

**INTERLOCAL AGREEMENT REGARDING WEST HAVEN PARK**  
**AGREEMENT**  
**BETWEEN NUECES COUNTY**  
**AND**  
**CITY OF CORPUS CHRISTI**

This Interlocal Cooperation Agreement (“Agreement”) is entered into by and between Nueces County, a political subdivision of the State of Texas, herein “County” and the City of Corpus Christi, a home rule municipality found in Nueces County, Texas, herein “City”, under the authority and in accordance with the Interlocal Cooperation Act, as set out in Chapter 791 of the Texas Government Code.

WHEREAS, Texas Government Code, Chapter 791, authorizes local governments of the state to enter into contracts for governmental functions and services to increase their efficiency and effectiveness,

**WHEREAS**, City owns property located at 1700 Cliff Maus, Corpus Christi, Texas 78416, known as West Haven Park, “Premises” as described and identified on Exhibit A;

**WHEREAS**, the County desires in conjunction with the City to make improvements to these Premises so as to provide Nueces County residents additional recreational facilities for their use and promote its public purpose of public recreation;

**WHEREAS**, section 332.021 of the Texas Local Government Code allows two political subdivisions to jointly by agreement to construct park or recreational facilities located on property owned by either political subdivision;

**WHEREAS**, the County and City will derive a mutual benefit from this agreement as City’s Premises will be enhanced with additional park or recreational facilities and County will be able to provide additional recreational facilities to the residents of Nueces County;

**WHEREAS**, the County, the City and all of their respective residents will be able to use the Premises and related improvements;

**NOW THEREFORE**, the County and City, in consideration of the mutual promises and covenants herein, agree as follows:

1. Effective Date; Term. This Agreement takes effect on the date of last signature (the “Effective Date”). The term of this Agreement is three (3) years.
2. Contact Person/Agreement Administrator. For this Agreement, the contact person and Agreement administrator for the County is the Director of

- Community Services/ Inland Parks (“Director”). The contact person and Agreement administrator for the City is the Director of Parks and Recreation.
3. Premises. City agrees to allow County use of the Premises, as described and delineated in Exhibit A, the site map which is attached hereto and incorporated herein to this Agreement by reference, for construction and use of the Improvements.
  4. Improvements. The improvements (“Improvements”) to be constructed are shown on attached Exhibit A. Modifications to the Improvements and additional Improvements may be approved by the City Manager or designee and the County Judge or designee. Improvements will be constructed in two phases.
    - a. Phase I: The first construction phase will be to construct walking trails with a cluster of exercise stations, athletic field, half-basketball court, irrigation system, landscaping, and lighting. Funding for the first construction phase in an amount not to exceed \$240,000 will be provided by the County, and an amount not to exceed \$6,700 of Community Enrichment Funds will be provided by the City. The City shall issue payment to County upon receipt of invoice to be submitted to City after completion of Phase 1 construction. The County shall be responsible to contract and oversee the construction for the first construction phase of Improvements. The City will be responsible for any permitting fees, or any other applicable fees in relation to this construction, including irrigation and backflow certification filing fees.

Phase 2: Funding for the second construction phase will be provided by the City. Upon availability of City funding, the second construction phase will begin and may include the following: construct two (2) parking areas with concrete sidewalks, a gazebo and picnic tables and other park amenities. County agrees to provide 25% of the total costs for completion of Phase 2 up to maximum of \$25,000 subject to County appropriations and contingent upon City’s availability of funds to complete Phase 2 within one year of completion of Phase 1.. The County shall issue payment to City upon receipt of invoice to be submitted to County after completion of Phase 2 construction. The City shall be responsible to contract and oversee the construction for the second construction phase of Improvements subject to availability of funding.
  5. Construction terms and conditions. In performing any construction at West Haven Park, City and County agree to comply with terms outlined on Exhibit B, as applicable.
  6. Maintenance. The City will be responsible for the maintenance of the Premises and all improvements, including those constructed under this agreement, to be provided in same manner and level of maintenance as the level of maintenance prescribed by the City’s Master Plan for parks. The City retains the right to remove any improvements at the Premises deemed to be in unsafe condition by the City’s Director of Parks and Recreation after consulting with the County’s Parks Director.
  7. Use of the Premises. City must not deny access to or use of the Premises or areas of the Premises to the general public for unorganized activities. County

and City residents will have reasonable access to Premises and may reserve events at Premises pursuant to City's reservation procedures and fees. This provision shall survive any termination of this agreement.

