




CITY OF CAPE CORAL
PARKS & RECREATION DEPARTMENT

TO: Mayor Coviello and Council Members

FROM: John Szerlag, City Manager 
Kerry Runyon, Park and Rec. Director 
Michael Ilczyszyn, Senior Public Works Manager 

DATE: March 6, 2020

SUBJECT: Tropicana Park Concept

On December 2, 2019, City Council approved Resolution 355-19 authorizing the professional services firm AECOM to begin designing our neighborhood parks. Subsequent to the passage of this resolution members of the Northwest Neighborhood Association started to raise concerns with the process used to develop the seven (7) neighborhood parks. Specifically, their concerns were related to the possibility of locating non-motorized vessels in the park in two planned open green spaces.

In response to this public concern some of City Council Members requested City staff discuss alternate locations and describe how Tropicana Park was selected as the best location. A memo responding to this inquiry was sent by the Parks and Recreation Department on January 17, 2020. Furthermore, City administration convened a stakeholder's group to see if common ground for site selection to hold non-motorized vessels could be obtained.

Members of the initial stakeholders group involved the President of the Northwest Neighborhood Association, a member from the Caloosa Coast Rowing Club, and a member from the South Florida Canoe and Kayak Club, Inc. Shortly after creating this stakeholder's group, the South Florida Canoe and Kayak Club, Inc. announced its dissolution.

During the process an alternative site was selected immediately adjacent to Tropicana Park along Old Burnt Store Road. Unfortunately, due to site constraints and a lack of space for kayaking, an agreement on moving these non-motorized activities out of the park was not reached.

As such, and unless instructed otherwise City staff will be proceeding with designing Tropicana Park pursuant to the final concept adopted December 2, 2019, as part of Resolution 355-19. Furthermore, staff believes a land lease is no longer the best option at this time for siting the Caloosa Coast Rowing Club in the park and will likely be using a Priority Use Agreement to program with the Parks and Recreation Department similar to those used in other parks with other programs. An example of this agreement with the Cape Coral R/Sea Hawks, Inc.

Mayor and Council Members - Tropicana Park Concept
March 6, 2020
Page 2 of 2

is attached. And please know we will be bringing the P.U.A. to City Council for your consideration.

KR/MI

C: Vincent Cautero, DCD Director
Ricardo Noguera, EDO Manager
Keith Locklin, Recreation Superintendent
Matthew Creed, Parks Superintendent
Lucille Vaillancourt-Kreider, Revenue/Special Facilities Superintendent
Dawn Andrews, Property Broker
John Bashaw, President - NWNA
Saundra Weston, Caloosa Coast Rowing Club

Attachment: Attachment: Resolution 355-19
R/Sea Hawk Priority Use Agreement



Parks GO Bond
Design of
Neighborhood Parks
Concept Plans

Tropicana Park

- ① Pedestrian Entry
- ② Multi-use Path (10 feet)
- ③ Walking Path (6 feet)
- ④ Boardwalk
- ⑤ Traffic Calming Crosswalks
- ⑥ Vehicular Access
- ⑦ Paved Parking
- ⑧ Grass Overflow Parking
- ⑨ Fitness Stations
- ⑩ Playground
- ⑪ Restrooms
- ⑫ Picnic Shelter
- ⑬ Shaded Picnic Areas
- ⑭ Multi-purpose Open Space
- ⑮ Canoe / Kayak Launch / Dock
- ⑯ Observation Pavilion
- ⑰ Beach
- ⑱ Lift Station
- ⑲ Landscape Retention Area
- ⑳ Boat Tie-Up / Dock
- ㉑ Docks (By Others)
- ㉒ Boat Trailer Parking

SYMBOL LEGEND

- Proposed Pavilion
- Restrooms
- Park Boundary
- Existing Vegetation
- Proposed Vegetation



RESOLUTION 355 – 19

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, APPROVING REVISED CONCEPT PLANS FOR SEVEN NEIGHBORHOOD PARKS IDENTIFIED AS SANDS PARK, OASIS WOODS PARK, CULTURAL PARK, TROPICANA PARK, CRYSTAL LAKE, GATOR CIRCLE, AND LAKE MEADE PARK; PROVIDING AN EFFECTIVE DATE.

