

SUPPLEMENTAL COUNCIL REPORT



COUNCIL REPORT

DATE: September 12, 2023

CATEGORY: Consent

DEPT.: City Manager's Office

TITLE: **Discontinuation of School Field Joint Use Agreement Between the City and Mountain View Whisman School District**

RECOMMENDATION

1. Authorize the City Manager to direct City staff to terminate the 2000 Joint Use Agreement between the City and Mountain View Whisman School District and determine the timing and actions necessary to have a transition in maintenance and scheduling responsibilities to the District for the school fields and facilities at the Bubb, Castro, Imai, Landels, Vargas, Monta Loma, Stevenson, and Crittenden Schools.
2. Affirm the City Council's continued commitment to the current agreements governing the Mountain View Sports Pavilion at Graham Middle School, Graham Middle School Maintenance Agreement, Mountain View Sports Center at Crittenden Middle School, and the easement agreement between the City and Mountain View Whisman School District for the City's use of land at Crittenden School for the extension of the Permanente Creek Trail providing a safe route to school.
3. Approve the Mayor sending a letter communicating these actions to the Mountain View Whisman School District Board of Trustees (Attachment 1 to the original Council report).

BACKGROUND

This information supplements the report originally posted on September 7, 2023.

ANALYSIS

The purpose of this report is to correct a dollar amount stated in the Fiscal Impact section of the Council report titled "Discontinuation of School Field Joint Use Agreement Between the City and Mountain View Whisman School District" posted for the September 12, 2023 City Council Meeting and listed as Item 8.1 on the meeting agenda.

The last paragraph of the Fiscal Impact section states: "The City currently collects approximately \$120,000 in revenue from rental fees for MVWSD fields annually. The City would no longer receive these revenues."

The corrected statement is: “The City currently collects approximately \$42,000 in revenue from rental fees for MVWSD fields annually. The City would no longer receive these revenues.”

In addition, the following attachments have been added to Item 8.1:

- 1960 Agreement Between the City of Mountain View and the Whisman School District, Santa Clara County, State of California for Joint Use of School Sites for Park and Recreation Purposes (Attachment 1 to this Supplemental Council report).
- 2000 Master Agreement for Improvement and Recreational Use of School Sites with Mountain View School District (Attachment 2 to this Supplemental Council report).

FISCAL IMPACT

There have been no other changes to the report.

ALTERNATIVES

There have been no other changes to the report.

PUBLIC NOTICING—Agenda posting.

Prepared by:

Arn Andrews
Assistant City Manager

Audrey Seymour Ramberg
Assistant City Manager

Kimbra McCarthy
City Manager

Approved by:

Kimbra McCarthy
City Manager

AA-ASR/MS/6/CAM/601-09-12-23CR (Supplemental)

Attachments: 1. 1960 Master Agreement
 2. 2000 Master Agreement

AGREEMENT BETWEEN THE CITY OF MOUNTAIN VIEW AND THE WHISMAN SCHOOL DISTRICT, SANTA CLARA COUNTY, STATE OF CALIFORNIA, FOR JOINT USE OF SCHOOL SITES FOR PARK AND RECREATION PURPOSES.

THIS AGREEMENT made and entered into this first day of July, 1960, by and between the CITY OF MOUNTAIN VIEW, a municipal corporation, hereinafter called "City", and the WHISMAN SCHOOL DISTRICT, a public corporation which is a subdivision of the State of California, hereinafter called "District".

WHEREAS, City, by reason of the provisions of its City Charter, is authorized to operate and maintain public playgrounds, and park and recreation facilities, and by virtue of such authority does operate and maintain such playgrounds and park and recreation facilities; and

WHEREAS, said playgrounds and park and recreation facilities are not now sufficient to provide for the needs of an expanding community; and

WHEREAS, "District" owns and operates various school and school sites, along with buildings and other facilities thereon, within the City of Mountain View, which, under supervision, are available for use for park and recreation purposes; and

WHEREAS, Chapter 4 of Division 12 of the Education Code of the State of California, commencing with Section 24401, authorizes cities and public school districts to cooperate with one another for the purpose of authorizing, promoting, and conducting programs of community recreation which will contribute to the attainment of general recreational and educational objectives for children and adults of this State; and

WHEREAS, City and District desire to enter into an agreement pursuant to the aforesaid provisions of the Education Code of the State of California, providing for the joint use of school sites within the City of Mountain View for park and recreation purposes; and

WHEREAS, it is the intention of the parties that this agreement shall operate as a Master Agreement, and that the terms hereof

shall govern, and be incorporated into, each special agreement between the parties pertaining to specific school sites within the limits of the City.

