

No. _____



UNITED INDEPENDENT SCHOOL DISTRICT AGENDA ACTION ITEM

TOPIC Approval of Interlocal Agreement between the City of Laredo and the United ISD for the
Construction, Development and Maintenance of Real Property at Sigifredo Perez Elementary School

SUBMITTED BY: Sonia M. Garcia **OF:** School Attorney

APPROVED FOR TRANSMITTAL TO SCHOOL BOARD: May 21, 2008

RECOMMENDATION:

It is recommended that the United ISD Board of Trustees Approve the Interlocal Agreement between the City of Laredo and the United Independent School District for the Construction, Development and Maintenance of Real Property at Sigifredo Perez Elementary School.

RATIONALE:

BUDGETARY INFORMATION:

BOARD POLICY REFERENCE AND COMPLIANCE:

INTERLOCAL AGREEMENT BETWEEN
THE CITY OF LAREDO
AND THE
UNITED INDEPENDENT SCHOOL DISTRICT
FOR THE CONSTRUCTION, DEVELOPMENT AND
MAINTENANCE OF REAL PROPERTY

This Lease Agreement is made on this the _____ day of _____, 2008, and is entered by and between the CITY of LAREDO, a Municipal Corporation of the State of Texas (hereinafter referred to as "CITY"), pursuant to the action of its City Council of _____, 2008, and the UNITED INDEPENDENT SCHOOL DISTRICT, a political subdivision of the State of Texas (hereinafter referred to as "DISTRICT"), acting by and through its Board of Trustees pursuant to its actions of _____, 2008.

1. PREAMBLE

WHEREAS, City and District have authority to provide for the acquisition, construction and maintenance of community and recreational facilities; and

WHEREAS, the availability of quality recreational facilities and athletic fields adjacent to District campuses serves the mission of the District to provide for the educational, emotional and physical development of its students; and

WHEREAS, City and the District desire to pool their resources to meet continuous youth and community demands for more developmental and recreational opportunities; and

WHEREAS, City and District recognize that joint usage of facilities ensures better utilization of buildings, athletic facilities, parks and open spaces, so that there is greater efficiency in costs and operations; and

WHEREAS, the mission of the City is to promote the health, safety and welfare of its citizens, and said mission is served by development of parks and recreational areas; and

WHEREAS, the use of 5 acres of land, more or less, (hereinafter the "Property") is committed by the District for the development of little league baseball fields adjacent to Sigifredo Perez Elementary School; and

WHEREAS, City and District agree that construction, **utilization**, development, and maintenance of one or more little league baseball parks (hereinafter the "Project") on the Property, and adjacent to **Sigifredo Perez Elementary School** and the El Eden Recreational Facility, presently under construction, would enhance the recreational assets of both City and District, and serve to improve the quality of community life for **citizens and the students of the District**; and

WHEREAS, the allocation of funds is committed by the City for the actual construction costs of the Project, subject to the terms of this Agreement; and

WHEREAS, upon completion of the Project, the Property together with its improvements shall be leased by District to City pursuant to a written agreement, the terms of which are to be developed at a later date; 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 Project, both City and District have the rights to shared use of the Project for the public purposes of each, as set out herein; and

WHEREAS, the Interlocal Cooperation Act, Chapter, 791, authorizes political subdivisions, to enter into Interlocal agreements to provide services and facilities through the joint and cooperative exercise of powers, privilege, and authority; and

WHEREAS, City and the District acknowledge the value of their collaboration and seek to extend their working relationship **for the benefit of the public that they serve;**

NOW, THEREFORE, and in consideration of the covenants herein contained and the mutual benefits to be derived thereof, the parties hereby do agree as follows:

2. TERMS

2.1. When used in this Agreement, the following terms shall have the following meanings:

(a) **City** shall mean the City of Laredo, a Texas City organized under the laws of the State of Texas, acting by and through its City Manager as authorized by the City Council of the City of Laredo.

(b) **City Fiscal Year** shall mean October 1 to September 30.

(c) **City Funds** shall mean those funds designated and authorized by the City Council of the City of Laredo for purposes of construction, repair, maintenance, and operation of the Project.