8. Primary Purpose. City must use and maintain the Premises as a recreational area open to the general public. Any use of the Premises shall be subject to the City's standard procedures and fees except that, during the term of this Agreement, any City fees charged must be in accordance with Chapter 316 of the Texas Local Government Code, and any subsequent amendment thereof. In particular, during term of this Agreement, no fees shall be charged to a sports team composed primarily of minors and sponsored and supported by a nonprofit organization for use of the sports fields or basketball court and no fees shall be charged for the use of a restroom facility, water for human consumption, or an entrance fee to the Premises.
9. Additions and Alterations.
  - a. County shall not make any additions or alterations to the Premises other than as set out in Phase I without the City's prior written approval.
10. Utilities. City will pay for all utilities used at Premises.
11. Non-Discrimination. Neither party shall discriminate nor permit discrimination against any person or group or persons, as to employment and in the provision of services, activities, and programs, on the grounds of race, religion, national origin, sex, physical or mental disability, or age, or in any manner prohibited by the laws of the United States of the State of Texas. City will provide program access or remove barriers to accessibility under the American with Disabilities Act to allow individuals with disabilities the opportunity to participate and receive the benefits of services, programs and activities that are offered.
12. Compliance with Laws.
  - a. Each party must comply with all Federal, State, and local government laws, rules, regulations, and ordinances, which may be applicable to its operation at the Premises and its performance under this Agreement. City will provide program access or remove barriers to accessibility under the American with Disabilities Act to allow individuals with disabilities the opportunity to participate and receive the benefits of services, programs and activities that are offered.
  - b. All actions brought to enforce compliance with any law or to enforce any provision of this Agreement will be brought in Nueces County where this Agreement was executed and will be performed.

**Nothing herein shall be construed as a waiver of the either party's governmental and sovereign immunity.**

13. No debts and Fiscal Funding. Neither party shall incur any debts or obligations on the credit of the other party during the term of this Agreement. In the event that payments or expenditures are made, they shall be made from current funds as required by Chapter 791, Texas Government Code.

14. Termination. If there is noncompliance with one or more of the provisions contained herein, written notice shall be provided to the non-compliant party to cure or begin curing the default(s) within ten (10) days of receipt of the notice. If compliance or substantial compliance with each provision identified by the written notice has not been achieved within ten (10) days of receiving said notice, the Agreement will terminate for cause upon written notice of termination and listing one or more areas of continued noncompliance. Either party may terminate this Agreement without cause upon thirty (30) days written notice to the other party. However, during construction of the Improvements under this Agreement, the agreement may only be terminated for cause.
15. Notice. All notices, demands, requests, or replies provided for or permitted, under this Agreement, by either party must be in writing and must be delivered by one of the following methods: (1) by personal delivery; (2) by deposit with the United States Postal Service as certified or registered mail, return receipt requested, postage prepaid. Notice deposited with the United States Postal Service in the manner described above will be deemed effective two (2) business days after deposit with the United States Postal Service. All such communications must only be made to the following:

IF TO COUNTY:

County Judge  
Nueces County  
901 Leopard Rm 303  
Corpus Christi, Texas 78401  
(361)888-0444  
with copy to:

Director of Community Services/Inland Parks  
4540 FM892  
Robstown, Texas 78380  
(361)387-5445

IF TO CITY:

City of Corpus Christi  
Attn: Director of Parks and Recreation  
P. O. Box 9277  
Corpus Christi, Texas 78469

Any party may change the address to which notice is sent by using a method set out above.

