

CITY OF EL PASO, TEXAS
AGENDA ITEM DEPARTMENT HEAD'S SUMMARY FORM

DEPARTMENT: Parks and Recreation

AGENDA DATE: August 5, 2008

CONTACT PERSON/PHONE: Nanette Smejkal, (915) 541-4331

DISTRICT(S) AFFECTED: District 6

SUBJECT:

APPROVE a resolution / ordinance / lease to do what? OR AUTHORIZE the City Manager to do what? Be descriptive of what we want Council to approve. Include \$ amount if applicable.

Approve a resolution of City Council for an Interlocal Agreement for the construction, use and management of a school, soccer fields and related facilities with the Ysleta Independent School District (YISD).

BACKGROUND / DISCUSSION:

Discussion of the what, why, where, when, and how to enable Council to have reasonably complete description of the contemplated action. This should include attachment of bid tabulation, or ordinance or resolution if appropriate. What are the benefits to the City of this action? What are the citizen concerns?

Staff recommends entering into an Interlocal Agreement with Ysleta Independent School District (YISD) for an elementary school on park property. YISD will construct two lighted soccer fields on adjacent property owned by YISD that the City will manage, as well as provide the City with use of the school gymnasium during out of school hours.

Upon construction of the two new soccer fields on the YISD property by YISD, there will be a total of three fields available, yielding a net gain of one field.

PRIOR COUNCIL ACTION:

Has the Council previously considered this item or a closely related one?

Council approved the conceptual plan for this action at their meeting of January 2, 2008. Council will hold a public hearing on this matter on August 5, 2008 per the requirements of Chapter 26 of the Texas Parks and Wildlife Code.

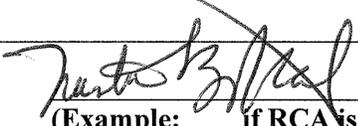
AMOUNT AND SOURCE OF FUNDING:

How will this item be funded? Has the item been budgeted? If so, identify funding source by account numbers and description of account. Does it require a budget transfer?

The Ysleta Independent School District will pay the full cost of the school improvements on the leased land as well as the cost of constructing two lit soccer fields on YISD land across Escobar Street, immediately south of the leased park area.

*****REQUIRED AUTHORIZATION*****

LEGAL: (if required) _____ **FINANCE:** (if required) _____

DEPARTMENT HEAD:  _____
(Example: if RCA is initiated by Purchasing, client department should sign also)
Information copy to appropriate Deputy City Manager

08 JUL 28 AM 10:00
CITY CLERK DEPT.

APPROVED FOR AGENDA: _____

CITY MANAGER: _____ **DATE:** _____

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

THAT the Mayor be authorized to execute an Interlocal Agreement by and between the City of El Paso, Texas (the "City") and the Ysleta Independent School District ("District"), whereby the District may lease a 7.8662 acre portion of Blackie Chesher Park property and construct a school and related facilities thereon, granting the City use of certain facilities within that school and related areas; and whereby the District shall construct two NCAA lighted soccer fields and related facilities on District property across Escobar Road from the 7.8662 acre area and grant the City exclusive use of said soccer fields and related facilities for as long as the Lease Agreement for said 7.8662 acres is in effect.

ADOPTED this _____ day of _____, 2008.

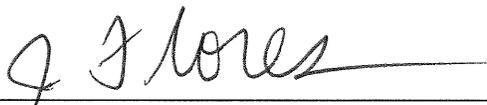
CITY OF EL PASO, TEXAS

John F. Cook
Mayor

ATTEST:

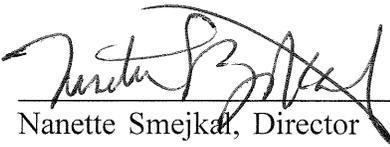
Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:



Josette Flores
Assistant City Attorney

APPROVED AS TO CONTENT:



Nanette Smejkal, Director
Parks and Recreation Department

08 JUL 28 AM 10:10
CITY CLERK DEPT.

WHEREAS, City and District agree that construction, utilization, and maintenance of a school with gymnasium and playing fields on park land in Blackie Chesher Park (hereinafter “*Project - A*”), would enhance the recreational assets of both City and District, will reduce operating costs of each, will offer more programs to area residents, and presents a unique opportunity and an efficient partnership approach to addressing community education and development needs, and the mutual benefits derived by City and District in the construction, use, and maintenance of capital facilities would benefit the taxpayers and the mission of both jurisdictions; and

WHEREAS, in consideration for City’s lease of the *Project – A* property, District has agreed to construct soccer fields and related facilities for use by the City on District property across Escobar Road from *Project - A*, which construction is referred to as *Project – B*; and

WHEREAS, District has committed, designated, and authorized \$9.2 million as funds for the Projects, subject to the terms of this Agreement; and

WHEREAS, funding of construction, joint use, and joint maintenance of the shared portions of the Projects are cost-effective methods for the parties hereto to best serve the needs of their respective constituencies; and

WHEREAS, *Project - A* is to be constructed on the property described in Exhibit “A” (Exhibit “A” consists of Description of the Project – A property and a plat of the property) to be leased to District by City which said lease is attached as Exhibit “B” (the “Lease”); and

WHEREAS, *Project - B* is to be constructed on property owned by the District and is further identified in Exhibit C; and

WHEREAS, in consideration of City’s and District’s participation in the leasing of the property, the cost of design and construction, the cost of operation, and the cost of maintenance and repair of the Projects, both City and District have the rights to shared use of portions of the Projects for the public purposes of each, as set out herein and in the Lease; and

NOW, THEREFORE, in consideration of the covenants, conditions, and provisions set forth herein, the parties hereto agree as follows:

II. Definitions

- 2.1. When used in this Agreement, the following terms shall have the following meanings:
- (a) **City** shall mean the City of El Paso, a Texas municipality organized under the laws of the State of Texas, acting by and through its City Manager as authorized by the Mayor and City Council.

- (b) **City Fiscal Year** shall mean September 1 to August 31.
- (c) **City Manager:** wherever the term “City Manager” appears herein or in the Lease from City covering *Project – A*, said term is intended to refer to the Chief Administrative Officer of the City of El Paso or his designee or other designee of the City of El Paso under whatever form of municipal governing system may prevail at the time.
- (d) **City Use** shall mean use of *Project A* and *Project B* designated for use by City, as herein agreed by the parties.
- (e) **Concurrent Use** shall mean simultaneous cooperative use, as agreed by the parties.
- (f) **Construction Phase** shall mean that phase of *Project – A* and *Project - B* commencing with the award of a contract for construction and terminating with final payment to the contractor.
- (g) **District** shall mean Ysleta Independent School District, governed by its Board of Trustees.
- (h) **District Fiscal Year** shall mean August 1 to July 31.
- (i) **District Funds** shall mean those funds designated and authorized by the District’s Board of Trustees for purposes of construction, maintenance and operation of the Projects, including, but not limited to:

The construction of a school and related facilities on the property to be leased from City (*Project – A*) and construction of soccer fields on land owned by District (*Project – B*).
- (j) **District Use** shall mean use of *Project – A* by District, as herein agreed upon by the parties.
- (k) **Land** shall mean the property leased to the District for *Project - A* use.
- (l) **Lease** shall mean Ground Lease from the City to the District for *Project – A* which is attached as Exhibit “B”.
- (m) **Milestone Inspections** shall mean interim inspections of the Projects’ construction by the architects and/or project managers, inspections which shall also determine the dates of Substantial Completion and final completion of the Projects.

- (n) **Project - A** shall mean an elementary school with gymnasium and related facilities to be constructed on approximately 7.8662 acres of property in Blackie Cheshier Park which is to be leased to District by City in accordance with the terms described herein and as further identified in Exhibit “B”.
- (o) **Project - B** shall mean – Two NCAA regulation size lighted soccer fields and related facilities to be constructed by District on property owned by the District across Escobar Road south of *Project - A* as further identified in Exhibit “C”.
- (p) **Project Consultants** shall mean the project manager, architect, landscape architect, surveyors, and other professionals employed to conduct scientific tests and to provide advice and consultation preliminary to and in conjunction with the construction of the Projects.
- (q) **Project Costs** shall mean the cost of all elements of constructing the Projects, including the total of the amount of the construction contract award, Project Consultant fees, and other such *Project - A* and *Project - B* construction costs. Project Costs do not include the cost of land or land use funded by the parties, or equipment and supplies for the operation, repair or maintenance of the Projects once construction is substantially completed and the Projects are operational.
- (r) **Projects** shall mean *Project - A* and *Project - B* together.
- (s) **Properties** shall mean the property on which both Projects are located.
- (t) **Substantial Completion** shall mean the issuance of the Certificate of Substantial Completion by the architect for the Projects.
- (u) **Third-Party Use** shall mean use of the *Project - A* facilities by those (**Third-Party Users**) other than the parties to this Agreement and/or their staff, as may be agreed herein by the parties.

III.

Statement of General Purpose and Intent

3.1. The general purpose and intent of this Agreement is to provide for the (1) use of the **Properties** for *Project - A* and *Project - B*, (2) designation and expenditure of funding for the Projects, (3) design, construction, maintenance, operation and management of the improvements on the Properties, (4) use of the Projects by District’s students, faculty, and staff, by other District invitees, by City’s staff, by other City invitees and by the general public, and (5) terms for the lease of City park land to the District for construction of school facilities (*Project - A*) and construction and use of two soccer fields on District land for municipal recreational facilities (*Project - B*) to replace fields and parkland where District’s new school is to be constructed as *Project - A*.

IV.
Ownership and Terms of Use

4.1. The City, pursuant to the Lease attached hereto as Exhibit “B”, will lease the City park land described therein to District, to be utilized for the purposes of the *Project - A* as set out herein. *Project - B*, District land, will be used and maintained by the City after the District constructs the *Project – B* soccer fields. The parties hereto understand and agree that the *Project – A* land is to be leased for *Project - A* and used as a public school with playgrounds and playing fields, in accordance with this Agreement.

4.2. In consideration for the parties’ contribution to the construction, operation, and maintenance of the Projects, as set out herein, District and City shall use *Project – A* under the conditions agreed to herein and in the Lease and as may be further mutually agreed by the parties.

4.3. The design of *Project – A* will incorporate office/storage space within the school gymnasium for use by the City personnel.

4.4. The City will certify that it owns the land identified for use as *Project – A* described herein, and is not prohibited by any term, condition, covenant of ownership from using the land as contemplated herein, to the best of its knowledge without the necessity of conducting an official title search or commitment.

4.5. The District will certify that it owns the land identified for use as *Project – B* described herein, and is not prohibited by any term, condition, covenant of ownership from using the land as contemplated herein, to the best of its knowledge without the necessity of conducting an official title search or commitment.

V.
Soccer Fields –
Project - B

5.1. For and in consideration of the lease of property for *Project – A*, District agrees to provide the improvements described herein in Section 5.3.

5.2. The term for use by the City of the soccer fields on *Project – B* shall be the same as the term of the Lease for *Project – A*.

5.3. District at District’s sole expense shall construct two soccer fields and related facilities on District’s property, which is further described in Exhibit “C”. District shall complete construction of the soccer fields prior to demolition of existing fields located on the property used for *Project - A* and shall notify City in writing of said completion.

5.4. The soccer fields will be constructed to comply with NCAA dimensions and lighting shall be installed on both fields. The District is hereby providing certification that construction of soccer fields on the land described in Exhibit “C” is permitted under regulations governing buffer zones required by the Texas Historical Commission for archaeological sites as is reflected in the attached Exhibit “D”.

5.5. Upon completion of the construction of the *Project – B* soccer fields, City shall be responsible for all utilities, security and maintenance for *Project – B*.

