

RESOLUTION NO. R - 2487

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND ACCEPTING INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION GRANT ASSISTANCE FOR THE ACQUISITION OF CERTAIN WATERFRONT PROPERTY IN THE VICINITY OF SEVENTH AVENUE SOUTH AND IDENTIFIED AS KIRKLAND PARK EXPANSION IAC NO. 78-059A, AND AUTHORIZING THE CITY MANAGER TO SIGN ON BEHALF OF THE CITY OF KIRKLAND A CONTRACT FOR SUCH GRANT ASSISTANCE.

WHEREAS, the Interagency Committee for Outdoor Recreation for the State of Washington, has approved an application submitted by the City of Kirkland for grant and aid assistance to acquire certain waterfront properties for park use and expansion in the vicinity of Seventh Avenue South in the City of Kirkland, and

WHEREAS, the Interagency Committee for Outdoor Recreation has submitted to the City of Kirkland a project contract to set out the terms and conditions not otherwise appearing in statutes or regulations for the grant of money from the outdoor recreation account of the general fund of the State of Washington to assist in the acquisition of said waterfront property.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Kirkland as follows:

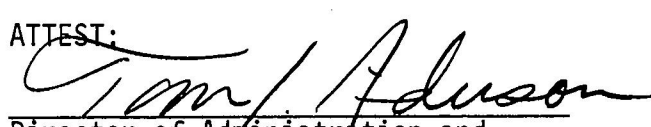
Section 1. The City Council on behalf of the City of Kirkland does accept the grant assistance awarded to the City by the Interagency Committee for Outdoor Recreation and authorizes and directs the City Manager to sign on behalf of the City of Kirkland, that certain project contract in relation to project titled, Kirkland Park Expansion, and identified as project No. 78-059A. A copy of said contract is attached to the original of this resolution, and by this referenced incorporated herein.

PASSED BY MAJORITY VOTE of the Kirkland City Council in regular meeting on the 19th day of December, 1977.

SIGNED IN AUTHENTICATION thereof on the 19th day of December, 1977.


MAYOR

ATTEST:


Director of Administration and
Finance
(ex officio City Clerk)

PROJECT CONTRACT

Project Title Kirkland Park Expansion Project No. 78-059A

1. Nature of Contract. This instrument, in 9 pages, of which this is the first, is intended to set out the terms and conditions, not otherwise appearing in statutes or regulations, of a grant of money from the Outdoor Recreation Account of the General Fund of the State of Washington to a state agency or local public body, herein called the Contracting Party, in aid of an outdoor recreation project. The state agency administering the grant is the Interagency Committee for Outdoor Recreation, herein called the Interagency Committee.

2. Assent of Contracting Party. The Contracting Party by the signature of its authorized representative below agrees to be bound by this instrument:

City of Kirkland
Contracting Party

Approved as to form
This 15 day of

December, 1977

Joseph E. [Signature]
Attorney for
Contracting Party

By Allen B. [Signature]
Title City Manager
Date Dec 15, 1977

3. Assent of Interagency Committee. The signature of the Administrator of the Interagency Committee below witnesses that the Interagency Committee agrees to be bound by this instrument:

Approved as to form
This 8th day of

November, 1977

SLADE GORTON
Attorney General

John R. [Signature]
Assistant Attorney General

STATE OF WASHINGTON
Interagency Committee for
Outdoor Recreation

[Signature]
Administrator

Date December 5, 1977

4. Project Period. The Contracting Party shall execute and complete the approved project during the period from November 22, 1977, until December 31, 1978.

5. Project Assisted. The outdoor recreation project to be assisted is the one set out in the Contracting Party's application to the Interagency Committee, dated May 17, 1977, as approved for funding by the Interagency Committee at its meeting on the 26 day of September, 1977. For identification purposes it is entitled Kirkland Park Expansion and briefly described as follows:

Acquire two parcels of land totalling approximately 2.34 acres with about 170 feet of frontage on Lake Washington to connect two existing city waterfront parks in the central part of the city.

The legal description for the land to be acquired under this contract is contained on page 9 of this contract and by this reference made a part hereof.

Compliance with application: Unless otherwise agreed to in writing by the Administrator, the project shall be carried out according to the plans and proposals submitted by the contracting party in, or in connection with, its application for assistance for this project.

6. Funding of Project. (a) The total cost of the project covered by this Contract is \$ 259,550.

(b) The Interagency Committee agrees to pay \$ 64,887.50 or 25 percent of the total project cost, whichever amount is less, from monies available in the Outdoor Recreation Account of the State General Fund.

