City shall keep in force during the term hereof, at City's expense, property insurance against loss or damage to the improvements on the Leased Site by fire, vandalism, malicious mischief, and all hazards included in all risk coverage, excluding asbestos and earthquake coverage, in such amounts as may be sufficient at all times to prevent District or City from becoming co-insurers under the provisions of applicable policies and insurance, but in any event in an amount not less than 100% of the replacement cost of the improvements. In determining the replacement cost of the improvements, foundation shall be excluded unless the insurer or insurers shall require the inclusion of same in their determination of such replacement costs.

City shall also keep in force during the term hereof, at City's expense, adequate boiler and pressure vessel insurance policies in the limits of at least \$500,000 per occurrence, insuring the District against any and all liability resulting from the operation of any of the heating plants and/or pressure vessels located on the Leased Sites provided that the boilers and machinery on the Leased Sites have been certified by a state certified Boiler and Machinery Inspector.

The parties recognize that the insurance practices of a municipality may differ from that of private parties and may change from time to time. Accordingly, during any period of time in which the city maintains insurance as a regular practice on the buildings and structures it owns, City shall maintain the insurance required by this Section. During any period of time in which City as a regular practice has not maintained insurance but rather self insures, or participates in a Joint Power Agreement with other governmental entities, its buildings and structures, City may insure the Leased Site in this manner, and City shall be liable for any casualty or injury.

3.9 Damage or Destruction

3.9.1 In the event of damage or destruction on the Leased Site, City shall, at no cost or expense to District, whether or not any particular casualty is covered by insurance, either promptly repair or rebuild the same so as to make the building at least equal in value to the building existing immediately prior to such occurrence and as nearly similar to it in character as shall be practicable and reasonable, or it may choose to terminate this Lease as to the Cubberley Site only and pay to District all insurance proceeds payable to City as a result of such casualty, provided that if District intends not to rebuild the building(s) (excluding accessory buildings) where the casualty occurred, within two years of the casualty, District and City shall divide equally the insurance proceeds. In the event the City self insures pursuant to Section 3.8.2, City shall pay to District an amount equal to the full replacement cost of the improvements if it terminates the Lease pursuant to this Section.

3.9.2 City's obligation to make payments and to perform all its

covenants and conditions shall not be affected by any damage or destruction of the improvements, and City hereby waives the provisions of any law now or hereafter in effect contrary to such obligations of City, as herein set forth, or which relieves City therefrom. Without limiting the generality of the foregoing, City hereby waives the provisions of Section 1932 of the California Civil Code with respect to putting the property in good condition or repairing it.

3.10 Condemnation or Possession. If any part of the Leased Site shall be taken for any public, or quasi-public use, under any statute or by right of eminent domain or purchase in lieu thereof, or if any part of the Leased Site is possessed (excluding lease-backs) by the District, this Lease shall be re-negotiated. If the parties in good faith cannot reach agreement on amended terms of the Lease, the Lease shall terminate. All compensation awarded upon any taking or repossession hereunder shall be divided as the interest of the parties may appear.

3.11 Assignment and Sublease

3.11.1 The City, with the written consent of the District, which consent shall not be unreasonably withheld, may at any time and from time to time pledge, assign, or otherwise transfer this Lease or any interest of the City herein. City without the consent of the District may at any time and from time to time sublease the Leased Site or any improvements thereon on any part thereof. The City shall at all times remain liable for the performance of the covenants and conditions on its part to be performed hereunder notwithstanding any such assigning, transferring or subletting which may be made. Any sublease, assignment or transfer shall be coterminous in every respect with this Lease.

3.11.2 Any transfer, assignment or encumbrance of this Lease or the Leased Site, in whole or in part, which is contrary to or not provided for in Section 3.11.1 is void.

3.12 Option to Purchase and Restriction on Sale

3.12.1 Provided this lease is still in effect, if the District wishes to sell its fee interest in the Cubberley Site during the first 25 years of this Lease, District shall give written notice of such intention to the City. City shall have the option to acquire the Site on the following terms:

(a) The portion of the Site subject to the Naylor Act as set forth in *Exhibit M* -- 25% of fair market value.

(b) The portion of Site not subject to the Naylor Act -- 80% of fair market value.

(c) If the parties are unable to agree on fair market value, it shall be determined by the average of two appraisals, one prepared by a qualified independent appraiser appointed by the District and one appointed by the City.

(d) Written notice of the City's intention to exercise its option

must be given to District within ninety (90) days of District's notice to City.

(e) Upon receipt of the notice of the City's intention to exercise its option, escrow shall be opened immediately and City shall deposit into escrow all necessary documents and money to close escrow within ninety (90) days of the date of the written notice of the City's intention to exercise its option. If delay occurs beyond control of City, escrow shall be extended an additional thirty (30) days.

3.12.2 Provided this lease is still in effect, if the District wishes to sell its fee interest in the Cubberley Site during years 26 through 35 of this Lease and for an additional two (2) years after termination, District shall give written notice of such intention to the City. City shall have the option to acquire the Site on the following terms.

(a) The portion of the Site subject to the Naylor Act as set forth in *Exhibit M* -- 25% of fair market value.

(b) The portion of Site not subject to the Naylor Act -- 90% of fair market value.

(c) If the parties are unable to agree on fair market value, it shall be determined by the average of two appraisals, one prepared by a qualified independent appraiser appointed by the District and one appointed by the City.

(d) Written notice of the City's intentions to exercise its option must be given to District within ninety (90) days of District's notice to City.

(e) Upon receipt of the notice of the City's intention to exercise its option, escrow shall be opened immediately and shall close within ninety (90) days of the date of the written notice of the City's intention to exercise its option. If delay occurs beyond control of City, escrow shall be extended an additional thirty (30) days.

3.12.3 In the event the Naylor Act is no longer in effect on the date the written notice referred to in Sections 3.12.1 and 3.12.2 is given, the provisions of Section 3.12.1(a) and 3.12.2(a) shall not be applicable and the entire Cubberley Site shall be priced in accordance with Section 3.12.1(b) or 3.12.2(b) as appropriate.

3.12.4 For a two (2) year period following the termination of this Lease, District shall not sell the Cubberley Site to any party other than the City.

3.13 Quiet Enjoyment. The parties hereto mutually covenant that the City, by keeping and performing the agreements and covenants herein contained, shall, at all times during the term of this Lease peaceably and quietly have, hold and enjoy the Leased Site without suit, trouble or hindrance from the District.

3.14 Hold Harmless

3.14.1 City shall indemnify, defend and hold District harmless from any liability or expense on account of suits, verdicts, judgments, costs or claims of any nature or kind arising out of, or in any way connected with, City's and any sub-lessees' or assignees' operations on, possession, use, management, improvement, alteration or control of the Leased Site, except for sole negligence of District, its officers, employees or agents, and except for the liability borne by District as set forth in Section 3.3.5.

3.14.2 In addition to the liability borne by District as set forth in Section 3.3.5, District shall indemnify and hold City harmless from any liability or expense on account of suits, verdicts, judgments, costs or claims of any nature or kind arising out of, or in any way connected with District's operations on, possession, use, management, improvement, alteration or control of the Leased Site except for any claims or liability, or portions thereof, arising from the sole negligence of City, its officers, employees or agents, sublessees or assignees.

4.0 COVENANT NOT TO DEVELOP

4.1 District hereby covenants with City and City hereby covenants with District that, in order to prevent a further burden on the City's infrastructure and in order to preserve a substantial amount of the City's remaining open space, which contributes to the welfare of the City's residents, the Covenanted Sites situated in the City of Palo Alto and described in Exhibits B, C, D, E, F and G attached hereto and made a part hereof, shall not be (1) subdivided, (2) sold or (3) developed with additional square footage to be used for non-school district purposes for the term of this Lease, for the consideration and upon all the conditions set forth herein, provided that the District may add portable non-permanent structures totalling no more than 2,000 square feet per Covenanted Site. If the District adds such square footage on any Covenanted Site it shall give written notice to the City within 30 days of such addition.

D1, D2
B JORDAN
C JLS.
PLUS WALTER
HAYES & JANA
BRIGGS
D JORDAN
KAY (HUBER)
E GARDNER
F GREENWELL

Upon the expiration or earlier termination of this Lease, except as provided in Section 4.2, the City shall execute and deliver to District a quitclaim deed for the Covenanted Sites, unless otherwise agreed to by the parties.

4.2 In the event the District closes either Jordan or Jane Lathrop Stanford, or both, as an operating school(s) during the term of this Lease, the District shall not subdivide, sell or develop the Site(s) for a period of seven (7) years after the closure of the school(s). The City's obligation to pay District for the closed Site(s) under Section 2.2 shall cease as of the date of closure. During the period from the closure until the end of the seven (7) years, the District may lease the Site(s) subject to applicable City zoning regulations.

5.0 EXTENDED DAY CARE SPACES

5.1 Space Provided

5.1.1 During the term of this agreement, District agrees to provide and City agrees to accept eleven (11) spaces at various elementary school sites to

be used for the purpose of providing City-operated extended day child care services. Said sites are listed on *Exhibit L*.

Additional child care spaces may be added in the event District opens additional elementary school sites including the Covenanted Sites.

5.1.2 District may, with the agreement of City, consolidate two child care spaces at one site. In no event shall more than three such consolidations occur.

It is understood the District shall bear the cost of transporting students in the event of such consolidation of spaces and City shall still compensate District for each and every space pursuant to Sections 2.3 and 5.1.1.

5.1.3 District may, with the agreement of City, substitute a portable for conventional classroom space.

5.1.4 In the event City and District cannot agree on the issue of consolidation contained in Section 5.1.2 or on the issue of substitution contained in Section 5.1.3 the matter shall be resolved by a three member arbitration panel. City and District shall each promptly appoint their representative to the panel and the two representatives shall select the third panel member. The decision of the panel shall be final and binding on both parties.

5.1.5 The space provided shall include appropriate access to designated rest rooms and other ancillary facilities such as playground equipment where appropriate, and shall be available to City 24 hours a day, 7 days a week.

5.1.6 The space provided shall meet appropriate State standards for at least twenty-five students and shall have all utility connections in place except for telephone. Specifically, the rooms shall have shelving and closets in place, however no furniture, toys or other equipment shall be provided by District.

5.1.7 Portables and conventional classroom space provided shall also conform to State standards for toxic materials as defined in Section 3.3.1. District shall be responsible for compliance with the Asbestos Hazard Emergency Response Act and any other State or Federal regulations, existing or subsequently enacted, relating to asbestos conditions for the extended day care space provided.