(d) **City Use** shall mean use of the Project 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 the Project commencing with the award of a contract for construction and terminating with final payment to the contractor.

(g) **District** shall mean United Independent School District, governed by its Board of Trustees.

(h) **District Fiscal Year** shall mean September 1 to August 31.

(i) **District Funds** shall mean those funds designated and authorized by the District's Board of Trustees for purposes of maintenance and operation of the Project, including but not limited to the appraised market value of the real property lease contributed by the District on which the Project is to be constructed.

(j) **District Use** shall mean exclusive use of the Project by District, as herein agreed upon by the parties.

(k) **Land** shall mean the property owned by District for Project use.

(l) **Milestone Inspections** shall mean interim inspections of the Project construction by the Architects and/or Project Managers, inspections which shall also determine the dates of Substantial Completion and final completion of the Project.

(m) **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 Project.

(n) **Project Costs** shall mean the cost of all elements of constructing and equipping the Project, including the total of the amount of the construction contract award, Project Consultant fees, and other such Project 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 Project once construction is substantially completed and the Project is operational.

(o) **Substantial Completion** shall mean the issuance of the Certificate of Substantial Completion by the Architect for the Project.

(p) **Third-Party Use** shall mean use of the Project 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.

3. GENERAL PURPOSE AND INTENT

3.1. The general purpose and intent of this Agreement is to provide for the (1) use of the Property for Project objective, (2) designation and expenditure of funding for the Project, (3) design, construction, maintenance, operation and management of the Project

improvements on the Property, and (4) use of the Project by District's students, faculty, and staff, by other District invitees, by City's staff, and by the general public.

3.2. The Project shall be the improvements on the Property, of which the designs shall be developed at a later time, following consultation with the Project architect, engineer, or any other party authorized by the City.

4. OWNERSHIP AND TERMS

4.1. The District, pursuant to the lease agreement to be approved by the District's Board of Trustees at a later date and made part of this Agreement, will lease the land described therein to City, to be utilized for the purposes of the Project as set out herein. The parties hereto understand and agree that the land is to be leased for the Project, and Project improvements are to be dedicated and utilized for the Project for use as one or more little league baseball ~~fields~~ **parks** in accordance with this Agreement.

4.2. In consideration for the parties' contribution to the construction, operation, and maintenance of the Project, as set out herein, District and City shall use the Project under the conditions agreed to herein and as may be further mutually agreed by the Joint Use Committee.

4.3 The District will certify that it owns the land identified for use as the Project 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.

5. COSTS

5.1. **Project Cost.** For and in consideration of the use of the Project by City and District, City shall provide for the entire amount of the actual construction costs of the Project improvements as outlined below ("City Construction"). **For and in consideration of the use of the Project by City and District, District shall provide for the costs, supplies, and labor for the construction of the irrigation system and fencing for the Project in a total amount not to exceed [REDACTED] ("District Construction").**

5.2 **Accounts and Records for City Construction and District Construction.** City shall account for all Project Costs (including all receipts, expenditures, and investments thereof) including those City funds placed in City's depository on its books of account, 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. City shall, upon reasonable request of District, its agents, or any State oversight agencies provide copies of, or reasonable inspection by, District, or State agency, including their employees or agents.

District shall account for all Project Costs (including all receipts, expenditures, and investments thereof) including those District funds placed in District's depository on its books of account, 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.

5.3. **Reports.** City will prepare and provide to District, within fifteen (15) days after the end of a month during which payments for Project Costs were made, a monthly report of Project Costs that includes the following:

(a) A copy of the monthly statement(s) submitted by Consultants and/or Contractors, or other evidence of Project Costs incurred during the month that is covered by the report;

(b) The amount of payment(s) of Project Costs during the month that is covered by the report and the sum of Project Costs paid through the period that is covered by the report; and

(c) Other financial or Project information reasonably requested by District.