5.6. District understands that the City of El Paso is self-insured.

VI.

City’s and District’s Share of Construction Costs

6.1. **Project Construction Cost Apportionment.** For and in consideration of the lease of property for *Project – A*, District agrees to provide improvements as outlined below, and to be more fully developed for the construction of the *Project – A* improvements. The City shall not be required to expend any resources towards the construction of the Projects.

6.2. **Accounts and Records.** District shall account and pay for all Project Costs (including all receipts, expenditures, and investments thereof) and shall retain all records of such accounting for six years or the length of time required for the retention of public records, whichever is longer. District shall, upon reasonable request of City, its agents, or any State oversight agencies provide copies of, or reasonable inspection by, City, or State agency, including their employees or agents.

6.3. **Reports.** District will prepare and provide to City, within thirty (30) days after the end of each month during which payments for Project Costs are made, a monthly report of *Project – A* status that includes the following:

- (a) A monthly progress report with an updated progress schedule;
- (b) Other reasonable financial or *Project – A* information requested by City.

VII.

Consultant and Construction Contracts

7.1. **Project Design and Construction Management.** It shall be District’s responsibility to contract for all Project Consultant services necessary to design, plan, and monitor construction work related to both *Project – A* and *Project - B*. Monitoring and administration of such consultant contract, and the making of payments to such consultant, shall be District’s responsibility. The District shall have the right to approve final plans and specifications for *Project – A* before their implementation. City shall have the right to review

final plans and specifications for *Project - A* before implementation. City shall have the right to review and approve *Project - B* specifications before their implementation.

7.2. Contract Award and Project Monitoring. District shall duly advertise for construction contract bids and to award construction contract(s) for the Projects. Such bidding and construction contract award(s) shall be accomplished in accordance with applicable rules, regulations, ordinances, statutes, and codes. District shall monitor and administer such construction contract(s). Notwithstanding the foregoing, District agrees to coordinate and consult with City during all Phases of the Projects specified in Article VII hereinafter.

7.3. Project - A Lease Required. District shall not expend funds for design, plan, construction, or any work contemplated under this Agreement until after a Lease acceptable to the District and City is finalized by the parties, with the exception of preliminary planning, engineering and surveying costs to ensure that the correct legal description and survey is prepared for the Lease document and sufficient planning to assure compatibility of the school design with existing park facilities.

VIII. Coordination and Consultation

8.1. Project Review Committee. District shall keep the City Manager informed of progress of the Projects throughout the design, planning, and specification phase of the Projects. District and City shall each, for such purposes, appoint three (3) staff members to a Projects Review Committee, of which the architect and project manager for the Projects shall also be members. The Committee shall meet with the Project Consultant(s) to review design, plans, specifications and progress of the Projects. Such meetings shall be called by District at times and places mutually convenient to City and District.

8.2. Bids/Proposals. District shall have full responsibility for review and acceptance of proposals for construction of the Projects.

8.3. Construction Supervision. Supervision of construction and completion of the Projects in accordance with the plans and specifications is the sole responsibility of District. All contracts with the construction contractor and the Project Consultant(s) are District's responsibility, as is the administration of the construction contract and payments to construction contractor and construction consultants. District agrees to keep the City Manager and/or their designee fully informed of construction progress and of any problems or delays encountered during construction. District further agrees to require the architect to provide City and District a full set of construction plans and drawings and further agrees to permit City to observe and inspect construction work at Milestone Inspections in accordance with standard building services/observations inspection protocols; provided, however, that such City representative shall not direct the contractor or any Project Consultant or in any fashion represent himself to hold inspection or supervisory authority, except for regular and customary inspections by City officials under the City's building and development codes.

Should the City Manager or his designee observe any deficiencies or other problems in the construction work of either of the Projects, such deficiencies or problems may be immediately reported in writing to District's Project Manager. District agrees to promptly review the report and, where appropriate, cause corrective action(s) to be taken.

8.4. **Corrective Action.** Except from matters involving enforcement of City's building and development codes, it shall be District's sole responsibility to determine appropriate action required in Paragraph 7.3 above. Only District or the City in accordance with its ordinances and policies shall have the authority to issue a stop work order to the construction contractor or Project Consultants under the construction contract. Deficiencies or problems in the work performed by District shall be corrected at District's expense.

IX.

Final Project Inspection and Acceptance

9.1. **Inspections.** District agrees to notify the City Manager of the date and time of final Projects' inspection. District agrees to permit City representatives to participate in such final inspection and to include such deficiencies, if any, as may be noted by City representatives, in the punch list for correction. City or its designee shall have the right to inspection of work performed by District's contractor for both Projects prior to acceptance of said work.

9.2. **Plans and Reports.** District shall provide City with a copy of the final Projects improvements acceptance document and shall also provide City with a set of as-built documents, within a reasonable period of time following Projects' acceptance.

X.

Project – A Rental and Use Fees (Lease)

10.1. ***Project – A Rental and Use Fees.*** It is contemplated that *Project – A* will be utilized by Third Party Users, to include members of the general public, and such use shall be consistent with District's and City's policies for Third-Party Use. District reserves the right to establish fees, charges, and conditions of use as District deems necessary and proper, provided that such Third-Party Use does not adversely affect the rights of use or maintenance of either party. If District's and City's use policies conflict or cannot otherwise be reconciled, a Joint Use Committee shall recommend a resolution for Third Party Use for consideration by City and District. However, notwithstanding any provision herein, neither District nor City shall be obligated to modify its use policies to accommodate Third-Party Use or Third-Party Users.

10.2. **Liability Insurance.** DISTRICT shall provide public liability insurance for personal injuries and death growing out of any one accident or other cause in a minimum amount of Two Hundred Fifty Thousand and No/100 Dollars (\$250,000.00) per person, and Five Hundred Thousand and No/100 Dollars (\$500,000.00) for two (2) or more persons in any

one accident, and, in addition, shall provide property damage liability insurance in a minimum sum of One Hundred Thousand and No/100 Dollars (\$100,000.00) for property damage growing out of any one accident or other cause.

10.2.1 DISTRICT is required to purchase liability insurance on behalf of the CITY or, alternatively, may name the CITY as an additional insured on the policy of general liability insurance referenced above. Such insurance shall provide coverage for any alleged acts or omissions of the CITY, its agents, employees or independent groups, alleged or asserted by any individual, in connection with the performance of this Agreement.

10.2.2 DISTRICT shall maintain said insurance with a solvent insurance company authorized to do business in Texas. The policy shall provide that the insurer will defend against all claims and lawsuits which arise and will pay any final judgment of a court of competent jurisdiction against the CITY, its officers, agents, servants or employees and groups, its officers, agents, servants or employees.

10.2.3 No performance required under this Agreement shall be rendered by the CITY until DISTRICT files a copy of the policy or certificate of liability insurance as herein set forth with the City Clerk and the Department. Such policy or certificate shall provide that the insurance cannot be canceled or the amount of coverage changed without ten (10) days prior written notice to the City Clerk. Failure to keep the policy in full force and effect throughout the term of this Agreement shall be grounds for cancellation of this Agreement.

XI.

Project – A Shared Use and Times of Operation (Lease)

11.1. **Joint Use Committee.** A Joint Use Committee consisting of two (2) City representatives and two (2) District representatives shall convene at least once per year to schedule and review use, operational policies, and maintenance issues for *Project – A*.

The Joint Use Committee shall establish and review maintenance standards for *Project - A*.

11.2. **District Right of First Refusal.** The District shall have the right of first refusal for any District use of *Project –A* during regular or summer school hours, and for any scheduled special school events or activities sponsored by or related to the District, including, but not limited to, intramural sports, University Interscholastic League activities, or State or regional athletic competitions held within *Project - A*. District shall identify for the Joint Use Committee time periods and specific facilities to be utilized by District.

11.3. The gymnasium and parking portions of *Project –A* shall be reserved for use by the City during any period during which District activities are not scheduled, such City use to include use by Third-Party Users. City shall be the preferred user for *Project – A* when not used for planned school activities.

11.4. The possession or use of alcoholic beverages, tobacco and the possession of firearms shall be prohibited within the boundaries of *Project –A* and within any surrounding zones required by law, except for parking area when school is not in session. Use of the *Project – A* shall comply with other conduct requirements set forth in District policy which apply to District real property.

XII.
Cost Sharing for Operation and Maintenance *Project - A*
(Lease)

12.1. The following operation and maintenance provisions, subject to the provisions of Section X, shall apply to the special Project facilities required by the City and the District:

(a) **Park Area Space and Lighting.** The cost of operating and maintaining park area space and lighting for the portion of the City Park outside *Project – A* (park areas) shall be that of City.

(b) **Security Lighting.** District shall be responsible for security lighting within *Project - A*. City shall be responsible for security lighting of park areas outside of *Project - A*.

(c) **Special Events.** The costs of security and traffic control for special events shall be the responsibility of the event’s sponsor. Third-Party Users sponsoring events shall be responsible for assuming all costs of security and traffic control as part of their use agreement with District for use of the facilities. Litter control after any special event shall be assumed and undertaken by the event’s sponsor, provided, however, that District may recover the costs of litter control from Third-Party Users as part of a contractual agreement for the use of the facilities. District may also require a deposit from all Third-Party Users entering into a use agreement with District. Special events is defined as functions involving large groups of people with large volume of traffic flow over and above that usually expected for the normal function of *Project – A*.

(d) During periods sanctioned by the Joint Use Committee for the exclusive use by City or the District, the party entitled to such use may authorize the sale of concessions for itself or for any non-profit agency approved by the District or City.

(e) **Parking.** It is generally provided that parking shall be available to City, District, and Third-Party Users at all times, except that parking be restricted during District’s school hours, or parking may be reserved as approved by the Joint Use Committee for other special events. The responsibility for controlling parking shall be that of the special event sponsor. Third-Party Users sponsoring events shall be responsible for assuming all costs of parking control as part of their contractual agreement with the District for use of the facilities. Overnight parking or camping shall not be permitted.

(f) **Irrigation and Landscape Maintenance.** City shall be responsible for irrigation and landscape maintenance of portions of the park land located outside the area leased by District as demarcated on the attached Exhibit A, and District shall be responsible for irrigation and landscape maintenance of portions of the park land located within the area leased by District as demarcated on the attached Exhibit A.

(g) **Fencing.** City shall be responsible for the maintenance and repair of fencing or perimeter fencing of portions of the park land located outside the area leased by District as demarcated on the attached Exhibit A, and District shall be responsible for maintenance and repair of fencing or perimeter fencing of portions of the park land located within the area leased by District as demarcated on the attached Exhibit A. It is mutually agreed that no fence shall be erected by either party to this Agreement except as approved by the Joint Use Committee.

(h) **Security.** City shall be responsible for the security of portions of the park land located outside the area leased by District as demarcated on the attached Exhibit A, and District shall be responsible for security of portions of the park land located within the area leased by District as demarcated on the attached Exhibit A.

12.2. **Relocation of Equipment.** City shall be responsible for the removal of any temporary structure, facility, or equipment which it solely owns in order to make way for Project construction.

12.3. **Standard of Care.** City and District shall promptly carry out their maintenance obligations hereunder to preserve the facilities in their original character and condition, reasonable wear and tear excepted. Any issues arising from the manner in which maintenance obligations are to be carried out shall be referred to and determined by the Joint Use Committee.

XIII.

Project – B Use, Times of Operation, Operation and Maintenance

13.1 *Project – B* soccer fields and related facilities shall be under the management of the City at all times. City reserves the right to establish fees, charges and conditions of use. City shall pay cost of maintenance and operation of soccer fields.