5.2 City Responsibilities

5.2.1 If City determines, at its sole discretion, to operate an extended day child care program in the spaces provided by District, it shall be the sole responsibility of the City to provide such services in the District designated spaces to persons desiring such services. The hours for such services shall be as set forth in Section 1.1.13.

5.2.2 City shall bear cost of utilities to the space including

telephone. Unless separate meters are provided, the cost shall be prorated on a square footage basis (square footage of City space to total square footage of buildings on entire Site).

5.2.3 City shall, at City's own expense, provide for minor maintenance to the space including but not necessarily limited to: electrical (ex. ballasts and switches), plumbing fixtures (ex. leaky faucets and pipes), wall and floor coverings and windows.

5.2.4 City shall, at City's own expense, provide for custodial services.

5.2.5 City shall be responsible for security of the leased space at all times and security of the rest rooms outside the customary hours of school operation. Security shall mean locking all windows and doors and turning off lights.

5.3 District Responsibilities

5.3.1 District shall maintain fire and extended coverage insurance on the structures housing the child care programs with limits of full replacement value. In the event of damage or destruction to the premises, District shall promptly restore the premises to their pre-existing condition.

5.3.2 District, at District's own expense, shall be responsible for major maintenance to the child care premises including roof, sewer and electrical hook-ups, heating, and air-conditioning and removal of toxic material where applicable.

5.4 Delay in Delivery of Possession. If the District, for any reason whatsoever, cannot deliver possession of eleven spaces to City on the commencement date, this agreement shall not be void or voidable, nor shall District be liable to City for any loss or damage resulting therefrom. In such event, City shall be relieved of its obligation to pay for a child care space in the amount equivalent to the unit value of each space not delivered. For the first year of this agreement the unit value of one child care space is \$27,273 per year.

5.5 Hold Harmless

5.5.1 District shall indemnify and hold City harmless from any and all costs, claims, judgments, losses, demands, causes of action, proceedings or hearings, including City's attorneys' fees and court costs, relating to the storage, placement or use of Toxic Materials on or about the space or spaces for extended day care, whether or not the parties are aware of the existence of or any such use of Toxic Materials. District shall pro rata reduce rent and reimburse City for all costs of clean-up required by law or other alterations to the spaces necessitated by District's use, storage or disposal of Toxic Materials. If not required by law to so clean up a space or spaces, City shall have the right to terminate the Lease as to the specific space or spaces upon thirty (30) days notice

and the Lease payment shall be adjusted accordingly. The obligations of District under this Section 5.5.1 shall survive the expiration of the Lease term. "Toxic Materials" shall have the same meaning as in Section 3.3.1 of this Lease.

5.5.2 City shall indemnify and hold District harmless from any and all costs, claims, judgments, including District's attorneys' fees and court costs, relating to the storage, placement or use of Toxic Materials by City on or about the space or spaces for extended day care. City shall reimburse District for (i) all costs of cleanup or other alterations to the space or spaces for extended day care necessitated by City's use, storage, or disposal of Toxic Materials; and (ii) any diminution in the fair market value of the space or spaces for extended day care caused by City's use, storage, or disposal of Toxic Materials. The obligations of City under this Section 5.5.2 shall survive the expiration of the Lease term.

5.5.3 City shall indemnify, defend and hold District harmless from any liability or expense on account of suits, verdicts, judgments, costs or claims of any nature or kind arising out of, or in any way connected with, City's and any sublessees', or assignees' operations on, possession, use, management, improvement, alteration or control of the Extended Day Care spaces except for any claims or liability, or portions thereof, arising from the sole negligence of District, its officers, employees or agents, and except for the liability borne by District as set forth in Section 5.5.1.

5.5.4 In addition to the liability borne by District as set forth in Section 5.5.1, District shall indemnify and hold City harmless from any liability or expense on account of suits, verdicts, judgments, costs or claims of any nature or kind arising out of, or in any way connected with, District's and/or any sublessees' or assignees' other than City, operations on, possession, use, management, improvement, alteration or control of the Extended Day Care spaces except for any claims or liability, or portions thereof, arising from the sole negligence of City, its officers, employees, agents, sublessees or assignees.

6.0 GENERAL CONDITIONS

6.1 Term

6.1.1 The term of this Lease shall be for fifteen (15) years, commencing on January 1, 1990 (the "Commencement Date"), and ending on December 31, 2004, (the "Expiration Date"), unless sooner terminated or extended pursuant to the provisions hereof.

6.1.2 The City shall have the right to extend the term of this Lease for an additional ten (10) years by giving written notice to the District not later than December 31, 2003.

6.1.3 Upon mutual agreement of City and District, the term of this Lease may be extended beyond December 31, 2013 for 2 additional periods of five (5) years each.

*CMR: 556:03 Finance
498:03 Council*

DEC 31, 2014

DEC. 31, 2014

DEC. 31, 2024

6.1.4 City and District agree that fifteen (15) years is the length of time necessary to secure the benefit of the District's covenant not to develop set forth in Section 4.0; provided that such agreement in no way limits the parties' rights to terminate this Lease pursuant to Section 6.5 hereof.

6.2 Breach

6.2.1 If the City shall fail to pay any payment payable hereunder when the same becomes due and payable, or the City shall fail to keep or perform any other material term covenant or condition contained herein to be kept or performed by the City for a period of 25 days after written notice thereof from the District, the City shall be deemed to be in default hereunder and the District, in addition to all other rights and remedies it may have at law, shall have the option to do any of the following:

(a) To terminate this Lease in the manner hereinafter provided on account of default by the City, notwithstanding any re-entry or re-letting of the Leased Site and/or Extended Day Care space as hereinafter provided for in subparagraph (b) hereof, and to re-enter the Leased Site and/or Extended Day Care space and remove all persons in possession thereof and all personal property whatsoever situated upon the Leased Site and/or Extended Day Care space. In the event of such termination, the City agrees to surrender immediately possession of the Leased Site and Extended Day Care space, without hindrance, and to pay the District all damages recoverable by law that the District may incur by reason of default by the City.

(b) Without terminating this Lease, (i) to collect each installment of payment as it becomes due and enforce any other material term, covenant or condition contained herein to be kept or performed by the City which failure to keep or perform by the City would have a material adverse effect on the interests of the District under this Lease or (ii) to exercise any and all rights of entry and re-entry upon the Leased Site and Extended Day Care space. In the event the District does not elect to terminate this Lease in the manner provided for in subparagraph (a) hereof, the City shall remain liable and agrees to keep or perform all terms, covenants and conditions herein contained to be kept or performed by the City and, if the Leased Site and/or Extended Day Care space is not re-let, to pay the full amount of the payment to the end of the term of this Lease or, in the event that the Leased Site and/or Extended Day Care space is re-let, to pay any deficiency in payment that results therefrom; and further agrees to make said payment and/or payment deficiency punctually at the same time and in the same manner as hereinabove provided, and if the District receives payments therefrom in any payment period in excess of the payment provided for in Section 2.0 hereof for such period, the District shall pay such excess (after expenses incurred in connection with such re-letting) to the City on the last day of said payment period. Should the District elect to re-enter as herein provided, the City hereby irrevocably appoints the District as the agent and attorney-in-fact of the City to re-let the Leased Site and/or Extended Day Care space, or any part thereof, from time to time, either in the District's name or otherwise, upon such terms and conditions and for such use and period as the District may deem advisable

and to remove all persons in possession thereof and all personal property whatsoever situated upon the Leased Site and/or Extended Day Care space. The City agrees that the terms of this Lease constitute full and sufficient notice of the right of the District to re-let the Leased Site and/or Extended Day Care space in the event of such re-entry without effecting a surrender of this Lease, and further agrees that no acts of the District in effecting such re-letting shall constitute a surrender or termination of this Lease irrespective of the use or the term for which such re-letting is made or the terms and conditions of such re-letting, or otherwise, but that, on the contrary, in the event of such default by the City, the right to terminate this Lease shall vest in the District to be effected in the sole and exclusive manner provided for in subparagraph (a) hereof.

Each and all of the remedies given to the District hereunder or by any law now existing or hereafter enacted are cumulative, and the exercise of any one right or remedy shall not impair the right of the District to any or all other remedies.

6.2.2 In the event that City shall default in the performance of any of the agreements, conditions, covenants or terms herein contained, which event of default remains uncured after notice given as herein provided, District may immediately, or at any time thereafter, perform the same for the account of the City, and any amount paid, or any expense or liability incurred, by the District in the performance of the same shall be repaid to District, in addition to base payments by the City within 30 days after demand hereunder together with interest from the date, the cost or expenses incurred at an amount equal to the lesser of 12 percent per annum or the maximum lawful rate of interest then in effect under the laws of the State of California; and the District shall have the right to enter (by force or otherwise) the Leased Site and/or Extended Day Care space for the purpose of correcting or remedying such default and to remain therein until the same shall have been corrected or remedied.

No performance by District of any of the obligations on City's part to be performed hereunder shall be, or be deemed to be, a waiver of the City's default in or failure to perform the same, nor shall the performance thereof by District release or relieve City from any obligations on its part to be performed under this Lease.

6.2.3 If the District shall fail to keep or perform any obligation, covenant, agreement or provision contained herein to be observed or performed by the District for a period of 25 days after written notice thereof from the City, the District shall be deemed to be in default hereunder, and the City may take whatever action, at law or in equity, may appear necessary or desirable to enforce the observance or performance of any such obligation, covenant, agreement or provision including termination of this Lease.

6.2.4 In the event of a breach, or threatened breach, by either party of any of the agreements, conditions, covenants, or terms herein, the other party shall have the right of injunction to restrain the same, and the right to invoke any remedy allowed by law, or in equity, as if specific remedies, indemnity or

reimbursements were not herein provided for. All rights and remedies herein given to either party shall be cumulative to each other and to any other legal Or equitable remedy or right which the party might otherwise have in the event of any breach by the other party.

