

**Lease Agreement**

This Lease made by and between the CITY OF PORTLAND, a municipal corporation of the State of Oregon, by and through its Bureau of Parks and Recreation, hereinafter "Lessor", and SCHOOL DISTRICT NO. 1J, MULTNOMAH COUNTY, OREGON (Portland Public Schools), hereinafter called "Lessee". Lessor and Lessee may be referred to herein individually as a "Party" and collectively as the "Parties".

In consideration of Lessee's installation at its sole cost of a new artificial turf in the Grant Bowl and the mutual covenants set forth in this Lease, and upon the terms and condition set forth in this Lease, Lessor grants to Lessee a Lease of the "Premises" described below. The primary purpose of the Lease is to allow Lessee's Grant High School students to use the Premises for athletic activities, while preserving public access and other historical community use, including, without limitation, public events and practices for all regional sports types, physical education classes, and recreational activities. Lessee shall primarily use the Premises for its students at Grant High School and its feeder schools, but the Premises may be used by other students from time to time, so long as the public use requirements set forth herein are not violated. In furtherance of the foregoing, Lessee is authorized to construct, operate, repair, and maintain athletic facilities on the Premises as Lessee determines is necessary to support Lessee's students. In consideration for the granting of the Lease, Lessee shall make available historic non-permitted public use of the Premises, and a minimum of 1,200 permittable hours annually for non-Lessee use, as further described within this Lease.

1. Premises

The Premises are located on the southern portion of an almost twenty (20) acre property tax lot R316213, commonly known today as Grant Park, located in Portland, Oregon. The Premises are depicted on Exhibit A hereto, which is incorporated herein by reference.

2. Term

The Initial Term of this Lease shall commence upon full execution by the Parties ("Effective Date") and continue for a Term of two hundred and forty (240) consecutive full months ("Expiration Date") unless sooner terminated under the provisions of this Lease.

- a) Subject to the last sentence of this Section 2, Lessee may renew the Lease (the "Renewal Options") for two (2) successive terms of one hundred and twenty (120) months each (the "Renewal Terms"). The Renewal Options shall be exercised by Lessee providing written notice to Lessor given not less than one-hundred-twenty (120) days prior to the last day of the then-current Term.
- b) The Renewal Terms shall be on the same terms and conditions set forth in this Lease. The Renewal Terms shall commence on the first day after expiration of the Initial Term.

Lessee's right to exercise the Renewal Options may be revoked or terminated and the Renewal Options shall become voidable if Lessee is in default beyond any applicable cure periods as defined in Section 27 below when it gives written notice of exercise of the Renewal Options or if any applicable defaults have not been fully cured prior to the commencement date of any successive Renewal Option term.

### 3. Consideration in Lieu of Rent Payments

- a) In addition to Lessee's installation at its sole cost of a new artificial turf in the Grant Bowl, the parties agree to public and permit-based access requirements in lieu of monetary compensation as described below:
- i) Lessee shall make the Premises publicly available a minimum of 1,200 permittable hours annually to non-Lessee and non-Oregon School Activities Association user groups. As consistent with historical use, it is expected that most of the 1,200 hours will be on weekends and during summer when school is not in session. Lessee shall have the right to condition and control all permitted-use according to its published rules and collect and retain fees; however, the cost to the users must be substantially similar to Lessor's published rates/total permit costs for similar assets with artificial turf fields, as such rates and costs may increase over time. For guidance to Lessee in setting its fees, Lessor shall provide Lessee throughout the term of this Lease with a copy of Lessor's fee schedule for one or more of Lessor's artificial turf fields. For the avoidance of doubt, the parties agree that permit-based use of all or any portion of the lower field and of all or any portion of the upper athletic field (whether it is the portion of the upper field owned by Lessor or the portion owned by Lessee) shall be counted towards the 1,200 hour minimum. Commencing in the January 2025 calendar year, Lessee shall begin providing Lessor with an annual summary report outlining the prior year's accounting of permitted hours, including at a minimum: user's name, hours permitted, asset used, sport played, and total charges.
  - ii) Lessee will provide public access to the Premises, on a non-permit basis, during the hours of 5:00 AM - 10:00 PM, when not in conflict with Lessee's students' use or permitted-use, except in extraordinary circumstances as reasonably determined by Lessee; provided if such closure for extraordinary circumstances will extend longer than 15 days, Lessee will request approval from Lessor which shall not be unreasonably withheld or delayed. Use of the track area by the public during a non-ticketed event, other than a track & field meet, shall not constitute a conflict. Use of the upper field or rest of the Premises by the public during nonstudent use or nonpermitted use shall not constitute a conflict. Lessee will post accurate public hours on its school website and may install signs at entrances to the site and update as necessary to keep the public up to date regarding reduced hours of access. Lessee will endeavor to ensure that there are public hours available every day of the week for the track and lower field, except in extraordinary circumstances as described above.
  - iii) Lessee shall reimburse Lessor for its pro rata share of the cost of any utilities that currently serve or in the future may serve or be used at the Premises within 30 days of receiving an invoice from Lessor.

### 4. Absolute Triple-Net Lease

- a) Except as provided for otherwise herein, it is the intention and purpose of the Parties that this Lease shall be an "Absolute Triple-Net Lease" to Lessor. Lessee shall pay all costs or expenses, general and special, ordinary and extraordinary, foreseen and unforeseen and of every kind and nature whatsoever that may be directly related to Lessee's use and operation of the Premises during the entire Term or its extensions, other than costs and expenses arising from utilities

below the surface of the Premises that do not provide service to the Premises, which shall remain the responsibility of Lessor. Costs and expenses for which Lessee is responsible include, but are not limited to, current or future above grade or at grade, repairs, improvements, alterations, replacements, adjacent right-of-way improvements, sidewalks, pathways, landscaping, lighting, roof, exterior walls, gutters or downspouts, concealed plumbing, irrigation, mechanical equipment including heating or air conditioning, real property taxes and personal property taxes as provided in Section 5 below, any other governmental assessments, property damage and general liability insurance required by this Lease, above or at grade utilities (utilities shall be separated from Lessor's accounts by Lessee and Lessor or sub-metered as part of any major renovations as more particularly stated in Section 11 below), snow and ice removal, janitorial, trash/recycling removal, security monitoring, all contracted services, and below grade repairs and maintenance but only to the extent necessitated by actions of Lessee.

- b) Lessor shall remain responsible, at its sole cost (unless incurred as part of Lessee's site improvements), for all tree maintenance, pruning, removal, and planting, and Lessor shall provide written approval to Lessee as requested or required related to trees and new development within the Premises.

#### 5. Taxes and Assessments

Pursuant to Section 4 of this Lease, Lessee shall pay real property taxes assessed and levied on the Premises within thirty (30) calendar days after Lessor invoices Lessee. As used herein, the term "real property taxes" shall not include business license fees, excise taxes, sales taxes, corporation taxes, income taxes, or any tax on personal property which may be imposed or assessed by any city, county, state, or federal government or any special district or agency, and those taxes remain the responsibility of Lessee. Lessee shall be solely responsible for the filing of any requested exemption of the real property taxes through the appropriate taxing jurisdiction.

#### 6. Uses of Premises

- a) The Premises shall be operated, managed, and controlled by Lessee, in accordance with the provisions of this Lease. Lessee shall use the Premises as set forth in the unnumbered recital paragraph on page 1 of this Lease.
- b) Lessee currently has School District rules and during the Term of this Lease shall continue to have rules that prohibit the smoking of cigars, cigarettes, bidis, cigarillos, clove cigarettes, e-cigarettes, nicotine vaporizers, nicotine liquids, hookahs, kreteks, pipes, chew, snuff, smokeless tobacco, marijuana (whether recreational or medicinal) or any other substances or other smoking instruments within the Premises. Lessee shall use efforts as determined in Lessee's reasonable discretion to enforce such rules at the Premises that are consistent with the efforts Lessee generally uses at its owned-assets.
- c) In addition to any other prohibitions or limitations on Lessee's use of the Premises contained in this Lease, Lessee shall use efforts as determined in Lessee's reasonable discretion, which efforts shall be consistent with the efforts Lessee generally uses at its owned-assets, to not allow the following within the Premises at any time: i) use the Premises to be used in any illegal manner; ii) create or permit to be created any damage, nuisance or waste, including any continuing

objectionable noise, vibration or odor to be emitted or escape from the Premises, or cause defacement or injury of the Premises, including impairment of its strength or durability; iii) disturb, interfere or obstruct the rights of Lessor; iv) cause damage or injury to nearby properties or property owners; v) create or permit to be created any condition which would constitute a fire or environmental hazard, or be dangerous to persons or property; vi) permit the Premises to be used for lodging or sleeping purposes; vii) distribute, consume, sell or permit to be sold any alcoholic beverages or alcoholic liquors on the Premises excepting in accordance with the limitations of any state issued permit(s) or license(s); viii) distribute, consume, sell or permit to be sold any controlled substances; ix) install, affix or attach any trade fixtures on the Premises except with the prior written consent of Lessor, which shall not be unreasonably withheld ; x) store gasoline or other highly combustible materials on the Premises except in minimal quantities as necessary in the ordinary operation of Lessee's activities ; xi) permit the sale of any pornographic material in the Premises; xii) permit any cash, credit card, or coin-operated vending, novelty or gaming machines or equipment without the prior written consent of Lessor, which shall not be unreasonably withheld, or permit any gambling or social gaming; or xiii) permit the use of the Premises for a second-hand store, pawnshop, or for conducting auction, distress or fire sale, or bankruptcy or going-out-of-business sale or the like.