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL ACTS, PROMISES, AND FOREBEARANCES OF EACH OTHER, the parties hereto agree as follows:

I. That all of the school sites of District within the limits of City shall be considered as joint park and recreation-school sites, with the joint use of any particular site for such purpose to be confirmed by City and District by separate supplemental agreement, incorporating by reference all of the terms of this Master Agreement, except as to such terms and provisions as may be expressly modified in said supplemental agreement where circumstances or conditions require such modification. The responsibility for operation and maintenance for any particular joint park and recreation-school site shall be as hereinafter set forth.

II. That for the purposes of this agreement, in connection with the responsibility for operation and maintenance of joint park and recreation-school sites, each of said school sites shall be divided into two portions, generally as follows: (1) The area upon which the school buildings and normal school play equipment are located shall be known and designated as the "School Area"; (2) The area upon which will be located the recreational facilities, equipment and landscaping to be furnished by City shall be known and designated as the "Recreation and Park Area".

III. The areas designated as "School Area" and "Recreation and Park Area" shall be particularly described in each of the supplemental agreements relating to specified sites.

IV. The responsibility for operation and maintenance of the areas of said joint park and recreation-school sites shall be as follows:

(a) The District shall furnish the "Recreation and Park Area" as hereinabove described, for use by City for park and recreation purposes, at such times, and in such a manner, as not to interfere with the normal school use of said area. The City shall, at its own cost and expense, maintain said "Recreation and Park Area".

(b) District shall furnish to City, for use as park and recreational facilities, all those portions of the "School Area" on which are located the playground and other normal school recreation equipment, and in addition shall furnish for use of City such classrooms as shall be requested by City, and as designated in the annual master calendar hereinafter referred to, in connection with City's recreation program. The use of such "School Area" by City shall be at such times, and in such a manner, as not to interfere with the normal school use of said area and facilities. District shall, at its own cost and expense, maintain the "School Area".

(c) District shall furnish City with the preliminary site development plan for the entire joint park and recreation-school site, including the location of any normal school playground equipment installed or to be installed by District on the "Recreation and Park Area".

(d) District shall furnish the basic grading of the "Recreation and Park Area" preparatory to the landscaping and installation of the additional facilities by the City.

(e) City shall provide for landscaping and installation of recreation and park facilities in excess of the basic grading of the "Recreation and Park Area", subject to the mutual agreement of the parties hereto.

7. City shall furnish supervisory leadership for the "School Area" and "Recreation and Park Area" as shall be deemed necessary by City during its use of said areas for park and recreation purposes. City and District shall, by mutual agreement, establish rules and regulations regarding the conduct of persons using the facilities for recreation and park purposes.

8. The City may, subject to the mutual agreement of the parties, purchase and install equipment on the "Recreation and Park Area" not considered to be standard playground equipment provided by school as the usual part of the school program, such as:

Pre-school play equipment;
Shuffleboard courts;
Any lighting facilities for
night activities;
Field house;
Barbeque pits;
Horseshoe pits; and
Croquet courts.

VII. The District shall provide the usual type of playground equipment to be found on school sites for school purposes, such as:

Soft ball backstops;
Volley ball posts and nets;
Other ball facilities;
Paddle tennis courts;
Blacktop area for circle games;
Merry-go-round;
Basketball standards;
Sand boxes;
Climbing apparatus;
Slides;
Horizontal bars; and
Turning bars.

VIII. All improvements installed by City on the "Recreation and Park Area" shall remain the property of the City. City shall be responsible for the cost of repairing or replacing any of District property damaged in connection with City's use of said property under this agreement. District shall be responsible for the costs of repairing or replacing any of City property damaged in connection with District's use of said property under this agreement. Normal wear and tear of any of the property of District or City shall not be included within the provisions hereof relating to the repair or replacement.

IX. The Superintendent of District, and the Recreation Director of City, shall jointly establish a Master Calendar for the use of the joint facilities for the ensuing fiscal year no later than the 15th day of May of each year. In establishing said Master Calendar, said Superintendent of District and Recreation Director of City shall mutually determine the number of classrooms which will be required, and made available for City, in connection with its recreation program, and said Master Calendar shall specify the number of said classrooms to be used during said ensuing fiscal year.

