

OAKLAND UNIFIED SCHOOL DISTRICT  
Office of the State Administrator

March 22, 2006

To: Randolph E. Ward, Ed.D, State Administrator

From: Timothy E. White, Assistant Superintendent – Division of Facilities Planning & Management, Buildings & Grounds and Custodial Services

Subject: Ratifying the Ground Lease Between the Oakland Unified School District and the City of Oakland Regarding the City of Oakland Greenman Field Park Located Between 66<sup>th</sup> and 68<sup>th</sup> Avenues at International Boulevard in Oakland, California

**ACTION REQUESTED**

Ratify the Ground Lease Between the Oakland Unified School District and the City of Oakland Regarding the City of Oakland Greenman Field Park Located Between 66<sup>th</sup> and 68<sup>th</sup> Avenues at International Boulevard in Oakland, California.

**SUMMARY**

The District executed a ground lease with the City of Oakland pursuant to which the City will lease from the District the Greenman Field Park and operate a public recreational facility on the premises and perform improvements, including refurbishing the little league baseball diamond, providing new energy efficient lighting, installing new grandstands, upgrading concessions, providing minor landscaping and updating failing amenities. The District desires to ratify the Greenman Field Lease in keeping with its regular legislative practices.

**DISCUSSION/BACKGROUND**

The District owns the Greenman Field Park property, which is located near Lockwood Elementary School between 66<sup>th</sup> and 68<sup>th</sup> Avenues at International Boulevard in Oakland, California. The Greenman Field Park is particularly suited for recreational purposes and has been used as recreational space for over forty (40) years.

**RECOMMENDATION**

Ratify the Ground Lease Between the Oakland Unified School District and the City of Oakland Regarding the City of Oakland Greenman Field Park Located Between 66<sup>th</sup> and 68<sup>th</sup> Avenues at International Boulevard in Oakland, California.

**FUNDING SOURCE:**

Not applicable.

TEW:meb

**LEGISLATIVE FILE**

File ID No. 06-0542  
Introduction Date 3/22/06  
Enactment No. 06-0561  
Enactment Date 3/22/06  
By e

**GROUND LEASE BETWEEN THE OAKLAND UNIFIED SCHOOL DISTRICT AND  
THE CITY OF OAKLAND REGARDING THE CITY OF OAKLAND GREENMAN FIELD  
PARK LOCATED BETWEEN 66<sup>TH</sup> AND 68<sup>TH</sup> AVENUES AT INTERNATIONAL  
BOULEVARD IN OAKLAND, CALIFORNIA**

**Preamble and Recitals**

This lease is entered into on 2/11/05 [date] by and between the Oakland Unified School District, referred to in this lease as "District," and "Landlord" and the City of Oakland referred to in this lease as "City" and "Tenant" (both collectively, the "Parties").

WHEREAS, pursuant to Chapter 4 of Part 10.5 of the Education Code, the State Legislature is concerned that school playgrounds, playing fields, and recreational real property will be lost for those uses by the surrounding communities even if those communities in their planning process have assumed that the properties would be permanently available for recreational purposes and the District and the City share this concern; and

WHEREAS, as stated in section 17485, it is the Intent of the Legislature to allow school districts to recover their investment in surplus property while making it possible for other agencies of government to acquire the property and keep it available for playground, playing field, or other outdoor recreational and open space purposes; and

WHEREAS, the land described as "Greenman Field" as shown on attachment "A" hereto is particularly suited for recreational purposes and has been used as recreational space for over forty (40) years immediately preceding the date of this agreement; and

WHEREAS, no other available publicly owned land in the vicinity of the school site is adequate to meet the existing and foreseeable needs of the community for playground, playing field, or other outdoor recreational and open-space purposes, as determined by the City, which desires to lease the Greenman Field property, pursuant to Education Code, section 17492; and

WHEREAS, in keeping with the requirements of section 17492, the governing body of the City has made a finding, approved by a vote of two-thirds of its members, that public lands in the vicinity of Greenman Field are inadequate to meet the existing and foreseeable needs of the community for playground, playing field, or other outdoor recreational and open-space purposes; and