## 7. Hazardous Substances

- a) The term "Hazardous Substances", as used in this Lease, shall mean any hazardous, toxic, infectious, or radioactive substance, waste or material as defined or listed by any Environmental Law except for immaterial quantities of substances customarily and prudently used in the cleaning and maintenance of the Premises in accordance with any applicable law. The term "Environmental Law" shall mean any federal, state, or local statute, regulation, rule, or ordinance or any judicial or other governmental order pertaining to the protection of health, safety, or the environment.
- b) Lessee shall, at Lessee's own expense, comply with all Environmental Laws applicable to Lessee's use of the Premises. During the Term of this Lease, Lessee shall not cause or permit to occur: i) any violation of Environmental Laws, in, above, under, from or affecting the Premises, or arising from Lessee's use or occupancy of the Premises, including, but not limited to, soil, groundwater, indoor air or outdoor air quality conditions; or ii) the use, generation, release, manufacture, refining, production, handling, processing, storage or disposal of any Hazardous Substance in, above, under, from or affecting the Premises, or the transportation to or from the Premises of any Hazardous Substance, except in minimal quantities as necessary in the ordinary operation of Lessee's activities, without Lessor's prior written approval, by Lessee or its employees, agents, or contractors.
- c) Lessee shall immediately notify Lessor in writing if it becomes aware of: i) any material spill, discharge or release of any Hazardous Substance in, on, or about the Premises, whether or not the release is in quantities that would legally require reporting to a regulatory agency and any spill, discharge or release that must be reported to a regulatory agency; and, ii) any inquiry, investigation, enforcement action, notice of potential violation or other action that is instituted or threatened against Lessee that relates to the spill, release or discharge or Hazardous Substances in, above, under, from or affecting the Premises.

- d) Lessee shall, at Lessee's own expense, make all submissions to, provide all information required by, and comply with all requirements of all regulatory authorities related to Lessee's use or occupancy of the Premises. Should any regulatory authority or any third party with legal jurisdiction require that a clean-up plan be prepared and that a clean-up be undertaken because of any release of Hazardous Substances that occurs as a result of Lessee's Use or occupancy of the Premises, Lessee shall, at Lessee's own expense, prepare and implement the required plans and provide all financial assurances in accordance with applicable requirements.
- e) Lessee shall promptly provide all information in its possession regarding the use, generation, storage, transportation, release, manufacture, refining, production, handling, processing, or disposal of Hazardous Substances in, on, or about the Premises that is requested by Lessor.

#### 8. Fire Prevention

Lessee shall not use the Premises in any manner that causes the fire insurance rate on the property to be increased over that normally applicable to the activities to be conducted at the Premises or that would prevent Lessor from taking advantage of any ruling of the Insurance Services Offices of Oregon, or its successors, which could allow Lessor to obtain reduced premium rates for long term fire insurance policies, given the activities to be conducted by Lessee at the Premises. Lessee shall take commercially reasonable steps to prevent and control fire on the Premises and shall comply with any rules and regulations set forth by the Fire Marshal applicable to Lessee's use or occupancy of the Premises other than any requirement to alter or improve the Premises. Lessee shall promptly pay for any fire inspection or re-inspection fee assessed to the Premises and make all corrections as ordered by the Fire Marshal. All paints oils and other flammable materials shall be stored in suitably protected compartments in accordance with rules and regulations as set forth by the Fire Marshal.

#### 9. Overloading of Structures

Lessee shall not overload current or future structures on the Premises so as to cause any undue or serious stress or strain to the property, or any part thereof. Lessor shall have the right, at any time, to call upon any competent engineer or architect whom Lessor may choose, to decide whether or not overloading of the Premises has occurred.

#### 10. Signs and Attachments

Lessee may install signs and shall designate hours on its website that accurately and clearly state when the Premises are available for public use. Lessee shall not place signage or attachment in or on the Premises including the exterior, windows, or doors, other than to identify Lessee and the nature of Lessee's operations, without Lessor's advance written consent. Lessor may refuse consent to any proposed permanent signage or attachment that is in Lessor's reasonable opinion inconsistent with or inappropriate to the Premises. Lessor will not unreasonably refuse consent to any proposed sign. If Lessor approves a sign or attachment, Lessee is required to comply with applicable laws regulating signs, including the Sign Code under Portland City Code Title 32. Lessee is solely responsible for costs for installation, maintenance, removal and repair of damage related to an authorized Lessee signage. Authorized signage shall be kept in good and safe condition by Lessee. Lessee shall seek Lessor consent prior to altering or substituting any authorized signage. Lessor shall not unreasonably withhold approval

of the Lessee's request to install a signage of a temporary nature to the Premises, provided that such signage complies with all applicable laws and City policies and Code.

#### 11. Acceptance of Premises

Lessee has examined the Premises and accept them in "as is" condition. No representations or warranties as to the condition of the Premises have been made by Lessor or its officers, agents or employees. Lessee is responsible for determining whether Lessee's proposed use of Premises conforms to applicable zoning or building codes. Lessor shall have no liability to Lessee for any damage or injury caused by the condition of the Premises or for any latent defect in the Premises. All furnishings, appliances, fixtures, improvements, surface coverings, decoration and other contents of the Premises shall be provided by Lessee at its own expense, as Lessee determines necessary. Lessee accepts use of the Premises subject to any and all existing easements, pipelines, telephone, telegraph, communication, power and signal lines or any other similar facilities, together with any future installations thereof approved by Lessee, which approval shall not be unreasonably withheld; provided that Lessor will defend Lessee's right to quiet enjoyment of the Premises from all third-party claims during this Lease Term. Lessee and Lessor will reasonably cooperate to collectively or individually decouple any utilities located within (including below grade utilities) or servicing the Premises and relocate them respectively either on or off the Premises as a part of the budget for any major renovation projects.

#### 12. [Intentionally omitted]

#### 13. Lessee Improvements, Alterations and Additions

In addition to the Special Conditions for Construction to Lease Agreement specified in Exhibit B attached and incorporated hereto, the parties agree:

- a) All work performed to the Premises shall be done in strict compliance with all applicable ADA, building, fire, sanitary and safety codes, and other applicable laws, statutes, regulations, and ordinances. Prior to the commencement of any work other than for ordinary maintenance and repairs under \$50,000, Lessee shall obtain Lessor's written consent which shall not be unreasonably withheld, to all of the following: Lessee's plans, specifications and work drawings detailing the alteration, construction or changes to the Premises proposed by Lessee; Lessee's estimated costs; and, the names of Lessee's general contractors and major subcontractors, along with copies of contractors/subcontractors' certificates of insurance and bonding. As required by law, Lessee shall apply for permits and submit permit plans to the City of Portland's Bureau of Development Services or other appropriate City bureaus, or government agency with permitting responsibility, within ten (10) days of obtaining Lessor's written consent to Lessee's plans and specifications. All Lessee improvement plans for construction, alteration or changes to the structural components of any building constructed in the future shall be signed and sealed by an architect or engineer licensed by the State of Oregon. Lessee shall provide Lessor with proof of required valid permits prior to commencement of any work and proof of inspection approval after work completion. The City of Portland's Bureau of Development Services or other appropriate City bureaus shall be considered separate regulating or permitting bodies from Lessor.
- b) Lessor's written consent and approval of proposed or constructed Lessee improvements shall create no responsibility or liability on the part of Lessor for design completeness, sufficiency, or



compliance with all laws, rules and regulations of governmental agencies or authorities, and shall not be construed as Lessor's warranty or approval of the adequacy, competence, experience, bonding or licensure of any contractors/subcontractors or the quality of the work that may be performed by these persons. Lessee remains wholly responsible for non-compliance and defects in any work performed by Lessee's contractors/subcontractors.

- c) All work performed by Lessee shall be carried forward expeditiously and be completed within a reasonable time. All work shall be completed in a good workmanlike manner. Lessor or Lessor's employees or agents shall have the right at all reasonable times, upon prior reasonable notice, to inspect the quality and progress of the work. Lessee shall provide Lessor all construction drawings if related to construction, alteration, or changes to the structural components of any building (inclusive of architectural, structural, mechanical, and electrical drawings) on computer disks in format readable by AutoCAD 2008 (or the appropriate version utilized by the City), at completion of Lessee's construction.
- d) Upon the expiration or termination of this Lease, Lessee shall remove from the Premises all of Lessee's non-fixture personal property, improvements or other property installed by or on behalf of Lessee that Lessor requires Lessee to remove. Lessee shall promptly repair any damage to Lessor's property caused by such removal and restore the area to the condition the area was in prior to installation or property improvement in question. If Lessee fails to remove its personal property or property improvements, Lessor may at its discretion keep or use some or all of the property as Lessor's own without any compensation due to Lessee, or elect to remove, store and sell some or all of the personal property in accordance with applicable law, and at Lessee's expense. Notwithstanding the foregoing, the Parties agree that Lessee shall not be required to remove upon expiration or termination of this Lease any fixtures (whether characterized as trade fixtures or ordinary fixtures) or other improvements installed by Lessee that are consistent with an athletic facility and that Lessor approved in writing at the time of installation or for which this Lease did not require Lessor's approval, including without limitation the artificial turf being installed on the lower field and the track encircling such field.
- e) Lessee agrees to replace the artificial turf on the lower field and the track encircling such field within a reasonable period of time after the commencement of this Lease, and Lessor hereby consents to such replacement as long as such work is substantially similar to the current layout. Lessee shall maintain the track and fields within Premises in a safe and usable manner during the entire term of this Lease, as a failure to do so would invalidate the reasons precipitating this Lease and the stated value proposition with respect to overall public benefit. .