XIV.

Signs and Acknowledgment of Participation (Construction and Lease)

14.1. District agrees that signs shall be located on each Project site during construction which acknowledges the participation of City, District, and others in Project Development.

14.2. District agrees to include in the design plans a permanently-installed plaque or other suitable permanent sign within *Project –A* which acknowledges the participation of the City, the District, and others in Project Development.

14.3. District shall erect signs informing *Project – A* users of hours of operation of *Project-A* and the alcohol, tobacco and firearms ban, as described in Sections 11.4 above.

XV.
Project – A Safety
(Lease)

15.1. District and City hereby agree and pledge that each shall fully comply with all established safety standards applicable to operation and use of *Project - A*. District shall post such informational signs as necessary to inform users of rules, regulations, governmental codes, and ordinances. During their respective use and joint use periods, City and District agree to enforce such rules and regulations. District and City agree that any additional security for specified events shall be the cost of the party using the facility.

XVI.
Insurance and Non-Indemnification
(Construction and Lease)

16.1. District, at its own expense, shall provide and maintain, during the term of this Agreement, either insurance, with or without retention, or a self-insurance program, allowed or provided by law to Texas school district, which shall cover liability for property damage and personal injury pursuant to District’s use and ownership of the *Project - A*.

16.2. District understands that the City of El Paso is self-insured.

16.3. District and City shall each be liable for their own acts and the conduct of its officials, employees and agents, to the extent provided in law. City and District shall not contractually indemnify each other for claims, damages or losses arising from Performance of this Agreement, however, each party shall have all recovery rights for any damages or losses to which it is entitled.

XVII.
Project Term
(Lease)

17.1. The term of this Agreement for *Project – A* and *Project – B* shall be the term of the *Project - A Lease*, the primary term of which shall be ninety-nine (99) years as provided in the Lease.

XVIII.
Default
(Construction and Lease)

18.1. The parties hereto shall be entitled to written notice of default. Absent a cure of default satisfactory to the notifying party, that party may, at the conclusion of ninety (90) days from the receipt of notice by the defaulting party, declare default, and both parties shall be entitled to their respective rights and remedies under contract and law.

XIX.
Assignment

19.1. This Agreement shall not be assignable by either party.

XX.
Severability

20.1. If any clause or provision of this Agreement is illegal, invalid, or unenforceable under present or future laws effective during the term of this Agreement, including any renewals, then and in that event, it is the intent of the parties hereto that the remainder of this Agreement shall not be affected thereby, and it is also the intent of the parties to this Agreement that, in lieu of each clause or provision of this Agreement that is illegal, invalid, or unenforceable, there be added as a part of this Agreement a clause or provision as similar in terms to such illegal, invalid, or unenforceable clause or provision as may be possible and be legal, valid, and enforceable.

XXI.
Entire Agreement

21.1. This Agreement contains the final and entire agreement between the parties hereto and contains all of the terms and conditions agreed upon to date, and no other agreements of prior date, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind the parties hereto. It is the intent of the parties that neither party shall be bound by any term, condition, or representation not herein written.

XXII.
Amendment

22.1. No amendment, modification, or alteration of the terms of this Agreement shall be binding unless the same be in writing, dated subsequent to the date hereof and duly executed by the parties hereto.

XXIII.
Non-Discrimination

23.1. Any discrimination by District or City or their agents or employees on account of race, color, sex, age, religion, handicap, or national origin, in employment practices or in the use of or admission to the Projects, is prohibited.

XXIV.
Notices

24.1. Notices to the parties hereto required or appropriate under this Agreement shall be delivered to the following officials:

DISTRICT: Ysleta Independent School District
Attn: Superintendent of Schools
9600 Sims
El Paso, Texas 79925

CITY: City of El Paso
Attn: City Manager
2 Civic Center Plaza
El Paso, Texas 79901

COPY TO: City of El Paso
Attn: Parks and Recreation Department, Director
2 Civic Center Plaza
El Paso, Texas 79901

XXV.
Texas Law to Apply

25.1. This Agreement and its obligations shall be performed pursuant, construed under and in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in El Paso County, Texas. **NOTWITHSTANDING ANY PROVISIONS HEREIN CONTAINED TO THE CONTRARY: (i) NEITHER DISTRICT NOR CITY WAIVES ANY RIGHTS TO SOVEREIGN IMMUNITY OR ANY OTHER IMMUNITIES OR DEFENSES BY ITS EXECUTION OR DELIVERY OF THIS AGREEMENT.**

XXVI.
Force Majeure

26.1. Neither party to this Agreement shall be required to perform any term, condition, or covenant in this Agreement so long as performance is delayed or prevented by force majeure, which shall mean acts of God, strikes, lockouts, material or labor restrictions by a governmental authority, civil riots, floods, and any other cause not reasonably within the control of either party to this Agreement and which, by the exercise of due diligence, such party is unable, wholly or in part, to prevent or overcome. If, by reason of force majeure, either party is prevented from full performance of its obligations under this Agreement, written notice shall be provided to the other party within five (5) business days.

XXVII.
Gender

27.1. Words of any gender used in this Agreement shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, unless the context otherwise requires.

XXVIII.
Captions

28.1. The captions contained in this Agreement are for convenience of reference only, and in no way limit or enlarge the terms and conditions of this Agreement.

XXIV.
Authority

29.1. The signers of this Agreement hereby represent and warrant that they have authority to execute this Agreement on behalf of each of their governing bodies.

XXX.
No Waiver

30.1. Notwithstanding any provision set forth herein, District's and City's obligations shall be performable and enforceable only to the extent such obligation is permitted by Texas law. By entering this Agreement and performing hereunder, District and City (including their officials, employees and agents) do not intend, do not, and this Agreement shall not be construed to waive immunities, defense or limits of liability to which Districts and City are entitled.

XXXI.
Attorney Fees

31.1. In an action to enforce or construe this Agreement in a court of law, the prevailing party shall be entitled to its necessary and responsible attorney's fees and costs of court, in accordance with Texas Local Government Code §271.159.

XXXII.
Conditions Precedent

32.1 District's obligation to construct the school and related facilities on either *Project – A* or *Project - B* shall be subject to District's ability to obtain approval for the location of the School from the Texas Education Agency, and the District's ability to obtain title insurance covering the lease of the *Project – A* property and the improvements to be constructed thereon.

32.2 The City's obligations under this Agreement shall be subject to District's construction of the two NCAA grade lighted soccer fields as described in Article V of this Agreement and the District's fulfillment of its duties under this Agreement and the Lease Agreement.

WITNESS the signatures of the parties hereto in duplicate originals as of the date first written above.

(signatures to follow on next page)

CITY OF EL PASO, TEXAS

John F. Cook
Mayor

ATTEST:

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:



Josette Flores
Assistant City Attorney

APPROVED AS TO CONTENT:



Nanette Smejkal, Director
Parks and Recreation Department

YSLETA INDEPENDENT SCHOOL DISTRICT

Carmen G. Munoz
President, YISD Board of Trustees

Roger G. Parks
Interim Superintendent, YISD

08 JUL 28 AM 10:11
CITY CLERK DEPT.

CERTIFICATE OF ACKNOWLEDGMENT

STATE OF TEXAS)
)
COUNTY OF EL PASO)

BEFORE ME, the undersigned Notary Public, on this day personally appeared CARMEN G. MUNOZ, known to me the President of the Board of Trustees of the Ysleta Independent School District, a Texas Political Subdivision, and the person whose name is subscribed to the foregoing Interlocal Agreement, and who acknowledged to me that she executed the instrument for the purposes and considerations therein expressed and on behalf of the Ysleta Independent School District.

Given under my hand and seal of office on the _____ day of _____, 2008.

NOTARY PUBLIC in and for the
State of Texas

My Commission Expires:

CERTIFICATE OF ACKNOWLEDGMENT

STATE OF TEXAS)
)
COUNTY OF EL PASO)

BEFORE ME, the undersigned Notary Public, on this day personally appeared JOHN F. COOK, known to me Mayor of the City of El Paso, a Texas Political Subdivision, and the person whose name is subscribed to the foregoing Interlocal Agreement, and who acknowledged to me that he executed the instrument for the purposes and considerations therein expressed and on behalf of the City of El Paso, Texas.

Given under my hand and seal of office on the _____ day of _____, 2008.

NOTARY PUBLIC in and for the
State of Texas

My Commission Expires:

EXHIBIT "A"

DESCRIPTION OF PROJECT - A AND BOUNDARY SURVEY PLAT OF PROPERTY

CITY CLERK DEPT.
08 JUL 28 AM 10:11

PREPARED FOR: W.H. PACIFIC
BEING A PORTION OF TRACTS 15B AND 16, BLOCK 55, YSLETA GRANT
CITY OF EL PASO,
EL PASO COUNTY, TEXAS
APRIL 22, 2008
W.O. # 041008-5

METES AND BOUNDS DESCRIPTION

Description of a 7.8662 acre parcel of land being a Portion of Tracts 15B and 16, Block 55, Ysleta Grant, City of El Paso, El Paso County, Texas, being more particularly described by Metes and Bounds attached hereto:

Starting at an existing city monument located at the center line of Escobar Road @ a p.c., leaving this point North $32^{\circ}17'21''$ East at a distance of 45.00' to a set 5/8" diameter rebar with Yellow Plastic Cap Stamped T.X. 2449, Roe Engr.; L.C. with said point being along the northerly right-of-way line and being the "True Point of Beginning";

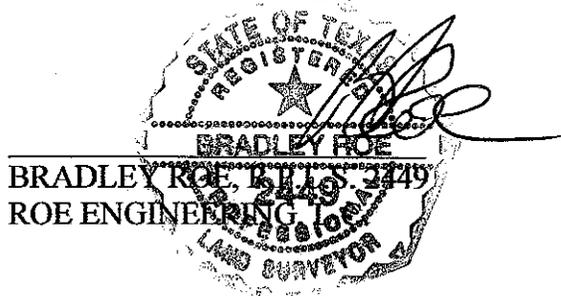
Thence, along said northerly right-of-way of Escobar Road North $57^{\circ}41'00''$ West a distance of 182.88 feet to set chiseled "X" on concrete;

Thence, North $32^{\circ}20'40''$ East a distance of 664.05 feet to set 5/8" diameter rebar with Yellow Plastic Cap Stamped T.X. 2449, Roe Engr. L.C.;

Thence 407.41 feet along the arc of a curve to the left, whose radius is 2020.28 feet, whose interior angle is $11^{\circ}33'16''$ whose bearing bears South $58^{\circ}02'03''$ East a distance of 406.72 feet to a set 5/8" diameter rebar with Yellow Plastic Cap Stamped T.X. 2449, Roe Engr. L.C.;

Thence South $15^{\circ}57'00''$ West a distance of 768.04 feet to a set 5/8" diameter rebar with Yellow Plastic Cap Stamped T.X. 2449, Roe Engr. L.C. lying along the northerly right-of-way line of Escobar Road;

Thence continuing along said north right-of-way of Escobar Road along a curve to the left 448.03 feet along the arc of a curve to the left, whose radius is 1414.31 feet, whose interior angle is $18^{\circ}09'02''$ whose chord bears North $48^{\circ}36'29''$ West a distance of 446.16 feet back to the "True Point of Beginning," and containing in all 342,651.48 square feet, or 7.8662 acres of land more or less.



APR 22 2008

CITY CLERK DEPT.

08 JUL 28 AM 10:12

EXHIBIT "B"

GROUND LEASE AGREEMENT

“Base Rental” shall mean ONE DOLLAR AND NO 00/100THS (\$1.00) payable to City annually as hereinafter provided from current revenues available to Tenant.