6.3 Surrender and Title to Property

6.3.1 On the last day of the term of this Lease, or any sooner termination, City shall surrender the Leased Site and Extended Day Care space to the District, in reasonably the same condition as City received the Leased Site and Extended Day Care space, ordinary wear and tear and any permitted approved and lawful changes, alterations, additions and improvements thereto excepted, except as otherwise required by Section 3.5.2. City, upon the expiration or sooner termination of this Lease, shall repair any damage to the Leased Site and Extended Day Care space occasioned by the removal of City's fixtures, furnishings, equipment and other personal property. All of City's property which is removable pursuant to the provisions of this Lease shall be removed by City on or before the last day of the term of the earlier termination of this Lease, and all property not so removed shall be deemed abandoned by City, and District shall have the right either to require City to remove said property from the land or dispose of the property pursuant to Section 6.5.3 as set forth below.

6.3.2 Title to the Leased Site and Extended Day Care space shall remain in the District during the term of this Lease. All improvements placed upon the Leased Site and Extended Day Care space by City at City's expense shall be and remain the property of City for and during the term of this Lease. Upon expiration or sooner termination of this Lease, such improvements shall belong to and become the property of District, free from any rights, claims and liens of City or any person, agency, political subdivision, firm or corporation claiming under City, without any compensation therefore from District to City or to any other person, agency, political subdivision, firm or corporation, unless otherwise agreed to by the parties at the time the improvement is made. At the expiration or sooner termination of this Lease, such improvements shall be surrendered to District, excepting that movable furniture, personal property and trade fixtures may be removed by City at or before the expiration or sooner termination of this Lease, provided, however, that the removal of any of the property so excepted will not structurally injure the improvements or necessitate any changes or alterations in the improvements or render the improvements or any part thereof unfit for use and occupancy. City shall pay the cost of restoration of, or repairing any damage to, the Leased Site and Extended Day Care space arising from the removal of the property so excepted.

6.4 Naylor Bill Allocations. As previously stipulated by the parties in previous agreements, the portions of the Sites subject to the Naylor Bill (Education Code Section 39390 et seq.) are shown in *Exhibit M* hereto. Nothing in this Lease shall be deemed to expand, diminish, waive or otherwise limit the applicability of the Naylor Bill to said portions of the Site, including the obligation of the City to maintain the property, as shown in *Exhibit M*, for recreational open space purposes and the right of the District to re-acquire said property pursuant to

Education Code Section 39398 or its successor legislation. In the event the provisions of the Naylor Bill terminate, the applicability of "Naylor" to portions of sites contained in *Exhibit M* also ceases.

6.5 Termination. In addition to the rights of termination for breach found in Section 6.2, this Lease may be terminated as set forth in Sections 6.5.1 and 6.5.2.

6.5.1 City Termination

(a) Debt Limitation. In the event the Council of the City does not appropriate funds for payment of the payments due under this Lease in any year, this Lease shall terminate upon 90 days written notice.

(b) Gann Limit. The city may terminate this Lease in any fiscal year in which the City is not authorized by the Palo Alto electorate to exceed the expenditure limitation imposed by the California Constitution and any other State or Federal legislative act, commencing with the fiscal year 1991-1992. In that event, the City may terminate this Lease upon six (6) months written notice which must be given within 30 days of an unsuccessful election seeking such authorization.

(c) Restriction on Taxing Power. If State or Federal law is enacted, an initiative measure passed or a court decision rendered which reduces the City's general fund revenue or restricts the City's authority to collect or levy general fund taxes which the City has the right to collect or levy as of the Commencement Date of this Lease, the City may terminate this Lease, in whole or in part as hereafter set forth, by giving six (6) months written notice to District, after such law, measure or decision becomes effective; provided, however, there shall be no right of termination unless the effect of such law, measure or decision is to reduce the City's general fund revenue or taxing authority by \$1,500,000, in comparison with the previous fiscal year.

The amount set forth in this Section shall be adjusted annually by the Consumer Price Index on the commencement anniversary date of the Lease in the manner set forth in Section 2.7 hereof.

6.5.2 District Termination. The District may terminate this Lease in part on the following conditions:

(a) Notwithstanding the provision of Section 4.1., in the event District general fund revenues decline 10% from one District fiscal year to the next, the District may terminate this Lease with regard to one of the Covenanted Sites described in *Exhibits B, C, D, E, F, and G* upon one year's written notice, solely for the purpose of selling that Site. District shall give City the right of first refusal to purchase such Site, subject to the following provisions:

(i) One year after said written notice, District shall establish the price and terms upon which it is willing to sell the Site and shall

give written notice thereof to the City.

(ii) For sixty (60) days from the date of delivery of the notice, City shall have the right to notify District it will exercise its right to purchase such Site at the price and on the terms and conditions stated in the notice; provided that the price shall be reduced by any previous agreements still in force between City and District regarding the price of such Site and by any state or federal law, including but not limited to the Naylor Act (Education Code Section 39390 et seq.), affecting the price of such Site.

(iii) If within said sixty (60) day period the City notifies District that it will exercise its right to purchase such Site, escrow on the Site shall be opened immediately and shall close within ninety (90) days of the notice by City to District that it is exercising its right to purchase.

(iv) If the City notifies District it will not exercise its right to purchase such Site, or does not notify District it will exercise its right to purchase such Site within 60 days of receiving notice from the District, the District may sell such Site at a price not less than the price and on the terms and conditions specified in the notice.

(b) Notwithstanding the provisions of Sections 4.1, in the event the District wishes to reopen, as an operating school, any of the Covenanted Sites described in *Exhibits D, E and F*, it may do so upon written notice to City provided, however, in such event, City and District shall amend this agreement to include within the Covenant Not to Develop set forth in Section 4.1, two operating elementary school sites of the District within the City limits of the City of Palo Alto. The City's payment obligations to District as set forth in Section 2.2 shall not be reduced by reason of the reopening of one of the Covenanted Sites provided that the District includes within the Covenant Not to Develop two operating elementary schools.

9-1-98
D. WINTER HAYS
P. JUAN
B. RIONES
(D) OHLONE
(E) GARLAND
(F) GREENDELL

(c) Reduction in Payment. If the District partially terminates this Lease with regard to a Covenanted Site under Section 6.5.3, the Payment due under this Lease shall be reduced according to the proportion of payment allocated to such Site as set forth in Section 2.2.

6.5.3 Surrender Upon Termination. Upon occurrence of any termination event, this Lease will terminate, or partially terminate as set forth herein, and all City's rights, title and interest in the Leased Site (*Exhibit A*) or Extended Day Care spaces (*Exhibit L*) shall terminate. City shall surrender and vacate the said Site and spaces in reasonably the same condition as City received them, reasonable wear and tear excepted, and subject to the provision contained in Section 3.5.1. District shall have the right to re-enter and take possession of said Site and/or spaces and remove all persons therefrom and remove City's property and place that property in storage in a public warehouse, or store the same elsewhere, all at the expense of City, or sell the same as provided by law for the purpose of recovering any money due and unpaid hereunder by City to District, including District's storage costs. Upon termination of this Lease,

District shall have the right to recover from City all damages caused by any breach hereof by City, together with any payment due hereunder and unpaid, including all reasonable attorneys' fees and court costs which may be incurred in recovering possession of said Site and/or spaces and in collecting such damages or such payments.

6.5.4 Future Development. Upon the expiration or earlier termination of this Lease, the District shall be free to sell, lease or otherwise dispose of the Sites described in *Exhibits A-G* and *Exhibit L* which are the subject of this Lease. However, it is understood by the parties that (a) the District shall have all the same rights and obligations with respect to the development of the Sites as any other developer, and (b) the City shall have the same rights and responsibilities as it would normally have in reviewing and considering any development project that would come before it.

6.5.5 Inconsistencies with Other Agreements. If any provision regarding termination set forth in Section 6.5 hereof is inconsistent with any provision regarding termination set forth in any other agreement between City and District regarding any Site subject to this Lease, the provision in this Lease shall prevail.

6.6 Notices. Any demand or notice which either party shall be required, or may desire, to make upon or give to the other, shall be in writing and shall be delivered personally upon the other, or sent by prepaid registered or certified mail addressed to the respective parties as follows:

DISTRICT: Palo Alto Unified School District
25 Churchill Avenue
Palo Alto, CA 94306
Attention: Superintendent of Schools

CITY: City Clerk
City of Palo Alto
250 Hamilton Avenue
Palo Alto, CA 94301
Attention: Manager, Real Property

Notice sent by registered or certified mail in accordance with this Section shall be deemed delivered 72 hours from the date of mailing.

6.7 Attorneys' Fees. If any action or proceeding at law or in equity, or an arbitration proceeding, shall be brought to enforce or interpret any of the terms, covenants or conditions of this Lease, the prevailing party shall be entitled to recover from the other party its reasonable attorneys' fees. "Prevailing party" within the meaning of this paragraph shall include, without limitation, a party who brings an action against the other after the other is in breach or default, if such action is dismissed upon the other's payment of the sums allegedly due for performance of the covenants allegedly breached, or if the party commencing such action or proceeding obtains substantially the relief sought by it in such

action, whether or not such action proceeds to a final judgment or determination.

6.8 Holding Over. This Lease shall terminate without further notice at the expiration of the Lease term. Any holding over on the Leased Site and Extended Day Care spaces after the expiration of the Lease term, with the express written consent of District, shall be construed to be a tenancy from month to month, at a monthly rental of the last applicable base payment, and shall otherwise be on the terms and conditions herein specified.

6.9 Validity and Severability. If for any reason any portion of this Lease shall be held by a court of competent jurisdiction to be void, voidable, or unenforceable by the District or by the City, or if for any reason it is held by such a court that any of the covenants and conditions of the City or District hereunder, including the covenant to make payments hereunder, is unenforceable for the full term hereof, then and in such event, this Lease is and shall be deemed to be a lease from year to year under which the rentals are to be paid by the City annually in consideration of the right of the City to possess, occupy and use the Leased Site and Extended Day Care space, and all other terms, provisions and conditions of this Lease, except to the extent that such terms, provisions and conditions are contrary to or inconsistent with such holding, shall remain in full force and effect.

6.10 Waiver. The waiver by either party hereto of any breach by the other party of any agreement, covenant or condition hereof shall not operate as a waiver of any subsequent breach of the same or any other agreement, covenant or condition hereof. The receipt by District of any payments with knowledge of any default on the part of City in the observance or performance of any of the provisions of this Lease shall not be deemed to be a waiver of the provisions of this Lease.

6.11 Successors and Assigns. This Lease shall inure to the benefit of and shall be binding upon the District, the City and their respective successors and assigns, subject to the provisions of Section 3.11.