6. CONSULTANT AND CONSTRUCTION CONTRACTS

6.1. **Project Design and Construction Management.** It shall be City's responsibility to contract for all project consultant services necessary to design, plan, and monitor construction work related to the Project. Monitoring and administration of such consultant contract, and the making of payments to such consultant, shall be City's responsibility. City and the District's Superintendent or designee shall have the right to approve Final plans and specifications before their implementation. ~~City shall retain the right to final approval of the plans and specifications.~~

6.2. **Contract Award and Project Monitoring.** City shall duly advertise for contract construction bids and to award construction contract(s) for the Project. Such bidding and construction contract award(s) shall be accomplished in accordance with applicable rules, regulations, ordinances, statutes, and codes. City shall monitor and administer such construction contract(s). Notwithstanding the foregoing, City agrees to coordinate and consult with District during all Phases of the Project as necessary **and as specified in Section 7 of this agreement.**

6.3. **Lease Required.** Under no circumstances will City expend any funds for design, plan, construction, or any work contemplated under this Agreement until after a Lease acceptable to the City is finalized by the parties, with the exception of engineering or surveying costs to ensure that the correct legal description and survey is prepared for the Lease document.

7. STATUS REPORTS

7.1. **Project Review Committee.** City shall keep District's Superintendent and/or his designee(s) informed of progress of the Project throughout the design, planning, and specification phase of the Project. District and City shall each, for such purposes, appoint three (3) staff members to a Project Review Committee, of which Architect and Project Manager for the Project shall also be members. The Committee shall meet with the Project Consultant(s) to review Project design, plans, specifications and progress of the Project. Such meeting shall be called by City or District at times and places mutually convenient to City and District.

7.2. **City Construction Bids.** District shall have the opportunity to fully review and study all bids submitted to City for the Project. During the review and study process, City shall advise District of its recommendations regarding the firms to which it proposes to award contracts. The decision as to whom contracts are awarded shall be City's, or City may elect to perform all or a portion of the work in accordance with the plans and specifications. Objections of District to the proposed award shall be presented in writing to the City and mutually resolved prior to the award or election of City to perform all or a portion of the work.

7.3. **City Construction Supervision.** Supervision of construction and completion of the Project in accordance with the plans and specifications is the sole responsibility of City. All contracts with the construction contractor and the Project Consultant(s) are City's responsibility, as is the administration of the construction contract and payments to construction contractor and construction consultants, subject to City's obligation to pay its share of such costs. City agrees to keep the District's Superintendent and/or his designee fully informed of construction progress and of any problems or delays encountered during construction.

City further agrees to require Architect to provide City and District a full set of construction plans and drawings and further agrees to permit District to observe and inspect construction work at Milestone Inspections; provided, however, that such District representative shall not direct the contractor or any Project Consultant or in any fashion represent himself to hold inspection or supervisory authority, except for that portion of the Project wherein City elected to perform construction work.

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

7.4. **Corrective Action.** Except where City has elected to perform the work, it shall be City's sole responsibility to determine appropriate action required in Paragraph 7.3 above. Only City shall have the authority to issue a stop work order to the construction contractor or Project Consultants. Deficiencies or problems in the work performed by

City shall be corrected at City's expense and such corrective action must be performed in a manner acceptable to District.

8. PROJECT INSPECTION AND ACCEPTANCE

8.1. **Inspections of "City Construction" and "District Construction"**. Except where City or District has elected to perform the work, official acceptance of the completed Project improvements and certification of prior completion phases shall be City's sole responsibility. City agrees to notify the District's Superintendent or designee of the date and time of final project inspection. City agrees to permit District representatives to participate in such final inspection and to include such deficiencies, if any, as may be noted by District representatives, in the punch list for correction. District or its designee shall have the right to inspection of work performed by City. **City, or its designee, shall have the right to inspection of work performed by District.** District and City must mutually agree to the completion and final acceptance of **all** work performed ~~by City~~. Should the Parties fail to agree, the Party agreeing to the final acceptance of the Project shall execute a waiver/release to the other Party regarding the Project requirements and work completed.

8.2. **Plans and Reports.** City shall provide District with a copy of the final Project improvements acceptance document and shall also provide District with a set of as-built plans, within a reasonable period of time following Project improvement acceptance.