WHEREAS, the City proposes to make an application for grant funds pursuant to the State Urban Parks and Healthy Communities Program to refurbish the City's premiere little league baseball diamond, provide new energy efficient lighting, install new grandstands, upgrade concessions, provide minor landscaping and update failing amenities; and

**LEGISLATIVE FILE**

File ID No. 06-0548  
Introduction Date 3/22/06  
Enactment No. 06-0561  
Enactment Date 3/22/06  
By \_\_\_\_\_

**WHEREAS, it will be beneficial to the District and the City for District students and Oakland residents to allow the City to make the proposed improvements within the lease premises for enjoyment by District students, City residents and the general public; and**

**WHEREAS, the City desires to lease the Greenman Field property from the District and the District desires to let such property to the City to make the proposed improvements and for use of the property for recreational purposes.**

**NOW, THEREFORE, THE DISTRICT AND THE CITY AGREE AS FOLLOWS:**

**ARTICLE I  
LEASE OF PREMISES AND TERM OF LEASE**

**Agreement to Lease**

**Section 1.01. For and in consideration of the rents to be paid and covenants to be performed by Tenant under this lease, District agrees to lease the Leased Premises to Tenant, and Tenant agrees to lease the Leased Premises from District, on the terms and conditions set forth in this lease. Except as expressly otherwise provided in this lease, the Leased Premises includes the real property plus any appurtenances and easements and including any improvements now or subsequently located on the Leased Premises, notwithstanding that any improvements may or shall be construed as affixed to and as constituting part of the described Leased Premises, and without regard to whether ownership of the improvements is in District or in Tenant.**

**Status of Title**

**Section 1.02. Title to the leasehold estate created by this lease is subject to all exceptions, easements, rights, rights-of-way, and other matters of record which are in effect at the time of the execute of this Lease Agreement. The District represents that the Premises is not subject to any superior liens.**

**Term of Lease**

**Section 1.03. The term of this Lease shall commence on the date on which the State Administrator executes this Agreement and shall continue for a period of twenty-five (25) years, until October 1, 2030 and be irrevocable for that period.**

**ARTICLE 2  
RENT**

**Minimum Rent**

**Section 2.01. Tenant agrees to pay to District minimum annual rent of One Dollar (\$1.00) ("Minimum Rent") for each year during the term of this lease. As noted in section 2.02 below, rent shall be due and payable in a lump sum payment of \$25.00 at the commencement of the Lease Term.**

**Time and Place for Payment of Rent**

**Section 2.02. Tenant shall pay to Landlord as rent, without deduction, setoff, prior notice, or demand, the lump sum of Twenty-five (\$25.00) at the commencement of the Lease Term. All rent shall be paid to Landlord at the address to which notices to Landlord are given.**

**Joint Use Cooperative Agreement**

**Section 2.03. This lease incorporates all the terms of the Joint Use Cooperative Agreement between the District and Tenant.**

**ARTICLE 3  
USE OF PREMISES**

**Permitted Use**

**Section 3.01. Tenant shall use the Leased Premises solely for the purpose of improving and operating a public baseball field and park. The City shall not change the use of the Premises without first obtaining the written consent of the District. The Parties shall use their best efforts to use and permit use of the Premises for purposes permitted by this Section 3.01.**

**Compliance With Laws**

**Section 3.02. The Parties shall, at their own cost and expense, comply with all statutes, ordinances, regulations, and requirements of all governmental entities, federal, state, county or municipal, including those requiring capital improvements to the Premises or improvements, relating to any use and occupancy of the Premises, whether those statutes, ordinances, regulations, and requirements are now in force or are subsequently enacted. If any license, permit, or other governmental authorization is required for the lawful use or occupancy of the Premises or any portion of the Premises, the City shall procure and maintain it throughout the term of this lease, with any reasonably necessary assistance from the District. The judgment of any court of**

competent jurisdiction, or the admission by a party in a proceeding brought against the party by any government entity that the party has violated any such statute, ordinance, regulation, or requirement shall be conclusive as between District and Tenant.

### **Prohibited Uses**

Section 3.03. The Parties shall not use or permit the Premises or any portion of the Premises to be improved, developed, used, or occupied in any manner or for any purpose that is in any way in violation of any valid law, ordinance, or regulation of any federal, state, county, or local governmental agency, body, or entity. Furthermore, the Parties shall not maintain, commit, or permit the maintenance or commission of any nuisance as now or hereafter defined by any statutory or decisional law applicable to the Premises or any part of the Premises.