6.12 Agreement Represents Complete Agreement. This Lease represents the entire contract between the parties and supersedes and cancels any and all previous leases, negotiations, arrangements, representations, agreements and understandings between the District and the City concerning the Sites and matters covered hereby, except that the Lease previously entered into between City and District regarding the Ohlone Turf shall not be affected by this Lease.

6.13 Law Governing. This Lease shall be construed and interpreted in accordance with the laws of the State of California.

6.14 Changes in State Law. In the event that changes in state law occur whereby District is not permitted, in whole or in part, to retain payments due it from any source, other than the City, because of provisions of this lease, District shall promptly notify City, and District and City agree to renegotiate terms of this

Lease. Such negotiations shall be directed to assuring that payments due under this Lease will not directly or indirectly replace, or stand in lieu of, payments due District from any other source.

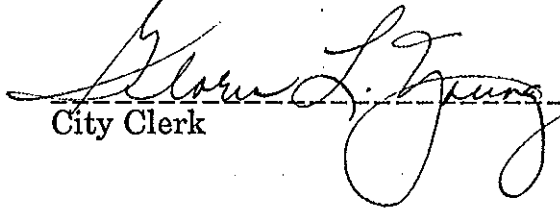
6.15 Amendment. No amendment to this Lease shall be made except in writing and executed by both the District and the City.

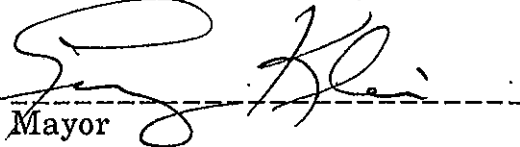
6.16 Memorandum of Lease. Upon execution hereof the City shall record in the County Recorder's Office a Memorandum of Lease referencing this Lease.

IN WITNESS WHEREOF, The District and the City have caused this Lease to be executed by their respective officers as of the day and year first above written.

ATTEST:

CITY OF PALO ALTO, Lessee

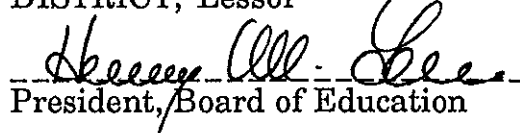

City Clerk


Mayor

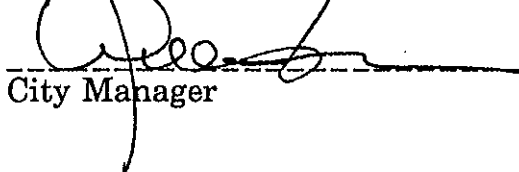
APPROVED AS TO FORM:

PALO ALTO UNIFIED SCHOOL
DISTRICT, Lessor

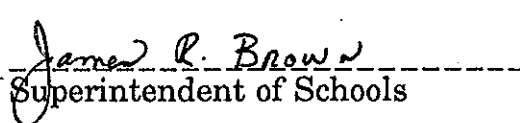

City Attorney


President, Board of Education

APPROVED:


City Manager

APPROVED:


Superintendent of Schools



staff report

Distributed early for Nov. 13
Study Session. This subject
will be on the Council agenda
November 20, 1989.

November 9, 1989

HONORABLE CITY COUNCIL
Palo Alto, California

**LEASE AND COVENANT NOT TO DEVELOP, JORDAN AND CUBBERLEY INTERIM LEASE AGREEMENTS
WITH PALO ALTO UNIFIED SCHOOL DISTRICT**

Members of the Council:

This report recommends that Council approve the attached (1) Lease and Covenant Not To Develop, (2) Jordan Interim Lease Agreement (City as Lessee), and (3) Cubberley Interim Lease Agreement (District as Lessee) with the Palo Alto Unified School District (PAUSD).

Background

On December 22, 1987, the City and PAUSD entered into a Lease and Covenant Not To Develop. Part of this agreement was to have provided 15-year leases of the Jordan and Jane Lathrop Stanford (JLS) School sites. Shortly after the agreement was executed, the PAUSD Board, with the recent addition of two new Board members, decided it was in the best interest of the District to postpone long-term lease of the Jordan and JLS sites until use of school sites throughout the District could be assessed. The City/School District Liaison Committee reconvened in January 1988 and after several meetings, presented to the City Council and the District Board Amendment Number One To Lease and Covenant Not To Develop, the Jordan Interim Lease and Cubberley Gymnasium Lease Agreements. In March of 1988, the City Council and the District's Board approved these agreements that provided the City with limited use of the Jordan facility and still guaranteed to the District that they would continue to receive income during the time it would take to complete the school use study. Beginning in November 1988, the Committee again reconvened for several meetings to extend the decision date of the First Amendment To Lease and Covenant Not To Develop and allow the District additional time to analyze the long-term use of each school site. Amendment Number Two to Lease and Covenant Not To Develop was approved by the District's Board and City Council in January of this year.

CMR:535:9

Other changes to the Lease and Covenant Not To Develop include:

Sale of Sites by District:

This Lease and Covenant Not To Develop includes a "seven-year back loaded covenant". If, during the term of the lease, the District closes either or both Jordan or JLS school sites, or both, with the intention of selling the sites, the actual sale of the property will not take place for seven years.

Term:

The term of the Covenant has also changed; instead of 15 years, the new covenant term is 15 years with a 10-year option to renew the lease and two 5-year City and District options to renew the lease, for a total possible term of 35 years.

Improvements/Modifications:

The approval process for development of the Cubberley site has also changed. In the previous Lease and Covenant Not To Develop, the City was obligated to obtain District approval for each \$20,000 modification at the Cubberley site. This section has been changed in the new Lease and Covenant Not To Develop to require the City to return 150,000 square feet of the Cubberley site to a condition that would be useable as a school as specified by state law at the time of termination.

Payment:

The payment clause now allows for a 1990 beginning lease payment of \$3,970,000, as follows:

- | | |
|---------------------------------|-------------|
| 1. Cubberley Lease Site | \$2,700,000 |
| 2. Covenant Not To Develop | \$ 970,000 |
| 3. Extended Day Care Facilities | \$ 300,000 |

Each year the payment will be adjusted by the increase in the Consumer Price Index. If the percentage of increase in any given year is greater than 10 percent, the City has the option of paying the total increase in that year or delaying payment of the portion above 10 percent until the end of each 5-year period of the Agreement.

The remaining clauses are essentially the same as those in the original Lease and Covenant Not To Develop or they are standard clauses necessary to cover the change in the City's leasehold interest.

Cubberley and Jordan Interim Lease Exchange

Attachments II and III are interim lease agreements. The City will lease the Jordan site (56,435 square feet) for an additional six months beginning January 1, 1990; and the District will lease the 43,000 square feet of the Cubberley site for a corresponding six months. This will allow the District ample time to modify space at other District sites to make room for the move of District services now located at Cubberley. It will also allow time for the City to

Attachment B

Honorable City Council
City of Palo Alto, California

COSTS RELATED TO CUBBERLY HIGH SCHOOL

Attention: Finance and Public Works Committee

*Emily when is
this going to
Council? PW -
LET PAUL know*

*WED -
9 AM
CUBBERLY*

The purpose of this report is to summarize the one-time and ongoing maintenance and administration costs associated with the leased Cubberly High School site. A summary of costs is followed by detailed justification. Costs are shown separately by City department. Total estimated capital costs will be provided after a comprehensive site condition assessment is available in August 1989. Capital costs will be a function of the degree of usage of the facility, and are estimated to range from \$1.7 to \$10 million.

CUBBERLEY COSTSOne Time Expenditures

Condition Assessment	\$31,500
Master Plan	40,000
Public Works - Equipment	38,000
Tools	3,000
Recreation - Equipment	30,000
- Supplies	10,000
Total One Time Expenditures	\$152,500

On-going Expenditures (annual costs)

Public Works:

Salaries and Benefits	\$480,400
Non-Salaries	241,500

Total - Public Works	\$721,900
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Recreation

Salaries and Benefits	196,000
Non-Salaries	37,000

Total - Recreation	\$233,000
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Finance - Real Estate

Salaries and Benefits	\$43,200
Non-Salaries	5,000

Total Finance	<u>\$48,200</u>
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Total Ongoing Expenditures	\$1,003,100
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DETAILED COST JUSTIFICATION

One-Time Expenditures:

Condition Assessment - \$31,500

Master Plan - \$40,000

Consultant study will provide an analysis of the facility needs at the site; make an assessment of parking and program requirements; and develop a plan to show how best to accomodate everything on site. The finding will be the basis for determining the necessary demolition and construction.

Equipment - Public Works - \$41,000

Requested are two vans and a pick-up truck, for a total cost of \$38,000. In addition, \$3,000 is requested for items such as a high lift, drill press, grinder, cut-off saw, skill saws, sewer rodders, a wet and dry vacuum, ladders, hand truck and dollies, and miscellaneous tools to outfit the Facilities Mechanics.

Equipment - Recreation- \$30,000

The one-ton truck for Recreation is needed by the landscaping crew to pick up landscape materials and move them around the 36-acre site and to remove cuttings and transport equipment.

Recreation Supplies - \$35,000

Recreation items include exercise equipment, gym equipment, volleyball nets and stands, tennis nets, balls, ping pong tables, tables, and chairs. Start-up expenses are estimated to total \$25,000, with ongoing costs of \$5-10,000/year. In addition, desks, chairs, furniture, file cabinets, phones, typewriters, and other equipment are estimated to cost \$10,000 initially.

Ongoing Expenditures

Public Works

Salaries and Benefits

5 Custodians - \$166,000

1 Custodian - Lead - \$34,500

The School District indicates that there are currently five custodians on their staff for the cleaning of the site (182,000 square feet). We are assuming a reasonable standard of 30,000 square feet per custodian. An additional lead position will be added, to permit availability of one custodian for special projects and daytime coverage, with the main custodial effort performed at

Attachment B

night.

2 Facilities Mechanics - \$91,200
1 Facilities Mechanic - Lead \$48,700

The Facilities Management Division performs preventive, repair and operational maintenance services for over 500,000 square feet of City facilities with ten Facilities Maintenance personnel, for an average assignment of 50,000 square feet per person. This would require 3 Facilities Mechanics for Cubberly's 182,000 square feet.

1 Office Specialist - \$36,000

This position is currently authorized as a half-time position for clerical support of Jordan site activities. The half-time status has proven inadequate. Integrated clerical support of both school property and City facilities will require a full-time clerical position.