X. The supplemental agreements, relating to specified school sites, executed pursuant to this Master Agreement, shall be for a period of One (1) year, commencing on July 1 next following the execution of said supplemental agreement; provided, however, that each of said supplemental agreements shall be automatically renewed for subsequent annual periods, following their execution, unless either of the parties gives notice in writing to the other, on or before June 1 of any year, that the contract shall not be renewed for the subsequent annual period. The term of years during which said supplemental agreements, for specified school sites, shall be renewed automatically shall be for a period of twenty-five (25) consecutive years after execution of said agreement.

XI. In the event any supplemental agreement relating to a specified joint park and recreation-school site is unenforceable, cancelled, or terminated for any reason, within said 25-year period hereinabove mentioned, then, in such event District shall have the option of purchasing from City all or any part of the improvements, of any kind or nature whatsoever, installed by City in the "Recreation and Park Area". The purchase price to be paid by District to City for any of said improvements elected to be purchased by District shall be a sum equal to the installation cost of the item or items purchased, less 1/25 of said installation cost for each year, or part of a year, that has elapsed following the installation by City of such item or items. In the event District elects not to purchase all, or some, of said improvements, City shall have the right to remove those items from the premises. In the event City shall remove any of such items of improvement, City shall restore the grounds in the area of such removal operations to a neat, clean, and level condition.


XII. The City and District shall carry Public Liability Insurance to jointly protect City and District, their officers, agents, servants, and employees against claims for damage to person and/or property, including accidental death arising from City's or District's participation in a community recreation program hereunder.

The form of such insurance shall be satisfactory to the City Attorney of City and County Counsel.

XIII. The City and District, in assuming joint responsibility under this agreement, each agree that the other shall be held harmless in the event of any suit arising out of the respective activities of District and City on the site under this agreement.

IN WITNESS WHEREOF the parties hereto have hereunto set their hands the day and year first above written.

CITY OF MOUNTAIN VIEW,
a municipal corporation,

By 
John T. O'Halloran
City Manager

"CITY"

WHISMAN SCHOOL DISTRICT,
a public corporation,

By 
"DISTRICT"

APPROVED AS TO FORM


County Counsel

City Attorney

**MASTER AGREEMENT
FOR IMPROVEMENT AND RECREATIONAL USE OF SCHOOL SITES
WITH MOUNTAIN VIEW SCHOOL DISTRICT**

THIS AGREEMENT made and entered into this 26 day of Sept, 2000 by and between the MOUNTAIN VIEW SCHOOL DISTRICT (hereafter "District"), a political subdivision of the State of California, and the CITY OF MOUNTAIN VIEW (hereafter "City"), a municipal corporation.

WHEREAS, City, is authorized to operate and maintain public playgrounds and park and recreation facilities and, by virtue of such authority, does operate and maintain such playgrounds and park and recreation facilities; and

WHEREAS, District owns and operates various schools and school sites, along with buildings and other facilities thereon, within the City of Mountain View, which, under supervision, are available for use for park and recreation purposes; and

WHEREAS, City, pursuant to agreements with District, has developed and/or improved portions of certain District school sites for joint use by District and City; and

WHEREAS, Chapter 10 of Division 1 of the Education Code of the State of California, commencing with Section 10900, authorizes cities and public school districts to cooperate with one another for the purpose of authorizing, promoting and conducting programs of community recreation which will contribute to the attainment of general recreational and educational objectives for children and adults of this State; and

WHEREAS, City and District desire to enter into an Agreement pursuant to the aforesaid provisions of the Education Code of the State of California, providing for the joint use of school sites within the City of Mountain View for park and recreation purposes; and

WHEREAS, it is the intention of the parties that this Agreement shall operate as a Master Agreement and that the terms hereof shall govern, and be incorporated into, each Supplemental Agreement between the parties pertaining to specific school sites within the limits of City;

NOW, THEREFORE, IN CONSIDERATION OF THE RECITALS, MUTUAL ACTS, PROMISES, AND FORBEARANCES OF EACH OTHER contained herein, the parties hereto agree as follows:

I. Master Agreement and Supplemental Agreements.

A. All seven school sites of District located within the limits of City shall be subject to this Master Agreement and shall be available to City for public recreation purposes, including Bubb School, Castro School, Cooper School, Graham Middle School, Huff School, Landels School and Slater School.

B. The terms and provisions unique to any of the seven particular school sites, including maintenance responsibilities, if applicable, shall be set forth in a separate Supplemental Agreement for each specific site, incorporating by reference all of the terms of this Master Agreement, except as to such terms and provisions as may be expressly modified in said Supplemental Agreement where circumstances or conditions require such modification.