9. THIRD PARTY FEES

9.1. **Rental and Use Fees.** It is contemplated that the Project 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. The Joint Use Committee shall recommend fee schedules to the City. City reserves the right to establish fees, charges, and conditions of use as City 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, the 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.

9.2. **Insurance.** All Third Party Users shall enter into a written agreement with City, which shall require users to provide liability and casualty insurance coverage acceptable to City and District.

10. JOINT USE COMMITTEE

10.1. **Joint Use Committee.** A Joint Use Committee consisting of three (3) City representatives and three (3) District representatives shall convene at least once per quarter to schedule and review use, operational policies, and maintenance issues. The use of Project facilities by any Third Party user shall be pre-approved by the Joint Use Committee pursuant to this Agreement.

The Joint Use Committee shall establish and review maintenance standards for the Project that include the provisions herein contained.

10.2. **District Right of First Refusal.** The District shall have the right of first refusal for any District use of the Project during regular 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, so long as at least ninety days notice has been given. District shall identify for the Joint Use Committee time periods and specific facilities to be utilized by District.

10.3. The Project shall be reserved for use by the City, to include City use by Third-Party Users, during any period outside regular school hours or during which District activities have not been previously scheduled at least ninety days in advance.

10.4. The Project and Property shall be closed daily from 11:00 p.m. to 6:30 a.m., except for special events sanctioned by the Joint Use Committee.

10.5. The possession or use of alcoholic beverages and the possession of firearms shall be prohibited within the boundaries of the Project. Use of the Project shall comply with other conduct requirements set forth in District policy which apply to District real property.

11. OPERATION AND MAINTENANCE COSTS

11.1. The following operation and maintenance provisions, subject to the provisions in this agreement, shall apply to the special Project facilities required by the City and the District:

(a) **Baseball Fields.** The cost of operating and maintaining the baseball fields, including its amenities and lighting but excluding amenities otherwise addressed herein, shall be that of City. Usage shall be based on terms approved annually by the Joint Use Committee.

(b) **Park Area Space and Lighting.** The cost of operating and maintaining park area space at El Eden Park and the cost of operating and maintaining lighting for this field and for any requisite security lighting shall be that of City. Usage shall be based on terms approved annually by the Joint Use Committee.

(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 City for use of the facilities. Litter control after any special event shall be assumed and undertaken by the event's sponsor, provided, however, that City may recover the costs of litter control from Third-Party Users as part of a contractual agreement for the use of the facilities. City may also require a deposit from all Third-Party Users entering into a use agreement with City.

(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 Joint Use Committee.

(e) **Parking.** It is generally provided that parking shall be available to City, District, and Third-Party Users at all times, except that parking ~~areas owned by the District shall~~ be restricted during District's school hours or District-related events, ~~or parking areas owned by the District~~ may be reserved as approved by the Joint Use Committee for other special events. The responsibility for controlling parking ~~areas~~ shall be that of the special event sponsor. Third-Party Users sponsoring events shall be responsible for assuming all costs of parking control ~~and parking security~~ as part of their contractual agreement with the City for use of the facilities.

(f) **Irrigation and Landscape Maintenance.** ~~City and District shall be equally~~ responsible for irrigation and landscape maintenance of Project areas.

(g) **Fencing.** ~~City and District shall be equally~~ responsible for the maintenance and repair of fencing of Project areas. ~~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) **Concessions Stand/Press Box.** City and District shall be equally responsible for the maintenance and repair of the concession stand/press box and Third-Party Users shall be responsible for repairs and replacement for any damage or loss occurring while they are utilizing or otherwise in control of the concession stand/press box.

11.2. **Relocation of Equipment.** City shall be responsible for the removal of any temporary structure, facility, or equipment which it solely owns.

11.3 **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.

12. SIGNS AND ACKNOWLEDGEMENT

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

12.2. City agrees to include in the design plans a permanently-installed plaque or other suitable permanent sign within the Project which acknowledges the participation of the City, the District, and others in Project Development. The size, form, material, verbiage and location of such sign shall be mutually agreed upon by City and District.

