

WESTHAVEN PARK AGREEMENT
BETWEEN CITY OF CORPUS CHRISTI
AND
WEST OSO INDEPENDENT SCHOOL DISTRICT

This Interlocal Cooperation Agreement (“Agreement”) is entered into by and between City of Corpus Christi, Texas, a political subdivision of the State of Texas, herein “City” and West Oso Independent School District (“West Oso I.S.D.”), an independent school district and political subdivision of the State of Texas, 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 near intersection of Cliff Maus Road at Rockford Road known as Westhaven Park, (“Premises,”);

WHEREAS, the City and Nueces County have entered into an interlocal agreement to enhance the Premises with recreational facilities (“Improvements”);

WHEREAS, the West Oso I.S.D. desires to use the Premises for its sports and school-related activities, upon completion of the Improvements;

WHEREAS, the City desires to promote its public purpose of public recreation and allow West Oso I.S.D. to use the Premises for activities;

WHEREAS, the City and West Oso I.S.D. will derive a mutual benefit from this agreement as West Oso I.S.D. will have use of the recreational facilities, City will be relieved of some maintenance activities on the Premises;

WHEREAS, the City will continue to be able to use the Premises and related Improvements and the Premises will continue to be available to the public when no West Oso I.S.D. organized activities are scheduled;

NOW THEREFORE, the City and West Oso I.S.D., in consideration of the mutual promises and covenants herein, agree as follows:

1. Term. Subject to the remaining terms and conditions hereof, the original term of this Agreement is three (3) years, beginning on the date of the City’s delivery of written confirmation of completion of Phase 1 to West Oso I.S.D., unless sooner terminated as set out herein. The Agreement may be extended by mutual agreement of the parties.

2. Contact Person/Agreement Administrator. For this Agreement, the contact person and Agreement administrator for the City is the Director of Parks and Recreation or designee, (“Director”). The contact person and Agreement administrator for West Oso I.S.D. is the Superintendent of Schools or designee (“Superintendent”).
3. Premises and Improvements. City agrees to allow West Oso I.S.D. 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, and all improvements (“Improvements”) to the Premises including, without limitation, the basketball court, the grassed areas, and also use of future improvements, including but not limited to Phase 1 and Phase 2 Improvements, to be constructed on the Premises as described and delineated in **Exhibit A**. The parties acknowledge that additional playground equipment will be installed in lieu of the Phase 2 parking areas and that Phase 2 will not include any parking improvements. The City shall ensure that all Improvements are in compliance with law, including the American Disabilities Act, federal, state, and local laws, regulations, orders and ordinances. The City may implement additional changes to Phase 2 Improvements, which will be reviewed with West Oso I.S.D. prior to implementation. The parties acknowledge that the City’s completion of the Phase 2 Improvements is subject to the City’s annual budgetary process, and its agreement with the County.
4. Consideration. West Oso I.S.D. may use the Premises for sports and school-related activities and must maintain those areas of the Premises as described herein. Maintenance includes:
 - a. During its school year, on the days when school is in session (and excluding school holidays, breaks, and weekends), West Oso I.S.D. shall pick up and properly dispose of litter on a daily basis from the Premises including the parking lots) whenever the Premises are being used by West Oso I.S.D. and weekly during the rest of the school year. West Oso I.S.D. shall pick up and properly dispose of litter immediately after any West Oso I.S.D. scheduled activity. The frequency of West Oso I.S.D.’s removal of litter will be reviewed by the school district on a quarterly basis;
 - b. West Oso I.S.D. will report any vandalism identified by West Oso I.S.D. to the Director;
 - c. West Oso I.S.D. will supplement the City’s mowing schedule by mowing it while the turf is being established (during the school year) and each March, April, May (until the end of the school year), August (upon the start of the school year), September, and October by mowing every-other-week (alternating to supplement the City’s mowing schedule), and as needed as determined by West Oso I.S.D. in November, December, January and February;
 - d. Recommended length of grass in sports fields is three (3) inches in height. The grass in the adjacent viewing/access areas at a safe height recommended not to exceed six (6) inches.