II. Description of Premises.

A. For the purposes of this Agreement, each school site shall be divided into two (2) portions, generally as follows:

1. The area upon which the school buildings, blacktop area and normal school play equipment are located shall be known and designated as the "School Area"; and
2. The area upon which the recreational facilities, equipment and landscaping are located shall be known and designated as the "Park Area."

B. Diagrammatic descriptions of the areas designated as "School Area" and "Park Area" are attached hereto as Exhibits A through F, for Bubb School (Exhibit A), Castro School (Exhibit B), Cooper School (Exhibit C), Huff School (Exhibit D), Landels School (Exhibit E) and Slater School (Exhibit F), respectively, as amended from time to time and incorporated herein by reference. The diagrams clearly delineating the two areas shall also be attached to and incorporated in each Supplemental Agreement.

III. Use of School Sites. The use of all of the school sites pursuant to this Agreement shall be as follows:

A. District shall make available the "Park Areas," as hereinabove described, for use by City for park and recreation purposes, at such times, and in such a manner, as to not interfere with the normal school use of said area.

B. District, in its sole discretion, shall furnish to City, for use as park and recreational facilities, all those portions of the "School Area" on which are located the playground and other normal school recreation equipment. The use of "School Area," classrooms and rest rooms by City shall be subject to the approval of the District and shall be at times, and in such a manner, as not to interfere with the District use and cleaning of said areas and facilities.

IV. Supervision. City shall furnish supervisory leadership for the school sites as shall be deemed necessary by City during its use of said areas for park and recreation purposes. City and District shall, by mutual agreement, establish rules and regulations regarding the conduct of persons using the facilities for park and recreation purposes.

V. City Improvements. City may, subject to the mutual agreement of the parties and subject to the approval of the Division of the State Architect, if necessary, provide and install facilities and/or equipment on the "Park Area" not considered to be standard playground equipment provided by schools as a usual part of the school program, such as, but not limited to:

- Rest rooms;
- Children's play equipment;
- Any lighting facilities for night activities;
- Field house/score booth;
- Concession areas;
- Soccer goals;
- Bleachers.

City shall first confer with District and obtain District's comments regarding location and other concerns. Prior to installation, the parties shall come to a mutual agreement as to modifications to any applicable Supplemental Agreement which are necessary or reasonably desired as a result of the installation. Such agreement shall not be unreasonably withheld.

VI. District Improvements. District may provide the usual types of playground equipment as may already exist on school sites or may be installed in the future, all for school purposes, such as but not limited to:

- Softball backstops;
- Other ball facilities;
- Blacktop area for circle games;
- Basketball standards;
- Climbing apparatus;
- Slides; and

- Horizontal bars.

If District seeks to install facilities and/or equipment which may impact the use and/or the facilities and equipment of the "Park Area," then District shall first confer with City and obtain City's comments regarding location and other concerns. Such facilities and/or equipment include, but are not limited to:

- Permanent classrooms and offices;
- Portable classrooms and offices;
- Hard-court and/or blacktop areas; and
- Parking lots.

Prior to installation, the parties shall come to a mutual agreement as to modifications to any applicable Supplemental Agreement which are necessary or reasonably desired as a result of the installation. Such agreement shall not be unreasonably withheld.

VII. Ownership of Improvements and Cost of Repairing and Replacing Same. All improvements installed by City on the "Park Area" shall remain the property of City, and all improvements installed on the school site by District shall remain the property of District, except as set forth herein at Paragraph XII(B). City shall be responsible for the cost of repairing or replacing any of District's property damaged in connection with City's use of said property under this Agreement, normal wear and tear excepted. District shall be responsible for the costs of repairing or replacing any of City property damaged in connection with District's use of said property under this Agreement, normal wear and tear excepted. Each party shall be responsible for the costs of maintaining and repairing, replacing or removing its own property, at its sole discretion, as necessary or desirable.

VIII. Master Calendar. The District Superintendent or designee, and the City Manager or designee, shall jointly establish and approve a Master Calendar for the use of the school sites for the ensuing fiscal year no later than May 15 of each year.

IX. Maintenance Responsibilities.

A. City Responsibilities.

1. Maintenance of School Sites. Except as otherwise noted in IX.C and D, City shall, at its own cost and expense, maintain the turf and landscaped areas and City-installed improvements, such as play equipment and facilities, rest rooms, etc., in the designated "Park Areas" for the following school sites as specified in the applicable Supplemental Agreement:

- Bubb School
- Castro School
- Cooper School
- Graham Middle School
- Huff School
- Landels School
- Slater School

Such maintenance shall include mowing, fertilizing and irrigation, and such additional maintenance as set forth in any Supplemental Agreement. In addition, for each of the school sites listed above, City shall install a separate water meter for the purpose of monitoring the irrigation water used to maintain the "Park Area." Unless otherwise specified in a Supplemental Agreement, City shall pay all costs for such irrigation water used to maintain the turf and landscaped areas of the "Park Area" at the school sites.

