

MOTION NO. 7447

A MOTION authorizing a development and cooperative use agreement between King County and the Shoreline School District.

WHEREAS, King County owns a 5-acre park in the Shoreline area, and

WHEREAS, the Shoreline School District has abandoned the Shoreline High School site and is willing to allow joint use and development of a 10-acre portion of the high school site, and

WHEREAS, King County is willing to provide development and operation funds for a joint project, and

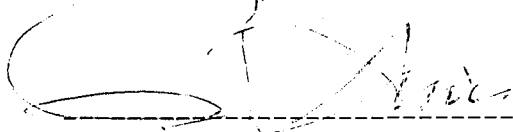
WHEREAS, the natural resources and parks division has analyzed park needs in the area, and believes that the joint use and development of this site would greatly enhance recreation opportunities in the Shoreline area.

NOW THEREFORE, BE IT MOVED by the Council of King County:

The King County executive is authorized to enter into the joint development and cooperative use agreement with Shoreline School District shown in Exhibit A.

PASSED this 6th day of February, 1989.

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON



Chairman

ATTEST:

Judith M. Owens
Clerk of the Council

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1/19/89

89-27

INTERLOCAL AGREEMENT FOR
JOINT DEVELOPMENT AND COOPERATIVE USE
SHORELINE PARK

7427

This agreement is made this _____ day of _____, 1989, by and between King County (hereinafter "the County") and the Shoreline School District No. 412 (hereinafter "the District").

RECITALS

A. The District and the County recognize that they share the use of numerous recreational facilities and that flexibility in the use of these facilities and cooperation between the parties is mutually beneficial. The parties also recognize the desirability of formalizing a comprehensive joint use agreement for all these facilities.

B. The District owns certain real property known as Shoreline Center; the County wishes to construct soccer fields on a portion of this property. See attachment A for map of proposed joint use area of the Shoreline site.

C. The County owns certain real property adjacent to the Shoreline Center site; the County wishes to construct a portion of a soccer field and other improvements on this site.

D. The governing bodies of the District and the County have determined that the public interest would be best served with the least expenditure of public funds by an agreement permitting the District and the County to jointly improve and construct the aforesaid soccer fields ("the Facility").

E. The District and the County therefore enter into this three part agreement: Part I Development, Part II Joint and Cooperative Use, and Part III General Terms. The purpose of Part II of this agreement is to provide for joint and cooperative use of the Facility constructed and improved as provided in Part I. The District and the County agree to use the Facility jointly and cooperatively according to the terms and conditions set forth herein.

F. It is the hope and intent of both parties to renegotiate and extend the terms of this agreement upon the conclusion of the initial 25-year term.

PART I
JOINT DEVELOPMENT

1. PROJECT FINANCING:

The parties shall contribute to the financing of the design and development of the Facility ("the Project") in the amounts set forth herein:

A. The District shall receive \$2,000 from the County to offset part of the District's administrative, design review, and legal costs attendant to negotiations of a final agreement and for further consideration of mutual benefit.

B. The County shall contribute approximately \$950,000 to the development of the Project in 1989, and will make all reasonable attempts to procure funding through the annual budget process in an amount necessary to complete the Project under the terms of this agreement.

2. CONTRACT DOCUMENTS AND BIDDING:

The County shall be primarily responsible for preparing the Master Plan and the specific project construction documents. The Master Plan is attached and is part of this agreement as Exhibit A and is hereby approved by both the County and the District. The boundaries of the land covered under this agreement is shown on the Master Plan.

The District shall have the right to review and approve the County's Project proposal prior to submission of the proposal for competitive construction bids; which approval shall not be unreasonably withheld.

3. PROJECT CONSTRUCTION

A. Supervision and Compliance: The County shall perform the duties of the "Owner" as defined in the contract documents and specifications approved by the County and the District. In the construction of the Facility, the County shall comply with all laws, statutes, rules, regulations and ordinances applicable to the County, including, without limitation, obtaining all necessary governmental permits and approvals and shall hold the District harmless against any claims arising directly or indirectly from the construction. The County shall make all reasonable attempts to complete the Project within three (3) years after commencement of work. In the event the County temporarily ceases work or substantially reduces the rate of work because of funding or other reasons, it shall proceed to the point where the soccer fields and restroom are functional and all other areas are more attractive than when work commenced.