“Demised Premises” means the Land and the Improvements to be constructed thereon.

“Improvements” means all buildings, structures, and other improvements hereafter constructed or placed upon the Land by Tenant.

“Interlocal Agreement” means the Interlocal Agreement between the City and the District for the Lease of Municipal Park Property and Construction and Management of School and Related Facilities of even date herewith.

“Land” means that certain 7.8662 acres of real property described on Exhibit “A”.

“Lease Term” means the period commencing on the Rent Commencement Date, and terminating at midnight on the day prior to the ninety-nine (99th) anniversary of the Rent Commencement Date, unless the Lease Term shall sooner terminate.

“Permitted Use” means the use and occupancy of the Demised Premises for an instructional facility owned and operated by the Ysleta Independent School District which portions of the instructional facility can be used for educational and recreational programs offered by Landlord.

ARTICLE II

Grant and Term of Lease, Rental; Use

Section 2.01. Leasing Clause; Term. In consideration of the obligation of Tenant to pay rent herein provided and in consideration of the other terms, covenants, and conditions of this Lease, Landlord does hereby lease, demise, and let unto Tenant, and Tenant does hereby take and lease from Landlord, the Demised Premises, TO HAVE AND TO HOLD the Demised Premises, together with all rights, privileges, easements, and appurtenances belonging to or in any way appertaining to the Demised Premises for the Lease Term, upon and subject to the terms, conditions, and agreements hereinafter contained.

Section 2.02. Base Rental. As rent for the Demised Premises, Tenant hereby agrees to pay to Landlord, without deduction, set-off, prior notice or demand, Base Rental of ONE DOLLAR AND NO/100 (\$1.00) per year. The Base Rental shall be paid annually, with the first payment due and payable within ten (10) days of the execution of this Lease, and with the due

date to fall thereafter on the anniversary of the execution of this Lease. As additional compensation for this Lease, Tenant has agreed to construct soccer fields on land owned by Tenant as described in the Interlocal Agreement.

Section 2.03. “Net” Rental. This is an absolutely net lease, and except as is otherwise expressly herein provided, all taxes, utilities, costs of improvements, maintenance, repairs, alterations, additions, replacements, and insurance relating to the Demised Premises shall be at the sole cost and expense of Tenant; and Landlord shall not be obligated to make any improvements, repairs, alterations, additions, or replacements whatsoever to the Demised Premises. Throughout the term of this Lease Tenant, at Tenant’s own cost and expense, shall keep the Improvements, and all appurtenances thereunto belonging, in good and safe condition, order, and repair; and Tenant shall conform to and comply with all valid ordinances, regulations or laws (federal, state or municipal) affecting the Demised Premises, and Tenant shall be responsible for all penalties, damages, or charges imposed or incurred for any violation by Tenant of such ordinances, regulations, or laws whether occasioned by the neglect of Tenant or by Tenant’s agent, contractor, or licensee then upon or using the Demised Premises. Tenant shall also be responsible for any and all costs arising out of any accident or other occurrence causing injury to or death of persons, or damage to property, due to the condition of the Demised Premises, or of any buildings or other Improvements now or hereafter situated thereon, or the fixtures or personal property thereon or therein, or due to the use or neglect thereof by Tenant or any other persons holding under Tenant. It is not Tenant’s intent, nor should this provision be construed otherwise, to waive Tenant’s governmental immunities against premises defects or any legal defenses to any suits or claims for damages.

Section 2.04. Use.

A. The Demised Premises may be used only for the construction of buildings and improvements for instructional facilities and related facilities owned, maintained and operated by the Ysleta Independent School District which instructional facilities can be used for recreational programs offered by Landlord (the “Permitted Use”).

B. In no event may all or any portion of the Demised Premises be used for any unlawful use or any use other than the Permitted Use.

ARTICLE III

Conditions; Construction of Improvements

Section 3.01. Inspection Period. Notwithstanding anything herein to the contrary, it is expressly understood and agreed that Tenant shall be entitled to terminate this Lease by written

notice delivered to Landlord on or prior to 1 October 2008 (the “**Inspection Period**”) in the event any of the following conditions shall remain unsatisfied, in Tenant’s sole discretion:

A. Tenant shall have received evidence satisfactory to it that the Land is or will be zoned for use as an instructional facility;

B. The results of a soil and engineering test to be conducted by Tenant on the Land shall be acceptable to it in light of the nature of the Improvements to be constructed thereon;

C. Tenant shall have received evidence satisfactory to it that all utility service connections, including, without limitations, gas, electricity, water, sanitary sewer, purple pipe and telephone, are or will be available for hook-up at locations within five (5) feet of the boundary of the Land with capacities sufficient for Tenant’s intended use thereof. City will not pay to extend utilities for Tenant’s access to utilities;

D. Tenant shall have received evidence satisfactory to it that Tenant shall have sufficient ingress and egress to and from the Premises on Landlord’s land adjoining the Premises.

E. Tenant shall have obtained, or received evidence satisfactory to it that it will be able to obtain, from the appropriate governmental authorities all permits and licenses necessary for the construction and operation of the Improvements;

F. Tenant, at its expense, shall have obtained a current commitment for title insurance for the Demised Premises and a current survey of the Land and delivered same to Landlord, prior to Landlord’s execution of this Lease and such commitment and survey shall be satisfactory to Tenant.

If Tenant fails to terminate this Lease in writing delivered to Landlord prior to the end of such Inspection Period, then such termination right shall be deemed to be waived and all of the foregoing zoning, soil and engineering, availability of utilities, governmental approvals, and title conditions of the Land as shown in the commitment and survey shall be deemed approved by Tenant and this Lease shall remain in full force and effect.

Section 3.02. Construction of Improvements. Landlord shall be entitled to terminate this Lease by delivery of written notice to Tenant if Tenant has not commenced construction of the following Improvements on the Land within thirty-six (36) months and completed

construction within five (5) years with both dates commencing upon the execution of this Lease is signed by Landlord.

A. The Improvements shall consist of one (1) or more buildings containing not less than a total of 80,000 square feet nor more than 84,000 square feet for use as an instructional facility with playground and gymnasium facilities that can be used for Landlord's recreational programs and the drives, landscaping and a parking area with not less than the number of parking spaces required by the ordinances of the City of El Paso, to be constructed on the Land by Tenant substantially in accordance with the plans and specifications prepared by Tenant after consultation with Landlord, which plans and specifications shall be in harmony with the existing structures on Landlord's adjacent property.

B. Tenant shall construct two NCAA regulation soccer fields on Tenant's property pursuant to the Interlocal Agreement. Said new soccer fields shall be complete prior to demolition of any existing fields on leased property.

C. Tenant shall, at Tenant's cost, risk and expense, construct, erect and substantially complete the foregoing Improvements in a good and workmanlike manner in compliance with the building codes, zoning ordinances and other regulations of the City of El Paso, Texas.

D. If commencement of construction of the Improvements has not occurred on or before thirty-six (36) months after the date of this Lease, Landlord may treat such event as an event of default under this Lease. After commencement of construction, Tenant covenants and agrees to complete construction of the Improvements with reasonable diligence. The date on which construction of the Improvements is completed (the "**Completion Date**") shall be earlier of (i) the date on which Tenant obtains a certificate of occupancy for the Improvements or (ii) the date on which Tenant begins conducting classes in more than half of the air-conditioned space actually constructed as part of the Improvements.

Section 3.03. Ownership of the Improvements. The Improvements and any modifications, additions, restorations, repairs and replacements thereof hereafter placed or constructed by Tenant, at Tenant's expense, upon the Demised Premises shall be owned by Tenant, its successors and assigns, until the expiration of the Lease Term and any extensions thereof; provided that (i) the terms and provisions of this Lease shall apply to the Improvements; and (ii) the Improvements (with the exception only of movable trade fixtures, furniture, books, computer connections but excluding computer cabling, educational equipment but excluding HVAC, plumbing, electrical, and mechanical equipment, and personalty) shall be surrendered to and become the absolute property of Landlord upon the termination of the Lease Term, whether by expiration of time or otherwise.

Section 3.04. Outside Completion Date. Landlord reserves the right to terminate and cancel this Lease by delivery of written notice to Tenant in the event the Completion Date does not occur on or before five (5) years after the date of this Lease, which notice shall be delivered

to Tenant within sixty (60) days after the expiration of the five (5) year period or otherwise such termination right shall be waived by Landlord.

Section 3.05. Liens. It is expressly acknowledged and understood that Landlord does not consent, and has not by the execution and delivery of this Lease consented, to the imposition of any liens upon the Landlord's interest in the Demised Premises by any party whomsoever. Tenant covenants and agrees that all Improvements at any time constructed upon the Demised Premises will be completed free and clear of all valid liens and claims of contractors, subcontractors, mechanics, laborers and materialmen, and other claimants related to the Improvements. Tenant further covenants and agrees to protect, indemnify, defend and hold harmless Landlord from and against all bills and claims, liens and right to liens for labor and materials and architects', contractors' and subcontractor's claims, and all fees, claims and expenses incurred by Tenant incident to the construction and completion of any Improvements, including without limitation any attorney's fees and court costs, which may be incurred by Landlord in connection therewith.

ARTICLE IV

No Leasehold Mortgage

Tenant shall not be entitled to and shall not place any leasehold mortgage or other lien on the Demised Premises.

ARTICLE V

Assignment and Subletting

Section 5.01. Assignment. Assignment is prohibited.

Section 5.02. No Release of Tenant. Notwithstanding anything contained in this Lease to the contrary, no sublease entered into by Tenant, whether voluntary, by operation of law or otherwise, shall release, discharge or in any way diminish the debts, duties and obligation of Tenant under the term of this Lease, including without limitation the obligation to pay any sums due to Landlord under this Lease.

ARTICLE VI

Maintenance and Repair; Insurance

Section 6.01. Operating Expenses. Tenant agrees to pay promptly any and all expenses of operation of the Demised Premises including, but not being limited to, electricity, water, gas, sewer, and telephone. The amounts payable to Landlord hereunder as rent shall be absolutely net to Landlord, without diminution by reason of any expenses of operation of the Demised Premises.

Section 6.02. Repairs, Compliance with Laws. Tenant shall keep all Improvements from time to time situated on the Land in good repair and condition, and at the end or other expiration of the term of this Lease deliver up the Demised Premises and all Improvements thereon in good condition, reasonable wear and tear and loss or damage by fire or other casualty occurring during the last two (2) years of the Lease Term excepted. Tenant agrees that in case of damage to, or destruction of, any Improvements or the fixtures and equipment thereof, by fire or other casualty prior to the last ten (10) years of the Lease Term, it will promptly, at its own expense, repair, or rebuild the same to the end that upon the completion of such repairs, restoration or rebuilding the value, both physical and economic, of the Improvements shall be at least substantially equal to the physical and economic value of the same immediately prior to the happening of such fire or other casualty. Tenant shall at its sole cost and expense comply with all municipal, state and federal regulations now in force or which may hereafter be in force, pertaining to the Demised Premises and shall faithfully observe in the use of the Demised Premises all municipal, state and federal laws and regulations now in force or which may hereafter be in force. In case of damage to, or destruction of, any Improvements or the fixtures and equipment thereof, by fire or other casualty during the last ten (10) years of the Lease Term, Tenant may, at its option by written notice to Landlord given within sixty (60) days of such casualty, terminate this Lease by delivering to Landlord written notice of such termination, whereupon Tenant shall be responsible for cleaning and clearing the damaged facilities from the Land in compliance with all municipal ordinances.