The District Superintendent or designee, and the City Manager or designee, shall jointly establish and approve an annual maintenance schedule which allows City flexible access to school sites but which does not unreasonably interfere with District use. Either party may request, in writing, that the schedule be amended to accommodate circumstances that may arise during the year. Such schedule changes may be made by mutual agreement and upon reasonable notice of five (5) working days prior to the effective date of change. Additional maintenance costs incurred by City or District to implement maintenance schedule change will be the responsibility of the requesting party.

In the event of an emergency and/or to abate a hazardous condition, the City or District shall have the right to initiate action to resolve said emergency and/or hazardous condition in the most effective and

efficient means possible with the least disruption to City or District use.

2. All School Sites. During school recess periods, when City is using any of the school sites for City recreational programs, City shall have access to the "school area," as mutually agreed upon, and City shall provide maintenance services, supplies and telephone services as deemed necessary by City.
 3. Limited Responsibility. Except as specifically set forth herein, City shall have no responsibility for maintenance or any other costs or expenses.
- B. District Responsibilities. Except as set forth in Subsection "A", above, District shall, at its own cost and expense, maintain the entire school site, including both the "School Area" and "Park Area."
 - C. Shared Responsibility. Maintenance responsibilities for the "park area" of Huff and Slater Schools shall be shared between City and District. The specific assignment of maintenance responsibilities for each site shall be as set forth in the supplemental agreements for those school sites.
 - D. Responsibilities for Graham Middle School. Maintenance responsibilities for the "park area" of Graham Middle School, if any, shall be as set forth in a supplemental agreement for that school.
- X. Term of This Agreement. This Agreement shall be in effect from the date of the last signature affixed hereto until June 30, 2025, unless terminated earlier with one (1) year advance notice.
- XI. Supplemental Agreements and Their Terms. Supplemental Agreements as referenced herein relating to specific school sites shall be executed pursuant to this Master Agreement. Such Supplemental Agreements shall be for a period of one (1) year and shall be automatically renewed for successive one (1) year periods up to the expiration date of this Master Agreement unless otherwise mutually agreed in writing. Notice of termination of a Supplemental Agreement shall be in the manner set forth in XII.A.
- XII. Termination of Agreement.
- A. Notice of Termination. City or District may terminate this Master Agreement or any of the Supplemental Agreements executed pursuant to this Master Agreement by delivery of written notice of election to terminate

at least one (1) year in advance. Notices shall be served either by personal delivery or mail, as follows:

CITY:

City Manager
City Hall
500 Castro Street
P.O. Box 7540
Mountain View, CA 94039

DISTRICT:

District Superintendent of Schools
Mountain View School District
220 View Street
Mountain View, CA 94041

- B. Effect of Termination. In the event of termination, District shall have the option of purchasing from City all or any part of the improvements, of any kind or nature whatsoever, installed by City. The purchase price to be paid by District to City for any of said improvements elected to be purchased by District shall be a sum equal to the installation and purchase cost of the item or items, less one twenty-fifth (1/25) of said installation and purchase cost for each year, or part of a year, that has elapsed following the installation by City of such item or items. In the event District elects not to purchase all, some or any of said improvements, City shall remove those items not purchased from the premises. In such event, City shall restore the grounds in the area of such removal operations to a neat, clean and acceptable condition.

District shall confer on City the right of first refusal to the extent permitted by law and shall confer any additional purchase rights required by law on any sites disposed of or otherwise surplus by District.

- XIII. Insurance. City and District shall each maintain comprehensive general Liability Insurance in the amount of Ten Million Dollars (\$10,000,000) combined single limit to protect City and District, their officers, agents, servants and employees against claims for bodily injury, and property damage arising from City's or District's participation in the activities described herein. The form of such insurance shall be satisfactory to City and District and may include self-insurance at levels acceptable to both parties. Each party's policy or policies shall name the other party (City or District) as additional insured.

- XIV. Mutual Indemnification. Each party agrees to indemnify, defend, and hold harmless the other party, its officers, agents and employees from any and all liabilities, claims, or losses of any nature, to the extent caused by, arising out of, or in connection with, the indemnifying party's negligent acts or omissions pursuant to this Agreement.