16. Amendments. No alterations, changes, or modifications of the terms of this Agreement or the waiver of any provision will be valid unless made in writing and signed by a person authorized to sign agreements on behalf of each party.
17. Waiver.
- a. The failure of either party to complain of any act or omission on the part of the other party, no matter how long the same may continue, will not be deemed a waiver by said party of any of its rights hereunder.
  - b. No waiver of any covenant or condition or of the breach of any covenant or condition of this Agreement by either party at any time, express or implied, shall be taken to constitute a waiver of any subsequent breach of the covenant or condition nor shall justify or authorized the nonobservance on any other occasion of the same or any other covenant or condition hereof.
  - c. If any action by requires the consent or approval of the other party on one occasion, any consent or approval given on said occasion will not be deemed a consent or approval of the same or any other action at any other occasion.
  - d. Any waiver or indulgence of default of any provision of this Agreement shall not be considered an estoppel against the non-defaulting party. It is expressly understood that, if at any time default in any of its conditions or covenants hereunder has occurred, the failure to promptly avail itself of said rights and remedies which the non-defaulting party may have will not be considered a waiver on the part of the non-defaulting party, but the non-defaulting party may at any time avail itself of said rights or remedies or elect to terminate this Agreement on account of said default.
18. Force Majeure. No party to this Agreement will be liable for failures or delays in performance due to any cause beyond their control including, without limitation, any failures or delays in performance caused by strikes, lock outs, fires, act of God or the public enemy, common carrier, severe inclement weather, riots or interference by civil or military authorities. The rights and obligations of the parties will be temporarily suspended during this period to the extent performance is reasonably affected.
19. Assignment. This Agreement may not be assigned, or transferred directly or indirectly.
20. Captions. The captions in this Agreement are for convenience only, are not a part of this Agreement, and do not in any way limit or amplify the terms and provisions of this Agreement.
21. Severability.
- a. If, for any reason, any section , paragraph, subdivision, clause, provision, phrase, or word of this Agreement or the application hereof to any person or circumstance is, to any extent, held illegal, invalid, or unenforceable under present or future law or by a final judgment of a court of competent jurisdiction, then the remainder of this Agreement, or the application of said term or provision to persons or circumstances other than those as to which it is held illegal, invalid, or unenforceable, will not be affected thereby, for it is the definite intent of the parties to this Agreement that

every section, paragraph, subdivision, clause, provision, phrase, or word hereof be given full force and effect for its purpose.

- b. To the extent that any clause or provision is held illegal, invalid, or unenforceable under present or future law effective during the term of this Agreement, then the remainder of this Agreement is not affected thereby, and in lieu of each such illegal, invalid, or unenforceable clause or provision, 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, will be added to this Agreement automatically.

22. Entirety Clause. This Agreement and the attached an incorporated exhibits constitute the entire agreement between the parties.

**EXECUTED IN DUPLICATE**, each of which shall be considered an original, and effective on this the \_\_\_\_\_ day of \_\_\_\_\_, 2016.

Nueces County:

Attest:

\_\_\_\_\_  
Samuel Loyd Neal, Jr.  
County Judge

\_\_\_\_\_  
Kara Sands  
County Clerk

City of Corpus Christi

Attest:

\_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

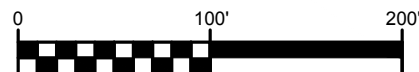
\_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

## EXHIBIT A





SCALE 1"=100'



PHASE 1  
PROPOSED EXERCISE AREA  
(5 STATIONS)

PHASE 2  
PROPOSED PARKING AREA 15 SPACES  
WITH CONCRETE SIDEWALK

PHASE 2  
PROPOSED GAZEBO  
AND PICNIC TABLES

PHASE 2  
PROPOSED PARKING AREA 20 SPACES  
WITH CONCRETE SIDEWALK

EXISTING PICNIC TABLE

EXISTING BASKETBALL COURT

PHASE 1  
PROPOSED CONCRETE BASKETBALL COURT

EXISTING COVERED PICNIC TABLE

PHASE 2  
RENOVATIONS TO EXISTING PLAYGROUND

PHASE 1  
PROPOSED FRONT SIGN  
LANDSCAPING

PHASE 1  
PROPOSED WALKING TRAILS  
2,400 LF TOTAL

PHASE 1  
PROPOSED ATHLETIC FIELD  
360'x240'

PHASE 1  
PROPOSED FIELD  
LIGHTING (4 TYP.)