Section 6.03. Liability Insurance. DISTRICT shall provide public liability insurance for personal injuries and death growing out of any one accident or other cause in a minimum amount of Two Hundred Fifty Thousand and No/100 Dollars (\$250,000.00) per person, and Five Hundred Thousand and No/100 Dollars (\$500,000.00) for two (2) or more persons in any one accident, and, in addition, shall provide property damage liability insurance in a minimum sum of One Hundred Thousand and No/100 Dollars (\$100,000.00) for property damage growing out of any one accident or other cause.

6.03.1 DISTRICT is required to purchase liability insurance on behalf of the CITY or, alternatively, may name the CITY as an additional insured on the policy of general liability insurance referenced above. Such insurance shall provide coverage for any alleged acts or omissions of the CITY, its agents, employees or independent groups, alleged or asserted by any individual, in connection with the performance of this Agreement.

6.03.2 DISTRICT shall maintain said insurance with a solvent insurance company authorized to do business in Texas. The policy shall provide that the insurer will defend against all claims and lawsuits which arise and will pay any final judgment of a court of competent jurisdiction against the CITY, its officers, agents, servants or employees and groups, its officers, agents, servants or employees.

6.03.3 No performance required by this Agreement shall be rendered by the CITY until DISTRICT files a copy of the policy or certificate of liability insurance as herein set forth with the City Clerk and the Department. Such policy or certificate shall provide that the insurance cannot be canceled or the amount of coverage changed without ten (10) days prior written notice to the City Clerk. Failure to keep the policy in full force and effect throughout the term of this Agreement shall be grounds for cancellation of this Agreement.

Section 6.04. Property Insurance. Tenant agrees to provide and maintain at all times during this Lease at Tenant's own cost and expense, for the benefit of Landlord and Tenant, as their interests may appear, property insurance to include but not limited to perils such as fire, extended coverage, vandalism, malicious mischief, windstorm, hail, etc. in an amount covering the Improvements and any equipment, trade fixtures, furnishings, inventory, or personalty of Tenant at not less than 100% of their full insurable value. Tenant shall also, during the Lease Term, cause the Demised Premises and all Improvements constructed from time to time thereon to be insured against such other risks and in such amounts as Landlord and Tenant shall, from time to time, agree. Tenant agrees to add City of El Paso as an additional insured to any property coverage.

Section 6.05. General Provisions.

A. All insurance required by this Article VII shall be evidenced by policies and issued by insurers reasonably satisfactory to Landlord and Tenant, and shall provide that such insurance, as to the interest of Landlord, shall not be invalidated by any act or omission of Tenant or any occupant of the Demised Premises which might otherwise result in the forfeiture of such insurance. To the extent permitted by law, all such policies shall name Landlord and Tenant as insureds, as their interest may appear, and shall provide that they shall not be canceled unless and until not less than thirty (30) days prior written notice of cancellation has been served upon Landlord and Tenant. All renewal binders or policies (or certificates evidencing the same) shall be delivered to Landlord not less than thirty (30) days prior to the expiration of the policy or policies to be renewed. Certificates evidencing such insurance shall be furnished to Landlord by Tenant. Landlord shall have the right, from time to time during the term of this Lease, to require Tenant to carry greater amounts of such insurance than provided in this Article VII provided, however, that such greater amounts are normally and customarily carried by governmental entities and political subdivisions similar to Tenant.

B. If, at any time, Tenant's insurance carriers refuse to name Landlord as an additional insured on policies written for Tenant, then Tenant shall immediately so advise Landlord in writing and Landlord shall have the option to request that Tenant change insurance carriers or to immediately terminate this Lease if Tenant does not immediately change carriers.

C. Landlord hereby releases Tenant, and Tenant hereby releases Landlord, and their respective officers, agents, employees and servants, from any and all claims or demands for damages, loss, expense or injury to the Demised Premises, or to the furnishings and fixtures and equipment, or inventory or other property of either Landlord or Tenant in, about or upon the Demised Premises, as the case may be, which are caused by or result from perils, events or happenings which are the subject of insurance carried or to be carried under this Lease by the respective parties; provided, however, that such waiver shall be effective only to the extent permitted by the insurance covering such loss and to the extent such insurance is not prejudiced thereby or the expense of such insurance is not thereby increased. Landlord and Tenant hereby agree to request waivers of subrogation endorsements from their respective insurance carriers, which waivers shall be for the benefit of Landlord or Tenant, as appropriate.

D. During times of Landlord/Tenant usage their respective insurance coverage will apply.

Section 6.06. Application of Proceeds of Property Insurance. All proceeds payable pursuant to the provisions of any policies of casualty insurance shall be collected and held by Tenant in an account designated for the following purposes, which account shall be promptly identified to Landlord and Landlord shall be regularly apprised of the amount of funds in such account, and such funds shall be applied for the following purposes:

A. All proceeds shall first be used, subject to any other conditions contained in this Lease, as a fund for the restoration and repair of any and all buildings, improvements and equipment comprising a part of the Demised Premises which have become destroyed or damaged. Such proceeds in such event shall be used and applied in satisfaction and discharge of the cost of the restoration of the destroyed or damaged buildings, improvements and equipment.

B. Such funds shall be paid out from time to time to persons furnishing labor or materials, or both, including architects' fees and contractors' compensation in the construction work, on vouchers approved by a licensed architect or engineer employed by Tenant to superintend work.

C. Any funds not disbursed and remaining after the completion of the restoration of the repair work and the payment and discharge of the cost thereof shall be applied to any sums due hereunder and the balance shall be delivered to or retained by Tenant.

Section 6.07. Premiums. All premiums and charges for all of said insurance policies shall be paid by Tenant when due. If Tenant shall fail and neglect to make any payment when due, Landlord may, but shall not be obligated to, make such payment or carry such policy, and the amount of any premium paid therefore shall forthwith be repaid by Tenant.

Section 6.08. Renewal Policies. At least thirty (30) days prior to the expiration of each such insurance policy, Tenant shall deliver to Landlord copies of a renewal policy or binder which shall comply with the foregoing provision with respect to prior notice of cancellation thereof being given by the insurance company to Landlord. In the event of the failure of Tenant to procure and deliver such renewal policy or policies or binder or binders therefore within the time prescribed above, Landlord shall be permitted to do so and the premiums charged therefore shall be borne and forthwith paid by Tenant.

Section 6.09. Loss Adjustments. Landlord and Tenant shall have the right to participate in all negotiations relating to loss adjustments for the Demised Premises.

ARTICLE VII

Utility Charges, Liability

Section 7.01. Utility Charges. Tenant shall pay or cause to be paid promptly when due all charges for water, electricity, gas, sewer, telephone, cable or any other services furnished to the Demised Premises. Tenant expressly agrees that Landlord is not, nor shall it be, required to furnish to Tenant or any other occupant of the Demised Premises any water, sewer, gas, heat, electricity, light, power, cable, or any other facilities, equipment, labor, materials or services of any kind whatsoever. Landlord shall not be responsible for the payment of utilities for the property covered by this Lease.

Section 7.02. Liability.

Section 7.02.1. As primary insurance, the Tenant shall be responsible for all claims, damages, liability and court awards including costs, expenses and attorney's fees incurred as a result of any action or omission of the Tenant or its officers, employees, and agents in connection with the performance of this Agreement.

Section 7.02.2. Secondarily, the Landlord shall be responsible for all claims, damages, liability and court awards including costs, expenses and attorney's fees incurred as a result of any action or omission of the Landlord or its officers, employees, and agents in connection with the performance of this Agreement to the extent any such loss is not covered by Tenant's insurance coverage.

Section 7.02.3. Nothing in this Article or any other provision of this Agreement shall be construed as a waiver of the notice requirements, defenses, immunities, and limitations the Landlord or Tenant may have under Texas law. The provisions in this Article are solely for the benefit of the parties to this Agreement and are not intended to create or grant any rights, contractually or otherwise, to any third party.

ARTICLE VIII

Condemnation

Section 8.01. Definitions. Wherever used in this Article, the following words shall have the definitions and meaning hereinafter set forth:

- A. **“Condemnation proceedings”** means any action or proceedings brought for the purpose of any taking of the fee of the Demised Premises or any part thereof or any other property interest therein by competent authority as a result of the exercise of the power of eminent domain, including a voluntary sale to such authority either under threat of condemnation or while such action or proceeding is pending.
- B. **“Taking” or “taken”** means the event of vesting of title to the fee of the Demised Premises or any part thereof pursuant to the condemnation proceedings.

Section 8.02. Entire Taking. If substantially all of the Demised Premises shall be taken in condemnation proceedings, this Lease shall terminate as of the taking.

Section 8.03. Partial Taking. If less than substantially all of the Demised Premises shall be taken in condemnation proceedings, and Tenant shall determine in its reasonable business judgment, within ninety (90) days after such taking, that the remaining building or buildings cannot be economically and feasibly used by Tenant, Landlord or Tenant, at their election, may terminate this Lease on thirty (30) days notice to the other party to such effect.

Section 8.04. Application of Award. If this Lease shall terminate pursuant to the provisions of Section 9.02 or Section 9.03 of this Article, Landlord’s share of the condemnation award together with any separate award to Tenant shall be apportioned and paid in the following order of priority:

- A. There shall be first paid any and all reasonable expenses, charges and fees, including reasonable attorney’s fees, in collecting the award.
- B. Landlord shall then be entitled to receive an amount equal to the reasonable market value of the Land constituting part of the Demised Premises.
- C. The balance of the award, if any, shall be paid to Tenant and Landlord shall have no obligation to refund any of the Base Rental.

Section 8.05. Application of Award in Partial Taking. If it is determined pursuant to the provisions of Section 8.03, that the remaining Improvements after a partial condemnation can be used economically by Tenant, (i) this Lease shall not terminate but shall continue in full force and effect as to the portion of the Demised Premises not taken, and (ii) Tenant shall commence and proceed with reasonable diligence to repair or reconstruct the remaining building or buildings on the Demised Premises to a complete architectural unit or units to the extent proceeds of the condemnation award are available therefore. Landlord’s share of the award in

condemnation proceedings for any partial taking where repair or reconstruction is undertaken, together with any separate award to Tenant, shall be apportioned and paid in the following order of priority:

A. There shall first be paid any and all reasonable expenses, charges and fees, including reasonable attorney's fees, in collecting the awards;

B. The proceeds of the awards shall next be used as a fund for the restoration and repair of the building, improvements and equipment situated on the Demised Premises to a complete architectural unit or units. Such proceeds shall be held by Landlord and Tenant jointly and shall be paid out from time to time to persons furnishing labor or materials, or both, including architects' fees and contractors' compensation in such restoration work on vouchers approved by a licensed architect or engineer approved by Landlord and contracted or employed by Tenant to monitor and supervise the work;

C. Landlord shall then be entitled to an amount equal to the reasonable market value of the Land taken; and

D. The balance of the award shall be paid to Tenant and Landlord shall have no obligation to refund any of the Base Rental.

Section 8.06. Consent to Settlement by Landlord. Tenant shall have primary responsibility for dealing with the condemning authority in the condemnation proceedings but Tenant shall not make any settlement with the condemning authority nor convey or agree to convey the whole or any portion of the Demised Premises to such authority in lieu of condemnation without first obtaining the written consent of Landlord thereto, provided that Landlord receives (i) not less than the fair market value of the Land taken at the time and (ii) a reasonable amount for any diminution in value of the remaining portion of any adjacent land owned by Landlord.

ARTICLE IX

Default

Section 9.01. Events of Default. The following events ("**Events of Default**") shall be deemed to be events of default by Tenant under this Lease:

A. If Tenant shall fail to pay any sum of money payable hereunder on the date the same is due and such failure shall continue for a period of thirty (30) days after due written notice to Tenant.