#### 14. Building Alteration and Repair Required by Governmental Authority

In the event Lessor, during the Term of this Lease, shall be required by the City of Portland, the order or decree of any court, or any other governmental authority to repair, alter, remove, reconstruct, or improve any part of the Premises, then, pursuant to Section 4 of this Lease, the repairing, alteration, removal, reconstruction or improvement may be made by and at the expense of Lessee without any interference or claim for damages by Lessee. Whether or not ordered to do so by a governmental authority, Lessor and Lessor's agents and employees shall have the right from time to time during the Term of this Lease to enter into and upon the Premises with reasonable notice to Lessee, except in emergency circumstances, and recognizing Lessee's right to accompany such agents and employees, for the purpose of inspecting

such alterations and repairs and other things to the Premises or its equipment as may become necessary or advisable, without any interference from or claim for damages by Lessee. Notwithstanding any provisions herein, Lessor shall not be required to make any repair required by a Governmental Authority which it reasonably deems to be uneconomic. In the event Lessor determines that a repair shall not be made, it shall notify Lessee, whose sole remedy shall be to make such repair at its own expense or to terminate this Lease. Lessor shall provide Lessee with the same advance notice to make the repair as the notice received by Lessor from the governmental authority. Notwithstanding the foregoing, to the extent Section 35(m) of this Lease pertaining to the Americans with Disabilities Act conflicts with the terms of this Section 14, said Section 35(m) shall control.

#### 15. Maintenance and Repair

Pursuant to Section 4 of this Lease, Lessee shall bear all expenses associated with maintaining and repairing the Premises in a good and safe condition, and Lessor shall have no obligation or responsibility for any maintenance and repairs to the Premises. Lessee acknowledges that there are overlapping utilities within the Premises, and until such a time that the Lessee can separate, submeter, or isolate utilities within the Premises, Lessor shall have the right to enter the Premises to make repairs as needed with appropriate notice. Lessor shall have no obligation to repair or maintain any systems within the Premises that solely serve Lessee. Lessee and Lessor shall coordinate any repairs on joint systems in a manner that has the least impact on both Parties.

#### 16. Security Measures

Lessor shall have no obligation to provide security service or to adopt security measures regarding the Premises. Lessee may install, at its sole cost, a security system within or around the Premises (approved cameras shall be positioned such that they point away from the Park), including fencing, with Lessor's prior written consent, which shall not be unreasonably withheld and in no event will be withheld so long as such fencing is comparable to the fencing in place on the upper field as of the Effective Date; provided that any fencing shall not unreasonably limit public access to the Premises, except for temporary fencing needed for extraordinary security reasons as determined by Lessee in its reasonable discretion. Said temporary fencing for extraordinary security reasons shall not require Lessor's prior approval. Lessee shall provide Lessor with an access code or key to any security system at the time of installation. Lessee is granted authority to enforce its own rules on the Premises and will be solely responsible for all security and enforcement of such rules at the Premises at all times and all days. The extent and type of security provided for the Premises by Lessee shall be determined by Lessee and in accordance with this Lease.

#### 17. Liens

Lessee shall keep the Premises free from all liens, including mechanics' liens, arising from any act or omission of Lessee or those claiming under Lessee. Lessee shall pay as due all claims for work done, for services rendered or material furnished to the Premises at its request. If Lessee fails to pay any claims or to discharge any lien, Lessor may discharge the lien and collect all costs of discharge, including its reasonable attorney's fees, as Additional Fees. Assessment of Additional Fees by Lessor shall not constitute a waiver of any right or remedy Lessor may have on account of Lessee's default. Lessee may withhold payment of any claim in connection with a good faith dispute over the obligation to pay, so long as Lessor's property interests are not jeopardized. If a lien is filed as a result of nonpayment, Lessee shall, within ten (10) days after notice of filing, provide Lessor with an executed copy of a discharge of the lien,



or deposit with Lessor cash or a sufficient corporate surety bond or other security satisfactory to Lessor in an amount sufficient to discharge the lien plus any costs, attorney's fees or other charges that could accrue as a result of any action arising from the lien.

#### 18. Light and Air

This Lease does not grant any rights of access to light or air over any part of the real property in which the Premises are located. Lessor has no liability for interference with light and air.

#### 19. Eminent Domain

A Party receiving any notice from a condemning authority of a proposed taking or action related to condemnation affecting the Premises or any portion thereof shall promptly give the other Party notice. If all or a portion of the Premises is taken by a condemning authority, by exercise of that right or by sale or purchase in lieu of condemnation, whether the taking be a direct physical taking or an indirect taking compensable by way of severance damages or the like, Lessor shall be entitled to all of the proceeds of the taking and Lessee shall have no claim against Lessor as a result of the taking. At Lessor's sole determination, if the Premises remaining after the taking are sufficient for practical operation of Lessee's activities, Lessor shall proceed as soon as reasonably possible to make necessary repairs to cause the Premises to be comparable to that existing prior to the taking. Lessee's consideration in lieu of rent shall be reduced to the extent of the reduction in area of the Premises on account of the portion physically taken. Lessor agrees not to file any condemnation action against the Premises during the term of this Lease for the purpose of using the Premises for a park or recreational facility or activities.

#### 20. Indemnification

- a) Lessor shall indemnify, defend, and hold harmless Lessee and its officers, agents, and employees from any and all liability, damages, expenses, attorney fees, causes of actions, suites, claims or judgments, arising out of the connected with (i) any failure of the Lessor to comply with the terms of this Agreement, or any violation of law or ordinance, and (ii) the acts or omissions of Lessor, its officers, directors, agents and employees or invitees, provided, however, the Lessor shall not be liable for claims to the extent caused by the negligence or otherwise wrongful willful acts or omissions of the Lessee, its officers, directors, agents and employees. Additionally, the foregoing agreement to indemnify is subject to the liability limitations imposed in favor of Lessor under the Oregon Constitution and the Oregon Tort Claims Act. Except for expense or liability attributable to the negligence of Lessee, Lessor shall, at Lessor's cost and expense, defend any and all claims, demands, actions or suits which may be brought against Lessor or Lessee or Lessee's officers, agents or employees, either alone or in conjunction with others upon any such above mentioned cause or claim, and shall satisfy, pay and discharge any and all judgments, including attorney fees and costs, that may be recovered against Lessor or Lessee or Lessee's officers, agents, and employees, in any such action or actions in which they may be party defendants.
- b) Lessee shall indemnify, defend, and hold harmless Lessor and Lessor's officers, agents and employees from any and all liability, damage, expenses, attorney's fees, causes of actions, suits,

claims or judgments, arising out of or connected with (i) Lessee's use, occupancy, management, permitting, or control of the Premises, (ii) any failure of Lessee to comply with the terms of this Lease or any violation of law or ordinance and (iii) the acts or omission of Lessee, its agents, officers, directors, employees or invitees. However, Lessee shall not be liable for claims to the extent caused by the negligence or otherwise wrongful willful acts or omissions of Lessor, its officers, agents or employees. Additionally, the foregoing agreement to indemnify is subject to the liability limitations imposed in favor of Lessee under the Oregon Constitution and the Oregon Tort Claims Act. Except for expense or liability attributable to the negligence of Lessor, Lessee shall, at Lessee's cost and expense, defend any and all claims, demands, actions or suits which may be brought against Lessee or Lessor or Lessor's officers, agents or employees, either alone or in conjunction with others upon any such above mentioned cause or claim, and shall satisfy, pay and discharge any and all judgments, including attorney fees and costs, that may be recovered against Lessee or Lessor or Lessor's officers, agents, and employees, in any such action or actions in which they may be party defendants.

- c) Lessor and its officers, agents and employees shall not be liable for any injury to the goods, stock, merchandise or any other property of Lessee or to any person in or upon the Premises including, but not limited to, damage by fire, explosion, steam, gas, electricity, water or rain which may leak from any part of the Premises or from the pipes, appliances or plumbing works therein or from the roof, street or subsurface or from any other place resulting from dampness or any other cause whatsoever, or collapse of the Premises or any portion thereof, or any other cause, except to the extent due to the negligence of Lessor or its officers, agents, and employees.
- d) If Lessee is notified or becomes aware of any serious personal injury on the Premises, Lessee shall give Lessor prompt written notice thereof. As a material part of the consideration to Lessor, Lessee assumes all risk of damage to Lessee's property or injury to persons, in, upon or about the indoor portion of the Premises at all times during Lessee's hours of operation, except to the extent caused by Lessor's negligence, and Lessee otherwise waives all claims in respect thereof against Lessor.
- e) Lessee shall indemnify, defend and hold Lessor harmless from any claims, judgments, damages, penalties, fines, costs, liabilities of losses (including without limitation, diminution in value of the Premises) which arise during or after this Lease Term as a result of environmental contamination as a result of the acts or omissions of Lessee, its employees or agents. This indemnification of Lessor by Lessee includes, without limitation, costs incurred in connection with any investigation of site conditions or any environmental cleanup, remedial, removal or restoration work in response to hazardous substances, hazardous materials, pollutants, toxics or regulated environmental contaminants of any kind as a direct or indirect result of Lessee's activities. Lessee shall promptly take all action at its sole expense as are necessary to return the Premises to the condition existing prior to the release of contaminants. Except for immediate initial response actions necessary to protect human health and the environment from substantial imminent harm, Lessee shall obtain Lessor's approval of all such response action which approval shall not be unreasonably withheld. This environmental indemnity shall survive the expiration or earlier termination of this Lease.
- f) Lessee shall have control of the defense and settlement of any claims under Section 20(a) and Lessor shall have control of the defense and settlement of any claims under Section 20(b).

