

RESOLUTION R-4883

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND DECLARING THE EXISTENCE OF AN EMERGENCY RELATING TO THE JUANITA BEACH PARK PROJECT, PHASE 1; WAIVING COMPETITIVE BIDDING REQUIREMENTS AS AUTHORIZED BY RCW 39.04.280(1)(E) AND KMC 3.85.210; AND AUTHORIZING THE CITY MANAGER TO EXECUTE ALL NECESSARY CONTRACTS AND OTHER DOCUMENTS FOR EMERGENCY COMPLETION OF THE PROJECT.

WHEREAS, in 2010 the City Council awarded a contract to DMSL Construction, Inc. ("DMSL") for the work to be done on the Juanita Beach Park Project, Phase 1 ("Project"), which began in April of 2010; and

WHEREAS, DMSL was unable to complete the Project by the time specified for completion, which was June 1, 2011, and the City therefore terminated the contract with DMSL for the Project on June 3, 2011; and

WHEREAS, for environmental reasons the Project needs to be completed as soon as possible because DMSL has not completed the installation of the wetland, stream and related buffer enhancements and shoreline restorative plants according to permit requirements; there is no protection of the stream bank and riparian areas to prevent erosion without the use of silt fencing and as the summer brings higher air temperatures, there is no vegetation in place to provide adequate shade for fish habitat; and

WHEREAS, in order to meet the requirements of the Endangered Species Act and for the protection of Puget Sound Chinook, Steelhead, and bull trout, the remaining in stream, shoreline and buffer work must be completed by August 31 as described in the Nationwide Permit (NWP) Terms and Conditions issued by the Corps of Engineers; and

WHEREAS, allowing Juanita Beach Park to remain "as is" and unattended while restarting a lengthy bidding process might result in a loss of material or damage to property there as well as an attractive nuisance that could also result in damage or bodily injury; and

WHEREAS, RCW 39.04.280(1) and KMC 3.85.210 authorize the City Council to waive the requirement of obtaining competitive bids for public works projects in the event of an emergency, which is defined in RCW 39.04.280(3); and

WHEREAS, both the State Auditor's Office and the City Council have concluded the facts presented warrant a declaration that an emergency is presented and the Council has determined that a waiver of competitive bidding requirements is therefore justified to complete the Project,

NOW, THEREFORE, be it resolved by the City Council of the City of Kirkland as follows:

Section 1. Pursuant to RCW 39.04.280(1)(E) and KMC 3.85.210(a)(4), completing the Juanita Beach Park Project, Phase 1 is declared an emergency.

Section 2. Pursuant to that same authority and this declaration of emergency, competitive bidding requirements are hereby waived to complete this project.

Section 3. The City Manager is hereby authorized and directed to execute on behalf of the City of Kirkland all necessary contracts and other documents for the emergency completion of the Juanita Beach Park Project, Phase 1.

Passed by majority vote of the Kirkland City Council in open meeting this 7th day of June, 2011.

Signed in authentication thereof this 7th day of June, 2011.


MAYOR

Attest:


City Clerk