WHEREAS, in November 2018, a referendum passed that approved the issuance of General Obligation Bonds to finance costs for various parks facilities in the City; and

WHEREAS, one segment of the use of the General Obligation Bond funds was for neighborhood parks projects; and

WHEREAS, the City had concept plans prepared for seven neighborhood parks for citizens to gain an understanding of how the neighborhood parks may be developed; and

WHEREAS, on June 17, 2019, City Council approved Resolution 135-19 which approved an agreement for professional design services for the neighborhood parks project; and

WHEREAS, the agreement provided that AECOM would revise the seven neighborhood parks concepts plans and present the revised concept plans and renderings for City Council approval; and

WHEREAS, City staff has reviewed the revised Paul concept plans and recommends approval by City Council.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA:

Section 1. The City Council hereby approves the Revised Concept Plans prepared by AECOM for seven neighborhood parks identified as Sands Park, Oasis Woods Park, Cultural Park, Tropicana Park, Crystal Lake, Gator Circle, and Lake Meade Park. The concept plans for each park are attached hereto as Exhibit A.

Section 2. Effective Date. This resolution shall take effect immediately upon its adoption by the Cape Coral City Council.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR COUNCIL SESSION THIS 2nd DAY OF December, 2019.




JOE COVIELLO, MAYOR

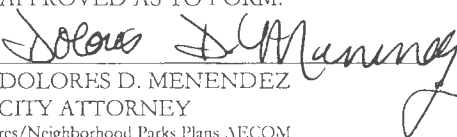
VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	<u>aye</u>	NELSON	<u>aye</u>
GUNTER	<u>aye</u>	WELSH	<u>aye</u>
CARIOSCIA	<u>aye</u>	WILLIAMS	<u>aye</u>
STOUT	<u>excused</u>	CODEN	<u>aye</u>

ATTESTED TO AND FILED IN MY OFFICE THIS 6th DAY OF December, 2019.



KIMBERLY BRUNS, CMC
CITY CLERK

APPROVED AS TO FORM:


DOLORES D. MENENDEZ
CITY ATTORNEY
res/Neighborhood Parks Plans AECOM

AGREEMENT

This Agreement made and entered into this 18th day of January, 2019, by and between THE CITY OF CAPE CORAL, FLORIDA, hereinafter referred to as "CITY", and CAPE CORAL R/SEA HAWKS, INC., located at 3117 SE 17th Ave., Cape Coral, FL. 33904, hereinafter referred to as "LICENSEE".

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, the parties agree as follows:

1. **USE OF PARK FACILITIES.** LICENSEE shall be permitted, in accordance with the terms of this Agreement, to utilize Seahawk Airpark (PARK) located at 1030 NW 28th Street, a CITY owned, or controlled park operated by the City of Cape Coral's Parks and Recreation Department. The normal hours of public use are from 7:00 a.m. to sunset every day of the week. The PARK may be used by LICENSEE on a "first priority" basis during the term and any extensions of this Agreement. The phrase "first priority" as used herein shall mean that LICENSEE shall have the right to reserve for its exclusive use the aforesaid part of the park facilities used by LICENSEE during the aforesaid time period provided a) that LICENSEE shall submit annually to the CITY, not less than 30 days, excluding Sundays and legal holidays, prior to each year that this Agreement is in effect, a complete and fully executed "Application for Facility Use" stating the proposed dates and times that LICENSEE will utilize the PARK. The Application for Facility Use will set forth in a general manner the types of uses which LICENSEE will conduct at the PARK throughout the year. The approximate dates of any proposed routine activity will be sufficient. However, for any special event not listed on the annual "Application for Facility Use", or which date is different from the date listed on the Application for Facility Use, a new Application for Facility Use shall be completed and submitted for that event at least 60 days before the date of the planned event. Failure to timely submit a required Application for Facility Use form or holding an event not listed on an Application for Facility Use form may result in CITY's suspending use of the park and its facilities by LICENSEE for a defined period. Notwithstanding anything else stated to the contrary herein, LICENSEE's use of the park is at the sufferance of CITY, and at any time and for any reason, upon ten days written notice to LICENSEE, sent by regular United States Mail, postage pre-paid, CITY may require LICENSEE to cease use of the park facilities so that CITY may use the same for its own purposes. In the event of an emergency as determined by the CITY, LICENSEE may be required to immediately cease its use of the park facilities so that the CITY may use the same for its own purposes. CITY shall not make use of this provision in an unreasonable manner.