### **Parking, Fencing and Restrooms**

Section 3.04 (a) Parking will not be permitted on school grounds for access to Greenman Field. Access to Greenman Field shall be from Hamilton and 66<sup>th</sup> Avenue. Tenant shall provide and maintain access from Hamilton Street and 66<sup>th</sup> Avenue. The parties understand and agree that District is not responsible for enforcing parking restrictions at the site.

(b) Tenant will maintain any and all fencing and gates on and surrounding the Premises and keep the fencing and gates in a good and safe condition for public and school use. Said fencing and gates include that separating the Havenscourt Junior High School from the Greenman Field area.

(c) Currently, the City of Oakland has been authorized by the Oakland Unified School District to tie into the District's water line connection to operate the Greenman Field Restroom Facilities. As a condition of this Lease Agreement, the City of Oakland shall as part of the proposed Greenman Field renovations to be performed by the City of Oakland and referenced herein, provide its own water line connection to the Greenman Field Restroom Facilities in such manner as to permit the District to remove its water line and restore the Greenman Field Restrooms to a fully operational condition. All future repairs to the Greenman Field Restroom facilities and water utility connections shall be the responsibility of the City of Oakland.

## **ARTICLE 4 TAXES AND UTILITIES**

### **Tenant to Pay Taxes**

Section 4.01. Tenant shall pay during the term of this lease, without abatement, deduction, or offset, any and all real and personal property taxes, general and special assessments, and other charges (including any increase caused by a change in the tax rate or by a change in assessed valuation) of any description levied or assessed during

the term of this lease by any governmental agency or entity on or against the Leased Premises, the improvements located on the Leased Premises, personal property located on or in the Leased Premises or improvements, and the leasehold estate created by this lease.

#### **Utilities**

Section 4.02. Tenant agrees to pay any and all charges for electricity, gas, heat, cooling, telephone, sewer use, water, refuse collection and other utilities used in the Premises. Tenant shall arrange for refuse collection services by the City of Oakland

### **ARTICLE 5 CONSTRUCTION BY TENANT**

#### **Duty to Construct**

Section 5.01. At Tenant's sole cost and expense and upon condition of Tenant's receipt of grant approval and contract, Tenant shall construct or cause to be constructed on the Premises, improvements as set forth in the State Urban Parks and Healthy Communities Program Grant Application, City of Oakland – Greenman Field Project (hereinafter referred to as the "Greenman Field Improvements"), as the application may be amended; and in accordance with applicable state, local and federal law, including compliance with the Field Act.

#### **Consultation with District**

Section 5.02. Tenant shall consult with District on the design of the Greenman Field Project to ensure the adequacy and acceptability of the Premises for the Parties joint use.

#### **Time for Completion**

Section 5.03. Tenant shall cause construction of the Greenman Field Improvements to be commenced to be completed y in accordance with the terms of the State Urban Parks and Healthy Communities Program Grant Application, City of Oakland – Greenman Field Project, as the application may be amended.

#### **Zoning and Use Permits**

Section 5.04. Should Tenant deem it necessary or appropriate to obtain any use permit, variance, or rezoning of the Premises to construct the Greenman Field Improvements or operate the Greenman Field recreational facility, District agrees to execute any documents, petitions, applications, and authorizations that may be reasonably

necessary or appropriate to that end. Any such permits, variances, or rezoning shall be obtained at the sole cost and expense of Tenant and Tenant agrees to protect and save District and the property of District, including the Premises, free and harmless from any such cost and expense.

### **Improvements**

**Section 5.05.** Tenant shall cause to be made those improvements, alterations, or fixtures that are included in the plans for construction of the Greenman Field Improvements.