However, the indemnifying-party and any attorney engaged by such party shall not defend the claim in the name of the indemnified-party, nor purport to act as legal representative of the indemnified-party, without first receiving from the indemnified-party's attorney (City Attorney or School District general counsel) the authority to act as legal counsel for the indemnified-party, and the indemnifying-party shall not settle any claim on behalf of the indemnified-party that includes any settlement obligations other than the payment of money without the approval of the indemnified party's attorney, which approval shall not be unreasonably withheld. Notwithstanding an indemnifying-party's obligation to indemnify, defend and hold harmless an indemnified-party, the indemnified-party may at its election assume its own defense if the indemnified-party reasonably determines that the indemnifying-party is prohibited from defending the indemnified-party or is not adequately defending indemnified-party's interest, or determines that an important governmental or educational principle is at issue and the indemnified-party desires to assume its own defense.

## 21. Property Damage and General Liability Insurance

- a) During the Initial Term of this Lease and any extensions thereafter, Lessee, at its sole expense, shall maintain a commercial general liability and property damage insurance policy for the Premises or approved equivalent policy covering amounts in excess of Lessee's self-insured retention, including automobile liability, professional liability, abuse and molestation liability and additional insured endorsements for fire legal liability, child care liability and child abuse liability, that protects Lessee and Lessor and Lessor's officers, agents and employees as additional insureds from any and all risks, claims, demands, actions, and suits for damage to property including without limitation cracking or breaking of glass or personal injury, including bodily and death, arising directly or indirectly from Lessee's activities or any condition of the Premises. Bodily injury shall include emotional distress, humiliation, shock or fright, mental injury and corporal punishment. The insurance shall protect Lessee against the claims of Lessor on account of the obligations assumed by Lessee under this Lease and shall protect Lessor and Lessee against claims of third persons. The insurance together with Lessee's self-insurance shall provide coverage for not less than \$2,000,000 per each occurrence. Lessor reserves the right to require additional insurance coverage (including self-insurance) as required by statutory or legal changes to the maximum liability that may be imposed on municipalities of the State of Oregon during the term of this Lease. The insurance shall be without prejudice to coverage otherwise existing and shall name as additional insureds Lessor and its officers, agents, and employees. Notwithstanding the naming of additional insureds, the insurance shall protect each insured in the same manner as though a separate policy had been issued to each, but nothing herein shall operate to increase the insurer's liability as set forth elsewhere in the policy beyond the amount or amounts for which the insurer would have been liable if only one person or interest had been named as insured. Lessee's coverage shall be primary and non-contributory with any other insurance. The coverage shall apply as to claims between insured on the policy. The insurance shall provide that the insurance shall not terminate or be cancelled without thirty (30) days' written notice first being given to Lessor. If the insurance is cancelled or terminated prior to termination of this Lease, Lessee shall provide a new policy with the same terms. Lessee agrees to maintain continuous, uninterrupted coverage (including self-insurance) for the duration of this Lease. The automobile insurance shall include coverage for any damages or injuries arising

out of the use of automobiles or other motor vehicles by the Lessee at the Premises and in its operations. Lessee shall also obtain insurance coverage for business interruption.

- b) Lessee shall maintain on file with Lessor a certificate of insurance, including relevant endorsements, certifying the coverage required by this Section. The adequacy of the insurance shall be subject to the reasonable approval of the City Attorney. Failure to maintain active insurance coverage in an acceptable amount shall be an Event of Default as defined in Section 27, unless cured with the time periods stated therein.
- c) Lessee and Lessor acknowledge that Lessor and Lessee are each self-insured (at least in part) and that Lessor and Lessee are not obligated to obtain any insurance policy otherwise required under this Lease so long as adequate self-insurance in lieu of such policy is in place.

## 22. Waiver of Subrogation

- a) Lessor and Lessee each agree to waive claims arising in any manner in favor of either Lessor or Lessee and against the other for loss or damage to their property located within or constituting a part or all of the Premises to the extent the loss or damage is covered by liability or property insurance the Party is required to carry under this Lease or liability or property insurance the Party does carry. The waiver also applies to Lessee's directors, officers, employees, and agents and to Lessor's officers, agents and employees. The waiver does not apply to claims arising from the willful misconduct of Lessor or Lessee.
- b) If Lessee is unable, despite its best efforts, to find an insurance company that will issue a policy containing a waiver meeting the requirements of this Section at reasonable commercial rates, then it shall give Lessor written notice within thirty (30) days after the commencement date of this Lease. Upon the date of issuance of such notice, both Parties shall be released from their obligation of waiver of subrogation.

## 23. Workers' Compensation Insurance

Lessee shall comply with the workers' compensation law, ORS Chapter 656, and as it may be amended from time to time. Unless Lessee demonstrates to the satisfaction of Lessor that Lessee is exempted from workers' compensation insurance requirements, Lessee shall maintain coverage for all subject workers and provide to Lessor proof of valid workers' compensation insurance or adequate self-insurance covering the entirety of this Lease Term.

## 24. Assignment and Subletting

- a) Lessee shall not assign, mortgage, sublet, pledge or transfer this Lease or any interest therein or in any way part with possession of all or any part of the Premises, or permit or license the use or occupancy by any other person, other than through Lessee's Civic Use of Buildings rules or other School District rules and in compliance with the terms of this Lease which shall supersede District rules, without Lessor's prior consent, which will not be unreasonably withheld. Any assignment, subletting, transferring, occupation or use by any other person without the prior written consent

of Lessor shall be void and shall be an Event of Default as defined in Section 27, unless cured with the time periods stated therein.

- b) This Lease shall not be assigned by operation of law unless: i) Lessee, its receiver or trustee or proposed assignee provides Lessor with notice of proposed assignment at least sixty (60) days prior to effective date of such assignment by operation of law; ii) Lessee, its receiver or trustee or proposed assignee demonstrates to Lessor that the proposed assignee has the same or better capability and stability than Lessee; and iii) Lessee, its receiver or trustee or proposed assignee cures all Lease defaults, or provides adequate assurances of prompt cure if such is permitted by law, prior to effective date of such assignment by operation of law.
- c) If Lessee proposes a subletting, assignment, transfer, occupation or use that is restricted by this Lease, Lessor shall have the option of terminating this Lease and dealing directly with the proposed sub-lessee or assignee, or any third party.
- d) In the event of merger, acquisition or consolidation of Lessee with any parent, subsidiary, successor or affiliated corporation, limited liability company or partnership, the resulting corporate entity shall be deemed Lessee and not a third party requiring Lessor consent only if: Lessee and/or the resulting corporate entity notify Lessor of the change in corporate identity or status within five (5) business days; the resulting corporate entity agrees to assume of all Lessee liability and responsibilities under this Lease; the resulting corporate entity has the same or better financial capability and stability to assume Lessee liability and responsibilities; and the resulting corporate entity executes documents acknowledging the corporate change and assumption of responsibility as may be requested by Lessor. Change of Lessee's corporate status arising from administrative dissolution shall be deemed a transfer for the purposes of this Section.
- e) The covenants and conditions contained in this Lease apply to and bind the heirs, successors, executors, administrators and assigns of the Parties.

#### 25. Sale by Lessor

- (a) In the event of sale of the Premises by Lessor, Lessor shall be entirely freed and relieved of all liability under any and all of its covenants and obligations contained in or derived from this Lease arising out of any act, occurrence or omission occurring after the consummation of the sale. The purchaser shall be deemed, without any further agreement between the Parties and any such purchaser, to have assumed and to have agreed to carry out any and all of the covenants and obligations of Lessor under this Lease.
- (b) If Lessor decides to sell the Premises (after consideration of City policies and obtaining any required exceptions from City Council), Lessor shall not sell or convey the Premises without first offering to sell the Premises to Lessee for its fair market value, which shall be determined by a certified MAI appraiser.

#### 26. Entry by Lessor

- a) Lessor shall have the right to enter the Premises upon reasonable notice to Lessee and recognizing Lessee's right to accompany such inspection: i) to inspect its conditions; ii) to submit the Premises to prospective purchasers or Lessees.
- b) If Lessee fails to maintain the Premises in a clean and orderly fashion, Lessor may give notice to Lessee of such failure. If Lessee fails to cure the failure within the time period stated in Section 27(a)(ii), Lessor may enter the Premises to rectify the condition and to restore the Premises to the condition, use and appearance that existed at the time this Lease was executed, reasonable wear and tear excepted.
- c) Lessor shall have the right to use any and all means which Lessor may deem proper to open the doors of the Premises in an emergency, in order to obtain entry to the Premises, without liability to Lessee.
- d) Any entry to the Premises obtained by Lessor shall not under any circumstances be construed or deemed to be forcible or unlawful entry into, or a detainer of, the Premises, or an eviction of Lessee from the Premises or any portion thereof.
- e) Notwithstanding anything in this Lease to the contrary, any entry by Lessor in, on, or about the Premises, including any inspection, or entry for repairs, alterations, or improvements, must be done in a manner to minimize interference with Lessee's operations on the Premises. Any entry by Lessor in the Premises must be done with Lessee's representative present. Notwithstanding anything in this Lease to the contrary, Lessor is solely responsible for all damage caused to Lessee's property as a result of the acts or omissions of Lessor or its employees, agents, contractors, and invitees, in, on, or about the Premises.