5. Duties of City. The City shall have the following duties:
 - a. The City shall maintain the Premises at a Level B status as shown on **Exhibit B**, providing West Oso I.S.D., within two weeks of final approval of this Agreement, with a schedule for the alternating supplemental mowing provided by West Oso I.S.D.
6. Joint Use. City retains joint use of the Premises and Improvements during the term of this Agreement, subject to West Oso I.S.D.'s right to exclusive control of the Premises during its sports and school-related activities. West Oso I.S.D. will provide the City with a schedule of its scheduled sports and school-related activities on or before August 31st each year. West Oso I.S.D. will not deny access to or use of the Premises or areas of the Premises to the general public for unorganized activities when the Premises or those areas are not being used by West Oso I.S.D. City reserves the right to schedule organized sports activities on the Premises, subject to West Oso I.S.D.'s first right of use. West Oso I.S.D. shall provide City through its Director with notice of all West Oso I.S.D. scheduled activities. West Oso I.S.D. school-related sports activities shall take precedence in scheduling. Secondary to West Oso I.S.D. activities, all City scheduled events shall take priority. However, City will endeavor to resolve any scheduling conflicts so as to avoid cancellation/rescheduling of any event.
7. Primary Purpose. West Oso I.S.D. will use and maintain the Premises as a recreational area open to the general public except as set out above with the primary purpose being the youth programs in the form of school-related sports activities. "School-related sports activities" include any school sponsored sports event wherein school faculty and/or employees in their school employment capacity are responsible for or facilitate the sports event. " Any fees charged to sports organizations must be in accordance with Chapter 316 of the Texas Local Government Code, any subsequent amendment thereof. In particular **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. No fees shall be charged for use of the restroom facility, water for human consumption, or an entrance fee to the Premises. An entrance fee to scheduled West Oso I.S.D. sports games or West Oso school-related sports activities if otherwise allowed by law is permissible. With the exception of the scope of the agreement with West Oso I.S.D., the City will not lease or enter into any agreement for the practice fields' for use by any organization for league games or a tournament. The park will remain a regular public park and open for use by the general public at times of non-use by West Oso I.S.D.
8. Additions and Alterations.
 - a. West Oso I.S.D. shall not make any additions or alterations to the Premises or to any Improvements without the Director's prior written approval.
 - b. All additions or alterations installed by West Oso I.S.D. must be repaired or replaced at West Oso I.S.D.'s expense and may be removed by West Oso I.S.D. at the expiration or termination of the Agreement if they may

be removed without damaging the Premises or any Improvements. All additions or alterations made by West Oso I.S.D. which are not removed at the expiration or termination of this Agreement become the property of City without necessity of any legal action.

9. Utilities. City shall pay for the utilities to the Premises.
10. Signs.
 - a. West Oso I.S.D. must not exhibit, inscribe, paint, erect, or affix any signs, advertisements, notices, or other lettering (Signs) on the Premises or on any Improvements without the Director's prior written consent.
 - b. If Signs are approved, the Director, in writing, may require West Oso I.S.D. to remove, repair, or repaint any Signs. If the Signs are not removed, repaired, or repainted within ten (10) days of the Director's written demand, the City may do or cause the work to be done, and West Oso I.S.D. must pay the City's reasonable and costs within thirty (30) days of receipt of Director's invoice. Failure to pay the City's cost within (30) days of receipt of the invoice constitutes grounds for termination of this Agreement. Alternatively, the City may elect to terminate this Agreement after thirty (30) days written notice to West Oso I.S.D.
11. Advertising. The Director has the right to prohibit any advertising by West Oso I.S.D. which impairs the reputation of the Premises or the City.
12. Insurance. West Oso I.S.D. shall maintain its regular coverage during the time of this Agreement. The City is self insured.
13. Report. West Oso I.S.D. will submit to the City a yearly report detailing its use of the Premises, expenses related to the Premises, and various fees collected. The City will submit to West Oso I.S.D. a yearly report detailing the use of the Premises, expenses related to the Premises, and various fees collected.
14. Non-Discrimination. West Oso I.S.D. shall not discriminate nor permit discrimination against any person or group or persons, as to employment for purposes of this Agreement 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 or the State of Texas. The City shall not discriminate nor permit discrimination against any person or group of persons, as to employment for purposes of this Agreement 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 or the State of Texas.
15. Compliance with Laws.
 - a. West Oso I.S.D. and the City 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.
 - 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.

16. Immunity
Nothing herein shall be construed as a waiver of the City's or West Oso I.S.D.'s governmental and sovereign immunity, Title 5 of the Texas Civil Practice and Remedies Code, Section 101.051 of the Texas Civil Practice and Remedies Codes as to West Oso I.S.D., and all applicable federal and state law.
West Oso I.S.D. is an independent school district organized pursuant to Section 11.011 of the Education Code and as such, is immune from tort actions, except those arising from the use of a motor vehicle in accordance with Section 101.051 of the Texas Civil Practice and Remedies Code.
17. No debts. West Oso I.S.D. shall not incur any debts or obligations on the credit of City during the term of this Agreement. The City shall not incur any debts or obligations on the credit of West Oso I.S.D during the term of this Agreement.
18. Fiscal Funding. In the event that payments or expenditures are made, they shall be made from current funds as required by Chapter 791, Texas Government Code.
19. Termination. If there is noncompliance with one or more of the provisions contained herein, the party in compliance shall give the party in noncompliance written notice to cure or begin curing the default(s) within thirty (30) days of receipt of the notice. If the party not in compliance does not come into compliance or in substantial compliance with each provision identified by the other party within thirty (30) 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 sixty (60) days written notice to the other party. However, any termination by the City is effective only upon conclusion of all of the then-scheduled West Oso I.S.D. use of the Premises. This Agreement shall terminate automatically if Phase 2 Improvements, as detailed in Exhibit A subject to further modification as described herein, are not completed within two years of the substantial completion of Phase 1 Improvements.
20. 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 CITY :