B. Progress Reports: The County shall make periodic reports to the District on the progress of the construction of the Project. District representatives shall be apprised of all regularly scheduled site meetings relating to Project construction and shall be entitled to attend all meetings, whether regularly scheduled or not. The District retains the right to make inspection for the progress of the Project, including, without limitation, inspection of all Project documents at reasonable times and upon reasonable notice to the County.

C. Default by County: If at any time, in the reasonable judgment of the District, the County fails to competently perform the duties stated herein, the District may demand that the County remedy such default. If the County shall have failed to commence cure of such failure within twenty (20) calendar days following written demand by the District, the District may, at its option, cure any default by the County. The County shall pay the District the cost of such cure, including attorneys' fees and costs arising out of any action or proceeding brought by reason of default by the County. If any such action or proceeding by the District to cure a default is wrongful or commenced without just cause, the District shall pay the County any costs arising out of such action by the District, including attorneys' fees and costs arising out of any claim, suit or proceeding brought because of such action by the District.

D. Approval of Contract Documents: All contract documents, including but not limited to contract change orders, shall be approved by the authorized representatives of the County, as required by law. The County will allow review of all documents by the District upon request.

E. License to Enter Property: The District agrees to grant to the County such licenses to enter upon their real property as may be necessary for the exercise of the rights and obligations set forth herein and for the implementation of the Project. The County realizes that extensive remodeling work is now and probably will be in progress on the Shoreline Center during the County's construction period and that the District's granting of license is conditioned on the County's agreement to make all reasonable efforts not to impede said remodeling construction.

PART II JOINT COOPERATIVE USE

1. PURPOSE:

The purpose of Part II of this agreement is to provide for joint and cooperative use of the Facility constructed and improved as provided in Part I. The District and the County agree to use the Facility jointly and cooperatively according to the terms and conditions set forth below.

2. OWNERSHIP OF THE FACILITY:

The real and personal property comprising those portions of the Facility located on District property shall be solely owned by the District, subject to use by the District and the County as provided herein. The real and personal property comprising those portions of the Facility located on County property shall be solely owned by the County, subject to use by the District and the County as provided herein.

3. MAINTENANCE AND OPERATION:

The District will perform special soccer field preparation and cleanup necessary for its use of the fields. The County will provide all of the general and routine cleanup, maintenance and repairs for all facilities within the boundary of the land covered by this agreement except as shall be mutually agreed by the parties. The designated representatives of the County and District shall meet quarterly, if requested by either party, but at least once each year prior to June 1, at a mutually agreed time, to outline and attempt to reach agreement regarding each party's obligation respecting maintenance and to endeavor to avoid conflicts and to ensure the most efficient use of each party's maintenance staff equipment and supplies. In the event that either party believes that the other (second) party is not properly maintaining the property, the complaining (first) party shall notify the designated representative of the second party, requesting the second party to specifically do described clean-up, maintenance or other similar obligations in a timely manner. In the event the second party fails to respond to the request within seven (7) working days, the first party may perform the same and seek remuneration for the expenses. If disagreements regarding maintenance or remuneration persist, the representatives shall confer either in person or by telephone in an attempt to resolve the matter. If the matter is not resolved in this manner, it shall be handled through the Dispute Resolution process set forth in Part III, Section 2.

4. PRIORITIES FOR USE OF THE FACILITIES:

A. From September through June when school is in session 8:00 a.m. to 5:00 p.m. Monday through Friday, except holidays:

- First priority - Shoreline School District
- Second priority - King County Natural Resources & Parks
- Third priority - All other scheduled users
- Fourth priority - Unscheduled activities

- B. From September through June when school is in session weekdays after 5:00 p.m. weekends and holidays:
 First priority - King County Natural Resources & Parks
 Second priority - Shoreline School District
 Third priority - All other scheduled users
 Fourth priority - Unscheduled activities
- C. Balance of the year 8:00 a.m. to 10:00 p.m. daily:
 First priority - King County Natural Resources & Parks
 Second priority - Shoreline School District
 Third priority - All other scheduled users
 Fourth priority - Unscheduled activities

King County shall have the sole responsibility to schedule and program activities when King County is the first priority user. King County recognizes that its Building and Land Development Division has placed certain limits on the use of the Shoreline Center during varsity football games and other major events that impact the area, and shall comply with said limits when scheduling events. The District shall inform the Natural Resources and Parks Division of any changes to the present limits.

5. SCHEDULE OF USE:

The District will provide the County with a proposed schedule of its use on a quarterly basis. Such a schedule shall list classes, team practices, games and tournaments. Special events requiring special considerations will be negotiated on a case-by-case basis, within the County Special Event Policy guidelines. Minor schedule changes may be negotiated during the yearly maintenance meeting between the designated representatives.