1 Engineering Technician - \$42,000

This position is required to support school site projects such as roofings, painting contracts, mechanical and electrical system work, miscellaneous remodelings, etc. It will also support capital improvement projects that are planned.

1 Coordinator-Public Works Projects - \$52,000

This full-time on-site coordinator will handle problems and requests involving residents, program administrators, contractors, etc. in such a way as to expedite communication and work response from Public Works support organizations in the Facilities Management Division. It will coordinate as well service outages, contractor/resident conflicts, O.S.H.A and other regulatory assignments, and interface with Program Administrators and Daytime Nursery Directors.

Overtime - \$10,000

Funds are to pay personnel to handle unforeseen emergency situations on weekends, holidays and off-shift hours when such situations require immediate attention. The amount budgeted represents an average of fifty hours per month overtime. Given the unknown condition of the school facilities, the exact use, and occupancy, this seems to be a reasonable amount at this time.

Non-Salary Costs

Office Supplies - \$1,500

Includes supply costs for the clerical and administrative staff as well as engineering and drafting materials. The cost is one-half of that currently budgeted for the existing clerical staff of Facilities Management Division.

Attachment B

Maintenance Materials - \$100,000

The costs are based on multiplying the \$30,000 allocated to the Jordan site, at 52,000 square feet, by three for the Cubberly 182,000 square feet.

Custodial Supplies - \$20,000

Costs are based on established costs for required custodial supplies for City facilities (approximately 175,000 square feet requires supplies totalling \$24,000 annually).

Utilities - \$120,000

This cost was supplied by the School District. It represents heat and water.

Recreation

Salaries and Benefits

RECREATION SUPERVISOR
1 Site Manager - \$51,000/year | *person*

Responsibilities will include on site work with tenants, such as Foothill College, artists, and the 300 different hourly renters; program development for the gymnasium facility, multi-purpose room and the classrooms which the Recreation Department will use; and development of joint programming with Foothills College.

1.5 Clerical - \$54,000/year

The facility will be open from 6 a.m. to 10 p.m. and the office will be staffed from 8 a.m. to 8 p.m. This is required because Foothills College conducts programs in the evenings and the various renters necessitate staffing the facility during the day. The size of the facility (182,000 square feet) require staff both for office coverage and support for the Recreation Supervisor and Site Manager.

2 Park Maintenance - \$91,000

The dollar amount shown will also allow for some contract services. Work to be done includes maintenance of 11 acres of athletic fields, including four softball fields and two soccer fields; and landscaping around the buildings.

Non-Salary Costs

Recreation Supplies and Materials - \$5-10,000/year

See description above under one-time costs.

Office Supplies and Equipment - \$1,500/year

Attachment B

Includes paper, pens, printing materials, flyers, and brochures.

Landscape Maintenance Materials - \$12,000/year

Includes fertilizers, seed, top dress soil for the baseball diamonds, plants, mulch, irrigation pipe, and sprinklers.

Real Estate

Salaries and Benefits

1 Real Estate Analyst - \$43,200

The Real Estate Division currently manages 15 leases that take approximately one-third of a Real Estate Agent's time. The Cubberley site has 12 long-term leases currently, all of which expire in 1992. Twelve new leases with artists and 4-5 non-profit leases are proposed. Maintaining the 25 or more additional leases will require the addition of one full-time Analyst position.

Non-Salary Costs - \$5,000

Supplies and materials for printing of leases, office materials, etc.



City of Palo Alto
City Manager's Report

6

TO: HONORABLE CITY COUNCIL

FROM: CITY MANAGER **DEPARTMENT:** CITY MANAGER'S
OFFICE

DATE: DECEMBER 10, 2001 **CMR:448:01**

SUBJECT: Terman-CUBBERLEY PROPERTY EXCHANGE AGREEMENT
WITH PALO ALTO UNIFIED SCHOOL DISTRICT (LEASE
AMENDMENT AND LAND EXCHANGE AGREEMENT,
INCLUDING JOINT USE OF Terman SITE)

RECOMMENDATION

Staff recommends that the City Council approves the attached property exchange agreement between the City of Palo Alto and the Palo Alto Unified School District (PAUSD). The property exchange agreement allows the City to swap 8 acres of City-owned property at Terman Community Center to PAUSD for 8 acres of District-owned property at the Cubberley Community Center.

BACKGROUND

To accommodate PAUSD's plans to establish the third middle school at Terman, the City Council and the Board of Education jointly approved on January 29, 2001, a conceptual agreement to exchange 8 acres at Terman for 8 acres at Cubberley. (See Attachment A for conceptual agreement.) The property exchange was also a central element in the 4-Party Memorandum of Understanding (MOU) to address the Middle School Challenge, involving the City, PAUSD, Jewish Community Center (JCC), and Stanford University. The 4-Party MOU was approved by the City Council on September 10, 2001.

Under the provisions of the property exchange agreement, PAUSD receives ownership of 7.97 acres of buildings and parking lots at Terman. In exchange, the City receives 7.97 acres of buildings and parking lots at Cubberley. (See Attachment B for maps.)

Other major provisions include the following:

Attachment B

- PAUSD will be the primary user of City-owned playgrounds at Terman during school hours. The parkland will be open for community use and programming after school and on weekends and holidays.
- Terman Middle School facilities (e.g., gym, pool, auditorium) will be available for joint use under terms of a City-PAUSD joint use agreement which is attached to the Lease Amendment and Land Exchange Agreement.
- Should the District need to reclaim part of the Cubberley Community Center for a compact high school prior to the expiration of the City's lease for Cubberley, the District only needs to provide notice to the City and replace lost revenue to the City.

POLICY IMPLICATIONS

The property exchange agreement is consistent with the many policies and programs in the Comprehensive Plan promoting City-District collaboration and the effective provision of community services.

RESOURCE IMPACT

No monies are paid by the City or the District pursuant to the property exchange agreement. In terms of the City's continuing lease of the remaining 27 acres at Cubberley, the City's lease payments to the District are reduced by the amount equivalent to the City's lost revenues from the JCC (\$276,810 in 2001).

	YR	ACRE	RENT	PER ACRE
CITY - Base	1999	35	2.7	77,142
CITY Reduction	2001	8	276,810	34,601
Frank Benest City Manager	2001	8		
	2001	35	3,992,632	113,218

PREPARED BY:

CITY MANAGER APPROVAL:

Frank Benest
City Manager

Attachments:

- Attachment A – Conceptual Agreement
- Attachment B – Maps
- Lease Amendment and Land Exchange Agreement



City of Palo Alto City Manager's Report

TO: HONORABLE CITY COUNCIL

ATTENTION: FINANCE COMMITTEE

FROM: CITY MANAGER **DEPARTMENT:** ADMINISTRATIVE SERVICES

DATE: NOVEMBER 18, 2003 **CMR:** 498:03

SUBJECT: OPTION TO EXTEND THE LEASE AND COVENANT NOT TO DEVELOP AGREEMENT WITH THE PALO ALTO SCHOOL DISTRICT

REPORT IN BRIEF

Staff requests that the Finance Committee recommend to Council that the City exercise its option for a 10-year extension on the Lease and Covenant Not to Develop (Agreement) with the Palo Alto Unified School District (PAUSD), which will expire December 31, 2004.

Under the Agreement as amended, the City provides PAUSD with annual revenue in exchange for 1) the City's lease for the former Cubberley High School site; 2) a Covenant Not to Develop seven elementary school sites; and 3) an agreement that PAUSD provide space for extended day care at 12 elementary school sites. The terms of the Agreement have resulted in significant benefit for the community since its inception in 1991. The Cubberley Community Center has become a major hub of community participation with more the 900,000 people and 66 organizations using the Cubberley facilities on an annual basis. The Covenant Not to Develop has prevented the PAUSD from selling or developing sites for non School District purposes and has preserved a substantial amount of the City's remaining open space. The seven covenanted sites provide athletic fields supporting a variety of sporting events for all ages. The Extended Day Childcare program provides space at 12 elementary school sites for City-operated extended day childcare services. Currently, 897 children are accommodated at these sites, which are running near capacity. The Agreement since 1990 has provided the PAUSD with over sixty million dollars. Revenue from the Agreement is now almost equal to 4% of the PAUSD annual budget.

Attachment B

Extending the Agreement for 10 years will result in cost to the General Fund projected to total \$69,077,000 for payments to PAUSD, plus an additional estimated \$1,800,000 for maintenance and repairs. Exercising the option to extend the Agreement is consistent with policies and programs in the Comprehensive Plan promoting City-PAUSD collaboration and the effective provision of community services.

RECOMMENDATION

Staff requests that the Finance Committee recommend to Council that the City exercise its option to the 10-year extension on the Lease and Covenant Not to Develop (Agreement) with the Palo Alto Unified School District (PAUSD), which will expire December 31, 2004.

BACKGROUND

On September 1, 1989, the City and the PAUSD entered into the Agreement. Under the Agreement, the City provided PAUSD with annual revenue in exchange for the City receiving: 1) a lease on the former 35-acre Cubberley High School site, including 180,000 square feet in improvements to be used for community theater, sport and art groups; 2) a Covenant Not to Develop five neighborhood elementary school sites (Jordan, Jane Lathrop Stanford, Ohlone, Garland and Greendell); and 3) an agreement that PAUSD provide space for extended day care at each of eleven remaining elementary school sites. The Agreement was for 15 years, beginning January 1, 1990 and ending on December 31, 2004. There are three options to extend the lease. In the first option, the City has the sole option to extend the Agreement for an additional 10 years. This first option is the focus of this CMR. The second and third options are for two additional five-year terms and require the mutual agreement of both the City and PAUSD. Each year, the payment for the entire agreement is increased by an amount equal to the increase in the consumer price index (CPI).

In July 1998, the Agreement was amended (Amendment #1) to provide for the reopening of one of the covenanted sites (the "old" Ohlone site, now renamed Hoover School) and the substitution of two operating sites, Walter Hays and Juana Briones, for the covenanted site to be reopened. The amendment also provided for the addition of a twelfth extended day care site to be opened at the Hoover School.

On January 29, 2001, to accommodate PAUSD's plans to establish a third middle school at the City-owned former Terman School site, the City and PAUSD jointly approved a conceptual agreement to exchange 7.97 acres at Terman for 7.97 acres at the PAUSD-owned Cubberley site. The property exchange was also a central element in the Four-Party Memorandum of Understanding (MOU) to Address the Middle School Challenge, involving the City, the PAUSD, Jewish Community Center and Stanford University. The Four-Party MOU was approved by the City Council on September 10, 2001.

