



Office of the City Manager

TO BE DELIVERED AGENDA MATERIAL

Meeting Date: September 11, 2007

Item Number: #19

Item Description: Council Direction To Negotiate With College Prep High School

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Office of the City Manager

CONSENT CALENDAR
September 11, 2007

To: Honorable Mayor and
Members of the City Council

From: *PK* Phil Kamlarz, City Manager

Submitted by: William Rogers, Acting Director, Parks and Recreation Department

Subject: Council direction to negotiate with College Preparatory High School

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to negotiate and execute a long-term use agreement for approximately 25 years with College Preparatory High School for limited use of the Gilman Street Sports Fields in exchange for a capital contribution to the construction budget, subject to the approval of the East Bay Regional Park District and California Department of Parks and Recreation.

FISCAL IMPACTS OF RECOMMENDATION

The City currently plans to spend approximately \$7 million to complete Phase I of the Gilman Street Sports Fields Project, funded by \$5 million in State grant funding and \$2 million in CBS Outdoors funding. These funds are in budget codes 010-5850-450-04PK69 and 668-5850-450-04PK69. A contribution of \$200,000 from the JPA cities is anticipated in September 2007, and is not yet budgeted in the project. A carefully negotiated agreement with College Preparatory could bring in up to \$600,000 more toward construction of Phase II of the project.

Project Funding

Source	Amount
Urban Parks Act 2001	\$3,000,000
California Youth Soccer Grant	\$1,000,000
Urban Parks and Healthy Communities Grant	\$1,000,000
CBS Outdoors, Inc. (pending)	\$2,000,000
TOTAL	\$7,000,000

Funding Status	Cost
Funding	\$7,000,000
Phase I costs	\$6,533,467
Remaining balance for additional lighting in Phase I	\$466,533

Project Budget (Summary)

Item (Phase I)	Cost
Construction contract (including add alternates 1 – 3)	\$4,548,250
Construction contingency (10%)	\$454,825
Utilities and permits	\$239,817
Construction administration and inspection	\$486,125
Planning, design and environmental review	\$804,450
TOTAL	\$6,533,467

Phase II Cost Estimates	Cost
Baseball field lighting	\$280,000
Softball fields area lighting	\$205,500
South parking area	\$361,000
North parking area	\$293,750
Fencing (to complete remaining areas)	\$151,850
Infields and furnishings for baseball and softball	\$230,400
Paths	\$342,628
South restroom	\$129,000
Perimeter planting and irrigation	\$280,405
Gilman St. streetscape & sewer for future field house	\$200,000
TOTAL	\$2,474,533

Phase II or III	Cost
Field house with restrooms	\$500,000 (app)

CURRENT SITUATION AND ITS EFFECTS

The JPA cities have authorized the pursuit of funds to construct Phase II of the Gilman Street Sports Fields. Working together, the JPA cities voted to pursue funding opportunities with College Preparatory High School (CPS) and requested that the City of Berkeley take the lead with the negotiations and agreements. Exhibit A shows the legal points to be included in the CPS use agreement. Any agreement for long-term use must be approved by both the State of California and the East Bay Regional Parks District, with whom we have a lease agreement.

Of the approximately \$10 million needed to fully fund the Gilman project, the City currently has \$7 million with which to complete Phase One, comprised of: two synthetic fields, three natural turf fields, fencing, lighting, parking, staging area, and utilities. An additional \$3 million is needed to construct a field house with restrooms, the baseball infields, the Bay Trail Connector, parking and streetscape improvements, and site landscaping and irrigation. The JPA stakeholders group has identified three potential sources of funding: Major League Baseball, State Prop 84, and Local Measure AA. While these funding sources will be pursued with due diligence by the JPA, it will be difficult, nevertheless, to obtain the full \$3 million needed to complete the facility in the short term.