6. ALTERATIONS OR IMPROVEMENTS:

The County must obtain written approval from the District prior to making any alterations or improvements to the Facility if not shown on the Master Plan. Improvements generally shown on the Master Plan need no further approvals than this agreement. Any alterations or improvements on the District property become the property of District unless otherwise agreed to in writing by the District.

7. DESIGNATED REPRESENTATIVES:

The District and the County shall each designate an authorized representative or representatives to oversee the administration of Part II of this agreement (Joint and Cooperative Use). Said representatives shall serve in that capacity until the

other party is timely notified in writing of a new representative.

PART III
GENERAL TERMS AND CONDITIONS

1. TERM:

The term of this agreement shall be for a period of 25 years from the date of execution of this agreement and can be renewed upon mutual agreement of both parties; provided that this agreement can be terminated earlier by the District upon six (6) months advance written notice, if and when its property, in whole or in part, is needed for school purposes.

2. DISPUTE RESOLUTION

If, after meeting or conferring by phone, the designated representatives from both parties are unable to resolve a dispute which arises concerning the performance of this agreement, the claimant will notify the other party in writing, and both must meet within 10 days of receipt of written notice to resolve the dispute. The District Superintendent or designee will represent the District, the Division of Natural Resources and Parks Manager or designee will represent the County in this level of the dispute resolution process.

3. CORRECTIVE ACTION AND ARBITRATION:

If either party believes that breach of contract has occurred, or that one party has failed to comply with any terms or conditions herein, or has failed to provide in any manner the work services agreed to herein, including failure to reimburse as provided in Part II, Section 3, and is not satisfied with the results of the Dispute Resolution process, the following sequential procedure will apply:

A. The aggrieved party will notify the other party in writing of the nature of the breach;

B. The other party shall respond in writing within seven (7) working days of its receipt of such notification, which response shall indicate the steps being taken to correct the specified deficiencies, and the proposed completion date for bringing the contract into compliance, which date shall not be more than fourteen (14) working days from the date of the other party's response;

C. The aggrieved party will notify the other party in writing of the aggrieved party's determination as to the sufficiency of the other party's corrective action plan. The determina-

tion of the sufficiency of the other party's corrective action plan shall be at the sole discretion of the aggrieved party;

D. In the event that the other party does not respond within the appropriate time with a corrective action plan, or the other party's corrective action plan is determined by the aggrieved party to be insufficient, the aggrieved party may commence termination of this contract in whole or in part pursuant to Part III, Section 4B, or commence suit, whichever is appropriate. Alternatively, either party may request arbitration by an agreed upon arbitrator. If the parties are able to agree on the arbitrator and the procedures, the same shall be reduced to writing and the decision of the arbitrator shall be final and binding;

E. Nothing herein shall be deemed to affect or waive any rights the parties may have pursuant to Part III, Section 4.

4. TERMINATION

A. Either party may terminate this agreement without cause by giving written notice of termination to the other party, such notice to be given not less than three hundred sixty-five (365) days prior to date of termination.

B. Either party may terminate this agreement with cause upon ninety (90) days advance written notice in the event: (1) the other party substantially breaches any duty, obligation, or service required pursuant to this contract, or (2) the duties, obligations, or services required herein become impossible, illegal, or not feasible.

C. In the event of voluntary termination of this agreement by the District, either under paragraph A of this Section or Part III, Section 1, or termination caused by the District under paragraph B of this Section, then, subject to statutory and constitutional limitations then in effect, the District shall reimburse the County for the County's capital expenditures for design and improvements placed upon District lands by the County in an amount equal to the depreciated value of the design and improvements paid for by the County, according to the formula set out in Part III, Section 6.

D. Nothing herein shall limit, waive, or extinguish any right or remedy provided by this contract or law that either party may have in the event that the obligations, terms and conditions set forth in this contract are breached by the other party.

5. MODIFICATION

A. If the District needs to expand its first priority use of the Facility because of an emergency situation requiring use of the Facility for educational purposes, e.g. severe damage to a secondary school building or an unprecedented substantial increase in school population (with reasonable notice of the additional hours required and the date of commencement provided as permitted by the circumstances), it will be allowed to, and shall reimburse the County for all of the additional maintenance costs incurred. These costs shall be determined by the designated representatives at the yearly maintenance meeting, or, if that fails, through the Dispute Resolution procedure in Part III, Section 2. At the end of each year of increased use the District shall reimburse the County for its capital costs using the following formula: percentage increase of first priority use over a base of 48 hours per week times 1/25 times the dollar amount contributed by the County for design and development of the facility impacted. The year shall commence the first day of the first month after the contract is modified. For purposes of this formula it shall be deemed that each field incurred half of the capital costs.