**Section 5.06.** Prior to entry into the Premises, Tenant shall obtain a Preliminary Title Report for the property and prior to commencing construction shall make an appropriate notification to the Underground Service Alert organization (USA), all for the purpose of ascertaining whether there are utility easements and/or underground utility lines located on the Premises in the vicinity of the work or improvement. Tenant immediately shall provide a copy of the Title Report and all information received from USA to Landlord's representative Tadashi Nakadegawa. If it is determined that utility easements and/or underground utility lines are located on the Premises in the vicinity of the work, then prior to the commencement of the work, Tenant and Landlord shall consult and jointly determine how the work can be accomplished safely and without damage to such easements and/or utility lines.

**Section 5.07.** Tenant shall promptly repair all damage to the Premises caused by Tenant. On completion of the work, Tenant shall remove all debris and surplus material, and shall thoroughly clean the Premises.

**Section 5.08.** Tenant shall require all contractors to provide a labor and materials bond for the full amount of the contract. Tenant shall indemnify and defend Landlord with respect to any claims for labor and materials, damage or injury arising out of the development of the Greenman Field Improvements and shall pay, when due, all sums of money that may be due or become due for any labor, services, materials, supplies or equipment furnished to or for Tenant, in at, upon or about the leased Premises and which may be secured by any stop notice, material men's or other lien against the Premises or Landlord's interest therein.

### **Ownership of Improvements**

**Section 5.09.** Title to all improvements in Greenman Field, including the Greenman Field Improvements to be constructed on the premises by Tenant shall be owned by Tenant until expiration of the term of this lease. All improvements, on the Premises at the expiration of the term of this lease shall, with compensation to Tenant, become District's property. Compensation shall be as negotiated between the parties.

### **Compliance with Law and Safety**

**Section 5.10. Tenant shall observe and comply with all applicable laws, ordinances, codes and regulations of governmental agencies, including federal, state, municipal and local governing bodies having jurisdiction over any or all of the Tenant's activities, including all provisions of the Occupational Safety and Health Act of 1979 and all amendments thereto, and all applicable federal, state, municipal, and local safety regulations. All Tenant's activities must be in accordance with these laws, ordinances, codes, and regulations.**

**Tenant shall be solely and completely responsible for conditions of the work area for the Project improvements to be installed and constructed by Tenant, including the safety of all persons and property during performance of said work. Tenant shall fully comply with all state, federal and other laws, rules, regulations and orders relating to safety of the public and workers. All materials, equipment and supplies provided for the Project and work performed by Tenant on the Premises shall fully conform to all applicable State, local and Federal safety laws, rules, regulations, and orders. Tenant shall observe strict fire and smoking precautions on the Premises. Tenant shall not light any fires on the Premises and shall not carry firearms, illegal drugs or intoxicating beverages onto the Premises.**

**Tenant and Landlord understand that work of construction on the Premises will take place during school hours and may take place on evenings or weekends, subject to prearrangement and approval of Landlord, in writing, with any associated cost of such arrangement to be at Tenant's sole expense. The parties agree to coordinate with each other to schedule such work and arrange for appropriate precautions to ensure that the work may be performed safely, without unreasonable delay, and with minimal disruption to District's operation of public school at the Lockwood Elementary School Campus and on the Premises.**

**Tenant shall require its officers, employees, agents, volunteers and independent contractors involved in work on the Premises to comply with the requirements of California Education Code section 45125.2(a) (1) or 45125.2(a)(2), which code sections are attached hereto as Exhibit B.**

**Tenant shall provide and maintain such fences, barriers, directional signs, lights and flagmen as are necessary to give adequate warning to the public at all times of any dangerous conditions to be encountered as a result of the Work, and to give directions to the public. Tenant shall surround the work area with a locked fence. Landlord and its authorized representatives shall not enter the Work Area for any purposes without first providing notice to Tenant or its designated representative. Further, Landlord and its authorized representative shall not enter the work area unless accompanied by Tenant or its designated representative. In the event Landlord or its authorized representative**



enters the work area without notice or without a designated representative of Tenant, Tenant shall not be responsible for the safety of any such individuals.

**Section 5.11.** If a death, serious personal injury, or substantial property damage occurs in, on or about the Premises, Tenant shall immediately notify the Landlord's Risk Management Office by telephone. If any accident occurs on the Premises Tenant shall promptly submit a written report to Landlord in such form as Landlord may require. This report shall include the following information: (1) name and address of the injured or deceased person(s); (2) name and address of Tenant's contractor, if any, (3) name and address of Tenant's liability insurance carriers; (4) a detailed description of the accident.