12.3. City further agrees to provide in the design phase, and include in the Project construction, locations for sign(s), which announce public use hours for City users and such other information as may be necessary to inform the public of available programs provided by the parties to this Agreement and their users. The size, form, material, verbiage, and location of such signs are subject to mutual agreement by City and District.

12.4. City shall erect signs informing Project users of hours of operation of the Project and alcohol and firearms ban, as described in Sections 10.5 above and 13.1 below.

12.5. Throughout the term of this Agreement, in all press releases, flyers, brochures, and other informational material prepared and distributed by District or City, District and City agree to include acknowledgment and recognition of the joint nature of the Project.

13. SAFETY

13.1. District and City hereby agree and pledge that each shall fully comply with all established safety standards applicable to operation and use of the Project. City 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. It is understood and agreed that the parties presently employ both commissioned peace officers and security personnel sufficient for the security needs of Project areas. District and City agree that any additional security for specified events shall be the cost of the party using or leasing the facility.

14. INSURANCE AND INDEMNIFICATION

14.1. City, 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 ~~counties~~ **municipalities**, which shall cover liability for property damage and personal injury pursuant to City's use and ownership of the Project.

14.2. District, at its own expense, shall provide and maintain, during the term of this Agreement, either general liability insurance, with or without retention, or a self-insurance program, allowed or provided by law, Self-insurance, within the meaning of this Agreement, is a plan for the District to cover potential claims, damages and losses due to the use of the Project.

14.3. District and City shall each be liable for their own acts of negligence 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 may be entitled.

15. TERM

15.1. The term of this Agreement shall be that of the Lease, which said Lease will be developed and approved jointly at a later date.

16. DEFAULT

16.1. The parties hereto shall be entitled to written notice of default. Absent a cure of notice 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, including, but not limited to, immediate termination of this Agreement. Upon termination of this Agreement, whether for default, force majeure or other basis set forth herein, the leasehold in the Property shall terminate and the improvements thereon shall become fully owned by District.

16.2. The City's investment in the property shall be amortized over a twenty-five year term, for the express purpose of reimbursing to the City for the value of improvements for the years otherwise remaining on the lease. For example, should the lease terminate after ten years into the twenty-five year lease, then the District will reimburse 100% of the City's costs in making the improvements multiplied by the ratio of fifteen years remaining over the twenty five year lease, less the cost of depreciation of the Project improvements, which said depreciation shall be arrived at by a neutral third party consultant, paid equally by both Parties to the Lease.

17. ASSIGNMENT

17.1. This Agreement shall not be assignable by either party, unless written authorization is first obtained from the other party.

18. SEVERABILITY

18.1. 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.

19. ENTIRE AGREEMENT

19.1 This Agreement contains the entire agreement between the parties relating to the transactions contemplated hereby and all prior or contemporaneous agreements, understandings, representations and statements, oral or written, are merged into and superseded by this Agreement.

20. MODIFICATION

20.1 No ~~amendment~~, modification, waiver, or discharge, or ~~other alteration~~ of this Agreement shall be valid unless it is in writing and signed by the party against which the enforcement of the modification, waiver or discharge is or may be sought. ~~dated subsequent to the date hereof and duly executed by the parties hereto.~~ 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 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.

21. NON DISCRIMINATION

21.1. 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 Project, is prohibited.

22. NOTICES

22.1. Notices to the parties hereto required or appropriate under this Agreement shall be deemed sufficient if in writing and mailed, Registered or Certified Mail, return receipt requested and postage prepaid, or hand-delivered, addressed to:

To the District:

**Superintendent of Schools
United Independent School District
201 Lindenwood Road
Laredo, Texas 78041**

To the City:

**Laredo City Manager
City of Laredo
1110 Houston St., 3rd Floor
Laredo, Texas 78040**

23. TEXAS LAW TO APPLY

23.1. 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 ~~Laredo City~~ **Webb County**, Texas

24. FORCE MAJEURE

24.1. 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 three (3) business days.

25. GENDER

25.1. 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.