#### 27. Default by Lessee

- a) Any one or more of the following shall be an "Event of Default":
  - i) Failure of Lessee to comply with any term or condition or to perform any obligations of this Lease, including without limitation Lessee's commitments in Section 3 to be performed in lieu of the payment of rent, within thirty (30) days after written notice by Lessor specifying the failure with reasonable particularity. If the failure is of such nature that it cannot be completely remedied within a thirty (30) day period, then Lessee shall commence cure within the thirty (30) day period, notify Lessor of Lessee's steps for cure and estimate time table for full correction of the failure, and proceed with reasonable diligence and in good faith to correct the failure as soon as practical and to completion.
  - ii) Permanent cessation by Lessee of operating Grant High School as a public school.
  - iii) The abandonment of the Premises by Lessee.
  - iv) An insolvency, receivership or bankruptcy proceeding is filed by or against Lessee to declare Lessee insolvent or bankrupt, or to seek a plan of reorganization or arrangement by Lessee or with its creditors, unless such petition is withdrawn or dismissed within thirty (30) days after the date of its filing.



- v) Appointment of receiver or trustee for the operations or property of Lessee, unless such appointment is vacated within ten (10) days of its entry.
  - vi) Lessee makes an assignment of Lessee's property for the benefit of its creditors, or if in any other manner Lessee's interest in this Lease is passed to another person by operation of law.
  - vii) If Lessee admits in writing Lessee's inability to meet Lessee's debts as they mature.
- b) Upon filing of a petition under the Federal Bankruptcy Code (Title 11 United States Code, as may be amended or supplemented):
- i) Lessee or Lessee's trustee shall perform promptly and fully each and every obligation of Lessee under this Lease until such time as this Lease is either rejected or assumed by order of the bankruptcy court or pursuant to the Bankruptcy Code. Acceptance of any performance does not constitute waiver or relinquishment of Lessor's rights under the Lease or the law.
  - ii) In the event Lessee or Lessee's trustee elects to reject this Lease or where this Lease is deemed rejected pursuant to the Bankruptcy Code, then Lessor shall immediately be entitled to possession of the Premises without further obligation to Lessee or the trustee.
  - iii) In the event Lessee or Lessee's trustee elects to assume and/or to assign this Lease pursuant to the Bankruptcy Code, in addition to any other requirement imposed upon Lessee, Lessee shall: within ten (10) days from the date of assumption, cure of all Lease defaults and compensate Lessor for any actual pecuniary loss that may have resulted from Lessee's defaults, or provide adequate assurances of cure and compensation; and adequate assurances of future performance of all Lessee obligations under the Lease. PPR and Lessee acknowledge such conditions are commercially reasonable.
  - iv) If Lessee or Lessee's trustee has assumed this Lease and elects to assign Lessee's interest under this Lease to any other person, such interest may be assigned only if the intended assignee has provided adequate assurance of future performance of all of Lessee's obligations under this Lease, and executes and delivers to Lessor an instrument by which the assignee assumes all obligations of the Lease from and after the date of assignment.
  - v) "Adequate assurance of future performance" means that Lessor has ascertained that each of the following conditions has been satisfied: (1) the assignee and its guarantor (if any) document by current financial statements, certified by the chief financial officer(s), or similar financial documents showing a net worth and working capital in amounts at least equal to Lessee's and its guarantor's as of the time the Lessee became the Lessee under this Lease so as to assure future performance by the assignee of all Lease obligations; (2) the assumption or assignment will not breach any use, confidentiality or exclusivity provisions in this Lease; and, (3) Lessor has obtained consents or waivers from any third parties that may be required under a Lease, mortgage, financing arrangement or other agreement by which Lessor is bound, to enable Lessor to permit such assignment.

## 28. Remedies on Default by Lessee

- (a) Upon occurrence of an Event of Default, Lessor may: i) elect to terminate this Lease and Lessee's right to use of the Premises by notice to Lessee; ii) exercise its right to cure any non-monetary default and recover the cost of such cure from Lessee; iii) re-enter, take possession of the Premises and remove any persons or property by legal action or self-help, with the use of reasonable force and without liability for damages; or iv) exercise any legal or equitable right or remedy it may have. Lessor's remedies in this Section shall not be exclusive but shall be in addition to all other remedies and rights provided under applicable law, and no election to pursue one remedy shall preclude resort to another consistent remedy. Lessee's liability to Lessor for default shall survive termination of this Lease. If termination of this Lease is stayed by the order of the bankruptcy court, then Lessor shall have the right to terminate this Lease and Lessee shall vacate the Premises following the expiration of such stay or the failure of Lessee or its bankruptcy trustee to assume this Lease within the time prescribed for assumption or as may be allowed by an order of the court.
- a) Following re-entry by Lessor due to termination, Lessor may re-let the Premises. Lessor may alter, refurbish or change the character or use of the Premises in connection with any re-letting. Re-letting by Lessor following Lessee's default shall not be construed as an acceptance or a surrender of the Premises. Lessor shall have a security interest in Lessee's property on the Premises at the time of re-entry to secure all sums owed or to become owing Lessor under this Lease. Perfection of such security interest shall be taking possession of the property or otherwise as provided by law.

## 29. Surrender Upon Termination

- a) Upon expiration or termination of the Lease, Lessee shall deliver all keys to Lessor and surrender the Premises to Lessor in a condition consistent with its condition as of the commencement of this Lease. Lessee does not need to restore the Premises due to depreciation and wear from ordinary use for the purposes for which the Premises were let. Any repair that Lessee is required to make in the Lease shall be completed prior to surrender.
- b) Except for Lessee's trade fixtures, all fixtures placed upon the Premises shall become the property of Lessor. Subject to Section 13(d) of this Lease, if Lessee fails to remove fixtures or make repairs, Lessor may do so and charge the cost to Lessee together with interest and late charges as provided by this Lease from the date of the expenditure.
- c) Subject to Section 13(d) of this Lease, Lessee shall remove all furnishings, furniture and trade fixtures that remain the property of Lessee. Failure to remove all Lessee's property shall constitute a failure to vacate and surrender Premises. Property not removed shall be deemed abandoned property and of inconsequential value, and Lessee shall have no further rights therein except as provide below. Lessor may elect to: i) retain or dispose of the abandoned property as Lessor sees fit; or ii) perfect and foreclose Lessor's lien for damages, including expenses for removal and storage of Lessee's property, under ORS 87.162 et seq. If Lessee fails to vacate and surrender the Premises, Lessor may take legal action to eject Lessee from the Premises. Lessee shall be responsible for all actual damages (but not consequential damages) to Lessor as a result

of Lessee's failure to surrender and vacate the Premises in accordance with this Lease. This clause shall survive the termination of this Lease.

- d) Right to quiet enjoyment and Lessor's obligations to Lessee under this Lease are not applicable to a holdover Lessee.
- e) Lessee shall have the right to terminate this Lease upon 6 months' written notice to Lessor.
- f) Upon execution of this Agreement by the Parties, that certain Agreement for the Joint Use of Portland Public Schools and Portland Parks & Recreation Athletic Facilities between the Parties, dated May 25, 2022 (the "Joint Use Agreement") shall be deemed to have been amended to exclude the Premises from the scope of the Joint Use Agreement for so long as this Lease is in effect. Upon expiration or termination of this Lease, the Parties shall enter into good faith negotiations designed to continue shared use of the Premises.

### 30. Holding Over

Lessee has no right to retain possession of the Premises or any part thereof beyond the expiration or termination of this Lease. If Lessee holds over, Lessor has all the rights and remedies available to a Lessor against a holdover Lessee. Lessor may impose on a holdover Lessee a term of month-to-month. Lessor shall not be required to perform any work, furnish any materials or make any repairs to the Premises or Property during the holdover period. The holdover tenancy may be terminated by Lessor at will at any time. In the event of holdover beyond June 30<sup>th</sup> of any year, the holdover Lessee shall be responsible for payment of real property taxes for the entire year without proration. Lessee waives any notice that would otherwise be provided by law with respect to a month-to-month tenancy.

### 32. Default by Lessor; Remedies

Lessor shall not be in default unless Lessor fails to perform obligations required of Lessor within a reasonable time. Lessor agrees to perform its obligations within thirty (30) days after receiving written notice from Lessee specifying where and how Lessor has failed to perform its obligations. If the nature of Lessor's obligations is such that more than thirty (30) days are required for performance, then Lessor shall not be in default if Lessor commences performance within such thirty (30) day period and thereafter diligently prosecutes the same to completion.

### 33. Inability to Perform

Neither Party shall be deemed in default for the non-performance or for any interruption or delay in performance of any of the terms, covenants and conditions of this Lease if due to any labor dispute, strike, lockout, civil commotion or operation, invasion, rebellion, hostilities, military or usurped power, sabotage, governmental regulations or controls, inability to obtain labor, services or materials, or through act of God or other causes beyond the reasonable control of such Party, providing such cause is not due to such Party's willful act or neglect.

#### 34. Dispute Resolution

If a dispute arises concerning this Lease, Lessor and Lessee agree that the dispute shall initially be submitted to mediation. The mediator will be selected by mutual agreement and will be compensated equally by both Parties. If the Parties fail to agree on a mediator within ten days of notice by either Party of a request for mediation, a mediator shall be appointed by the presiding judge of the Circuit Court of the State of Oregon for the County of Multnomah upon the request of either Party. Any dispute under this Lease submitted to mediation that is not resolved within ninety (90) days of the appointment of the mediator (or such longer period if the Parties so agree) shall be resolved by any court sitting in Multnomah County Oregon having proper jurisdiction.