**Section 5.12.** If a release of hazardous materials or hazardous waste that cannot be controlled occurs on the premises, Tenant shall immediately notify the City of Oakland Police Department and the City's Emergency and Toxic Waste Management Office and the District's Director of Buildings & Grounds. Tenant shall not store hazardous materials or hazardous waste on the premises without a proper permit from the City.

## **ARTICLE 6**

Reserved.

## **ARTICLE 7 REPAIRS AND RESTORATION**

### **Maintenance by Tenant**

**Section 7.01.** The Premises shall be maintained by the City at the sole cost and expense of the City.

### **Option to Terminate Lease for Destruction**

**Section 7.04.** Notwithstanding Section 7.03 of this lease, Tenant shall have the right to terminate this lease if, during the lease's term, the improvements are damaged or destroyed by a casualty for which Tenant is not required under this lease to carry insurance and the cost to repair or restore the damaged or destroyed improvements exceeds 50 percent of the fair market value of the improvements immediately before the damage or destruction.

## **ARTICLE 8 INDEMNITY AND INSURANCE**

### **Indemnity Agreement**

**Section 8.01.** Except with respect to the use of the Premises by Landlord, Tenant shall indemnify, defend and hold Landlord, its officers, volunteers and employees harmless

from: 1) all claims of liability for any damage to property or injury or death to any person occurring in, on, or about the Leased Premises; 2) all claims of liability arising out of Tenant's failure to perform any provision of this lease, or any act or omission by Tenant, its agents, contractors, invitees or employees; and 3) all damages, liability, fines, penalties, and any other consequences arising from any noncompliance or violation of any laws, ordinances, codes, or regulations, including but not limited to the Occupational Safety and Health Act of 1979 and the Americans with Disabilities Act of 1990 for the Leased Premises. Except, however, that Landlord shall hold Tenant harmless from all claims of liability for damage resulting from acts or omissions of Landlord or its authorized representatives.

The Landlord will defend, indemnify and hold harmless the Tenant from any and all claims, demands, actions, or damages arising out of the Landlord's use of Tenant's facilities to which Tenant may be subjected as a direct consequence of this Agreement, except to those claims, demands, actions or damages resulting from the sole negligence of the Tenant.

Notwithstanding the foregoing, the duty to indemnify, defend and hold harmless which is imposed upon Landlord and Tenant with respect to their use of the Premises shall be defined and interpreted in accordance with the Agreement for Joint Use of Facilities between the City of Oakland and the Oakland Unified School District.

#### **Liability Insurance**

Section 8.02. Each party acknowledges that it is permissibly self-insured under the applicable Government Code provision and agrees to provide on an annual basis to the other party adequate proof of self-insurance and excess liability coverage. Each party shall provide to the other a Certificate of Insurance naming the other as an additional insured with respect to the obligations under this Agreement and the use of the Premises. Each party shall provide a letter of self-insurance and give a copy to the other party.

Tenant shall at its cost maintain sufficient public liability and property damage insurance with a single combined limit of \$1,000,000 and a property damage limit of not less than \$500,000 insuring against all liability of Tenant and its authorized representatives arising out of and in connection with Tenant's use or occupancy of the premises. All such insurance shall insure performance by Tenant of the preceding indemnity provisions. All insurance shall name the Oakland Unified School District, its officers, agents, volunteers and employees as additional insured and shall provide primary coverage with respect to the same.

Tenant shall forward all insurance documents to Luis Freese, Oakland Unified School District, Risk Manager, 955 High Street, Oakland, California, 94601 (510) 879-2229.

#### **ARTICLE 9 Eminent Domain**

Section 9.01. If the whole or any portion of the premises is taken by any paramount public authority under the power of eminent domain, then the rights and obligations of the parties shall be determined as follows: If the Premises are totally taken by condemnation, this Lease shall terminate on the date of taking. If any portion of the Premises is taken by condemnation, Tenant shall have the right to either terminate this Lease or to continue in possession of the remainder of Premises under the terms of this Lease. Such right to terminate must be exercised by notifying Landlord within thirty (30) days after possession of the part taken by eminent domain. All damages awarded for such taking shall belong to and be the property of Landlord; provided, however, that Landlord shall not be entitled to any portion of the award made for loss of installations or improvements made by Tenant in accordance with this Lease.