Schedule

Construction began on June 4, 2007 and is progressing very well. Most of the grading has been completed, including the laser grading and installation of the subsurface for the two synthetic turf soccer fields. The two soccer fields with sports lighting are expected to be completed and ready for use by December 1, 2007. Phase I also includes installation of the turf and irrigation for three additional playing fields. Staff expects that these fields will be completed and seeded by December 1, 2007 and available for use beginning on March 1, 2008.

BACKGROUND

On May 11, 2007, the City sent a Letter of Interest to sixty (60) schools that fit the following criteria: a) serve any grades between six and twelve; b) served more than 200 students; c) are located within a fifteen (15) mile driving distance from the Gilman Sports Fields; and d) could access the Gilman site without crossing a bridge or tunnel (Attachment 2). The purpose of the letter was to gauge the potential interest of possible school partners for entering into an agreement for long-term use of fields in exchange for a capital contribution. As of September 11, 2007, only one school in the area, College Preparatory High School of Oakland, CA, responded to the Letter of Interest.

The proposed agreement gives the use of two fields to College Preparatory School, as follows:

- **One of the synthetic turf playing fields** during CPS' Fall season of sport, from August 20 through November 30, in the 3:00 to 5:30 p.m. time slot and one of the synthetic turf playing fields during CPS' Spring season of sport, from February 1 through May 31, in the 3:00 to 5:30 p.m. time slot; and
- **One softball field** during CPS' Spring season of sport, from February 1 through May 31, in the 3:00 – 5:30 p.m. time slot.

CPS's use will be subject to all applicable laws, policies and fees or other conditions imposed on the use of the fields. CPS shall pay standard user fees as established per time-slot for other youth users of the synthetic turf and softball fields.

CPS must abide by the terms of any and all agreements that govern the use of the Gilman Street Sports Fields and any subsequent changes or agreements. At present, such agreements include: (a) the Lease between the City and East Bay Regional Parks District; (b) the various grant agreements from the State of California; (c) the Joint Powers Authority Agreement; (d) the Agreement between the Associated Sports Fields Users group (ASFU) and the City; and e) agreements between ASFU and the field users.

CPS will be required to maintain general liability and Workers' Compensation insurance at all times, and the term of the agreement is for 25 years or until the City's Lease for Gilman Street Sports Fields terminates, whichever is shorter. CPS would have no

entitlement to an option to extend the term, but if the City receives an extension on its lease, the parties agree to confer regarding a possible mutually agreed upon extension.

College Preparatory School is a coeducational, independent, not-for-profit day school in Oakland, CA serving 331 students in grades nine through twelve, founded in 1960. It has a full non-discrimination policy, over 39% of the students are students of color, and 24% of the student body receives financial aid.

RATIONALE FOR RECOMMENDATION

The proposal from College Preparatory High School could potentially bring a sizeable capital contribution to the Phase II construction budget needed to complete the project. For example, these funds could be used to build a field house and restroom, which would serve all potential users of the Gilman facility, estimated at over 19,000 youth in the five JPA city area. At present, Phase I of the project does not involve the construction of restrooms; portable toilets will be rented for the foreseeable future.

ALTERNATIVE ACTIONS CONSIDERED

There is no obligation for the City to pursue negotiations with College Preparatory High School.

CONTACT PERSONS

William Rogers, Acting Director, Parks Recreation & Waterfront Dept, 981-6711

Attachments

1. Resolution
Exhibit A - Legal Points to be Included in CPS Use Agreement for Gilman Street Sports Fields
2. Letter of Inquiry to Non-Profit School in the Bay Area & Location Map
3. Schools Contacted
4. Gilman Street Sports Fields Design Development Plan

RESOLUTION NO. -N.S.