B. If Tenant shall fail to comply with any term, provision or covenant of this Lease, other than the payment of rent or other sums of money, and shall not cure such failure within thirty (30) days after due written notice thereof to Tenant; or if such failure cannot reasonably be

cured within the said thirty (30) days and Tenant shall not have commenced to cure such failure within such thirty (30) day period and shall not thereafter with all due diligence and good faith proceed to cure such failure as soon as reasonably practicable.

C. If a decree or order by a court of competent jurisdiction shall have been entered adjudging Tenant bankrupt or insolvent or appointing a receiver or trustee or assignee in bankruptcy or insolvency of all or substantially all of its property, and any such decree or order shall have continued in force undischarged or unstayed for a period of ninety (90) days.

D. If Tenant shall do or permit to be done anything that creates a lien upon Landlord's interest in the Demised Premises, and any such lien is not discharged or bonded within ninety (90) days after filing.

E. If Tenant (i) abandons the Demised Premises for two (2) consecutive years by failing to use same as an instructional facility that can be used for educating students.

Section 9.02. Remedies. Upon the occurrence of any such event of default, Landlord shall have the right, at Landlord's election to pursue, in addition to and cumulative of any other rights Landlord may have, at law or in equity, any one or more the following remedies without any notice or demand whatsoever:

A. Terminate this Lease, in which event Tenant shall immediately surrender the Demised Premises to Landlord, and if Tenant fails so to do, Landlord may, without prejudice to any other remedy which it may have for possession or arrearages in rent, enter upon and take possession of the Demised Premises and expel or remove Tenant and any other person who may be occupying such premises or any part thereof, without being liable for prosecution or any claim of damages therefore.

B. With an appropriate court order, enter upon and take possession of the Demised Premises and expel or remove Tenant and any other person who may be occupying such premises or any part thereof without being liable for prosecution of any claim for damages therefore.

Section 9.03. Cumulative Rights. Pursuit of any of the foregoing remedies shall not preclude Landlord's pursuit of any of the other remedies herein provided or any other remedies provided by law, nor shall pursuit of any remedy herein provided constitute a forfeiture or waiver of any rent due to Landlord hereunder or of any damages accruing to Landlord by reason of the violation of any of the terms, provisions and covenants herein contained. Failure by Landlord to enforce one or more of the remedies herein provided, upon any event of default, shall not be deemed or construed to constitute a waiver of such default or of any other violations or breach of any of the terms, provisions and covenants herein contained. In determining the amount of loss or damage which Landlord may suffer by reason of termination of this Lease or the deficiency arising by reason of the reletting by Landlord as above provided, allowance shall be made for the

expense of repossession and any repairs reasonably undertaken by Landlord following repossession in order to return the Demised Premises to substantially the same condition as at the time of default, normal wear and tear expected.

Section 9.04. Re-Entry of Landlord. No re-entry or taking possession of the Demised Premises by Landlord shall be construed as an election on its part to terminate this Lease unless a written notice of such intention is given to Tenant. Landlord, at its option, may make such alterations, repairs and/or decorations to the Improvements as it, in its reasonable judgment, considers advisable and necessary upon the occurrence of an Event of Default, at the cost of Tenant, and the making of such alterations, repairs and decoration shall not operate or be construed to release Tenant from liability hereunder. Landlord shall in no event be liable in any way whatsoever for failure to relet the Demised Premises and the Improvements or, in the event the Demised Premises and the Improvements are relet, for failure to collect rent thereof under such reletting; and in no event shall Tenant be entitled to receive any excess of such rent over the sums payable by Tenant to Landlord hereunder.

Section 9.05 Effect of Waiver or Forbearance. No waiver by Landlord of any breach by Tenant of any of its obligations, agreements, or covenants hereunder shall be a waiver of any subsequent breach or of any obligation, agreement or covenant, nor shall any forbearance by Landlord to seek a remedy for any breach by Tenant be a waiver by Landlord of its rights and remedies with respect to such subsequent breach.

ARTICLE X

Attorney's Fees

If on account of any breach or default by either party hereunder, it shall become necessary for the other party hereto to employ an attorney to enforce or defend any of such party's right or remedies hereunder, and should such party prevail in a final judgment, the party against whom enforcement was sought shall pay to the other party any reasonable attorney's fees incurred by reason of such proceedings.

ARTICLE XI

Miscellaneous

Section 11.01. Inspection. Tenant shall permit Landlord and its agents to enter into and upon Demised Premises at all reasonable times and upon reasonable notice for the purpose of inspecting the same or undertaking any rights of Landlord under this Lease.

Section 11.02. Release. If requested by Landlord, Tenant shall upon termination of this Lease, execute and deliver to Landlord an appropriate release, in recordable form, of all Tenant's interest in the Demised Premises, and upon request of Tenant, Landlord will execute and deliver a written cancellation and termination of Lease in recordable form; provided, that in no event

shall any such release, cancellation or termination constitute a release or relinquishment by either party of his or its rights against the other party for any amounts payable by such other party under the terms of this Lease or any damages to which such party is entitled as a result of any default by the other party hereunder.

Section 11.03. Landlord's Right to Perform Tenant's Covenants. If Tenant shall default in the performance of any of its covenants, obligations or agreements contained in this Lease, Landlord, after ten (10) days notice to Tenant, specifying such default (or shorter notice of any emergency exists), may (but without any obligation so to do) perform the same for the account and at the expense of Tenant, and the amount of any payment made or other reasonable expenses, including reasonable attorney's fees incurred by Landlord for curing such default, with interest thereon at the highest lawful rate per annum, shall be payable by Tenant to Landlord on demand.

Section 11.04. Non-Merger. There shall be no merger of this Lease, the leasehold estate created hereby or the Improvements with the fee estate in and to the Demised Premises by reason of the fact that this Lease, the leasehold estate created thereby or the Improvements, or any interest in either thereof, may be held directly or indirectly by or for the account of any person who shall own the fee estate in and to the Demised Premises, or any portion thereof, and no such merger shall occur unless and until all persons at the time having any interest in the fee estate and all persons having any interest in this Lease, the leasehold estate or the Improvements, shall join in a written instrument affecting such merger.

Section 11.05. Notices. Any notice required or permitted to be delivered hereunder or by law shall be delivered to the parties hereto at the respective addresses set out below:

If to Landlord: City of El Paso
ATTN: City Manager
2 Civic Center Plaza
El Paso, TX 79901

and also: City of El Paso
ATTN: Parks and Recreation Department, Director
2 Civic Center Plaza
El Paso, TX 79901

If to Tenant: Ysleta Independent School District
ATTN: Superintendent
9600 Sims
El Paso, TX 79925

Each party hereto shall have the right, by giving not less than ten (10) days prior written notice to the other party hereto, to change any address of such party for the purpose of notices under this Section 13.06.

Section 11.06. Successors and Assigns. The word “Landlord” as used in this instrument shall extend to and include each entity succeeding to Landlord’s rights under law as well as any and all persons, whether natural or artificial, who at any time or from time to time during the term of this Lease shall succeed to the interest and estate of Landlord in the Demised Premises; and all of the covenants, agreements, conditions, and stipulations herein contained which inure to the benefit of and are binding upon Landlord shall also inure to the benefit of and shall be, jointly and severally binding upon the successors and grantees of Landlord, and each of them and any and all persons who at any time or from time to time during the term of this Lease shall succeed to the interest and estate of Landlord in the real estate and property hereby demised. The word “Tenant” as used in this instrument shall extend to and include each entity succeeding to Tenant’s rights under law, as well as any and all persons, whether natural or artificial, who at any time or from time to time during the term of this Lease shall succeed to the interest and estate of Tenant hereunder and all of the covenants, agreements, conditions and stipulations herein contained which inure to the benefit of and be jointly and severally binding upon the successors or other representatives of Tenant, and of any and all persons who shall at any time or from time to time during the term of this Lease succeed to the interest and estate of Tenant hereby created in the Demised Premises.

Section 11.07. Modifications. This Lease may be modified only by written agreement signed by the Landlord and Tenant.

Section 11.08. Descriptive Headings. The descriptive headings of this Lease are inserted for convenience in reference only and do not in any way limit or amplify the terms and provisions of this Lease.

Section 11.09. No Joint Venture. The relationship between Landlord and Tenant at all times shall remain solely that of Landlord and Tenant and shall not be deemed a partnership or joint venture.

Section 11.10. Landlord’s Right of Use. After Tenant has constructed the buildings and improvements on the Property, Landlord shall have the right to use gymnasium and office space in the school buildings owned and operated by Tenant for purposes of Landlord’s recreational and related undertakings. Landlord agrees to cooperate with Tenant to assure that school facilities are available for educating Tenant’s students during school hours and for any scheduled after hours school function.

Section 11.11. Recording of Lease. Landlord and Tenant agree that they shall, at any time at the request of the other, promptly execute a memorandum or short form of this Lease, in recordable form, setting forth a description of the Demised Premises, the term of this Lease, and any other provisions herein, or the substance thereof, as either party desires. This memorandum or short form lease may be filed among the land records of El Paso County, Texas.

Section 11.12. Partial Invalidity. If any term or provision of this Lease or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such term or provision to any person or circumstance other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term of this Lease shall be valid and be in force to the fullest extent permitted by law.

Section 11.13. Holding Over. Any holding over by Tenant of the Demised Premises after the expiration of the Lease Term shall operate and be construed as a tenancy from month to month at a monthly rental equal to the rental payable during the term of the Lease. Tenant agrees to surrender the Demised Premises after the termination of the Lease Term immediately upon demand by Landlord.

Section 11.14. No Commissions. Landlord and Tenant each represent to the other that it has not incurred and will not incur any liability for brokerage fees or agents commissions in connection with this Lease and Landlord and Tenant.

WITNESS the signatures of the parties hereto in duplicate originals this the _____ day of _____, 2008.

(signatures on next page)

CITY OF EL PASO

Joyce A. Wilson
City Manager

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

Josette Flores
Assistant City Attorney

Nanette Smejkal, Director
Parks and Recreation Department

YSLETA INDEPENDENT SCHOOL DISTRICT

Carmen G. Munoz
President, YISD Board of Trustees

Roger G. Parks
Interim Superintendent, YISD

CERTIFICATE OF ACKNOWLEDGMENT

STATE OF TEXAS)
)
COUNTY OF EL PASO)

BEFORE ME, the undersigned Notary Public, on this day personally appeared CARMEN G. MUNOZ, known to me the President of the Board of Trustees of the Ysleta Independent School District, a Texas Political Subdivision, and the person whose name is subscribed to the foregoing Ground Lease, and who acknowledged to me that she executed the instrument for the purposes and considerations therein expressed and on behalf of the Ysleta Independent School District.

Given under my hand and seal of office on the _____ day of _____, 2008.

NOTARY PUBLIC in and for the
State of Texas

My Commission Expires:

CERTIFICATE OF ACKNOWLEDGMENT

STATE OF TEXAS)
)
COUNTY OF EL PASO)

BEFORE ME, the undersigned Notary Public, on this day personally appeared JOYCE A. WILSON, known to me City Manager of the City of El Paso, a Texas Political Subdivision, and the person whose name is subscribed to the foregoing Ground Lease, and who acknowledged to me that she executed the instrument for the purposes and considerations therein expressed and on behalf of the City of El Paso, Texas.

Given under my hand and seal of office on the _____ day of _____, 2008.

NOTARY PUBLIC in and for the
State of Texas

My Commission Expires:

CITY CLERK DEPT.