On December 10, 2001, the City Council approved the Terman-Cubberley Property Exchange Agreement with the PAUSD (Lease Amendment #2 and Land Exchange Agreement). The property exchange agreement provided for the City to swap 7.97 acres of City-owned property at Terman to the PAUSD for 7.97 acres of PAUSD-owned property at Cubberley. Its provisions also included the following: 1) a reduction of the City's lease payments to the PAUSD by an amount equivalent to the City's lost revenues

from its lease of the Terman site to the Jewish Community Center (\$23,490 per month); 2) joint use of the Terman site fields and special facilities; and 3) reopening of the covenanted Garland School site and the substitution of the Addison and El Carmelo school sites within the Covenant Not to Develop.

DISCUSSION

In the late 80's, when the Agreement was negotiated, declining enrollment and post-Proposition 13 revenue reductions had placed the PAUSD in financial trouble. School enrollment was down, and the PAUSD was consolidating schools and selling surplus school sites to developers for housing (Attachment A). This produced the necessary funds for the PAUSD, but the City and community became concerned with the increased housing density and the loss of open space and recreational opportunities formerly provided by the neighborhood school sites. The City and PAUSD negotiated the Agreement for the purpose of providing revenue to help assure the continued existence of the City's excellent school system, while still retaining the open space and recreational facilities for the community.

The Agreement currently provides the following community benefits: 1) the Cubberley Community Center with its many and varied community programs; 2) space for extended day care at 12 elementary school sites; 3) the Covenant Not to Develop 7 school sites and 4) continued income for the PAUSD.

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Since its inception in 1991, the Cubberley Community Center has steadily become a major hub for community participation. In total, more than 900,000 people and 66 organizations use Cubberley facilities on an annual basis – more than all of Palo Alto's community facilities combined. (See Attachment B for full listing of program providers.)

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Cubberley has also become a focal point for all art disciplines. Groups who rehearse and perform at Cubberley include the El Camino Youth Symphony, Palo Alto Chamber Orchestra, Palo Alto Philharmonic, Zohar School of Dance, Dance Visions, and many more. There is also a visual artist colony providing professional artists low cost studios to create their work, while being able to afford to do so in Palo Alto. The Cubberley theatre also provides a rental space for myriad theatre groups who do not have a home stage of their own.

Sports also take center stage at Cubberley where organized groups and individuals throughout the year play organized soccer, softball, karate, football, table tennis, tennis, Lacrosse, and basketball.

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PAUSD athletic fields are used most heavily between the after school hours of 3:30 p.m. and 7 p.m., Monday through Friday. These athletic fields are used by the same organizations on weekends from early morning to dusk. Adults play primarily on Sundays while youth organizations play on both days. The months when the heaviest use occurs are September through November and March through June. AYSO, which has approximately 2,500 participants in the fall, will have thousands of hours of use on elementary and middle school fields.

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The Agreement provides for significant annual revenue to the PAUSD. Since the lease began in January of 1990, the City has paid PAUSD over sixty million dollars. Revenue from this agreement is now almost equal to 4% of the PAUSD annual budget.

RESOURCE IMPACT

Extending the Agreement for 10 years will result in costs to the general fund projected to total \$69,077,000 for payments to PAUSD, plus an additional estimated \$1,800,000 for maintenance and repairs (See Attachment C).

POLICY IMPLICATIONS

Exercising the option to extend the Agreement is consistent with policies and programs in the Comprehensive Plan promoting City-PAUSD collaboration and the effective provision of community services.

ENVIRONMENTAL REVIEW

Extension or re-negotiation of an existing lease and agreement does not constitute a project for purposes of the California Environmental Quality Act (CEQA).

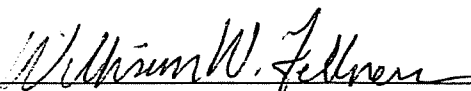
ATTACHMENTS

Attachment A: Disposition Status of Surplus School Sites as of January 15, 1987


Attachment B: Cubberley Center Program Providers 2003-04

Attachment C: Lease and Covenant Not To Develop Revenue and Expenses 2003-2013


PREPARED BY:


WILLIAM W. FELLMAN
Manager, Real Property

DEPARTMENT HEAD APPROVAL:


CARL YEATS
Director, Administrative Services

CITY MANAGER APPROVAL


EMILY HARRISON
Assistant City Manager

cc:PAUSD

**DISPOSTION STATUS OF SURPLUS SCHOOL SITES
AS OF JANUARY 15, 1987**

<u>Closure</u> <u>Date</u>	<u>Site</u>	<u>Status</u>	<u>Net Revenues</u> <u>Excluding Interest</u>
6/76	Ortega	Sold FY 84-85 (retail)	\$2.5M \$64,000 (N)
6/76	Ross Road	Sold FY 85-86 (retail)	\$3.6M
6/76	Fremont Hills	Leased until 9/88 with (3) 5-year options to renew; rent adjusted at end of each 5 year period to prevailing rate for similar properties; FAUSD has right to terminate with 1 year notice in event site must be sold; Lessee has option to purchase; lessee provides own services	\$144,000 FY 86/87
6/76	Greendell	Reopened to house FAUSD Adult Ed, Special Ed support staff, PTA wardrobe	N/A
6/78	Ventura	Sold FY 80-81 to City of P.A. (2.2A pre-Naylor credit); Purchase price determined @ recapture of investment value or 75% of fair market value.	\$1.2M
6/78	Terman	Lease-purchase agreement with City of P.A. effective Nov. 1981 (20 years); Base rent of \$475,000 plus interest on principal.	\$9M \$1M FY 86/87
6/79	Garland	Leased until June 1991 w/options to renew for 10 more years; turf leased to City	\$230,000 FY 86/87
6/79	DeAnza	Sold FY 85-86 (retail)	\$2.7M \$81,000 (N)
6/79	Cubberley	Leases to be renegotiated to terminate 6/92; 31% leased; 12 lessees 43% hourly brokerage 22% FAUSD occupied 3% vacant as of June 1986 11.8 acres leased to City/Naylor 105,000 SF Classroom space 75,000 SF Special Facilities	\$510,000 FY 86/87
6/81	Crescent Park	Sold FY 84-85 (retail)	\$4M
6/81	Hoover	Sold FY 84-85 (wholesale)	\$2.8M \$305,000 (N)

Attachment B

6/81	Ohlone	Leased until 6/87; 8 lessees; will be rebid 1/87 for 5 yr term	\$170,000 FY 86/86
6/85	Jordan	vacant; some hourly use of gym + MP; turf and pool leased to City	-\$50,000 deficit 86/87
Unim.	PM/Alexis	sold FY 82-83 (wholesale) to Town of Los Altos Hills	\$2.7M
Unim.	PM/Arastra	sold FY 85-86 (retail)	\$.9M

N = Naylor purchase

Revised 1/15/87 RB

Cubberley Center Program Providers 2003-2004

Tenants

Adolescent Counseling Services	FH
Artists Studios (21)	E,F,U
California Law Revision	D2
Children's International School	L1
Children's Pre-School Center	T1
Dance Connection	L5
Dance Visions	L3
Foothill College Administration	I
Friends of the PA Library	Port
Neighbor Montessori	K3
Hua Kuang Chinese Reading Rm	H4
Jewish Community Center	Port
Office of Emergency Services	D4
Palo Alto Preparatory School	H2
Wildlife Rescue	V
Youth Community Service	D3
Zohar School of Dance	L4

Dance

Academy of Dance Libre	DS
African Dance with Wilfred Mark	DS
Congolese Dance with Regine	DS
Friday Night Ballroom Dancers	Pav
L'ecole de Danse	DS
Mayfield Morris & Sword	DS
Mystic Sun Mid-Eastern Dance	DS
Racies de Mexico	L6
Red Thistle Dancers	DS
Rosen Method Movement	DS
Saturday Night Ballroom Dancers	Pav

Music

El Camino Youth Symphony	M4
Music for Children	M3
Palo Alto Chamber Orchestra	M1
Palo Alto Philharmonic	H1
Peninsula Barbershop Chorus	M2
Peninsula Women's Chorus	M2
Peninsula Piano School	M1

Exercise/Sports

AYSO Soccer	Field
Basketball/Volleyball Camps	Gyms
California Karate Academy	GAR
Jazzercise	Pav/Gym
Keys School	Gym
Palo Alto Adult Soccer	Field
Palo Alto Girls Softball	Field
PACYSA	Field
Palo Alto Table Tennis Club	Gym
Palo Alto Tennis Club	Courts
Palo Alto Tomahawks Lacrosse	Field
Silicon Valley Soccer League	Field
Taijiquan Tutelage	M4
Traditional Wushu Association	M4
YMCA Basketball League	Gyms

Other

Acme Education Center	A2,3,6,7
BA Amphibian/Reptile Society	H1
Chinese Com. Cntr Lunch Prg	Kitchen
Christ Temple Church	Pav
First Fijian Assembly of God	Pav
Grossman Academy	A2,3,6,7
Image Film Group	H1
Innovative Education Center	A2
Kumon Math and Reading	A7
Mt. Calvary Baptist Church	H1
National Traffic Safety Insitute	B4
PA Adult School - ESL Testing	A3
Senior Friendship Day	Aud
Software Development Forum	H-1
Theater du Coin	M2
Vineyard Christen Fellowship	Aud



Lease & Covenant Revenues and Expenses 2003-2015 (Fiscal Year Basis)

Revenues	Actual 2002-03	Projected 2003-04	Projected 2004-05	Projected 2005-06	Projected 2006-07	Projected 2007-08	Projected 2008-09	Projected 2009-10	Projected 2010-11	Projected 2011-12	Projected 2012-13	Projected 2013-14	Projected 2014-15
Property Rental (long term leases)	1,421,596	1,464,244	1,508,171	1,553,416	1,600,019	1,648,019	1,697,460	1,748,384	1,800,835	1,854,860	1,910,506	1,967,821	2,026,856
Facilities Rental (hourly rental)	793,354	833,022	874,673	918,406	964,327	1,012,543	1,063,170	1,116,329	1,172,145	1,230,752	1,292,290	1,356,905	1,424,750
Cubberley Rental (City office space)	73,000	73,000	73,000	73,000	73,000	73,000	73,000	73,000	73,000	73,000	73,000	73,000	73,000
Total Revenue	2,287,950	2,370,266	2,455,844	2,544,823	2,637,346	2,733,562	2,833,630	2,937,713	3,045,980	3,155,613	3,275,796	3,397,726	3,524,606