2. **USER FEES.** LICENSEE shall pay CITY for use of the PARK the current fees, as they may be changed by the CITY while this Agreement is in effect, charged to other similar users of CITY's park facilities. Failure by LICENSEE to timely pay such fees will be considered a break of this Agreement.

3. **AGREEMENT TERM.** The term of this Agreement shall commence on January 1, 2019 and terminate on December 31, 2022. This agreement may be extended upon mutual consent of the parties for two (2) additional one-year terms. If LICENSEE wishes to extend the agreement beyond the initial term, it must provide written notice to the CITY at least ninety (90) days prior to the expiration of this Agreement. Any obligation of a party that is not satisfied at the termination of this Agreement for whatever reason shall not terminate with the termination of the Agreement but shall be a continuing obligation of that party subject to enforcement by the other party.

4. **ALTERATIONS TO PARK FACILITIES.** LICENSEE shall not make any alterations or modifications to the PARK, including but not limited to, buildings, landscaping, fencing, or lighting, without the prior written consent of the CITY Parks and Recreation Director.

5. **RULES AND REGULATIONS.** LICENSEE shall abide by all CITY ordinances, rules, regulations, and policies concerning the use the PARK. Failure of LICENSEE to abide by said ordinances, rules, regulations, and/or policies may, in the sole discretion of the CITY, result in termination of this Agreement and loss by LICENSEE of its "first priority" usage of PARK. Failure of the CITY to terminate this Agreement in the event of LICENSEE's failure to abide by the terms of this Agreement or CITY ordinances, rules, regulations, and/or policies shall not constitute a waiver of the CITY of any of its rights hereunder. In the event of any direct conflict between the provisions of this Agreement and a CITY ordinance, the CITY ordinance shall control. In the event of any direct conflict between the provisions of this Agreement and a CITY rule, regulation, and/or policy, this Agreement shall control.

6. **USE OF PARK.** LICENSEE shall not use, cause, or allow the use of the PARK premises for any purpose that is in whole or in part illegal, immoral, indecent, obscene, slanderous, libelous or otherwise improper or detrimental to CITY. If CITY, in its sole discretion, believes that any use or proposed use of the premises is illegal, immoral, indecent, obscene, slanderous, libelous or otherwise improper or detrimental to CITY, CITY may immediately interrupt LICENSEE's event and terminate this license, with no further liability to CITY. LICENSEE shall take all necessary precautions when using any substance of an explosive or flammable nature and shall not contaminate any of the soil or groundwater. LICENSEE shall be solely responsible to ensure the safe use of any flammable or explosive materials, and to clean, remove or mitigate any environmental contamination that does occur at absolutely no cost to the CITY.

7. **CONCURRENT USE.** The parties agree and acknowledge that the public shall have the right to use such portions of CITY park facilities which have not been reserved for use by LICENSEE pursuant to this Agreement and the Application for Facility Use at the same time as the reserved facilities are used and/or occupied by LICENSEE. The parties further agree that, though LICENSEE'S use of CITY park facilities as provided herein shall be on a "first priority" basis, its use of the facilities is not exclusive and the CITY may permit other persons, groups, and/or the public to utilize such facilities during times when such facilities have not been approved by the CITY for use by LICENSEE. No concurrent use of the park will be allowed that interferes with the LICENSEE's use of the park. However, CITY may require LICENSEE to meet with other potential users to resolve any potential conflicts over concurrent use. CITY shall be the final judge as to any concurrent use of the PARK. LICENSEE, on a non-discriminatory basis, may allow non-licensee members to use the PARK facilities along with LICENSEE's members. However, all non-members doing so shall be under the supervision and control of LICENSEE and must agree to follow LICENSEE's safety rules and regulations and have insurance satisfactory to LICENSEE. Failure to follow the rules and regulations or to have satisfactory insurance will be grounds for the removal of the non-licensee member while LICENSEE is using the PARK on a first priority basis.