ROCKFORD DR

CLIFF MAUS DR

DARCEY DR

THIS DOCUMENT IS FOR INTERIM REVIEW AND  
IS NOT INTENDED FOR CONSTRUCTION,  
BIDDING, PERMIT OR OTHER UNAUTHORIZED  
PURPOSES. THESE DOCUMENTS/PLANS WERE  
AUTHORIZED TO BE RELEASED.

BY: JUAN A. PIMENTEL, P.E.  
LICENSE NO.: 95847 DATE: 3/1/16

**LNV**  
engineers | architects | contractors

801 NAVIGATION, SUITE 300  
CORPUS CHRISTI, TEXAS 78408  
TELEPHONE NO. 361-5566  
PH: (361) 883-1994  
FAX: (361) 883-1986  
WWW.LNVMNC.COM

CITY OF CORPUS CHRISTI, TEXAS  
**WEST HAVEN PARK IMPROVEMENTS PROJECT**  
**PHASE 1 & PHASE 2 EXHIBIT**



## **Exhibit B**

### **Terms regarding construction of improvements at West Haven Park**

A. When constructing the Improvements, the plans and specifications shall be prepared by state-licensed architects or engineers. The plans and specifications are subject to approval of the City Manager or designee. Construction shall not begin until the City Director of Capital Programs or designee has reviewed and approved the construction plans and specifications.

B. The contractor shall maintain City park property in a sanitary, safe and clean condition during construction activities.

C. The contractors who are awarded contracts for construction of the Improvements shall furnish the following bonds by surety companies authorized to do business in Texas:

1. **Payment Bond** - A payment bond in the amount of One Hundred Percent (100%) of the contract for construction of the Improvements shall be furnished for the protection of all persons, firms and corporations who may furnish materials or perform labor. The payment bond shall be made with County/City as an Obligee.
2. **Performance Bond** - A performance bond in the amount of One Hundred Percent (100%) of the contract for construction of the Improvements shall be furnished covering the faithful performance of the contract. The performance bond shall be made with County/City as an Obligee.

D. All construction agreements for the Improvements shall include the following provisions:

1. Contractor does hereby agree to waive all claims, release, indemnify, defend and hold harmless the City of Corpus Christi and Nueces County and all of its officials, officers, agents and employees, in both their public and private capacities, from and against any and all liability, claims, losses, damages, suits, demands or causes of action including all expenses of litigation and/or settlement, court costs and attorney fees which may arise by reason of injury to or death of any person or for loss of, damage to, or loss of use of any property occasioned by error, omission, or negligent act of contractor, its officers, agents, employees, subcontractors, invitees or any other person, arising out of or in connection with the performance of this agreement, and contractor shall at his or her own cost and expense defend and protect the City of Corpus Christi and Nueces County from any and all such claims and demands.

2. Contractor does hereby agree to waive all claims, release, indemnify, defend and hold harmless the City of Corpus Christi and Nueces County and all of its officials, officers, agents and employees from and against any and all claims, losses, damages, suits, demands or causes of action, and liability of every kind including all expenses of litigation and/or settlement, court costs and attorney fees for injury or death of any person or for loss of, damages to, or loss of use of any property, rising out of or in connection with the performance of this agreement. Such indemnity shall apply whether the claims, losses, damages, suits, demands or causes of action arise in whole or in part from the negligence of the City of Corpus Christi or Nueces County, its officers, officials, agents or employees. It is the express intention of the parties hereto that the indemnity provided for in this paragraph is indemnity by Contractor to indemnify and protect the City of Corpus Christi and Nueces County from the consequences of the City of Corpus Christi's or Nueces County's own negligence, where that negligence is a sole or concurring cause of the injury, death or damage.
3. In any and all claims against any party indemnified hereunder by any employee of contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation herein provided shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for contractor or any subcontractor under workman's compensation or other employee benefit acts.