**ARTICLE 10  
ASSIGNMENT, SUBLEASING, LEASEHOLD ENCUMBRANCES AND TRANSFERS**

**No Assignment Without District's Consent**

Section 10.01. The parties understand and agree that the purposes of this lease is to facilitate the construction and joint use of a public recreational facility at Greenman Field I at the Lockwood Elementary School Campus and use of the Premises. Accordingly, Tenant shall not voluntarily assign, transfer or encumber its interest in this Lease or in the Premises, or sublease all or any part of the Premises, or allow any other person or entity (except Tenant's authorized representative) to occupy or use all or any part of the Premises, without Landlord's consent and any such assignment, sublease, leasehold encumbrance and, or transfer must be subject to the terms of the Agreement for Joint Use of Facilities between the City of Oakland and the Oakland Unified School District... Any such action shall be voidable and, at Landlord's election, shall constitute a default. No consent to any assignment, transfer, encumbrance, or sublease shall constitute a further waiver of the provisions of this paragraph.

**ARTICLE 11  
ENTRY**

Landlord and its authorized representatives shall have the right to enter the Premises, at all reasonable times for any of the following purposes: 1) to determine whether the Premises are in good condition and whether Tenant is complying with its obligation under the Lease; 2) to do any acts that may be necessary to protect Landlord's interest in the Premises; and 3) to perform Landlord's duties under the Lease.

Landlord shall not be liable for any inconvenience, disturbance, loss of business, nuisance, or other damage arising out of Landlord's entry on the Premises as provided in this section, except damage resulting from the acts or omissions.

**ARTICLE 12  
DEFAULT AND REMEDIES**

**Breach and Default**

**Section 12.01. The occurrence of any of the following shall constitute a default:**

- 1. Abandonment and vacation of premises (failure to occupy and operate the premises for sixty (60) consecutive days shall be deemed an abandonment and vacation).**
- 2. Failure to perform any other provision of this Lease if the failure to perform is not cured within 30 days after notice has been given to the Party. If the default cannot reasonably be cured within 30 days, Party shall not be in default of this lease if Party commences to cure the default within the 30 day period and diligently and in good faith continues to cure the default.**

**b. Notices given under this paragraph shall specify the alleged default and the applicable Lease provisions, and shall demand that the defaulting Party perform the provisions of this Lease within the applicable period of time, or pay to the non-defaulting Party just compensation for such default. The purpose of the notice requirement set forth in this section is to extend the notice requirements of the unlawful detainer statutes of California.**

**Remedies**

**Section 12.02. The Parties shall have the following remedy if the other Party commits a default. This remedy is not exclusive; however, during the term of this Lease, unless otherwise specified, Parties shall not have the right to terminate this Lease:**

**Right to Cure or Seek Specific Performance. A Party, at any time after the other Party commits a default, can cure the default at the other Party's cost or seek specific performance of the terms of this Lease by the defaulting Party. If the Party at any time, by reason of the other Party's default, pays any sum or does any act that requires the payment of any sum, the sum paid by the Party shall be due immediately from the defaulting Party to the Party at the time the sum is paid, and if paid at a later date shall bear interest at the maximum rate individual is permitted by law to charge from the date the sum is paid by the Party until the Party is reimbursed by defaulting Party.**

**Waiver of Breach**

**Section 12.03. The waiver by a Party of any breach by the other Party of any of the provisions of this lease shall not constitute a continuing waiver or a waiver of any subsequent breach by the other Party of either the same or a different provision of this lease.**

**ARTICLE 13  
OTHER PROVISIONS**

**Force Majeure**

**Section 13.01.** Except as otherwise expressly provided in this lease, if the performance of any act required by this lease to be performed by either District or Tenant is prevented or delayed by reason of any act of God, strike, lockout, labor trouble, inability to secure materials, restrictive governmental laws or regulations, or any other cause (except financial inability) not the fault of the party required to perform the act, the time for performance of the act will be extended for a period equivalent to the period of delay and performance of the act during the period of delay will be excused. However, nothing contained in this section shall excuse the prompt payment of rent by Tenant as required by this lease or the performance of any act rendered difficult or impossible solely because of the financial condition of the party required to perform the act.