NEGOTIATE AND EXECUTE A LONG-TERM USE AGREEMENT WITH COLLEGE PREPARATORY HIGH SCHOOL FOR LIMITED USE OF THE GILMAN STREET SPORTS FIELDS IN EXCHANGE FOR A CAPITAL CONTRIBUTION TO THE CONSTRUCTION BUDGET, SUBJECT TO THE APPROVAL OF THE EAST BAY REGIONAL PARK DISTRICT AND CALIFORNIA DEPARTMENT OF PARKS AND RECREATION

WHEREAS, the City currently has just over \$7 million to complete Phase I of the Gilman Street Sports Fields Project in the form of \$5 million in State grant funding, \$2 million in CBS Outdoors payments. A possible contribution of \$200,000 from the JPA cities is anticipated in September 2007; and

WHEREAS, of the \$10 million needed to fully complete the Gilman project, the City currently has \$7 million with which to complete Phase One, comprised of: two synthetic fields, three natural turf fields, fencing, lighting, parking, staging area, and utilities; and

WHEREAS, an additional \$3 million is needed to construct a field house with restrooms, the baseball infields, the Bay Trail Connector, parking and streetscape improvements, and site landscaping and irrigation; and

WHEREAS, on May 11, 2007, the City sent a Letter of Interest to sixty (60) schools that fit the following criteria: a) serve any grades between six and twelve; b) served more than 200 students; c) was located within a fifteen (15) mile driving distance from the Gilman Sports Fields; d) and could access the Gilman site without crossing a bridge or tunnel; and

WHEREAS, as of September 11, 2007, only one school in the area, College Preparatory High School of Oakland, CA, responded to the Letter of Interest; and

WHEREAS, any agreement negotiated with CPS would subject them to all existing and new applicable laws, policies, fees, and agreements governing the facility such as (a) the Lease between the City and East Bay Regional Parks District; (b) the various grant agreements from the State of California; (c) the Joint Powers Agreement; (d) the Agreement between the Facility Operator (Associated Sports Fields Users) and the City; and e) agreements between the Facility Operator and the field users; and

WHEREAS, a carefully negotiated agreement with College Preparatory could bring in several hundred thousand dollars toward Phase II of the project, which would serve all potential users of the Gilman facility, estimated at over 19,000 youth in the five JPA city area.

NOW THE REFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized and directed to negotiate and execute a long-term agreement with College Preparatory High School for limited use of the Gilman Street Sports Fields in exchange for a capital contribution to the construction budget, and such agreement shall be consistent with the terms as set forth in Exhibit A and be subject to

the approval of the East Bay Regional Park District and California Department of Parks and Recreation.

Exhibit A

LEGAL POINTS TO BE INCLUDED IN CPS USE AGREEMENT FOR GILMAN STREET SPORTS FIELDS (“GSSF”)

TERM: Twenty-five (25) years, or until the City’s Lease for GSSF terminates, whichever term is shorter. No CPS entitlement to an option, although the parties agree that if the City has been granted an extension of the Lease, the parties will confer in an attempt to negotiate the terms and conditions of a mutually agreed upon extension, but there is no CPS an entitlement to extend the term.

CPS PAYMENTS DUE: CPS agrees to pay a total of \$600,000, payable as follows:

- \$300,000 no later than three (3) business days after approval of this Use Agreement by the City of Berkeley Council
- \$150,000 no later than three (3) business days after Notice of Completion of Phase One (the two synthetic athletic fields)
- \$150,000 no later than three (3) business days after one of the softball fields is ready for use

USE OF PREMISES AND HOURS OF OPERATION: CPS shall have the right to use:

- **One of the synthetic-turf playing fields** during CPS’ Fall season of sport, from August 20 through November 30, in the 3:00 to 5:30 p.m. time slot and one of the synthetic-turf playing fields during CPS’ Spring season of sport, from February 1 through May 31, in the 3:00 to 5:30 p.m. time slot
- **One Softball Field** – CPS shall have the right to use one of the softball fields during CPS’ spring season of sport, from February 1 through May 31, in the 3 to 5:30 p.m. time slot.
- Nothing in this provision to reserve fields shall be construed to override the City’s determination as to whether any field is wholly or partly closed for reasons of maintenance or other such.