8. **CONTROL OF PREMISES.** The park facilities licensed hereunder shall be always under the control of the CITY Parks & Recreation Department.

9. **SIGNS.** No signs may be erected on CITY property by LICENSEE without the prior written consent of the CITY Parks and Recreation Director. Any signs so erected on park facilities by LICENSEE

shall be removed by LICENSEE no later than thirty (30) days from the last day of LICENSEE'S season. In the event of emergency weather conditions such as hurricane, high winds, etc., LICENSEE shall remove its signs from CITY park facilities no more than three (3) hours from notification by CITY of the need to do so. CITY shall have the right at any time to remove any sign from CITY property if such sign is deemed, in the sole discretion of the CITY, to be hazardous or poorly maintained. CITY shall incur no liability for any damage to LICENSEE's signs caused by the removal of such sign by the CITY. By executing this agreement, LICENSEE agrees to hold the CITY harmless for any damage caused by the removal of LICENSEE's signs by CITY. LICENSEE shall be responsible for any costs incurred for any defacement, damage, or cleanup resulting from the actions of LICENSEE, its agents, representatives, or employees.

10. IMPROVEMENTS. No fixed improvements, including but not limited to, buildings and/or fixtures, shall be erected, constructed, installed, or located on CITY property by LICENSEE except with the prior express written consent of CITY. The parties agree that any such improvements located on CITY property shall become the property of CITY.

11. SUPERVISION. LICENSEE shall provide CITY with the names, addresses, and telephone numbers for all of LICENSEE's officers and directors or other board members no less than ten (10) days after the effective date of this Agreement and shall keep such list current. At all times of use by LICENSEE or its members, LICENSEE shall be responsible for ensuring that the PARK and facilities are being used in compliance with this Agreement. Liaison with the Cape Coral Parks Department will be provided by the LICENSEE's City/Club Coordinator or the elected Club President or his designee.

12. CLEANUP AND MAINTENANCE. LICENSEE shall be solely responsible for ensuring that all park facilities are left in a clean and sanitary condition at the end of the use of the PARK by LICENSEE or its members. LICENSEE shall maintain portable sanitation facilities in the PARK for use by participants and patrons at any of its events. LICENSEE shall be responsible for ensuring that the sanitation facilities are always kept clean and sanitary. Daily trash is to be placed in the trash cans provided. For special events, LICENSEE must order an appropriate sized dumpster at a location both to be approved by the Parks and Recreation Department. Licensee can furnish a site map sketch showing the dumpster location and attach to the Application for Facility Use submitted for the special event. LICENSEE must provide the date it will request the dumpster to be removed on Application for Facility Use. For each special event, LICENSEE must pay CITY a refundable deposit of \$200 to ensure that all trash is removed from the grounds. If the trash is properly picked up the deposit will be refunded, if in the City's opinion the trash is not adequately removed the \$200 will be used to defray the City's costs in having the trash removed and properly disposed of. LICENSEE will be responsible for payment of any costs that exceed the \$200 deposit. If Parks and Recreation employees are required to assist or perform trash pick up and clean up, LICENSEE agrees to pay City's standard fee for such services. Further, LICENSEE shall be responsible for mowing the grass around the runway used by LICENSEE and its members.