#### 35. General Provisions

- a) Every covenant in this Lease will be construed to be material, whether or not the covenant expressly provides. No right or remedy or election provided by this Lease shall be deemed exclusive but shall, whenever possible, be cumulative with all other rights and remedies available at law or in equity. Any waiver by Lessor of the strict performance of any of the covenants of this Lease shall not be deemed to be a waiver of subsequent breaches of a different character, occurring either before or subsequent to such waiver, and shall not prejudice Lessor's right to strict performance of the same covenant in the future or of any other covenants of this Lease.
- b) There are no oral agreements between Lessor and Lessee affecting this Lease, and this Lease supersedes and cancels any and all previous negotiations, arrangement, brochures, advertising, agreement and understandings, oral or written, if any, between Lessor and Lessee or displayed by Lessor or its agents to Lessee with respect to this Lease. There are no representations between Lessor and Lessee, or between any real estate broker and Lessee, other than those contained in the Lease, and all reliance with respect to any representations is solely upon representations contained in this Lease. This Lease shall not be amended or modified except by agreement in writing signed by the Parties. This Lease shall not be recorded without written consent of Lessor.
- c) Each individual executing this Lease on behalf of Lessee shall be duly authorized to execute and deliver this Lease on behalf of Lessee, and Lessee warrants and represents that this Lease is binding on Lessee. Lessee shall provide any school district authorization documents as may be requested by Lessor.
- d) Upon Lessee providing consideration in lieu of rent and completely observing and fully performing all of the covenants, conditions and provisions required of Lessee, Lessee shall have the right to use the Premises for the entire Term hereof, free of disturbance by Lessor or any party through Lessor, subject to all terms and conditions of this Lease.
- e) Lessor and Lessee are the only Parties to this Lease and are the only Parties entitled to enforce its terms. Nothing in this Lease gives or shall be construed to give or provide any benefit, direct, or indirect, or otherwise to third parties unless third persons are expressly described as intended to be beneficiaries of this Lease.

- f) Nothing in this Lease shall be construed to create the relationship of principal and agent, partnership, joint venture or other association between Lessor and Lessee in connection with the activities carried on by Lessee under this Lease, other than a non-residential landlord and tenant relationship. Lessor shall have no obligation with respect to Lessee's debts or other liabilities.
- g) If any portion of this Lease is ruled invalid, void or illegal by an order of the court, the remainder of this Lease shall remain in full force and effect.
- h) In addition to any specific covenant in this Lease and upon Lessee's sole expense, Lessee shall comply with all laws, rules, orders, ordinances, directions, regulations, and requirements of federal, state, county, and municipal authorities, now in force or which may hereafter be in force during the Term of this Lease, applicable to Lessee's use of the Premises as if it were the property owner. Upon request from Lessor, Lessee shall verify to Lessor that Lessee is in compliance with all applicable tax reporting and payment requirements of the Internal Revenue Service, Oregon Department of Revenue, and local taxing authorities, including the City of Portland's Bureau of Revenues (as to Portland Business License Law and Multnomah County Business Income Tax Law).
- k) This Lease shall be governed by the laws of the State of Oregon. Any litigation arising under this Lease shall occur in the Multnomah County Circuit Court.
- l) This Lease will be construed with equal weight for the rights of both Parties, the terms and conditions of this Lease having been determined by fair negotiation with due consideration of the rights and requirements of both Parties, and any ambiguities shall not be construed for or against either Party.
- m) Americans With Disabilities Compliance
  - i) Lessee shall comply, at Lessee's sole expense, with the Americans with Disabilities Act (ADA), including any duty the ADA may impose on Lessor or Lessee as a result of Lessee's use, occupation or alteration of the Premises. Lessor represents and warrants to Lessee that Lessor has provided all information pertaining to any known ADA conditions at the Premises in Exhibit C attached hereto. In the event any claim is made by a member of the public or other third-party (prior to when permanent fencing is installed or building permits are approved for lighting or stadium improvements) that a condition at the Premises, which existed as of the Effective Date, was in violation of the ADA as in effect on the Effective Date, Lessor shall respond to such claim and be solely responsible for making any necessary alterations or improvements. Lessor shall have all rights to determine the method by which ADA compliance is achieved for any such claim deemed to be the Lessor's responsibility.
  - ii) Within ten (10) days after receipt, Lessor and Lessee shall advise the other Party in writing, and provide the other Party with copies (as applicable) of any notices alleging violation of or noncompliance with the ADA relating to the Premises or any portion of the Building to which Lessee has a right to use due to this Lease, or any governmental or regulatory actions or investigations instituted or threatened regarding noncompliance with the ADA and relating to the Premises or any portion of the Building to which Lessee has a right to use due to this Lease.

- iii) In the event of any assignment or sublet of the Premises, Lessee and Lessee's assignee or sublessee shall agree to comply with the ADA, at their sole expense, and agree to be liable under this Lease for any duty the ADA may impose upon Lessee or Lessee's assignee or sublessee as a result of their use, occupation or alteration of the Premises. Lessor reserves the right to withhold consent to a proposed assignment or sublease if the assignment or sublease fails to contain provisions required by this Lease to ensure ADA compliance at the expenses of Lessee, Lessee's assignee or sublessee. Lessor further reserves the right to withhold consent to a proposed assignment or sublet if the proposed use, occupation or alteration by the assignee or sublessee shall require alterations to the Premises to comply with the ADA which are inconsistent with Lessor's management interests.

### 36. Lessee's Statement

Upon request from Lessor, Lessee shall execute, acknowledge and deliver a written statement stating the date this Lease was executed, the Effective Date, the Expiration date, the date Lessee commenced use of the Premises under this Lease certifying that: i) this Lease is in full force and effect and has not been assigned, modified, supplemented or amended in any way (or specifying the date and terms of agreement so affecting this Lease); ii), this Lease represents the entire agreement between the Parties as to the Premises; iii) that all conditions or obligations required to be performed by Lessor have been satisfied; iv) that all required contributions by Lessor (if any) to Lessee on account of Lessee's improvements have been received; v) that there are no existing defenses or offsets which Lessee has against the enforcement of this Lease by Lessor. It is intended that Lessee's Statement delivered pursuant to this Section may be relied upon by a prospective purchaser of Lessor's interest or a mortgagee of Lessor's interest or assignee of any mortgage upon Lessor's interest in the Premises, or by any entity reviewing the City for bond funding or other municipal financing.

### 37. Lessee's Representation

Notwithstanding the requirement for Lessee to observe and comply with all federal, state and local laws in general, Lessee represents to Lessor that, (i) neither Lessee nor any person or entity that directly owns a 10% or greater equity interest in Lessee nor any of Lessee's officer, director or managing member or agent is a person or entity (each, a "Prohibited Person") with whom U.S. persons or entities are restricted from doing business under regulations of the Office of Foreign Asset Control ("OFAC") of the Department of the Treasury (including those named on OFAC's Specially Designated and Blocked Persons List) or under Executive Order 13224 (the "Executive Order"), signed on September 24, 2001, and entitled "Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism" or other governmental action, (ii) that Lessee's activities do not violate the International Money Laundering Abatement and Financial Anti-Terrorism Act of 2001 or the regulations or orders promulgated thereunder (as amended from time to time) or the Money Laundering Control Act of 1986 (18 U.S.C. Sec. 1956 et seq and as amended), and (iii) that throughout the Term of this Lease, Lessee shall comply with the Executive Order and with the Money Laundering Acts. Prior to execution of this Lease, and as may be requested by Lessor from time to time, Lessee shall identify and provide contact information of those persons who own a 10% or greater equity interest in Lessee, and of Lessee's officers, directors or managing members or agents, and citizenship status if other than U.S. citizens or entities. Lessee shall have a continuing duty to ensure that its equity owners, officers, directors or managing members or agents are not Prohibited Persons.



38. Non-Appropriation.

(a) In accordance with Oregon law, the obligation of Lessee to make the payments, including without limitation payments to third-parties for expenses of maintenance and repair provided for in this Lease, is subject to annual appropriation of funds for such purpose by the Directors of the Portland School Board. The obligation of Lessee to make such payments is not a general obligation of Lessee secured by the taxing power of Lessee. To the extent that funds are appropriated to make such payments in a given fiscal year, the faith and credit of Lessee is pledged to make such payments for such fiscal year.

(b) Lessee, by entering into this Lease, acknowledges its current intention to make all payments due hereunder when due. In the event the Portland School Board fails to appropriate sufficient funds to fully fund all of Lessee's legal obligations to make payments hereunder for any future fiscal period, then Lessee will immediately notify Lessor of such occurrence. Upon such notification, (i) this Lease shall immediately terminate, (ii) Lessee shall immediately relinquish possession of the Premises granted under this Lease, and (iii) Lessee shall not be entitled to the return of any funds previously paid.

(c) Lessee further agrees that: (i) to the extent funds are legally available therefor, Lessee will make all payments due hereunder; and (ii) Lessee will not fail to make payments due hereunder if sufficient funds are appropriated and budgeted by its Board of Directors.