SUBJECT TO ALL LAWS, FEES AND OTHER CONDITIONS: The use will be subject to all existing and new applicable laws, policies and fees or other conditions imposed on the use of the fields, provided that CPS shall pay standard user fees as established per time-slot for other youth users of the synthetic turf and softball fields.

INCORPORATION OF, AND COMPLIANCE WITH, OTHER AGREEMENTS:

CPS agrees that its use of the GSSF must be in strict compliance with other agreements governing the GSSF. Specifically, CPS agrees to abide by all terms in the existing agreements that govern use of GSSF, and any subsequent changes that might be made to those agreements, or any other subsequent agreements that might be made governing use of GSSF, during the term of this Use Agreement. At present, such agreements include: (a) the Lease between the City and

East Bay Regional Parks District; (b) the various grant agreements from the State of California; (c) the Joint Powers Authority Agreement; and, (d) the Agreement between the Associated Sports Fields Users group and the City.

INDEMNIFICATION: CPS will indemnify the City, other JPA Cities, EBPRD and State of California for any and all injury or property damage claims arising in any manner by reason of CPS' use.

INSURANCE OBLIGATIONS: CPS at all times shall maintain: general liability insurance in an amount not less than Two Million Dollars (\$2,000,000); Workers' Compensation Insurance in an amount not less than Two Hundred Fifty Thousand Dollars (\$250,000); the City reserves the right, if mandated by statute, to change the amounts and types of insurance required; CPS shall include the City, other JPA Cities, EBPRD and the State of California as additional insured in all General Liability insurance required.

NO LIABILITY TO CITY, JPA CITIES, EBPRD OR STATE IF FIELDS CANNOT BE OPERATED AS ATHLETIC FIELDS: CPS agrees that if for any reason GSSF are temporarily wholly or partially closed or cease operation as athletic fields for the uses contemplated by this Agreement, the City, JPA cities EBPRD or State are not liable to CPS for any damages, monetary or injunctive, or restitution of any sums paid herein under any legal theory.

CPS HAS NO RIGHT TO ASSIGNMENT OF USE AGREEMENT: CPS shall not, without written consent of the City, sublicense or sublease any portion of the Premises. Such consent is solely at the discretion of the City.

DEFAULT: In the case of defaults that remain uncured for ninety (90) days or frequent repeated defaults, this Use Agreement may be terminated. Any breach that constitutes a danger or hazard to the public, or results in CPS not being insured per Section 10, shall be considered a material breach of this Use Agreement.

MISCELLANEOUS TERMS: debris removal; adequate adult staffing; City of Berkeley standard contract terms (Non-Discrimination provisions, Nuclear Free Berkeley; etc.)



Office of the City Manager

Attachment 2

May 11, 2007

RE: Opportunity for Long-Term Use of a New Athletic Field at Gilman Street, Berkeley, CA

Dear Non-Profit school in the Bay Area:

We are writing to let you know about an exciting new project in Berkeley called the Gilman Street Playing Fields Project and to see if you would be interested in being a partner in the completion of the project. The facility will ultimately consist of two synthetic turf fields, three natural turf fields (one full-size baseball and two softball), night lighting, and a field house with a variety of amenities. In addition to soccer, the synthetic fields can be used for lacrosse, rugby, and Ultimate Frisbee; and the baseball/softball outfields may also be used for soccer, lacrosse, rugby, and frisbee beyond their normal seasons. The Gilman Fields are located in northwest Berkeley at the terminus of Gilman Street, just south of the Golden Gate Fields Racetrack near the San Francisco Bay.

The project currently has sufficient funding to construct the two synthetic turf fields and three natural turf rectangular fields (no skinned infields or backstops will be built in the first phase) by the fall of 2007. In order to complete the project an additional \$3 million is needed, and we are exploring the idea of entering into long-term use agreements with non-profit organizations in exchange for capital contributions. At present there is no set formula for establishing the value of the license fee for a long-term use agreement, and we would be happy to discuss this further with you.