13. SPECIAL EVENTS. LICENSEE shall obtain the written consent of the CITY prior to LICENSEE operating and/or sponsoring a special event, such as a tournament or a jamboree, in the CITY park facility or grounds. LICENSEE shall request CITY approval of a special event and submit a special event application if one is required either in conjunction with the "Application for Facility Use provided by LICENSEE to the CITY in accordance with Section 1 of this Agreement or by submitting to the CITY a separate written request not less than sixty (60) days prior to the date LICENSEE is requesting that the special

event begin. In order to obtain City approval of a proposed special event, LICENSEE shall provide to the City in writing a statement containing the following information: a description of the type or nature of the proposed special event, the CITY facility or facilities proposed to be used for the special event, the dates and times that such facilities are proposed to be used for the special event, a good faith estimate of the number of persons that LICENSEE reasonably anticipates will participate in and/or attend the proposed special event, any special requests relevant to the special event including, but not limited to, a request that the services of extra groundskeepers or other CITY personnel be provided for the special event. The parties acknowledge and agree that CITY shall exert reasonable efforts to accommodate requests for special events by LICENSEE, but the parties further recognize and agree that CITY, in its sole discretion may disapprove request for a special event involving the use of the CITY park facilities or grounds.

In the event LICENSEE desires to erect a tent in the CITY park facility or grounds, LICENSEE shall be responsible for securing all necessary permits and inspections, including but not limited to building and/or fire permits and inspections, as required by City Code. It is understood by the parties that the CITY no longer erects tents, and the City assumes no liability for any damages to the tent before, during or after an event. LICENSEE at its own expense will pay for all required inspections and permits will pay a private contractor to erect and remove any tents. On any required application, LICENSEE must include the dimensions, location, and removal date of the tent. In the event LICENSEE desires the services of CITY personnel, such as a groundskeeper, for the purpose of cleaning or otherwise maintaining the CITY park facility or grounds prior to a special event such as a tournament or a jamboree, LICENSEE shall be solely responsible for paying for the services of such CITY personnel unless the parties enter into a written agreement prior to the special event otherwise providing for the payment of such personnel.

14. SCHEDULE CHANGES. LICENSEE shall provide to the CITY fourteen (14) days notice of any planned change or modification to its field usage schedule. The parties acknowledge and agree that CITY shall exert reasonable efforts to accommodate such schedule changes, but the parties further recognize and agree that CITY, in its sole discretion, may disapprove such a schedule change regarding the use of the CITY park facilities.

15. DISCIPLINE OF PERSONS ACTING IN OFFICIAL CAPACITY. Any person officially disciplined by the LICENSEE, or who otherwise is disorderly, disruptive, or does any act or activity that would disturb, endanger, or would interfere with LICENSEE's permitted activity in the PARK or designated portions thereof, may be removed from the park facility by the CITY.

16. SECURITY. LICENSEE shall be obligated to pay the cost of any security provided by the CITY Police Department.

17. REPORTS OF VANDALISM AND/OR DAMAGE. All vandalism and/or damage to CITY park facilities shall be reported to CITY by LICENSEE within twenty-four (24) hours of a LICENSEE board member being notified of such vandalism and/or damage. Within forty-eight (48) hours of receipt of notice by LICENSEE that such vandalism and/or damage has occurred, LICENSEE shall submit to the CITY Parks and Recreation Department a written description of such vandalism and/or damage including but not limited to the date and time at which notice of the damage and/or vandalism was received by LICENSEE and a brief description of the damaged and/or vandalized area. LICENSEE shall reimburse CITY for all damage and/or vandalism which occurs during the time LICENSEE is using the park facilities or holding any special event at

the park and/or which occurs as the result of LICENSEE's failure to comply with the terms of this Agreement with respect to maintaining the security of the park premises. LICENSEE shall reimburse CITY for the costs of such damage and/or vandalism not later than thirty (30) days from receipt by LICENSEE of an invoice from CITY for the costs of repairing such damage and/or vandalism.

18. INSPECTION. A representative of LICENSEE and of the CITY Parks and Recreation Department may inspect the park facilities at any time. LICENSEE shall be responsible for any damages resulting from its neglect or misuse of the premises. Failure of LICENSEE to completely and timely compensate CITY for any damages occurring from LICENSEE's use of CITY park facilities shall constitute a breach of this Agreement.