39. Notices

Unless another manner of notice is specified or required, notices provided for in this Lease shall be in writing and effective: (a) Upon email reply confirmation or electronic delivery confirmation; (b) upon delivery, if delivered personally to the identified representative below; (c) three (3) business days after mailing, if deposited in the United States mail, postage prepaid; or (d) three (3) business days or upon delivery whichever is sooner, if tendered to an overnight or commercial courier (such as Federal Express), and addressed to the person and address below, or to another designee or address as either Party may specify in writing from time to time. Notice sent by electronic mail (email) is deemed received when actually received during regular business hours, provided that proof of delivery confirmation can be confirmed. In no event may a notice related to default or termination be deemed to have been delivered unless the notice is personally delivered, deposited in the United States mail, or sent by overnight or commercial courier.

To Lessor: CITY OF PORTLAND  
Portland Parks and Recreation, Attention Property Manager  
1120 SW Fifth Avenue, Suite 858  
Portland, Oregon 97204  
Email: [Parks.PropertyGroup@portlandoregon.gov](mailto:Parks.PropertyGroup@portlandoregon.gov)

To Lessee: SCHOOL DISTRICT NO. 1J (Portland Public Schools)  
501 N Dixon  
Portland, Oregon 97227  
Attention: Planning and Real Estate  
Telephone: 503-916-2000

40. Counterparts/Electronic Transaction

This Lease may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute a single instrument. The Parties agree that they may conduct this transaction, including any amendments or extension, by electronic means including the use of electronic signatures.

*[the remainder of this page left blank intentionally]*

*[signatures appear on the following page]*

Lessor and Lessee have executed this Lease in duplicate on the day and year written, and the corporate signature of Lessee being by authority of the Board of Directors of the executing corporation.

**LESSEE:**

School District No. 1J, Multnomah County, Oregon

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Written Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Federal Tax ID Number

**LESSOR:**

City of Portland,  
a municipal corporation of the State of Oregon,  
by and through its Bureau of Parks and Recreation

\_\_\_\_\_  
Adena Long, Director

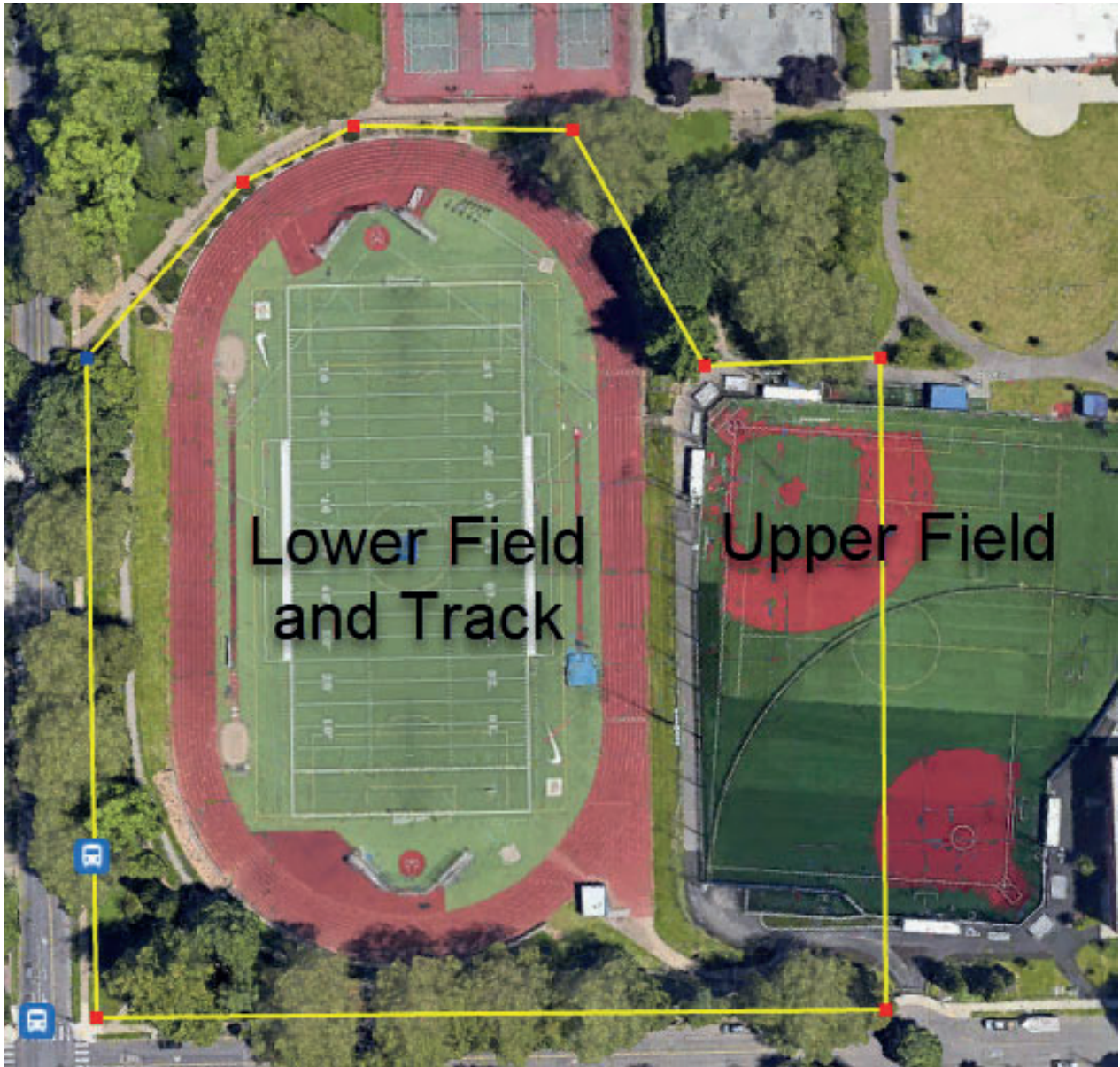
\_\_\_\_\_  
Date

**APPROVED AS TO FORM:**

Approved as to Form - L Law Digitally signed by Approved as to Form - L Law  
Date: 2024.01.18 09:07:47 -08'00'

\_\_\_\_\_  
City Attorney

EXHIBIT A  
The Premises  
(The Premises is the entire area inside of the yellow line)



**Exhibit B**  
**Special Conditions for Construction**

Pursuant to Section 3, and 6. a) of this Lease, Lessee shall promote and facilitate the general public's recreational use and Lessee's permitted-use of the Premises. Lessee may carry out improvements, alterations and constructions allowable under this Lease directly by its employees or through its contractors or subcontractors. Lessee shall use the following general guidelines to facilitate such activities:

- A) Unless otherwise exempted, all improvements to the Premises shall require Lessor's advance written approval of Lessee's construction plans and specifications, which shall not be unreasonably withheld. All improvements shall be in compliance with all requirements imposed by City of Portland ("City"), the State of Oregon Department of Environmental Quality ("DEQ"), State of Oregon Occupational Safety & Health ("OSHA") and State of Oregon Bureau of Labor and Industries Prevailing Wage Requirements ("PWR") including, but not limited to, wage rates and the collection of certified payrolls.
  
- B) Unless Lessor has provided advance written approval in this Lease or separately, Lessee and its contractors and subcontractors shall obtain and maintain the following coverages (or with respect to Lessee, substantially comparable self-insurance coverages) during the life of the contract for any repairs or improvements. Lessee's contractors and subcontractors shall name Lessor as an additional insured on all relevant policies listed below:
  - i. Commercial General Liability Insurance covering bodily injury, personal and advertising injury, and property damage to protect the contractor, Lessee and Lessor from any and all claims for damage or bodily injury, including death, that may arise from the Work, regardless of whether that Work is performed by the contractor or a subcontractor at any tier. The insurance shall include the following coverages: contingency liability/independent contractor's protection (required if any work will be subcontracted), premises/operations, broad form property damage, fire liability, contractual liability, explosion, collapse, and underground hazard liability, and products and completed operations for two years after Final Completion of the Work. The insurance coverage shall contain the following policy limits for each occurrence: Bodily Damage of no less than \$2,000,000 for Lessee and \$1,000,000 for its contractors, Property Damage of no less than \$2,000,000 for Lessee and \$1,000,000 for its contractors, and Aggregate Coverage of no less than \$4,000,000 for Lessee and \$2,000,000 for its contractors.
  
  - ii. Automobile Liability Insurance with coverage of not less than \$1,000,000 each accident, and an umbrella or excess liability coverage of \$2,000,000. The insurance shall include coverage for any auto or all owned, scheduled, hired and non-owned auto. This coverage may be combined with the commercial general liability insurance policy.
  
  - iii. Workers Compensation Insurance with coverage amounts in compliance with the workers' compensation law, ORS Chapter 656 and as it may be amended. Unless

exempt under ORS Chapter 656, contractor and any/all subcontractors shall maintain coverage for all subject workers for the entire term of the contract including any contract extensions.