XV. CEQA. City agrees to prepare any documents and conduct any studies necessary to comply with the California Environmental Quality Act, Public Resources Code Sections 21000 et seq.


XVI. Modification of Agreement. This Master Agreement, or any Supplemental Agreement entered into pursuant to this Master Agreement, may be amended in writing signed by both City and District. Any modification to this Master Agreement or any Supplemental Agreement shall be prepared by City at no cost to District. City Council and District School Board must approve the Master Agreement and Supplemental Agreements and any changes or modifications thereto.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands on the dates hereinafter respectively set forth.

APPROVED AS TO CONTENT:


Community Services Director

"CITY":
CITY OF MOUNTAIN VIEW,
a municipal corporation

By: 
City Manager

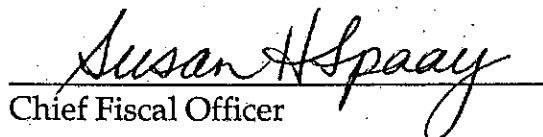
FINANCIAL APPROVAL:


Finance and Administrative
Services Director

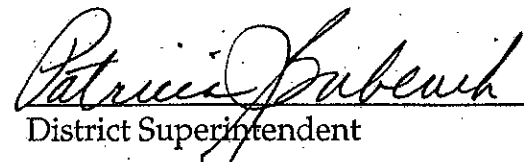
APPROVED AS TO FORM:


City Attorney


APPROVED AS TO CONTENT:


Chief Fiscal Officer

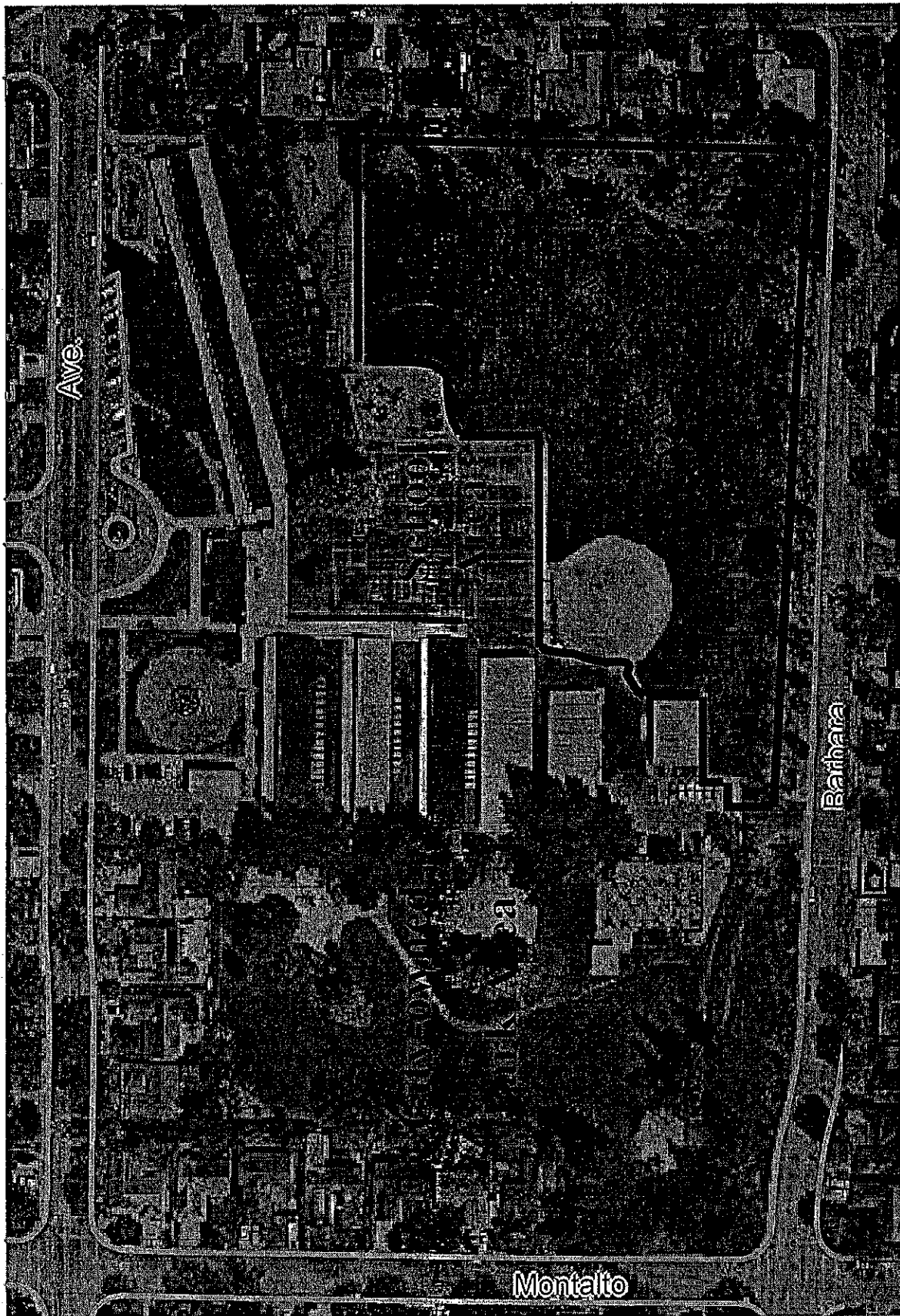
"DISTRICT":
MOUNTAIN VIEW SCHOOL DISTRICT