26. CAPTIONS

26.1. **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.**

27. AUTHORITY

27.1. **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.**

28. NO WAIVER

28.1 No failure, neglect or delay by either party in exercising any of its rights hereunder or negotiations between the parties or their attorneys shall operate as a waiver, forfeiture or abandonment such rights or any other rights hereunder. Any waiver, forfeiture or abandonment by either party or its rights hereunder shall, to be effective, be in writing expressly stating the provisions hereof to be waived, forfeited or abandoned, signed by the party charged with such waiver, forfeiture or abandonment and delivered to the other party.

28.2 **Notwithstanding any provision set forth herein, District'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 (including its officials, employees and agents) does not intend, does not, and this Agreement shall not be construed to waive immunities, defense or limits of liability to which District is entitled.**

29. JOINT WORK PRODUCT

29.1 This Agreement is the joint work product of both parties and their attorneys and shall not be construed more favorably for, or more strictly, against either party on the grounds that such party or its attorney participated more or less fully in its preparation.

30. ATTORNEYS FEES

30.1 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, as applicable, Texas Local Government Code §271.159.

31. NO CONVENANTS

31.1 This Agreement, any exhibit hereto and the obligations contained herein shall not be covenants running with the Property. City shall not record this Agreement with the real property records of ~~Laredo City~~, **Webb County**, Texas and any such recordation (including recordation of this Agreement as an exhibit or attachment to another document) shall automatically render this Agreement and the rights of City hereunder null and void.

32. PROMPT PERFORMANCE

32.1 Time is the essence of each covenant and condition in this Agreement.

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

FOR THE CITY:

CITY OF LAREDO
A municipal corporation of the State of Texas

CARLOS R. VILLARREAL
City Manager

ATTEST:

GUSTAVO GUEVARRA
City Secretary

APPROVED AS TO FORM:

RAUL CASSO V,
City Attorney

By: _____
KRISTINA LAUREL HALE
Assistant City Attorney

FOR THE DISTRICT:

ROBERTO J. SANTOS
Superintendent of Schools

ATTEST:

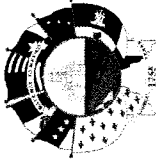
JUAN ANTONIO MOLINA, JR.
Secretary

APPROVE AS TO FORM:

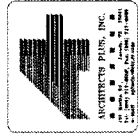
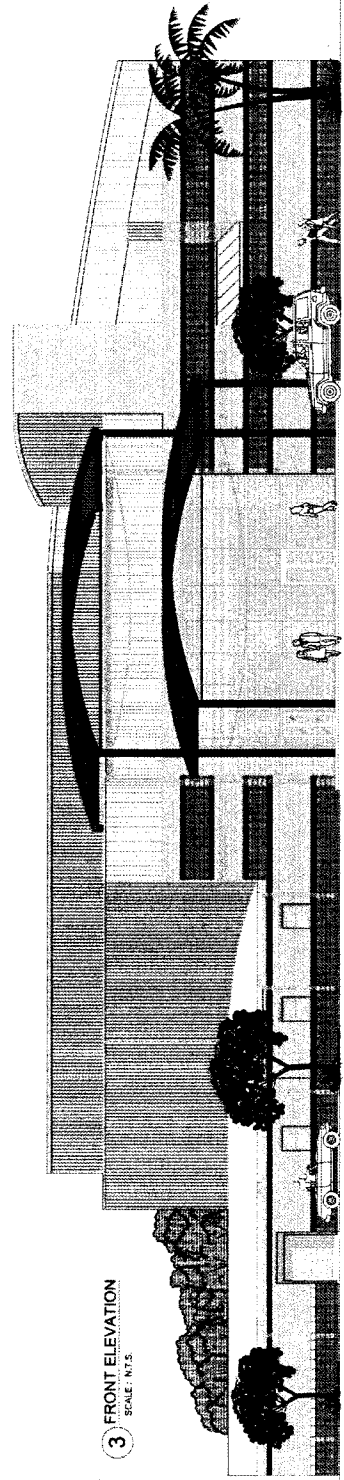
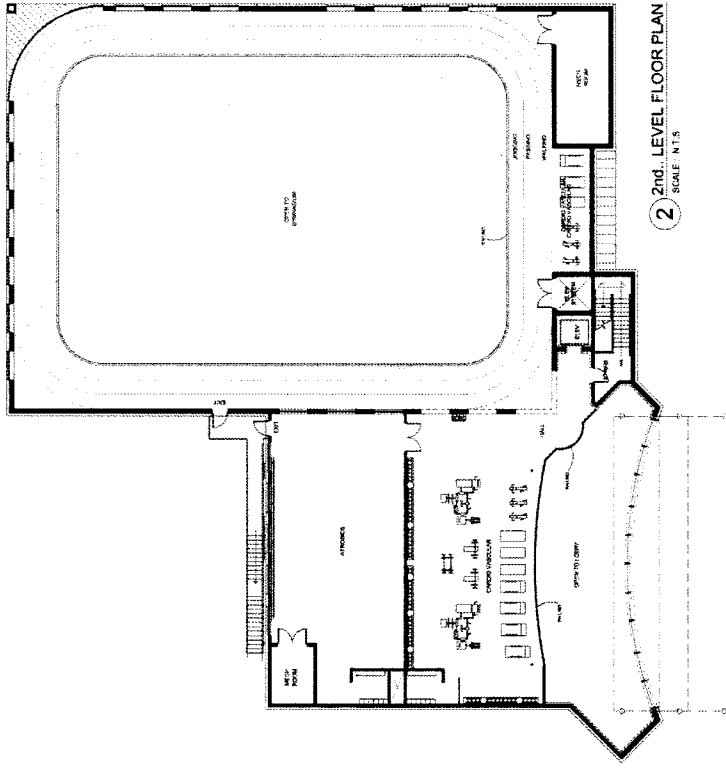
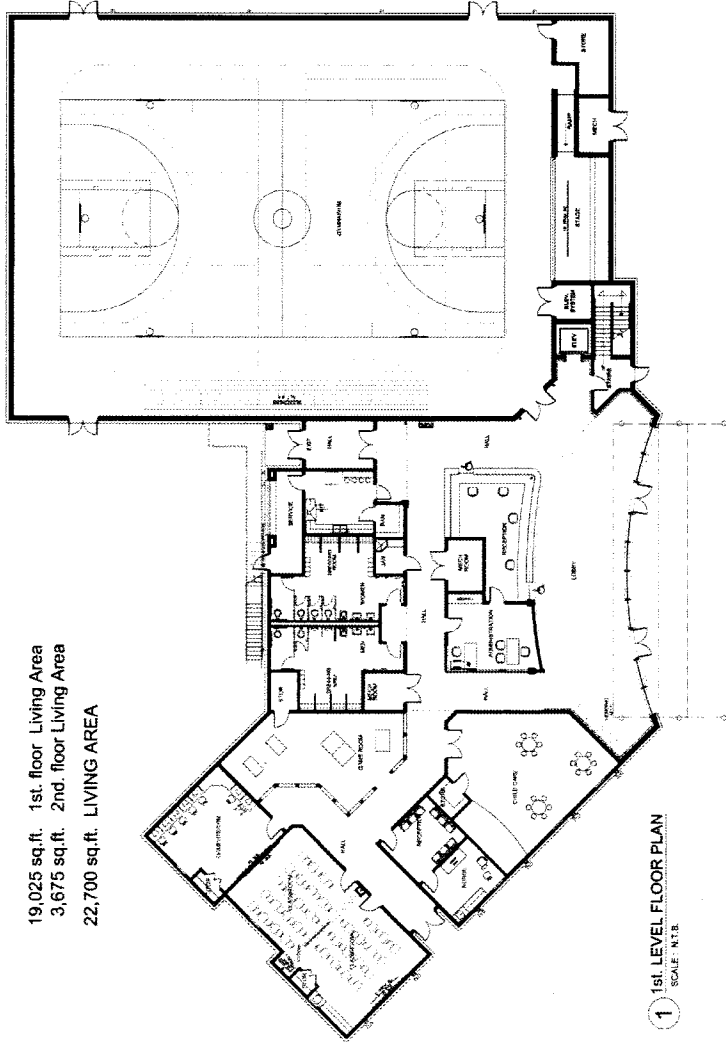
SONYA MARQUEZ GARCIA
Attorney for UNITED INDEPENDENT
SCHOOL DISTRICT