08 JUL 28 AM 10:14

EXHIBIT "C"

PROJECT - B

#2

106-5 pages

SPECIAL WARRANTY DEED

Date: 2 - 1, 2000

Grantor: The City of El Paso, Texas, a Texas municipal corporation

Grantor's Mailing Address (including county): Two Civic Center Plaza
El Paso, Texas
El Paso County, Texas 79901-1196

Grantee: Ysleta Independent School District

Grantee's Mailing Address (including county): 9600 Sims
El Paso, Texas
El Paso County, Texas 79925

Consideration: TEN AND NO/100 DOLLARS and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged and confessed.

Property (including any improvements):

A portion of Tract 16, Block 55, YSLETA GRANT, El Paso, El Paso County, Texas, and being more particularly described by metes and bounds in Exhibit "A" attached hereto and made a part hereof for all purposes.

Restrictions and Reservations from and Exceptions to Conveyance and Warranty:

1. Grantor reserves an easement for the construction and maintenance of water and sewer lines with appurtenances thereto, together with the right of ingress and egress to and from the easement for such purposes, identified and described in Exhibit "B".
2. Shortages in area.
3. Standby fees, taxes and assessments by any taxing authority for the year 2000 and subsequent years; and subsequent taxes and assessments by any taxing authority for prior years due to change in land usage or ownership, but not those taxes or assessments for prior years because of an exemption granted to a previous owner of the property under Section 11.13, TEXAS TAX CODE, or because of improvements not assessed for a previous tax year.
4. Any and all claims of right, title and interest to the land, including but not limited to any right of possession or claim for damages relating to the land which has been asserted or may be asserted, of record or not, by or on behalf of any Indian or Indian Tribe, including but not limited to the Tigua Indian Tribe of El Paso, Texas, also known as Pueblo De La Ysleta del Sur, also known as the Ysleta del Sur Pueblo Indian Tribe, also known as the Tigua Indian Community, including but not limited to claims appearing in Affidavit of Julian Granillo, filed for record April 16, 1993, recorded in Volume 2553, Page 1958, Real Property Records of El Paso County, Texas.
5. Development of the property shall be governed by the following restrictions:
 - a. Turf Areas, exclusive of non-irrigated or non-maintained landscape areas, shall not exceed the following percentages of the landscape area provided:
 - I. Commercial, office, and industrial: 15%

30774

- ii. Apartments, duplexes and other multi-family dwellings, single-family detached or attached dwellings, and all other residential dwellings, including mobile and modular homes: 50%
 - iii. All other developments excluding parks, golf courses, and cemeteries: 15%
- b. Turf and/or sprinkler spray heads shall not be installed in the following locations:
- I. Along street curbs;
 - ii. In areas whose width is less than 8 feet;
 - iii. In rights-of-way whose slopes are 15 degrees or greater from the horizontal; and
 - iv. On sites whose slopes are 25 degrees or greater from the horizontal.

6. Grantor reserves for itself, its successors and assigns, all water and water rights that are in or under the property, or that may be produced from the property, including any right to receive water.

Grantor, for the consideration and subject to the restrictions, reservations from and exceptions to conveyance and warranty, grants, sells, and conveys to Grantee the property, together with all and singular the rights and appurtenances thereto in any wise belonging, to have and hold it to Grantee, Grantee's, heirs, executors, administrators, successors or assigns forever. Grantor binds Grantor and Grantor's successors to warrant and forever defend all and singular the property to Grantee and Grantee's heirs, executors, administrators, successors and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof, except as to the reservations from and exceptions to conveyance and warranty, when the claim is by, through, or under Grantor but not otherwise.

When the context requires, singular nouns and pronouns include the plural.

ATTEST:

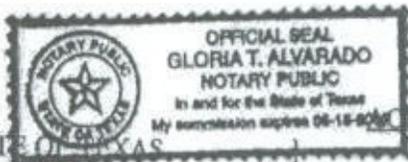
Carlos Anter
City Clerk

GRANTOR, THE CITY OF EL PASO

[Signature]
MAYOR

APPROVED AS TO FORM:

Michael Spurlock
Michael Spurlock, General Counsel, PSB



STATE OF TEXAS

COUNTY OF EL PASO

ACKNOWLEDGMENT

This instrument was acknowledged before me on the 13th day of April, 2000, by CARLOS M. RAMIREZ, PE as the MAYOR of El Paso.

[Signature]
Notary Public in & for The State of Texas

P:\1STQ001\OTHER\YISD10AC.SWD (04/10/00)

EXHIBIT "A"

DORADO ENGINEERING, INC.**PARCEL 1
(G.F. NO. 996174)****PORTION OF TRACT 16,
BLOCK 55, YSLETA GRANT SURVEY**

Metes and Bounds Description out of Tract 16, Block 55, Ysleta Grant Survey, City of El Paso, El Paso County, Texas.

From an existing city monument located on a p.c. of a curve to the right on the centerline of Escobar Drive in front of Tract 16, Block 55, Ysleta Grant thence South $32^{\circ}18'59''$ West a distance of forty three and no hundredths (43.00) feet to a point on the Southerly Right-of-Way line of Escobar Drive, this point also being the Point of Beginning for this description;

Thence continuing along the Southerly Right-of-Way line of Escobar Drive along an arc of a curve to the right a distance of four hundred eighty two and forty seven hundredths (482.47) feet, a radius of 1324.31 feet, central angle of $20^{\circ}52'26''$, whose chord bears South $47^{\circ}14'38''$ East a distance of four hundred seventy nine and eighty one hundredths (479.81) feet to the common Northerly corner of Tract 16, Block 55, Ysleta Grant Survey and Corrales Estates Subdivision;

Thence South $15^{\circ}57'00''$ West along the common line of Tract 16, Block 55, Ysleta Grant Survey and Corrales Estates Subdivision a distance of nine hundred eighty nine and thirteen hundredths (989.13) feet to the Southeast corner of Tract 16, Block 55, Ysleta Grant Survey;

Thence North $32^{\circ}57'00''$ West along the Southerly line of Tract 16, Block 55, Ysleta Grant Survey a distance of five hundred fifty two and fifty hundredths (552.50) feet for a corner;

Thence North $44^{\circ}36'00''$ West along the South line of Tract 16, Block 55, Ysleta Grant Survey a distance of one hundred twenty six and ninety six hundredths (126.96) feet to the common Southerly corner of Tract 15A and 16, Block 55, Ysleta Grant Survey;

2008 OCT 27 4 00 PM '08

"Parcel 1"

Thence North 15°57'00" East along the common line of Tracts 15A and 16, Block 55, Ysleta Grant Survey a distance of eight hundred nine and five hundredths (809.05) feet for a corner on the Southerly Right-of-Way line of Escobar Drive;

Thence South 57°41'00" East along the Southerly Right-of-Way line of Escobar Drive a distance of one hundred two and seventy six hundredths (102.76) feet to the Point of Beginning.

Said parcel of land contains 478,158.12 Sq. Ft. or 10.977 Acres of land more or less.

Prepared By,



Fermin Dorado, R.P.L.S.



February 15, 2000

2000 FEB 15 10:28 AM

**POOR QUALITY COPY
BEST AVAILABLE FILM**

PROPOSED 30' P.S.B. EASEMENT

Property Description: A portion of Tract 16, Block 55, Ysleta Grant, El Paso, El Paso County, Texas

METES AND BOUNDS DESCRIPTION

The parcel of land herein described is a portion of Tract 16, Block 55, Ysleta Grant, El Paso, El Paso County, Texas, and is more particularly described by metes and bounds as follows:

Commencing at an existing city monument lying on the centerline intersection of Navarrette Drive and Nutmeg Drive; Thence, North 89° 57' 00" West, along the centerline of Nutmeg Drive, a distance of 130.00 feet to a point lying on the common boundary line between Pecan Grove Subdivision Unit Two Replat A and Colonia Del Valle Unit Three Replat A; Thence, North 00° 03' 00" East, along said boundary line, a distance of 244.87 feet to a set iron with cap lying on the common boundary line between Block 12, Pecan Grove Subdivision Unit Two Replat A and Tract 16, Block 55, Ysleta Grant, said point being the TRUE POINT OF BEGINNING of this description;

THENCE, North 44° 36' 00" West, along said boundary line, a distance of 126.90 feet to a set iron with cap lying on the common boundary line between Tracts 15A and 16, Block 55, Ysleta Grant;

THENCE, North 15° 57' 00" East, along said boundary line, a distance of 809.04 feet to a set iron with cap lying on the southerly right-of-way line of Escobar Drive;

THENCE, South 57° 41' 00" East, along said right-of-way line, a distance of 3127 feet to a set iron;

THENCE, South 15° 57' 00" West, a distance of 752.58 feet to a set iron;

THENCE, South 32° 57' 00" East, a distance of 444.45 feet to a set iron;

THENCE, North 89° 57' 00" West, a distance of 35.77 feet to a set iron lying on the common boundary line between Colonia Del Valle Unit Three Replat A and Tract 16, Block 55, Ysleta Grant;

THENCE, North 32° 57' 00" West, along said boundary line, a distance of 291.97 feet to the TRUE POINT OF BEGINNING of this description.

Said parcel of land contains 0.873 acres (38,039 sq. ft.) of land more or less.

DATE	RECORD NUMBER	BY
10/11/00	100-100-100	JMC
10/11/00	100-100-100	JMC

NAME: C. J. SMITH JOB NO.: 100-100-100 PLOT NO.: 100 MAP NO.: 100 DATE: 10/11/00 SCALE: 1" = 100' SHEET NO.: 1 OF 1	<p align="center">BOUNDARY SURVEY</p> <p align="center">A PORTION OF TRACT 16, BLOCK 55, YSELETA GRANT, EL PASO, EL PASO COUNTY, TEXAS</p> <p align="center">SLI ENGINEERING, INC. CIVIL ENGINEERS • LAND SURVEYORS • LAND PLANNERS 1000 WEST 10TH ST. - EL PASO, TEXAS 79906 • (915) 800-1000 FAX (915) 800-1000</p>	
---	--	---

6

Doc# 20000027191
Pages 5
04/18/00 04:50:44 PM
Filed & Recorded in
Official Records of
EL PASO COUNTY
HECTOR ENRIQUEZ, JR
COUNTY CLERK
Fees \$17.00

ANY PROVISIONS HEREIN WHICH RESTRICTS THE SALE, RENTAL
OR USE OF THE DESCRIBED REAL PROPERTY BECAUSE OF COLOR
OR RACE IS INVALID AND UNENFORCEABLE UNDER FEDERAL LAW
STATE OF TEXAS COUNTY OF EL PASO
I hereby certify that this instrument was filed on the date and time stamped
hereon by me and was duly recorded in the volume and page of the Official
Public Records of Real Property El Paso County.