The following time slots could be available for long-term use by non-profits. For fall, winter, and spring seasons, Monday through Friday, multiple fields could be available between 8am – 3pm and one field could be available between 3pm – 5:30pm. For the summer season, Monday through Friday, multiple fields could be available between 8am – 5:30pm. For weekends in all seasons, one field could be available from 5pm – 10pm (Saturday and Sunday nights).

Season	Availability (Monday – Friday)
Fall (September 1- November 30); and Winter (December 1-February 28); and Spring (March 1- May 31)	<ul style="list-style-type: none"> • 8 am-3 pm (multiple fields) and 3 pm – 5:30pm (one field)
<ul style="list-style-type: none"> • Summer (June 1-August 31) 	<ul style="list-style-type: none"> • 8 am-5:30 pm (multiple fields)
<ul style="list-style-type: none"> • Weekends (Sat & Sun) All Seasons 	<ul style="list-style-type: none"> • 5 pm – 10pm (one field)

Based on the responses we receive to this letter and the level of interest that is expressed, we plan to use a Request For Proposal (RFP) process to arrive at a long-term agreement with a non-profit organization that is most appropriate to the project and the facility. If successful, that long-term agreement will be subject to the approval of the State and the East Bay Regional Park

District (owner of the property) since they provided the bulk of the acquisition and construction funding.

Attached is a map of the location of the fields and a diagram of the field layout for the fully built-out project. If you would like to discuss this opportunity further, please call Roger Miller, City of Berkeley, 510-981-6705 by June 1, 2007.

Sincerely,

Philip Kamlarz
City Manager

Attachments

Location Map



Gilman Fields Location

Attachment 3 – schools contacted

Principal
Berkeley High School
2223 Martin Luther King Jr Way,
Berkeley, CA 94704

Principal
Maybeck High School
2362 Bancroft Way,
Berkeley, CA 94704

Principal
St Mary's High School
1294 Albina Ave,
Albany, CA 94706

Principal
Albany High School
603 Key Route Blvd,
Albany, CA 94706

Principal
Mac Gregor High School
720 Jackson St,
Albany, CA 94706

Principal
Oakland Technical High School
4351 Broadway,
Oakland, CA 94611

Principal
El Cerrito High School
540 Ashbury Ave,
El Cerrito, CA 94530

Principal
Piedmont High School
800 Magnolia Ave,
Piedmont, CA 94611

Principal
Oasis High School
285 17th St,
Oakland, CA 94612

Principal
Oakland High School
1023 Macarthur Blvd,
Oakland, CA 94610

Principal
Kennedy High School
4300 Cutting Blvd,
Richmond, CA 94804

Principal
OUSD Dewey High School
1111 2nd Ave,
Oakland, CA 94606

Principal
St Elizabeth High School
1530 34th Ave,
Oakland, CA 94601

Principal
Delta High School
5000 Valley View Rd,
El Sobrante, CA 94803

Principal
De Anza Senior High School
5000 Valley View Rd,
El Sobrante, CA 94803

Principal
Richmond High School
1250 23rd St,
Richmond, CA 94804

Principal
Skyline High School
12250 Skyline Blvd,
Oakland, CA 94619

Principal
Vista High School
2600 Moraga Rd,
San Pablo, CA 94608

Principal
Middle College High School
2600 Mission Bell Dr,
San Pablo, CA 94806

Principal
Sigma High School
2900 Pinole Valley Rd,
Pinole, CA 94564

Principal
Pinole Valley High School
2900 Pinole Valley Rd,
Pinole, CA 94564

Principal
Hercules Middle High School
1900 Refugio Valley Rd,
Hercules, CA

Principal
St. Anthony Year Round School
1500 East 15th Street
Oakland, CA 94606

Principal
Oakland Community High School
8251 Fontaine St,
Oakland, CA 94608

Principal
Castlemont High School
8601 Macarthur Blvd,
Oakland, CA 94605

Principal
Bishop O'Dowd High School
9500 Stearns Ave,
Oakland, CA 94605

Principal
Arrowsmith Academy
2300 Bancroft Way
Berkeley 94704

Principal
The Athenian School
2100 Mount Diablo Scenic Boulevard
Danville, CA 94506-2002