**Notices to District**

**Section 13.02.** Except as otherwise expressly provided by law, any and all notices or other communications required or permitted by this lease or by law to be served on or given to District by Tenant or any Lender described in this lease shall be in writing and shall be deemed duly served and given when personally delivered to District, to any managing employee of District, or, in lieu of personal service, when deposited in the United States mail, first-class postage prepaid, and sent by express mail that allows for tracking, addressed to District at [address]. District may change District's address for the purpose of this section by giving written notice of that change to Tenant in the manner provided in Section 13.03; Tenant shall then transmit a copy of that notice to any Lender described in Article B of this lease.

**Notices to Tenant**

**Section 13.03.** Except as otherwise expressly provided by law, any and all notices or other communications required or permitted by this lease or by law to be served on or given to Tenant by District shall be in writing and shall be deemed duly served and given when personally delivered to Tenant, any managing employee of Tenant, or, in lieu of personal service, when deposited in the United States mail, first-class postage prepaid, and sent by express mail that allows for tracking, addressed to Tenant at [address]. Tenant may change its address for the purpose of this section by giving written notice of that change to District in the manner provided in Section 12.03 of this lease.

**Governing Law**

**Section 13.04.** This lease, and all matters relating to this lease, shall be governed by the laws of the State of California in force at the time any need for interpretation of this lease or any decision or holding concerning this lease arises.

#### **Binding on Heirs and Successors**

**Section 13.05.** This lease shall be binding on and shall inure to the benefit of the heirs, executors, administrators, successors, and assigns of the parties hereto, but nothing in this section shall be construed as a consent by District to any assignment of this lease or any interest in the lease by Tenant except as provided in Article 10 of this lease.

#### **Partial Invalidity**

**Section 13.06.** If any provision of this lease is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions of this lease shall remain in full force and effect unimpaired by the holding.

#### **Joint Use Agreement**

**Section 13.07.** This instrument and the Agreement for Joint Use of Facilities between the City of Oakland and the Oakland Unified School District constitute the sole and only agreements between District and Tenant respecting the Premises, the leasing of the Premises to Tenant, the construction of the Greenman Field Improvements described in this lease on the Premises, and the lease terms set forth in this lease, and correctly sets forth the obligations of District and Tenant to each other as of its date. Any agreements or representations respecting the Premises, their leasing to Tenant by District, or any other matter discussed in this lease not expressly set forth in this instrument are null and void.

#### **Time of Essence**


**Section 13.08.** Time is expressly declared to be of the essence of this lease.

**Memorandum of Lease for Recording**

Section 13.09. Neither District nor Tenant shall record this lease without the written consent of the other. However, District and Tenant shall, at the request of either at any time during the term of this lease, execute a memorandum or "short form" of this lease for purposes of, and in a form suitable for, recordation. The memorandum or "short form" of this lease shall describe the parties, set forth a description of the leased premises, specify the term of this lease, incorporate this lease by reference, and include any other provisions required by Lender(s).


**IN WITNESS WHEREOF**, DISTRICT and CITY have executed this Agreement as of the date written on the first paragraph of this Lease.