APR 18 2000



EL PASO COUNTY, TEXAS

[Handwritten signature]

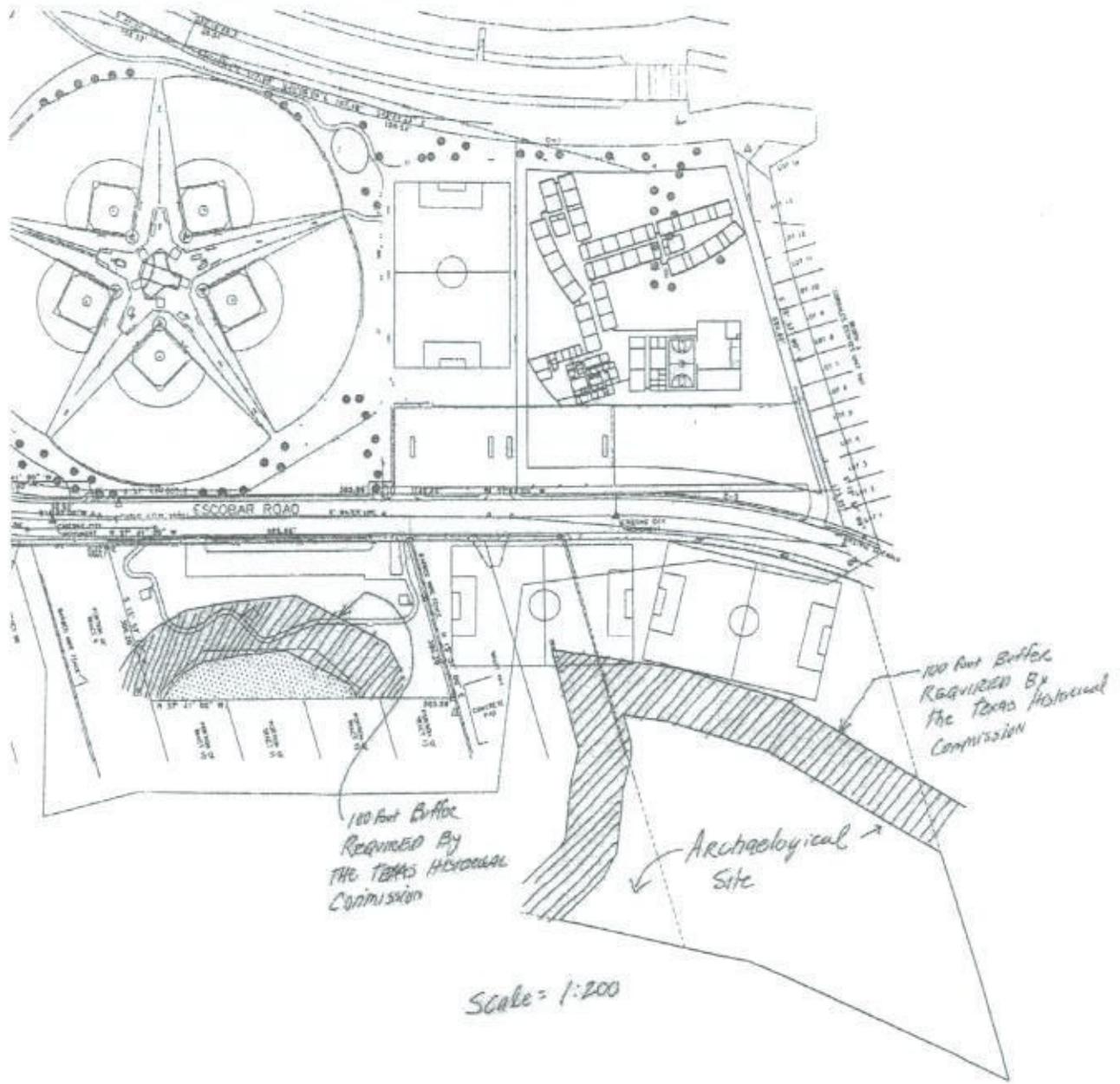
**END OF
INSTRUMENT**

After Record Review TD!

Grantee: Ysleta Independent School District

Grantee's Mailing Address (including county):
~~ATTN: CAROL WALTERS~~
WALTERS

9600 Sims
El Paso, Texas
El Paso County, Texas 79925



Scale = 1:200

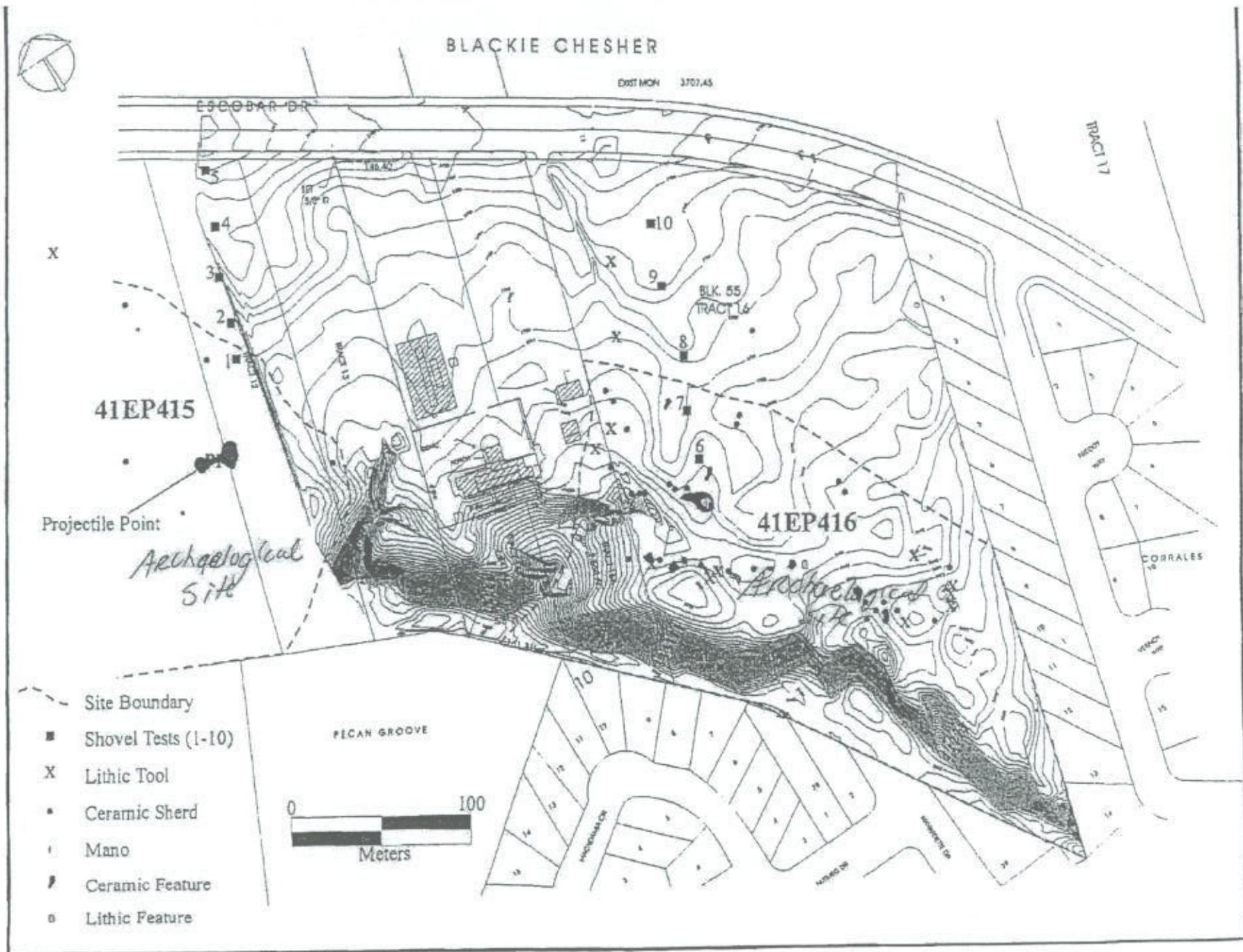
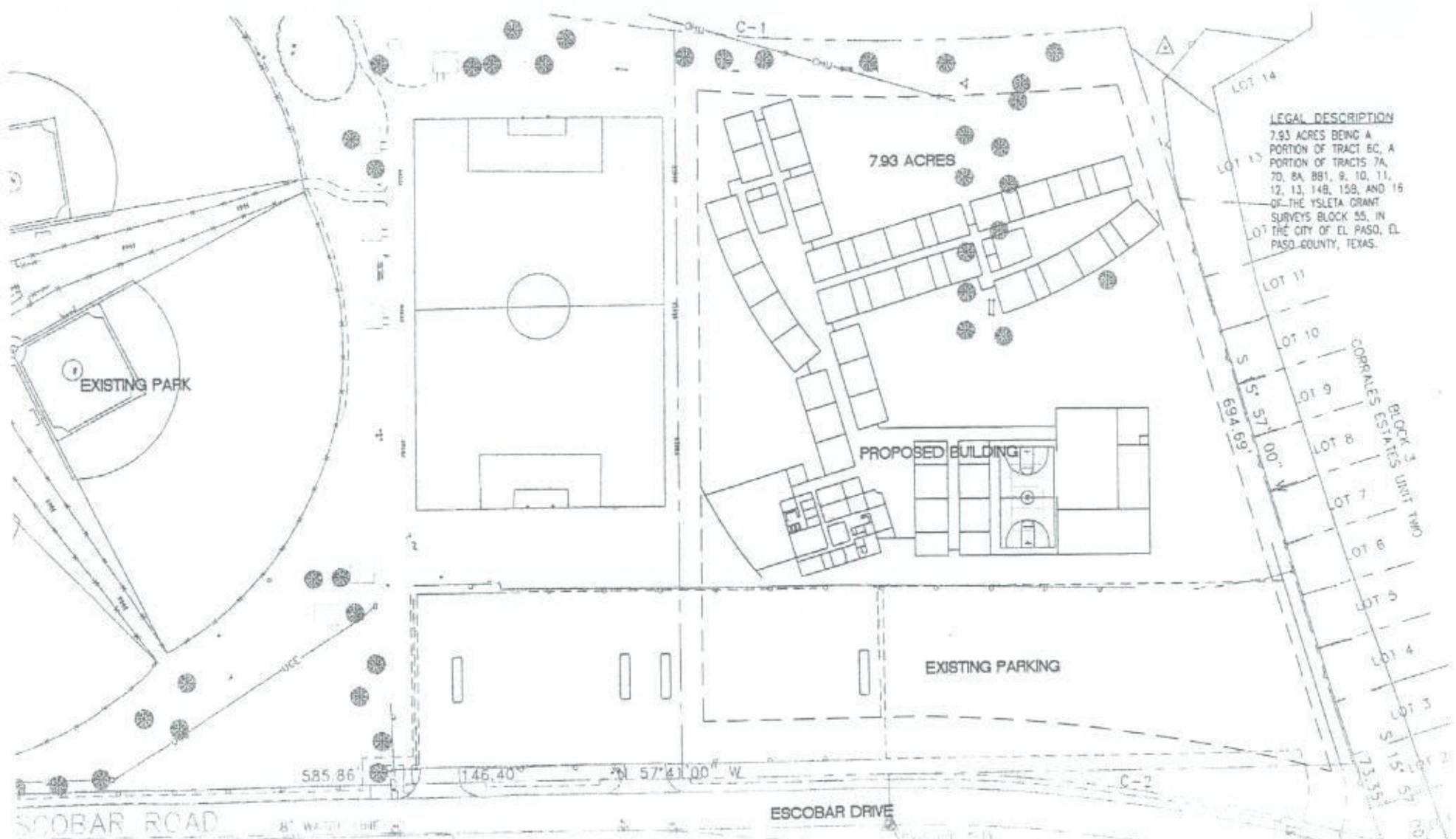


Figure 4. Map of archaeological features and shovel tests undertaken at Escobar I



LEGAL DESCRIPTION
 7.93 ACRES BEING A PORTION OF TRACT EC, A PORTION OF TRACTS 7A, 7D, 8A, 8B1, 9, 10, 11, 12, 13, 14B, 15B, AND 15 OF THE YSLETA GRANT SURVEYS BLOCK 55, IN THE CITY OF EL PASO, EL PASO COUNTY, TEXAS.

**NEW LOWER VALLEY
 ELEMENTARY SCHOOL
 YSLETA INDEPENDENT SCHOOL DISTRICT**

PROPOSED SITE PLAN
 SCALE: 1"=80'-0"