19. ASSIGNMENT OF RIGHTS. LICENSEE shall not assign this Agreement or any rights or obligations thereunder.

20. INSURANCE. LICENSEE shall provide insurance at its own expense such insurance shall cover both LICENSEE's routine use of the facility and any special event held at the park. The CITY must be named as Additional Insured on all policies where applicable; the City's Risk Manager must approve insurance coverage amounts. The policy must include: minimum limits of \$1,000,000 each occurrence combined single limit for Bodily Injury Liability and Property Damage Liability, of \$1,000,000 each occurrence Bodily Injury Liability and \$250,000 each occurrence Property Damage Liability. Policy must include coverage for: Premises and/or Operations, Independent Contractors, Contractual Liability, Medical Payments Coverage with a limit of at least \$1,000 each person.

21. INDEMNIFICATION AND HOLD HARMLESS; COSTS AND ATTORNEY'S FEES. LICENSEE agrees to hold harmless, release and indemnify the CITY and/or any of its agents, employees, officers, or other persons under its advisement and/or control from any and all damages, including environmental actions, injuries, actions, suits, claims, or demands of whatever kind, including any claims for damages or personal injuries, made by LICENSEE, against LICENSEE, or on LICENSEE's behalf, against the CITY OF CAPE CORAL arising from, pertaining to, or resulting, either directly or indirectly, from use by LICENSEE of CITY's park facilities during the term of this Agreement. Such indemnification expenses shall include, but not be limited to, liability settlements, clean up costs from environmental damage, damage awards, court costs and all out of pocket expenses, such as attorney's fees, incurred by the CITY and shall also include the reasonable value of any services rendered by the City Attorney or any employees of the City, directly or indirectly related to claims of injury or damage or otherwise to use by LICENSEE of CITY park facilities

22. GOVERNING LAW. This Agreement shall be interpreted, construed, and governed according to the Laws of the State of Florida with venue in Lee County.

23. ATTORNEY'S FEES AND COSTS. In connection with any litigation arising out of this Agreement, the prevailing party shall be entitled to recover all costs incurred, including reasonable attorney's fees.

24. TERMINATION. Notwithstanding any other provision of this Agreement, this Agreement may be terminated by CITY at its sole discretion upon thirty (30) days prior written notice to LICENSEE.

25. **AUDITABLE RECORDS.** LICENSEE shall maintain auditable records adequate to account for all receipts and expenditures by LICENSEE. These records shall be kept in accordance with generally accepted accounting principles and shall be made available to City personnel with reasonable notice.

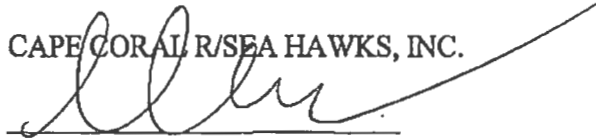
26. **SEVERABILITY.** If any section, paragraph, term or provision of this Agreement is determined to be illegal, invalid, or unconstitutional, or in violation of any bond covenants of the CITY in effect on the date of this Agreement, by any court of competent jurisdiction, such determination shall have no effect on any other section, paragraph, term, or provision hereof, all of which shall remain in full force and effect for the term of this Agreement.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the date and year first above written.

Witnessed by:

"LICENSEE"

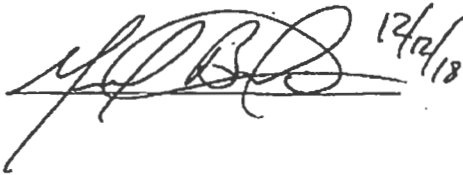
CAPE CORAL R/SEA HAWKS, INC.



By: PRESIDENT

Title:

Michael Bilinski



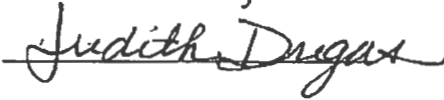
"CITY"

CITY OF CAPE CORAL

By: Louise Barron

Title: Asst. City Manager (Alternate)

Judith Dugas



APPROVED AS TO FORM:



DOLORES MENENDEZ

City Attorney