  
Randolph E. Ward, Ed. D.  
State Administrator

 2.14.2005  
Raul Godinez II,  
Director of Public Works Agency

 2/14/05  
Timothy E. White  
Assistant Superintendent of Facilities

  
Deborah Edgerly  
City Manager

Approved as to Form  
  
Meredith E. Brown  
Special Facilities Counsel

Approved as to Form  
  
Office of the City Attorney for the  
City of Oakland

OAKLAND PUBLIC SCHOOL  
DEPARTMENT OF  
ADMINISTRATIVE & ENGINEERING  
1025 SECOND AVE.  
OAKLAND 9, CALIFORNIA

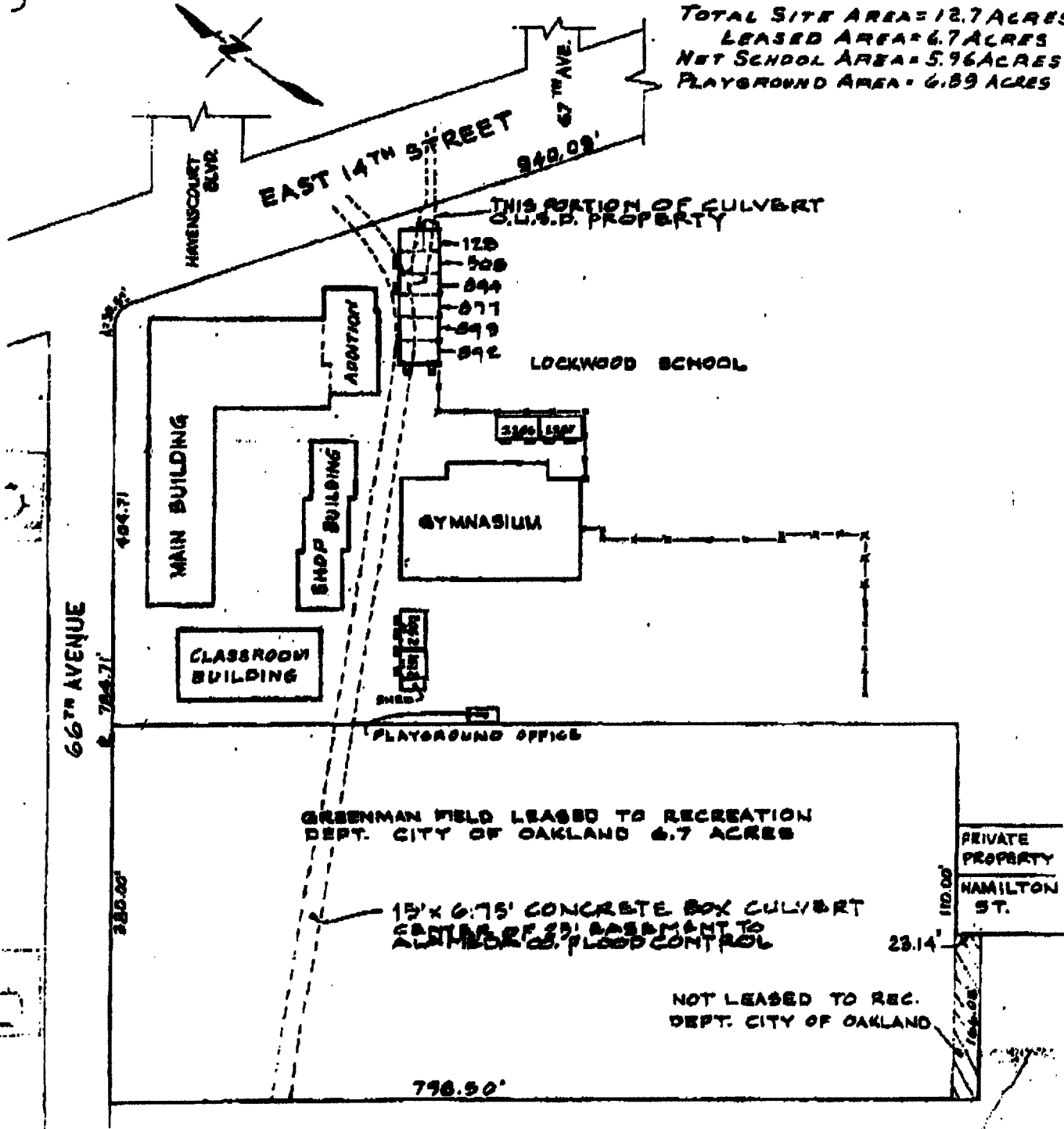
# HAVENSCOURT JR. HIGH SCHOOL

SITE NO. 207  
SCALE 1" = 120.00'

DATE FEB. 79  
BY JAE

FOR THE CITY OF OAKLAND  
**(C) CITY PROPERTY**  
ENTIRE SITE

TOTAL SITE AREA = 12.7 ACRES  
LEASED AREA = 6.7 ACRES  
NET SCHOOL AREA = 5.96 ACRES  
PLAYGROUND AREA = 6.89 ACRES



ATTACHMENT A