Principal
The College Preparatory School
6100 Broadway
Oakland, CA 94618-1899

Principal
Bentley School
1 Hiller Drive
Oakland, CA 94618-2301

Principal
Head-Royce School
4315 Lincoln Avenue
Oakland, CA 94602

Principal
Prospect Sierra School
960 Avis Drive (Middle School)
El Cerrito, CA 94530

Principal
Holy Names High School
4660 Harbord Drive
Oakland, CA 94618

Principal
Metwest High School
314 East 10th Street, Huerta Hall
Oakland, CA 94606

Principal
St. Andrew M.B.C. Private P.C.P.C
2624 West Street
Oakland, CA 94612

Principal
Business, Entrepreneurial School of
Technology High
2607 Myrtle St.
Oakland, CA 94607

Principal
Salesian High School
2851 Salesian Avenue
Richmond, CA 94804

Principal
East Bay Waldorf School
3800 Clark Road
El Sobrante, CA 94803

Principal
Oakland School for the Arts
1800 San Pablo Ave.
Oakland, CA 94612

Principal
Oakland Unity High School
6038 Brann Street
Oakland, CA 94605

Principal
Millsmont Academy
3200 62nd Ave.
Oakland, CA 94605

Principal
Berkeley Montessori School
1310 University Avenue
Berkeley, CA 94702

Principal
St. Joseph the Worker School
2125 Jefferson Avenue
Berkeley, CA 94703

Principal
School of the Madeleine
1225 Milvia Street
Berkeley, CA 94709

Principal
St. Jerome Catholic Elementary
School
320 San Carlos Avenue
El Cerrito, CA 94530

Principal
St. John the Baptist School
11156 San Pablo Avenue
El Cerrito, CA 94530