(c) In addition, the Interagency Committee agrees to recommend to the Bureau of Outdoor Recreation, United States Department of Interior, that federal matching funds in the amount of \$ 129,775 or 50 percent of the estimated cost, whichever amount is less, be approved for this project, and the Interagency Committee agrees to pay to the Contracting Party any federal matching money made available to the State of Washington for the outdoor recreation project covered by this Contract.

7. Contingencies. The duty of the Interagency Committee to approve disbursement of funds pursuant to this Contract is contingent upon strict compliance by the Contracting Party with the terms of this Contract. The duty of the State of Washington to disburse funds is contingent on the funds being available in the Outdoor Recreation Account of the State General Fund.

8. Requirements of Bureau of Outdoor Recreation. If application has been made to the Bureau of Outdoor Recreation, United States Department of Interior, for assistance from the United States Land and Water Conservation Fund (see paragraph (c)) then a copy of Attachment 1 to Form BOR 8-92, Land and Water Conservation Fund Project Agreement, General Provisions, is attached to this contract and marked "Attachment A". If United States Land and Water Conservation Fund money is made available for this project, the Interagency Committee will be required to sign an agreement with the Bureau of Outdoor Recreation and the State of Washington and the recipient public body will be bound by the attached provisions. Therefore, if Land and Water Conservation Fund money is involved in this project, then the Contracting Party agrees to faithfully comply with all the requirements of Attachment A.

9. Project Performance. The Contracting Party shall execute and complete the approved project in accordance with the time schedule set forth in the project application. Unless a different schedule appears in the application or in this contract, the contractor's performance shall commence not later than sixty days after the date this contract has been signed by the Administrator. Unless otherwise agreed in writing, the Contracting Party's performance shall be completed by the end of the period covered by this contract.

10. Project Administration. (a) The Contracting Party shall promptly submit such reports as the Administrator of the Interagency Committee may request.

(b) Property and facilities acquired or developed pursuant to this contract shall be available for inspection by the Administrator upon request.

(c) The Contracting Party shall submit a final report when the project is completed or prematurely terminated, or project assistance is terminated. The report shall include a final accounting of all expenditures and a description of the work accomplished. If the project is not completed, the report shall contain an estimate of the percentage of completion, and shall indicate the degree of usefulness of the completed project, if not previously reported. The report shall contain a final accounting summarizing all expenditures not previously reported and shall include an overall summary for the entire project.

11. Project Termination. All obligations of the Interagency Committee under this contract may be suspended or canceled, at the option of the Interagency Committee, if any of the following has occurred:

(a) The Contracting Party has failed to make satisfactory progress to complete the project, or will be unable to complete the project, or any portion of it.

(b) The Contracting Party is failing to make satisfactory progress to complete any other project assisted with funds from the Outdoor Recreation Account of the State General Fund, or will be unable to complete another such project, or any portion of it.

12. Remedies. Because the benefit to be derived from the full compliance with the terms of this contract is the preservation, protection, and the net increase in the quantity and quality of public outdoor recreation facilities and resources which are available to the people of the state and of the United States, and because such benefit exceeds to an immeasurable and unascertainable extent the amount of money furnished under the terms of this contract, the Contracting Party agrees that repayment of an amount equal to the amount of assistance extended under this contract by

the State of Washington would be inadequate compensation for any failure to comply with the terms of this agreement. The Contracting Party agrees, therefore, that in the event of a breach of this agreement by it, specific performance shall be an appropriate remedy.

13. Restriction on Conversion of Facility to Other Uses. The Contracting Party shall not at any time convert any property or facility acquired or developed pursuant to this contract to uses other than those for which state assistance was originally approved without the prior approval of the Interagency Committee, in the manner provided by RCW 43.99.100 for marine recreation land, whether or not the property was acquired with Initiative 215 funds.

14. Use and Maintenance of Assisted Facility. The Contracting Party shall operate and maintain, or cause to be operated and maintained, the property or facilities which are the subject matter of this contract as follows:

(a) The property or facilities shall be maintained so as to appear attractive and inviting to the public.

(b) Sanitation and sanitary facilities shall be maintained in accordance with applicable state and local public health standards.

(c) The property or facilities shall be kept reasonably safe for public use.

(d) Buildings, roads, trails, and other structures and improvements shall be kept in reasonable repair throughout their estimated lifetime, so as to prevent undue deterioration that would discourage public use.

(e) The facility shall be kept open for public use at reasonable hours and times of the year, according to the type of area or facility.

(f) The property or facility shall be open for the use of all segments of the public without restriction because of the race, creed, color, sex, religion, national origin or residence of the user.