E. The contractor shall furnish insurance in such amounts as specified below and include in all construction agreements for the Improvements the following language:

1. Prior to commencement of any activity on City of Corpus Christi's property, contractor shall purchase and maintain during the term of this contract, at its own expense, hereinafter stipulated minimum insurance with companies duly authorized to do business in the State of Texas. Contractor shall not allow any subcontractor to commence work until all similar insurance of the subcontractor has been obtained. All insurance policies provided under this Agreement shall be written on an "occurrence" basis.

Workers' Compensation as required by law.

Employer's Liability Insurance of not less than \$500,000.00 for each accident, \$500,000.00 disease for each employee, \$500,000.00 disease as policy limit.

Commercial General Liability Insurance, including Independent Contractor's Liability, Products/Completed Operations and Contractual Liability, covering, but not limited to the indemnification provisions of

this contract, fully insuring Contractor's liability for injury to or death of employees of the City of Corpus Christi and third parties, extended to include personal injury liability coverage, and for damage to property of third parties, with a combined bodily injury and property damage minimum limit of \$1,000,000 per occurrence.

Comprehensive Automobile and Truck Liability Insurance, covering owned, hired and non-owned vehicles, with a combined single limit of \$1,000,000 per occurrence.

Builder's Risk. The contractor shall purchase an All Risk builder's risk policy in the amount of the construction cost for the duration of this project.

2. It is agreed by all parties to this Agreement that the insurance required under this Agreement shall:
  - a. Be written with the City of Corpus Christi and Nueces County as additional insured on applicable policies and that the policy phrase "other insurance" shall not apply to the City of Corpus Christi where the City of Corpus Christi is an additional insured shown on the policy.
  - b. Provide for thirty (30) days written notice of cancellation to the City of Corpus Christi and Nueces County, material change or any other cause.
  - c. Be written through companies duly authorized to transact that class of insurance in the State of Texas.
  - d. Waive subrogation rights for loss or damage so that insurers have no right to recovery or subrogation against the City of Corpus Christi or Nueces County, it being the intention that the required insurance policies shall protect all parties to the Agreement and be primary coverage for all losses covered by the policies.
  - e. Provide a Certificate of Insurance evidencing the required coverages to:

City Manager  
City of Corpus Christi  
Post Office Box 9277  
Corpus Christi, Texas 78469-9277

Risk and Safety Manager  
City of Corpus Christi

Post Office Box 9277  
Corpus Christi, Texas 78469-9277

F. All work to be performed by contractors, including all workmanship and materials, shall be of first-class quality and shall be performed in full compliance and in accordance with all federal, state and local laws, ordinances, codes and regulations, and such work shall be subject to City inspection during the performance thereof and after it is completed. However, the City shall have no duty to inspect during Phase I Improvements.

G. County nor its contractor shall neither give nor grant, nor purport to give or grant any mechanic's or materialmen's lien upon the City's property or upon any Improvements thereupon in the process of construction or repair, nor allow any condition to exist or situation to develop whereby any party should be entitled, as a matter of law, to a mechanic's or materialmen's lien against the City's property or Improvements thereon, and County shall discharge any such lien within thirty (30) days after notice of filing thereof.

H. County shall endeavor to ensure that construction under this Agreement is provided in an orderly and proper manner, considering the nature of such operation, so as not to unreasonably annoy, disturb, or endanger others.

I. Before any work on City property begins, County shall present the City Director of Capital Programs, the City Risk Manager or designee, and the City Manager with evidence of Contractor's insurance coverages, and City building and construction permits. Before any work on Phase II Improvements begins, City shall present the, the County Inland Parks Director or designee with evidence of Contractor's insurance coverages.