Expenses	Actual 2002-03	Projected 2003-04	Projected 2004-05	Projected 2005-06	Projected 2006-07	Projected 2007-08	Projected 2008-09	Projected 2009-10	Projected 2010-11	Projected 2011-12	Projected 2012-13	Projected 2013-14	Projected 2014-15
Payments to PAUSD													
Lease	3,353,893	3,837,453	3,914,202	4,012,250	4,132,618	4,256,596	4,384,294	4,515,823	4,651,298	4,790,837	4,934,562	5,082,599	5,235,077
Child Care Sites	491,758	500,129	510,131	522,910	538,597	554,755	571,397	588,539	606,196	624,381	643,113	662,406	682,278
Utilities (child care sites)	25,927	30,175	29,156	30,778	30,778	31,702	30,315	31,224	31,224	32,161	32,161	33,126	33,126
Subtotal PAUSD	3,871,578	4,367,756	4,453,488	4,565,938	4,701,993	4,843,053	4,986,006	5,135,587	5,288,718	5,447,379	5,609,836	5,778,131	5,950,481
Departmental Expenditures for Cubberley													
Lease Management and Maintenance (PWD and ASD)	501,403	526,473	552,797	580,437	609,458	639,931	671,928	705,524	740,801	777,841	816,733	857,569	900,448
Non-maintenance Operating Expense (CSD)	1,448,846	1,521,288	1,597,353	1,677,220	1,761,081	1,849,135	1,941,582	2,038,672	2,140,605	2,247,636	2,360,017	2,478,018	2,601,919
Subtotal Departmental Expenditures	1,950,249	2,047,761	2,150,150	2,257,657	2,370,540	2,489,067	2,613,520	2,744,196	2,881,406	3,025,476	3,176,750	3,335,588	3,502,667
Total Expenses	5,821,827	6,415,517	6,603,638	6,823,595	7,072,533	7,332,120	7,599,527	7,879,783	8,170,124	8,472,855	8,786,586	9,113,718	9,452,448
Net	(3,533,877)	(4,045,252)	(4,147,794)	(4,278,773)	(4,435,187)	(4,598,557)	(4,765,896)	(4,942,070)	(5,124,143)	(5,314,243)	(5,510,790)	(5,715,992)	(5,928,242)

Cubberley Operations Only													
Rev	2,287,950	2,370,266	2,455,844	2,544,823	2,637,346	2,733,562	2,833,630	2,937,713	3,045,980	3,158,613	3,275,796	3,397,726	3,524,606
Exp	1,950,249	2,047,761	2,150,150	2,257,657	2,370,540	2,489,067	2,613,520	2,744,196	2,881,406	3,025,476	3,176,750	3,335,588	3,502,367
Net	337,701	322,504	305,694	287,166	266,806	244,496	220,110	193,516	164,574	133,136	99,046	62,138	22,239
Factor	1.173	1.157	1.142	1.127	1.113	1.098	1.084	1.071	1.057	1.044	1.031	1.019	1.006

Cubberley Capital Projects Since 1995-96	Number	Adopted Budget	Year Appropriated
Cubberley Code Roof Repair	19018	847,000	95-96
Cubberley Athletic Field Irrigation Improvements	19905	30,000	98-99
Cubberley Theatre Improvements	19911	120,000	98-99
Cubberley Stage Floor Replacement	AC04010	25,000	03-04
Cubberley Building I Air Conditioning Replacement	PF04012	175,000	03-04
Cubberley Mechanical and Electrical Upgrades	PF04010	425,000	03-04
Total		1,622,000	



City of Palo Alto City Manager's Report

TRANSMITTAL OF FINANCE COMMITTEE RECOMMENDATION TO COUNCIL

10

TO: HONORABLE CITY COUNCIL

**FROM: CITY MANAGER DEPARTMENT: ADMINISTRATIVE
SERVICES**

DATE: DECEMBER 15, 2003 CMR: 556:03

**SUBJECT: OPTION TO EXTEND THE LEASE AND COVENANT NOT TO
DEVELOP AGREEMENT WITH THE PALO ALTO SCHOOL
DISTRICT**

RECOMMENDATION:

Staff requests that the Finance Committee recommend to Council that the City exercise its option to the 10-year extension on the Lease and Covenant Not to Develop (Agreement) with the Palo Alto Unified School District (PAUSD), which will expire December 31, 2004.

COMMITTEE REVIEW AND RECOMMENDATIONS:

The Committee voted unanimously to accept staff's recommendation. In addition, the Committee requested that Council direct staff to work with the Cubberley Standing Committee and other shareholders to begin development of a new 10-year Lease and Covenant Not to Develop Plan.

ATTACHMENTS

Attachment 1: CMR: 498:03

Attachment 2: Revised Attachment C to CMR 498:03

Attachment B

PREPARED BY: William W. Fellman
WILLIAM W. FELLMAN
Manager, Real Property

DEPARTMENT APPROVAL: Carl Yeats
CARL YEATS
Director, Administrative Services

CITY MANAGER APPROVAL: Emily Harrison
EMILY HARRISON
Assistant City Manager

TO: HONORABLE CITY COUNCIL

ATTENTION: FINANCE COMMITTEE

FROM: CITY MANAGER DEPARTMENT:ADMINISTRATIVE SERVICES

DATE: NOVEMBER 18, 2003 CMR: 498:03

SUBJECT: OPTION TO EXTEND THE LEASE AND COVENANT NOT TO DEVELOP AGREEMENT WITH THE PALO ALTO SCHOOL DISTRICT

REPORT IN BRIEF

Staff requests that the Finance Committee recommend to Council that the City exercise its option for a 10-year extension on the Lease and Covenant Not to Develop (Agreement) with the Palo Alto Unified School District (PAUSD), which will expire December 31, 2004.

Under the Agreement as amended, the City provides PAUSD with annual revenue in exchange for 1) the City's lease for the former Cubberley High School site; 2) a Covenant Not to Develop seven elementary school sites; and 3) an agreement that PAUSD provide space for extended day care at 12 elementary school sites. The terms of the Agreement have resulted in significant benefit for the community since its inception in 1991. The Cubberley Community Center has become a major hub of community participation with more the 900,000 people and 66 organizations using the Cubberley facilities on an annual basis. The Covenant Not to Develop has prevented the PAUSD from selling or developing sites for non School District purposes and has preserved a substantial amount of the City's remaining open space. The seven covenanted sites provide athletic fields supporting a variety of sporting events for all ages. The Extended Day Childcare program provides space at 12 elementary school sites for City-operated extended day childcare services. Currently, 897 children are accommodated at these sites, which are running near capacity. The Agreement since 1990 has provided the PAUSD with over sixty million dollars. Revenue from the Agreement is now almost equal to 4% of the PAUSD annual budget.

Attachment B

Extending the Agreement for 10 years will result in cost to the General Fund projected to total \$69,077,000 for payments to PAUSD, plus an additional estimated \$1,800,000 for maintenance and repairs. Exercising the option to extend the Agreement is consistent with policies and programs in the Comprehensive Plan promoting City-PAUSD collaboration and the effective provision of community services.

RECOMMENDATION

Staff requests that the Finance Committee recommend to Council that the City exercise its option to the 10-year extension on the Lease and Covenant Not to Develop (Agreement) with the Palo Alto Unified School District (PAUSD), which will expire December 31, 2004.

BACKGROUND

On September 1, 1989, the City and the PAUSD entered into the Agreement. Under the Agreement, the City provided PAUSD with annual revenue in exchange for the City receiving: 1) a lease on the former 35-acre Cubberley High School site, including 180,000 square feet in improvements to be used for community theater, sport and art groups; 2) a Covenant Not to Develop five neighborhood elementary school sites (Jordan, Jane Lathrop Stanford, Ohlone, Garland and Greendell); and 3) an agreement that PAUSD provide space for extended day care at each of eleven remaining elementary school sites. The Agreement was for 15 years, beginning January 1, 1990 and ending on December 31, 2004. There are three options to extend the lease. In the first option, the City has the sole option to extend the Agreement for an additional 10 years. This first option is the focus of this CMR. The second and third options are for two additional five-year terms and require the mutual agreement of both the City and PAUSD. Each year, the payment for the entire agreement is increased by an amount equal to the increase in the consumer price index (CPI).

In July 1998, the Agreement was amended (Amendment #1) to provide for the reopening of one of the covenanted sites (the "old" Ohlone site, now renamed Hoover School) and the substitution of two operating sites, Walter Hays and Juana Briones, for the covenanted site to be reopened. The amendment also provided for the addition of a twelfth extended day care site to be opened at the Hoover School.

On January 29, 2001, to accommodate PAUSD's plans to establish a third middle school at the City-owned former Terman School site, the City and PAUSD jointly approved a conceptual agreement to exchange 7.97 acres at Terman for 7.97 acres at the PAUSD-owned Cubberley site. The property exchange was also a central element in the Four-Party Memorandum of Understanding (MOU) to Address the Middle School Challenge, involving the City, the PAUSD, Jewish Community Center and Stanford University. The Four-Party MOU was approved by the City Council on September 10, 2001.

On December 10, 2001, the City Council approved the Terman-Cubberley Property Exchange Agreement with the PAUSD (Lease Amendment #2 and Land Exchange Agreement). The property exchange agreement provided for the City to swap 7.97 acres of City-owned property at Terman to the PAUSD for 7.97 acres of PAUSD-owned property at Cubberley. Its provisions also included the following: 1) a reduction of the City's lease payments to the PAUSD by an amount equivalent to the City's lost revenues

from its lease of the Terman site to the Jewish Community Center (\$23,490 per month); 2) joint use of the Terman site fields and special facilities; and 3) reopening of the covenanted Garland School site and the substitution of the Addison and El Carmelo school sites within the Covenant Not to Develop.

DISCUSSION

In the late 80's, when the Agreement was negotiated, declining enrollment and post-Proposition 13 revenue reductions had placed the PAUSD in financial trouble. School enrollment was down, and the PAUSD was consolidating schools and selling surplus school sites to developers for housing (Attachment A). This produced the necessary funds for the PAUSD, but the City and community became concerned with the increased housing density and the loss of open space and recreational opportunities formerly provided by the neighborhood school sites. The City and PAUSD negotiated the Agreement for the purpose of providing revenue to help assure the continued existence of the City's excellent school system, while still retaining the open space and recreational facilities for the community.