By: 
District Superintendent

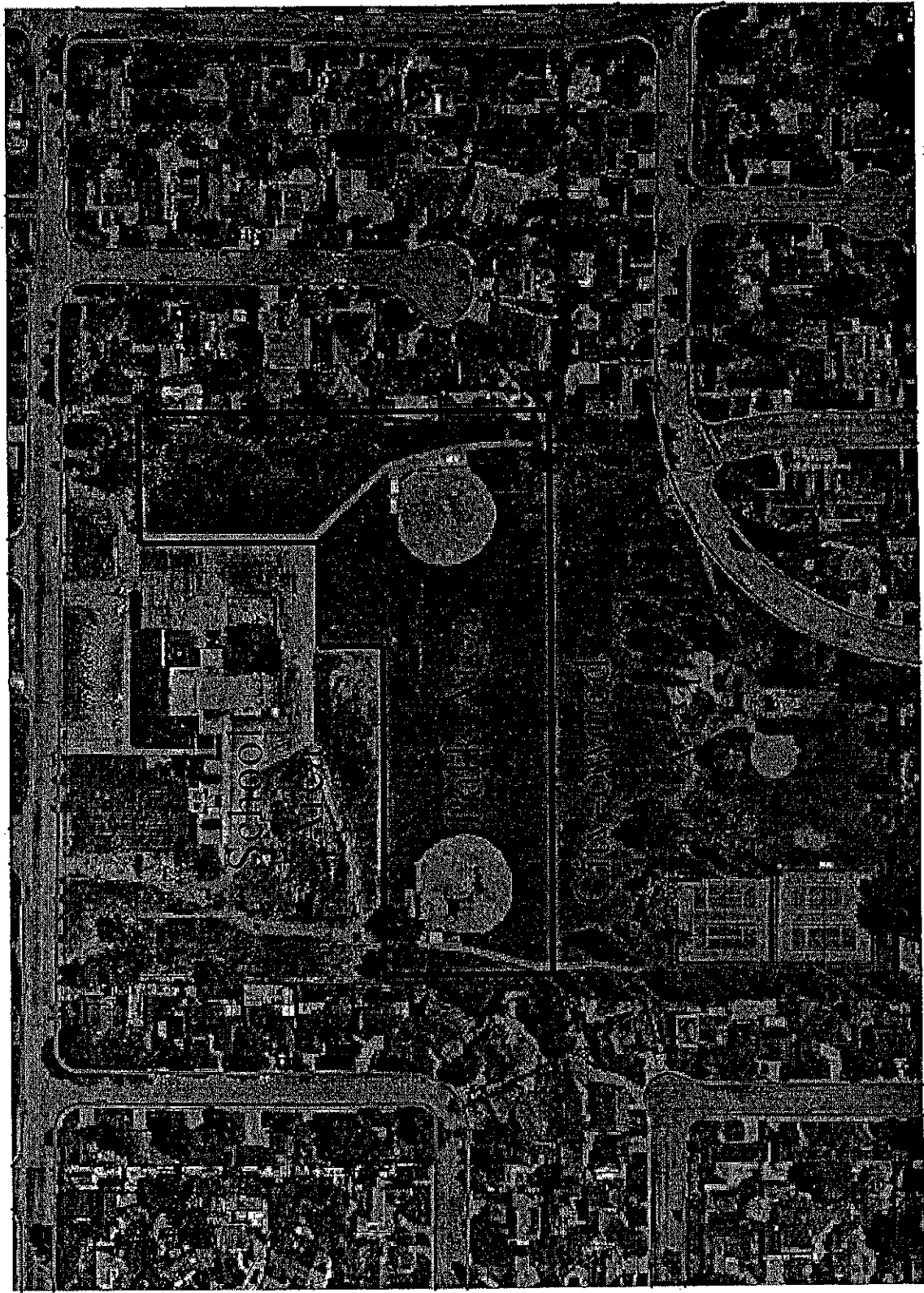
APPROVED AS TO FORM:


School District Attorney

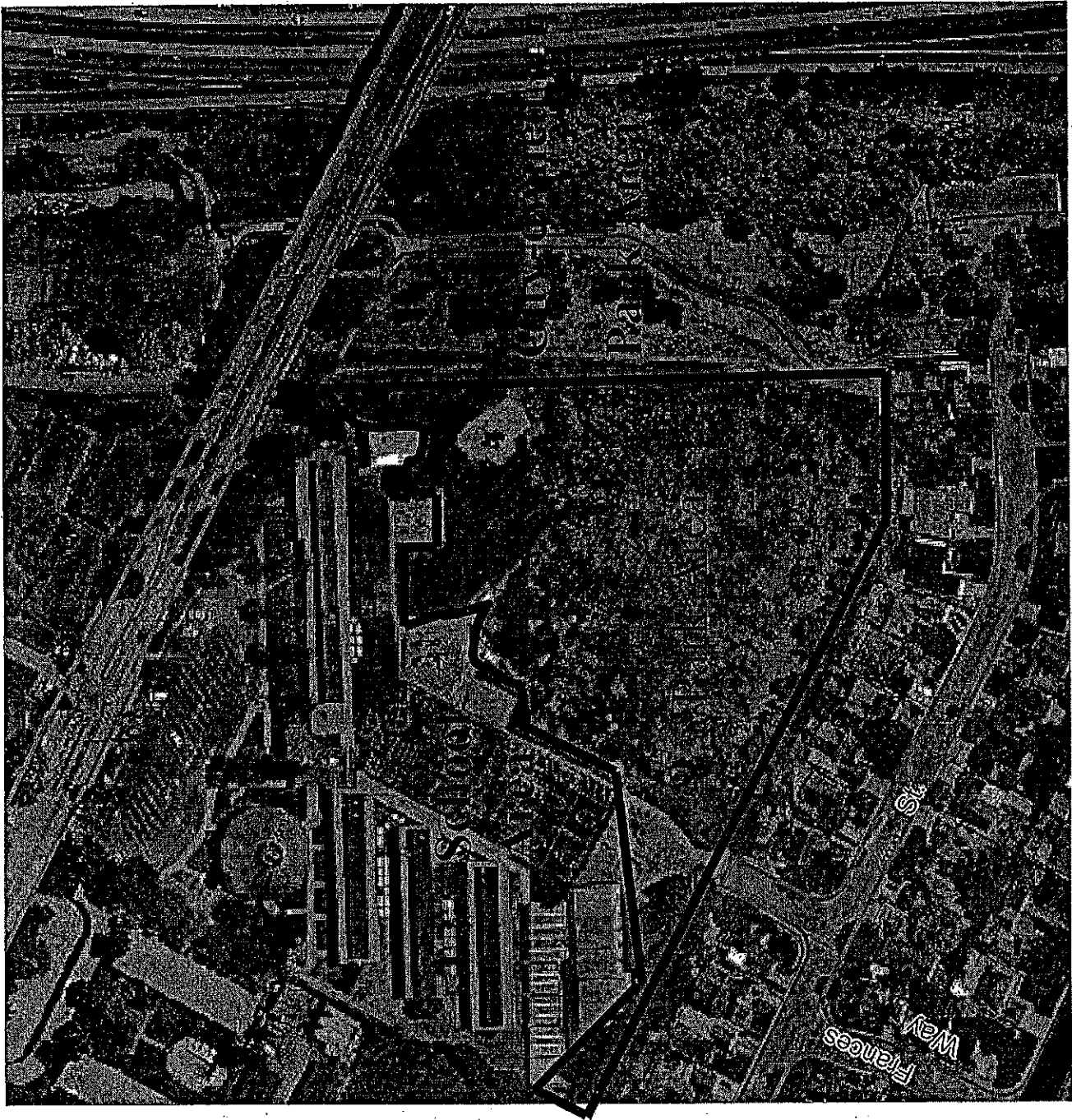
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BUBB PARK



COOPER



L A N D E L S