City of Corpus Christi
Attn: Director of Parks and Recreation
1201 Leopard
Corpus Christi, Texas 78401

IF TO WEST OSO I.S.D.:

West Oso Independent School District
Attn: Superintendent of Schools
5050 Rockford Drive
Corpus Christi, Texas 78416

Any party may change the address to which notice is sent by using a method set out above within thirty (30) days after the address is changed.

21. 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.
22. 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 one party 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 one party's default of any provision of this Agreement shall not be considered an estoppel against the other party.
23. 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.
24. Assignment. This Agreement may not be assigned, or transferred directly or indirectly.
25. 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.
26. 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.

- 27. Entirety Clause. This Agreement and the attached and 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 _____, 2017.

City of Corpus Christi, Texas:

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West Oso I.S.D.

Attest:

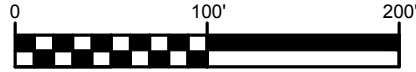
Name: _____
Title: _____

Name: _____
Title: _____

EXHIBIT A



SCALE 1"=100'



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



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CITY OF CORPUS CHRISTI, TEXAS

WEST HAVEN PARK IMPROVEMENTS PROJECT PHASE 1 & PHASE 2 EXHIBIT

**CITY OF CORPUS CHRISTI PARKS
STANDARDS OF CARE LEVELS**

CORE BUSINESS	DEFINED TASKS	GOLD	SILVER	BRONZE	COPPER	ZINC
		LEVEL A	LEVEL B	LEVEL C	LEVEL D	NATURAL AREAS
Inspections		DAILY	DAILY (Mon-Fri)	WEEKLY	MONTHLY	MONTHLY
TURF MANAGEMENT	MOW	7 DAY	14 DAY	21 DAY	SEASONALLY (Trails, Playgrounds, Picnic Units)	SEASONALLY (Trails, Interpretive Center)
	AERIFY	YEARLY	YEARLY	YEARLY	N/A	N/A
	SEED/SOD	WINTER OVERSEED	NONE	WILDFLOWERS EVERY OTHER YEAR	WILDFLOWERS EVERY THIRD YEAR	WILDFLOWERS ONCE
	PEST CONTROL	ANNUAL PRE-EMERGE, PREVENTIVE SPRAY PROGRAM	IPM SPOT TREATMENT	IPM SPOT TREATMENT	SELECTIVE GRASS SUPPRESSION IN WILDFLOWER ZONES	SELECTIVE GRASS SUPPRESSION IN WILDFLOWER ZONES
	FERTILITY	<6 # / 1000 sq ft DURING GROWING SEASON 50% WATER INSOLUBLE	<7 # / 1000 sq ft DURING GROWING SEASON 50% WATER INSOLUBLE	MINIMAL MACRONUTRIENTS	N/A	N/A
	IRRIGATION	SMART AUTOMATED	AUTOMATED/MANUAL	MANUAL	N/A	N/A
SANITATION	LITTER	DAILY	DAILY (Mon-Fri)	BI WEEKLY	WEEKLY	Public Areas Daily, wildscapes by volunteers.
	RECEPTICLES	DAILY	DAILY (Mon-Fri)	BI WEEKLY	WEEKLY	Public Areas Daily, wildscapes by volunteers.
	FACILITIES	DAILY	N/A	N/A	N/A	N/A
HORTICULTURAL	SHADE TREES	Yearly Attention	Three Year Rotation	Five Year Rotation	Ordinance Driven	NONE
	PALMS	TWICE YEARLY	YEARLY	YEARLY	EVERY OTHER YEAR	NEVER
	PEST CONTROL	Preventive and Reactive IPM	Preventive and Reactive IPM	Reactive	Reactive	NONE
	FERTILITY	Liquid Foliar Feed, Complete w/ trace elements, MONTHLY	Time released complete. QUARTERLY	None	None	NONE
	HORTICULTURAL DISPLAYS	Annuals with 3 rotations. Perennials, including Tropicals.	Native perennials	WILDFLOWERS	WILDFLOWERS	WILDFLOWERS
	CARE OF DISPLAYS	Weekly	Monthly	None	None	NONE

EXHIBIT B