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PREPARED BY:



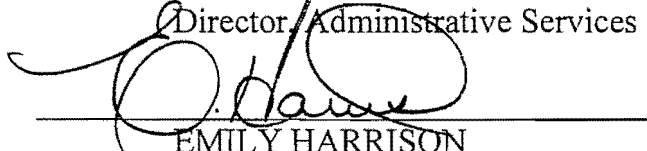
WILLIAM W. FELLMAN
Manager, Real Property

DEPARTMENT HEAD APPROVAL:



CARL YEATS
Director, Administrative Services

CITY MANAGER APPROVAL



EMILY HARRISON
Assistant City Manager

cc:PAUSD

**DISPOSITION STATUS OF SURPLUS SCHOOL SITES
AS OF JANUARY 15, 1987**

<u>Closure</u> <u>Date</u>	<u>Site</u>	<u>Status</u>	<u>Net Revenues</u> <u>Excluding Interest</u>
6/76	Ortega	Sold FY 84-85 (retail)	\$2.5M \$64,000 (N)
6/76	Ross Road	Sold FY 85-86 (retail)	\$3.6M
6/76	Fremont Hills	Leased until 9/88 with (3) 5-year options to renew; rent adjusted at end of each 5 year period to prevailing rate for similar properties; FAUSD has right to terminate with 1 year notice in event site must be sold; Lessee has option to purchase; lessee provides own services	\$144,000 FY 86/87
6/76	Greendell	Reopened to house FAUSD Adult Ed, Special Ed support staff, PTA wardrobe	N/A
6/78	Ventura	Sold FY 80-81 to City of P.A. (2.2A pre-Naylor credit); Purchase price determined @ recapture of investment value or 75% of fair market value.	\$1.2M
6/78	Terman	Lease-purchase agreement with City of P.A. effective Nov. 1981 (20 years); Base rent of \$475,000 plus interest on principal.	\$9M \$1M FY 86/87
6/79	Gariand	Leased until June 1991 w/options to renew for 10 more years; turf leased to City	\$230,000 FY 86/87
6/79	DeAnza	Sold FY 85-86 (retail)	\$2.7M \$81,000 (N)
6/79	Cubberley	Leases to be renegotiated to terminate 6/92; 31% leased; 12 lessees 43% hourly brokerage 22% FAUSD occupied 3% vacant as of June 1986 11.8 acres leased to City/Naylor 105,000 SF Classroom space 75,000 SF Special Facilities	\$510,000 FY 86/87
6/81	Crescent Park	Sold FY 84-85 (retail)	\$4M
6/81	Hoover	Sold FY 84-85 (wholesale)	\$2.8M \$305,000 (N)

Attachment B

6/81	Ohlone	Leased until 6/87; 8 lessees; will be rebid 1/87 for 5 yr term	\$170,000 FY 86/86
6/85	Jordan	vacant; some hourly use of gym + MP; turf and pool leased to City	-\$50,000 deficit 86/87
Unim.	PM/Alexis	sold FY 82-83 (wholesale) to Town of Los Altos Hills	\$2.7M
Unim.	PM/Anastria	sold FY 85-86 (retail)	\$.9M

N = Naylor purchase

Revised 1/15/87 RB

Cubberley Center Program Providers 2003-2004

Tenants

Adolescent Counseling Services	FH
Artists Studios (21)	E,F,U
California Law Revision	D2
Children's International School	L1
Children's Pre-School Center	T1
Dance Connection	L5
Dance Visions	L3
Foothill College Administration	I
Friends of the PA Library	Port
Neighbor Montessori	K3
Hua Kuang Chinese Reading Rm	H4
Jewish Community Center	Port
Office of Emergency Services	D4
Palo Alto Preparatory School	H2
Wildlife Rescue	V
Youth Community Service	D3
Zohar School of Dance	L4

Dance

Academy of Dance Libre	DS
African Dance with Wilfred Mark	DS
Congolese Dance with Regine	DS
Friday Night Ballroom Dancers	Pav
L'ecole de Danse	DS
Mayfield Morris & Sword	DS
Mystic Sun Mid-Eastern Dance	DS
Racies de Mexico	L6
Red Thistle Dancers	DS
Rosen Method Movement	DS
Saturday Night Ballroom Dancers	Pav

Music

El Camino Youth Symphony	M4
Music for Children	M3
Palo Alto Chamber Orchestra	M1
Palo Alto Philharmonic	H1
Peninsula Barbershop Chorus	M2
Peninsula Women's Chorus	M2
Peninsula Piano School	M1

Exercise/Sports

AYSO Soccer	Field
Basketball/Volleyball Camps	Gyms
California Karate Academy	GAR
Jazzercise	Pav/Gym
Keys School	Gym
Palo Alto Adult Soccer	Field
Palo Alto Girls Softball	Field
PACYSA	Field
Palo Alto Table Tennis Club	Gym
Palo Alto Tennis Club	Courts
Palo Alto Tomahawks Lacrosse	Field
Silicon Valley Soccer League	Field
Taijiquan Tutelage	M4
Traditional Wushu Association	M4
YMCA Basketball League	Gyms

Other

Acme Education Center	A2,3,6,7
BA Amphibian/Reptile Society	H1
Chinese Com. Cntr Lunch Prg	Kitchen
Christ Temple Church	Pav
First Fijian Assembly of God	Pav
Grossman Academy	A2,3,6,7
Image Film Group	H1
Innovative Education Center	A2
Kumon Math and Reading	A7
Mt. Calvary Baptist Church	H1
National Traffic Safety Insitute	B4
PA Adult School - ESL Testing	A3
Senior Friendship Day	Aud
Software Development Forum	H-1
Theater du Coin	M2
Vineyard Christen Fellowship	Aud



**Lease & Covenant Revenues and Expenses
2003-2015 (Fiscal Year Basis)**

	ACTUAL 2002-03	Projected 2003-04	Projected 2004-05	Projected 2005-06	Projected 2006-07	Projected 2007-08	Projected 2008-09	Projected 2009-10	Projected 2010-11	Projected 2011-12	Projected 2012-13	Projected 2013-14	Projected 2014-15
Revenues													
Property Rental (long term leases)	1,421,596	1,464,244	1,508,171	1,553,416	1,600,019	1,648,019	1,697,460	1,748,384	1,800,835	1,854,860	1,910,506	1,967,821	2,026,856
Facilities Rental (hourly rental)	793,354	833,022	874,673	918,406	964,327	1,012,543	1,063,170	1,116,329	1,172,145	1,230,752	1,292,290	1,356,905	1,424,750
Cubberley Rental (City office space)	73,000	73,000	73,000	73,000	73,000	73,000	73,000	73,000	73,000	73,000	73,000	73,000	73,000
Total Revenue	2,287,950	2,370,266	2,455,844	2,544,823	2,637,346	2,733,562	2,833,630	2,937,713	3,045,980	3,158,613	3,275,796	3,397,726	3,524,606
Expenses													
Payments to PAUSD													
Lease	3,353,693	3,637,453	3,914,202	4,012,250	4,132,618	4,256,596	4,384,294	4,515,823	4,651,298	4,790,837	4,934,562	5,082,599	5,235,077
Covenant Not To Develop	1,458,069	1,482,886	1,512,544	1,550,432	1,596,945	1,644,854	1,694,199	1,745,025	1,797,376	1,851,297	1,906,636	1,964,041	2,022,962
Child Care Sites	491,758	500,129	510,131	522,910	538,597	554,755	571,397	588,539	606,196	624,381	643,113	662,406	682,278
Utilities (child care sites)	25,927	30,175	29,156	30,778	30,778	31,702	30,315	31,224	31,224	32,161	32,161	33,126	33,126
Subtotal PAUSD	5,329,647	5,850,642	5,966,032	6,116,371	6,298,938	6,487,907	6,680,206	6,880,612	7,086,094	7,298,676	7,516,672	7,742,172	7,973,443
Departmental Expenditures for Cubberley													
Lease Management and Maintenance (PWD and ASD)	501,403	526,473	552,797	580,437	609,458	639,931	671,928	705,524	740,801	777,841	816,733	857,569	900,448
Non-maintenance Operating Expense (CSD)	1,448,846	1,521,288	1,597,353	1,677,220	1,761,081	1,849,135	1,941,592	2,038,672	2,140,605	2,247,636	2,360,017	2,478,018	2,601,919
Subtotal Departmental Expenditures	1,950,249	2,047,761	2,150,150	2,257,657	2,370,540	2,489,067	2,613,520	2,744,196	2,881,406	3,025,476	3,176,750	3,335,588	3,502,367
Total Expenses	7,279,896	7,898,403	8,116,182	8,374,028	8,669,478	8,976,973	9,293,726	9,624,808	9,967,500	10,324,153	10,693,422	11,077,760	11,475,810
Net	(4,991,946)	(5,528,138)	(5,660,338)	(5,829,205)	(6,032,133)	(6,243,411)	(6,460,096)	(6,687,096)	(6,921,519)	(7,165,540)	(7,417,626)	(7,680,034)	(7,951,205)
Cubberley Operations Only													
Rev	2,287,950	2,370,266	2,455,844	2,544,823	2,637,346	2,733,562	2,833,630	2,937,713	3,045,980	3,158,613	3,275,796	3,397,726	3,524,606
Exp	1,950,249	2,047,761	2,150,150	2,257,657	2,370,540	2,489,067	2,613,520	2,744,196	2,881,406	3,025,476	3,176,750	3,335,588	3,502,367
Net	337,701	322,504	305,694	287,166	266,806	244,496	220,110	193,516	164,574	133,136	99,046	62,138	22,239
Factor	1.173	1.157	1.142	1.127	1.113	1.098	1.084	1.071	1.057	1.044	1.031	1.019	1.006

Cubberley Capital Projects Since 1995-96

Name	Number	Adopted Budget	Year Appropriated
Cubberley Code Roof Repair	19018	847,000	95-96
Cubberley Athletic Field Irrigation Improvements	19905	30,000	98-99
Cubberley Theatre Improvements	19911	120,000	98-99
Cubberley and Children's Theatre Stage Floor Replacement	AC04010	50,000	03-04
Cubberley Building 1 Air Conditioning Replacement	PF04012	175,000	03-04
Cubberley Mechanical and Electrical Upgrades	PF04010	425,000	03-04
Total		1,647,000	