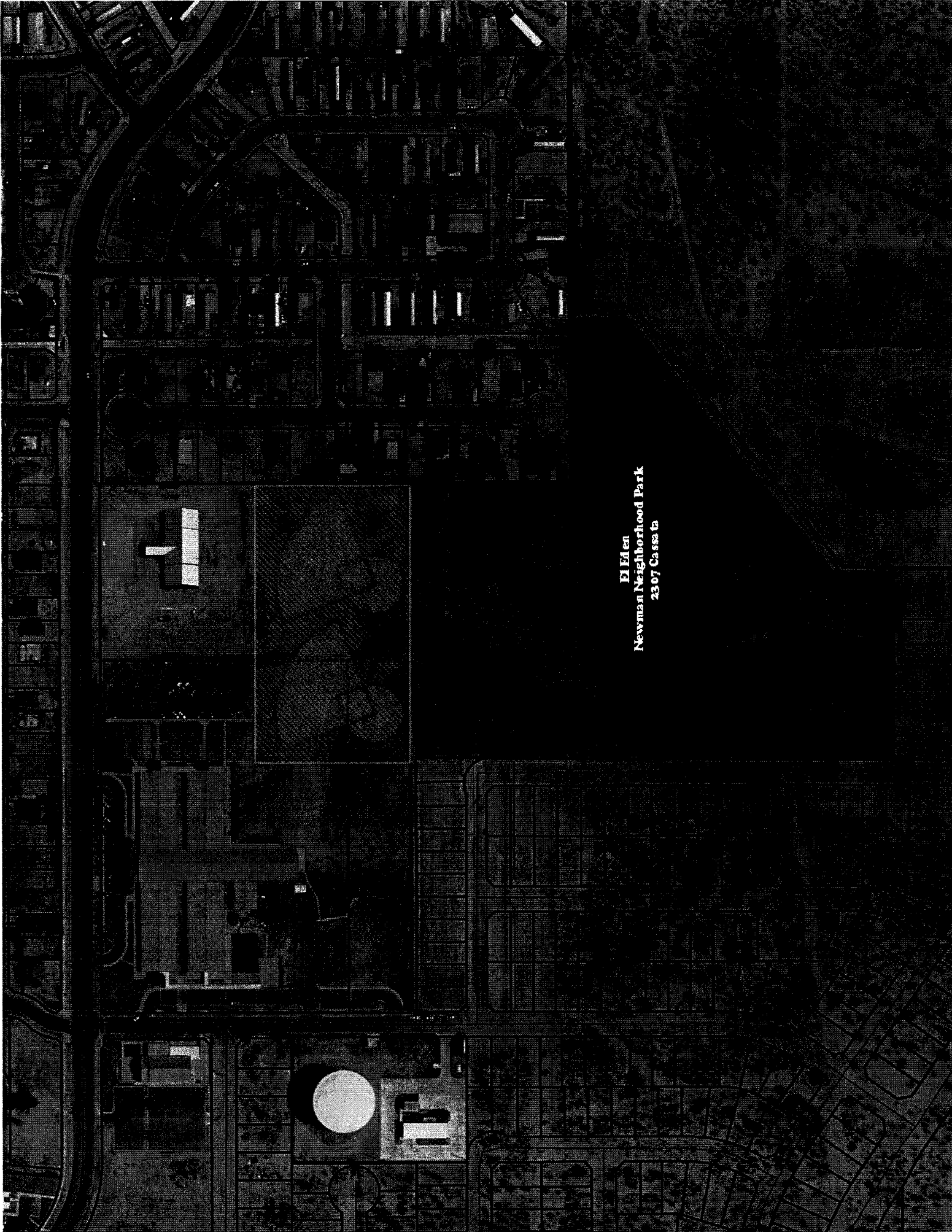


EL EDEN RECREATION CENTER



19,025 sq.ft. 1st. floor Living Area
 3,675 sq.ft. 2nd. floor Living Area
 22,700 sq.ft. LIVING AREA





El Eden
Newman Neighborhood Park
2307 Cassa Ln