Principal
The Academy
2722 Benvenue Ave
Berkeley, CA 94705

Principal
Windrush
1800 Elm Street
El Cerrito, CA 94530

Principal
St. Martin De Porres School
675 41st Street
Oakland, CA 94609

Principal
Tehiyah Day School
2603 Tassajara Avenue
El Cerrito, CA 94530

Principal
St. Cornelius Elementary School
201 28th Street
Richmond, CA 94804

Principal
St. Leo Elementary School
4238 Howe Street
Oakland, CA 94611

Principal
St. Theresa Elementary School
4850 Clarewood Drive
Oakland, CA 94618

Principal
St. David's Elementary School
871 Sonoma Street
Richmond, CA 94805

Principal
St. Paul's Episcopal School
116 Montecito Avenue
Oakland, CA 94610

Principal
St. Paul Elementary School
1825 Church Lane
San Pablo, CA 94806

Principal
East Bay Waldorf School
3800 Clark Road
El Sobrante, CA 94803

Principal
Corpus Christi Elementary School
One Estates Drive
Piedmont, CA 94611

Principal
Zion Lutheran School
5201 Park Boulevard
Piedmont, CA 94611

Principal
Canterbury Elementary School
3120 Shane Drive
Richmond, CA 94806

Principal
Ecole Bilingue De Berkeley
1009 Heinz Avenue
Berkeley, CA 94710

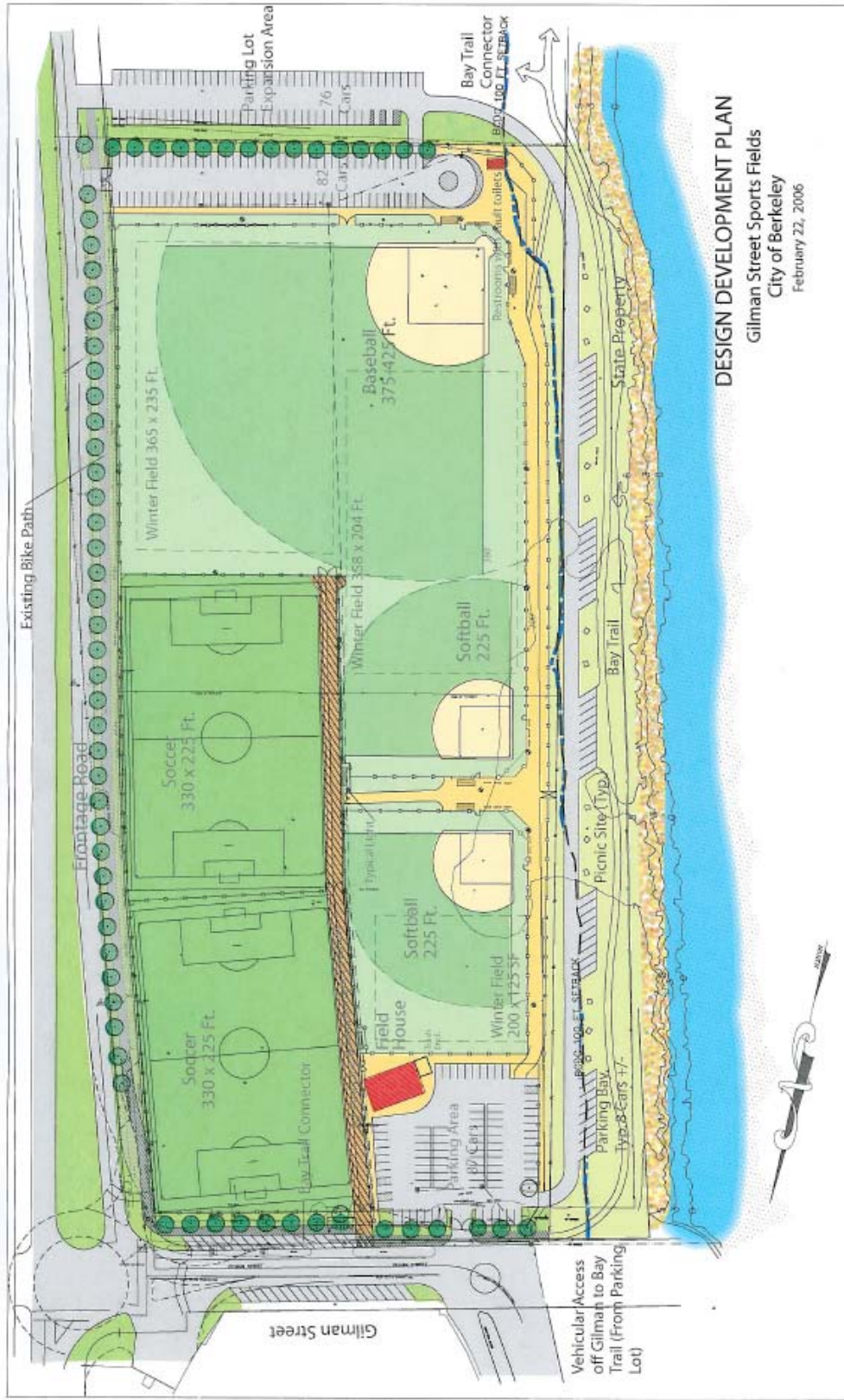
Principal
Willard Middle School
2425 Stuart Street
644-6330 Fax: 548-4219

Principal
Martin Luther King Middle School
1781 Rose Street
644-6280 Fax: 644-8783

Principal
St. Mary's College High School
1294 Albina Avenue
Berkeley, CA 94706

Principal
Longfellow Magnet Middle School
1500 Derby Street
Berkeley, CA 9470

Attachment 4 – Gilman Street Sports Fields Design Development Plan



DESIGN DEVELOPMENT PLAN
 Gilman Street Sports Fields
 City of Berkeley
 February 22, 2006