15. Reporting. Once a year, the Contracting Party shall certify to the Administrator that the project and all assisted facilities are being retained, operated, maintained and used in accordance with the terms of this contract. A report and certification will be partially prepared by the Interagency Committee and will be sent to the Contracting Party for completion. The Contracting Party shall also report on specific matters whenever requested to do so by the Administrator.

16. No Waiver by Interagency Committee. The Contracting Party agrees that failure by the Interagency Committee to insist upon the strict performance of any provision of this project contract or to exercise any right based upon a breach thereof, or acceptance by it of performance during such breach, shall not constitute a waiver of any of its rights under this project contract.

17. Identifying Markers. The Interagency Committee reserves the right to display, during the period covered by this contract and after project completion, appropriate signs or markers identifying the roles of the state and federal agencies participating financially in this project.

18. Disbursement of Assistance. Disbursement of the grant-in-aid shall be made in accordance with WAC 286-24-040, after the Contracting Party has furnished the Administrator such information as he shall deem necessary to show compliance with applicable statutes and rules and this contract.

19. Provisions Applying Only to Acquisition Projects. The following provisions shall be in force if the project covered by this contract is for the acquisition of outdoor recreation land or facilities, but shall not apply when the project is for development only:

(a) In the event Federal Land and Water Conservation Funds are included in this project per Section 6.(c) of this Contract, the Contracting Party agrees to comply with the terms and intent of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 84 Stat. 1894 (1970) - Public Law 91-646, and the applicable regulations and procedures of the Department of the Interior implementing such act.

(b) In the event state funds only are included in this project per Section 6.(b) of this contract, the Contracting Party agrees to comply with the terms and intent of Uniform Relocation Assistance and Real Property Acquisition Policy of the State of Washington (Chapter 240, Laws of 1971, 1st Ex. Sess. - R.C.W. 8.26.010).

(c) Conditions applying only to Local Agencies -

1. In the event that housing and relocation costs, as contemplated by federal law (P.L. 91-646) and state law (Chapter 240, Laws of 1971, 1st Ex. Sess.), are involved in the execution of this project, the Contracting Party agrees that such costs, excluding administrative costs, will be added to the cost of the project and shared proportionately by the Interagency Committee and the Contracting Party;

2. In the event the Interagency Committee must perform any portion or all the work necessary to comply with the relocation requirements of the above-cited federal and state law, the Contracting Party agrees to reimburse the Interagency Committee for the actual administrative costs of performing such work.

(d) Conditions applying only to State Agencies -

In the event that housing and relocation costs, as contemplated by federal law (P.L. 91-646) and state law (Chapter 240, Laws of 1971, 1st Ex. Sess.), are involved in the execution of this project, the Contracting Party agrees to provide any housing and relocation assistance that may be necessary and will assume the administrative costs, with the understanding that the actual relocation costs will be a part of the total project cost.

(e) Evidence of Land Value. Prior to disbursement of the assistance provided for in this contract, the Contracting Party shall supply evidence establishing to the satisfaction of the Administrator that the land acquisition cost represents a fair and reasonable price for the land in question.

(f) Evidence of Title. The Contracting Party shall be responsible for providing satisfactory evidence of title or ability to acquire title for each parcel prior to disbursement of funds provided by this contract. Such evidence may include title

Insurance policies, Torrens certificates, or abstracts, and attorney's opinions establishing that the land is free from any impediment, lien, or claim which would impair the uses contemplated by this contract.

(g) Deed of Right To Use Land For Public Recreation Purposes. The Contracting Party agrees to execute an instrument or instruments which contain: (1) a legal description of the property acquired under this Project Contract; (2) a conveyance to the State of Washington of the right to use as described real property forever for outdoor recreation purposes, and (3) a restriction on conversion of use of the land in the manner provided in RCW 43.99.100, whether or not the real property covered by the deed is marine recreation land. RCW 43.99.100 reads as follows:

"Marine recreation land with respect to which money has been expended under RCW 43.99.080 shall not, without the approval of the committee, be converted to uses other than those for which such expenditure was originally approved. The committee shall only approve any such conversion upon conditions which will assure the substitution of other marine recreation land of at least equal fair market value at the time of conversion and of as nearly as feasible equivalent usefulness and location."

20. Provisions Applying Only to Development Projects. The following provisions shall be in force if the project covered by this contract is for development of outdoor recreation land or facilities, but shall not apply when the project is for acquisition only:

(a) Compliance with the Law. The Contracting Party shall comply with all laws and regulations applicable to the development project and to contracts for work done to carry it out.