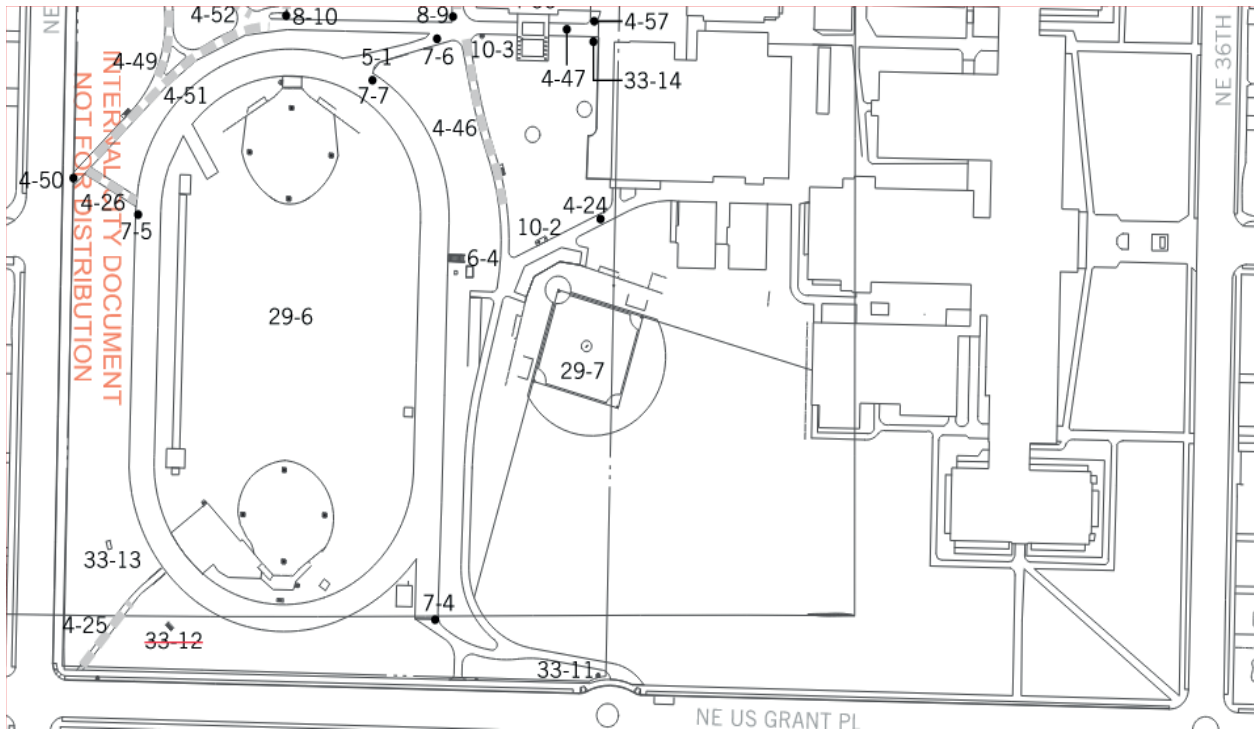
- iv. The contractor's coverage shall name Lessee and the City of Portland, its officers, employees and agents as Named Insureds with not less than a \$2,000,000 limit per occurrence. The contractor's insurance carrier shall provide to Lessee and Lessor both a Certificate of Liability Insurance and an Additional Endorsement.
  - v. Certificates of insurance evidencing the coverages and limits set forth above shall be provided to the Lessor and approved by the Lessor prior to commencement of the Work.
- C) Lessee's construction contracts with the contractors shall contain the following conditions or such substantially similar conditions as Lessee requires in its ordinary course of operations that the contractors shall:
- i. Make payments promptly, as due, to all persons supplying the contractor labor or material for the performance of the work provided for in the contract.
  - ii. Pay all contributions or amounts due to the Industrial Accident Fund from the contractor or subcontractor incurred in the performance of the contract.
  - iii. Not permit any lien or claim to be filed or prosecuted against Lessor or City on account of any labor or material furnished and provide lien releases to Lessor and City.
  - iv. Pay to the Department of Revenue all sums withheld from employees under ORS 316.167.
  - v. With respect to lawn or landscape maintenance that may be required, salvage, recycle, compost or mulch yard waste material at an approved site, if feasible and cost-effective.
  - vi. Promptly, as due, make payment to any person, co-partnership, association or corporation furnishing medical, surgical and hospital care services or other needed care and attention, incident to sickness or injury, to the employees of the contractor, of all sums that the contractor agrees to pay for the services and all moneys and sums that the contractor collected or deducted from the wages of employees under any law, contract or agreement for the purpose of providing or paying for the services.
  - vii. Confirms that all subject employers working under the contract are either employers that will comply with ORS 656.017 or employers that are exempt under ORS 656.126.
  - viii. Comply with the following labor requirements:



1. Contractors may not employ an employee for more than 10 hours in any one day, or 40 hours in any one week, except in cases of necessity, emergency or when the public policy absolutely requires otherwise, and in such cases, except in cases of contracts for personal services designated under ORS 279A.055, the contractor shall pay the employee at least time and a half pay for:
    - A. All overtime in excess of eight hours in any one day or 40 hours in any one week if the work week is five consecutive days, Monday through Friday; or all overtime in excess of 10 hours in any one day or 40 hours in any one week if the work week is four consecutive days, Monday through Friday; and
    - B. All work the employee performs on Saturday and on any legal holiday specified in ORS. 279B.020.
  2. Contractors shall comply with the prohibition set forth in ORS 652.220, that compliance is a material element of the contract and that a failure to comply is a breach that entitles the Lessee to terminate the contract for cause.
  3. Contractors may not prohibit any of the contractor's employees from discussing the employee's rate of wage, salary, benefits or other compensation with another employee or another person and may not retaliate against an employee who discusses the employee's rate of wage, salary, benefits or other compensation with another employee or another person.
  4. Contractors shall pay employees at least time and a half pay for work the employees perform under the public contract on the legal holidays specified in a collective bargaining agreement or in ORS 279B.020 (1)(b)(B) to (G) and for all time the employee works in excess of 10 hours in any one day or in excess of 40 hours in any one week, whichever is greater.
- D) Lessee and its contractors shall determine the construction schedules and duration; however, they must use reasonable efforts to allow public access and permitted-use during construction. Lessor shall be informed of the schedule and duration but shall have no responsibility to ensure that the contractors complete the Work within the time frame set forth in the construction schedule and Lessor shall not be liable to Lessee for any damages resulting from a delay in the performance of the Work.

Exhibit C

ADA Conditions at the Premises as of the Effective Date



GRANT PARK LOWER BOWL AND BASEBALL FIELD ADA BARRIERS		
Barrier #	Category	Description
7-7	Hazard	Grate openings are 1-1/4" by 3-3/4" (1/2" max).
7-6	Hazard	A hole is 2-3/4" by 3-3/4" (1/2" max) at the base of bollard post.
7-5	Hazard	Grate openings are 1-1/4" by 3-3/4" (1/2" max).
7-4	Hazard	Grate openings are 1-3/8" by 3-3/4" (1/2" max).

6-4	Stairway	Stairway has 13 risers. Bottom riser height is 2", other riser heights are 5-1/2" (4" min to 7" max with uniform heights req). Slopes of all treads are 2.4% to 3.5% (2.0% max). Tread width is 10-1/2" to 11-1/4" from riser to riser (11" min with uniform widths req).
6-4	Stairway	The four ends of the handrails do not return smoothly to the floor or post.
6-4	Stairway	A sloped extension is not provided at the bottom of the both handrails (one tread-width min)
6-4	Stairway	Handrail top surface is mounted 31-3/4" to 39-3/4" above the stair nosing (34" min to 38" max).
5-1	Ramp	Total ramp length is 42 linear feet. Handrail is only provided on one side of the ramp (handrails with continuous gripping surfaces are provided on both sides of ramps that have a rise greater than 6" or a run longer than 6 feet). A parallel extension is not provided at the top and bottom of the handrail (12" min). Handrail perimeter is 2-1/2" (1-1/4" min to 2" max).
5-1	Ramp	Handrail top surface is mounted 26" to 41-1/4" above the ramp surface (34" min to 38" max).
5-1	Ramp	The ends of the handrail do not return smoothly to the floor or post
5-1	Ramp	Ramp running slope is up to 21.1% (8.33% max) and cross slope is up to 5.3% (2.0% max) for 34 linear feet.
5-1	Ramp	Slope of top landing is 2.8% (2.0% max).
4-51	Walk	Cross slope of asphalt path is up to 5.7% for 192 linear feet (2.0% max)
4-50	Walk	Running slope of asphalt path is up to 10.6% (5.0% max) and cross slope is up to 3.1% (2.0% max) for 19 linear feet.
4-49	Walk	Running slope of asphalt path is up to 9.3% (5.0% max) and cross slope is up to 5.7% (2.0% max) for 58 linear feet.

4-47	Walk	Running slope of asphalt path is up to 10.9% for 30 linear feet (5.0% max).
4-46	Walk	Cross slope of asphalt path is up to 4.1% for 154 linear feet (2.0% max).
4-26	Walk	Running slope of asphalt path is up to 30.3% for 33-1/2 linear feet (5.0% max).
4-26	Walk	A hole is 2" by 4" (1/2" max) at the base of bollard post.
4-25	Walk	Running slope of asphalt path is up to 9.3% for 58 linear feet (5.0% max).
4-24	Walk	Cross slope of asphalt path is up to 4.4% for 36 linear feet (2.0% max)
33-14	Feature	Slope of clear space adjacent to trash container is 7.0% (2.0% max).
33-13	Feature	An accessible route to the fixed bench is not provided. Route is 50 linear feet over grass and dirt from asphalt path to bench (firm and stable surface req).
33-13	Feature	The clear floor space adjacent to the bench is 47-1/2" deep (36" by 48" min).
33-11	Feature	An accessible route to the fixed trash/recycling container is not provided. Route is six linear feet over dirt from asphalt path to container (firm and stable surface req).
33-11	Feature	A clear floor space is not provided at the trash container opening (30" by 60" min parallel approach or 36" by 48" min forward approach).
29-7	Sports	No wheelchair space is provided near the approximately 660 spectator bleacher seats (8 wheelchair spaces min for 650 to 800 seats).
10-3	Fountain	Unit is not positioned in an alcove and no wing walls or railings are provided.
10-2	Fountain	The two drinking fountains are not positioned in an alcove and no wing walls or railings are provided.