(b) Compliance with Application. Unless otherwise agreed to in writing by the Administrator, the project shall be carried out according to the plans and proposals submitted by the Contracting Party in, or in connection with, its application for assistance for the project.

(c) Installment Payments. Assistance provided by this contract for development may be remitted to the Contracting Party in installments, after receipt of billings, and upon satisfactory proof of completion of each stage of construction or development. Determination of appropriate stages for installment payments shall be made by the Administrator, after consultation with the Contracting Party and with the approval of the Bureau of Outdoor Recreation, if United States Land and Water Conservation Funds are involved. Installment payments shall in no event be made more frequently than monthly. An amount equal to 10% of the funding assistance provided the Contracting Party by this contract for eligible development costs may be withheld until final inspection and certification of project completion is made by the Interagency Committee and approved by the Bureau of Outdoor Recreation.

(d) Contracts for Construction. Contracts for construction shall be awarded through a process of competitive bidding if required by state law. Copies of all bids and contracts awarded shall be retained for inspection by the Administrator upon request. Where all bids are substantially in excess of project estimates, the Administrator may, by notice in writing, suspend the project and refer the matter to the Interagency Committee for determination of appropriate action, which may include termination of assistance for development of the project.

(e) Change Orders. Any change orders shall be in writing and shall be made a part of the project file and kept available for inspection or audit upon request.

(f) Nondiscrimination Clauses. Except where a non-discrimination clause required by the United States is used, the Contracting Party shall insert the following nondiscrimination clause in each contract for construction of this project:

"During the performance of this contract, the Contractor agrees as follows:

- (1) The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.
- (2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, sex, or national origin.
- (3) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the said labor union or workers' representative of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (4) The Contractor will include the provisions of the foregoing paragraphs in every sub-contract exceeding \$5,000, so that such provisions will be binding upon each such subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the Interagency Committee may direct as a means of enforcing such provisions, including sanctions for noncompliance; Provided, however, that in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the Contractor may request the State of Washington to enter into such litigation to protect its interests."

21. Notices: All notices, demands, requests, consents, approvals, and other communications which may or are required to be given by either party to the other under this agreement shall be in writing and shall be deemed to have been sufficiently given for all purposes when delivered or mailed by first class postage or certified mail, postage prepaid, addressed as follows:

- (a) Notice to the State

To: Interagency Committee for Outdoor Recreation
4800 Capitol Boulevard
Tumwater, Washington 98504

or at such address as the Interagency Committee shall have furnished to the Contracting Party in writing.

(b) Notice to the Contracting Party

To David Brink, who serves in the capacity of Director, Parks and Recreation Dept. for the Contracting Party, and who has been designated as the Contracting Party's liaison officer for the purposes of this agreement, or to such other officer or address as the Contracting Party shall have furnished to the Administrator in writing.

22. Additional Provisions, or modifications of Standard Provisions

(Schedule A continued)

Page 3

Policy Number 775195
Owners

Policy Number _____
Loan

5. THE LAND REFERRED TO IN THIS COMMITMENT IS SITUATED IN THE COUNTY OF KING, STATE OF WASHINGTON, AND IS DESCRIBED AS FOLLOWS:

A tract of land in and in front of Government Lot 2, Section 8, Township 25 North, Range 5 East, W.M., in King County, Washington, described as follows:

Beginning at the intersection of Lake Street South and 5th Avenue South, the Town of Kirkland;

thence along the center line of said Lake Street South, south 0°57'09" west 133.20 feet to a point of curve;

thence continuing on the center line tangent produced, south 0°57'09" west 23.71 feet to a point on the westerly production of the southerly boundary of the Seattle Addition to Kirkland, according to the plat thereof recorded in Volume 7 of Plats, page 16, in King County, Washington;

thence along the said westerly production, south 88°20'24" west 57.46 feet to a point on the meander line of said Section 8;

thence north 88°20'24" east 26.99 feet to the westerly margin of Lake Street South;

thence southerly on the arc of curve to the right of radius 734.49 feet (the tangent to which at this point bears south 2°54'30" west) a distance of 160.00 feet to the true point of beginning of this description;

thence continuing along the said margin on the arc of said curve a distance of 166.72 feet to an intersection with the westerly prolongation of the north line of Crane and Dickey's Addition to Kirkland, according to the plat thereof recorded in Volume 3 of plats, page 98, in King County, Washington;

thence south 88°34'34" west along the said north line 579.65 feet more or less to the inner harbor line of Lake Washington;

thence along the said inner harbor line north 1°47'17" west 136.99 feet to a point which bears north 88°24'00" west from the true point of beginning;

thence south 88°24'00" east 648.02 feet to the true point of beginning.