B. All other substantial scheduling modifications shall be subject to negotiation between the parties and shall be reduced to writing and fully executed.

6. DEPRECIATED VALUE:

The useful life of the Facility is twenty-five (25) years, which shall be divided into an initial period of five (5) years, the next period of ten (10) years, and a final ten (10)-year period. Reimbursement ("depreciated value") in case of termination under Part III, Section 4 shall be 6% times the number of years remaining in the first five (5)-year period times the dollar amount contributed by the County for design and development, plus 3% times the number of years remaining in the next ten (10)-year period times the dollar amount contributed by the County for design and development, plus 5% times the number of years remaining in the final ten (10)-year period times the dollar amount contributed.

7. CONCESSION STANDS:

Neither party shall cause or permit concession stands, concessionaire or other similar enterprises on the property without the written consent of the other party, said written consent not to be unreasonably withheld.

8. INDEMNIFICATION:

Both parties agree that, except for construction under Part I, as to all third party claims, actions or causes of action of whatsoever kind or nature made or asserted against either or both of them and arising out of the joint development, use or operation of the property, each will be liable to the other only to the extent of each party's fault or causation and shall indemnify the other for such amount. As to all such third party claims, actions or causes of action which are a consequence of the sole fault, negligence or causation of a party to this agreement, such party shall have the duty to defend, save and hold the other harmless, and upon failure to do so shall pay reasonable fees, costs and expenses incurred by the other party to this agreement in defense of any such third party claims or actions.

9. MINORITY/WOMEN'S BUSINESS ENTERPRISES:

The provisions of the King County Minority and Women's Business Enterprise (MWBE) Ordinance shall apply to all construction made available by this agreement. For purposes of this agreement, the utilization requirements to be fulfilled are 18% for minority businesses and 10% for women's businesses. The County agrees to monitor compliance with these requirements and to hold the District harmless from any claim arising from said Ordinance.

10. ANTI-DISCRIMINATION POLICY:

In all hiring or employment made possible or resulting from this agreement, the County and the District agree that:

A. There shall be no discrimination against any employee or applicant for employment because of sex, age, race, color, religion, creed, national origin, marital status, sexual orientation, or the presence of any sensory, mental, or physical handicap, unless based upon a bona fide occupational qualification, nor shall any hiring or employment violate any of the terms of RCW Chapter 49.60, Title VII of the Civil Rights Act of 1964, or any other applicable federal, state or local law regarding nondiscrimination in employment, and this requirement shall apply to but not be limited to the following: employment, advertising, lay-off or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

B. No person shall be denied, or subjected to discrimination in receipt of the benefit of any services or activities made possible by or resulting from this agreement on the ground of sex, race, color, creed, religion, national origin, age (except minimum age and retirement provisions), marital status,

sexual orientation or the presence of any sensory, mental or physical handicap, nor shall either party violate any applicable federal, state or local law regarding nondiscrimination.

C. Any violation of a provision of this Section shall be considered a violation of a material provision of this agreement and shall be grounds for cancellation, termination or suspension in whole or in part, of the agreement by the County and may result in ineligibility for further County agreements.

D. The County shall comply with all applicable antidiscrimination and affirmative action ordinances, laws and statutes, including but not limited to King County Code Chapter 12.16.

11. ASSIGNMENT:

The County shall not assign or sublet usage, priority or concession rights.

12. SEVERABILITY

If any term or provision of this agreement or the application of any term or provision to any person or circumstance is invalid or unenforceable, the remainder of this agreement, or the application of the term or provision or persons or circumstances other than those as to which it is held invalid, or unenforceable, will not be affected and will continue in full force.

13. PERFORMANCE OF TERMS

Failure of the District or the County to insist on strict performance of the terms, agreements and conditions herein contained, or any of them, shall not constitute or be construed as a waiver or relinquishment of the District or the County's right thereafter to enforce any such term, agreement, or condition, but the same shall continue in full force and effect.

14. INTEGRATION CLAUSE:

This agreement contains the entire agreement between the County and the District, and there are no promises, conditions, terms, obligations, statements, or guarantees other than those contained herein. No modifications or amendments shall be valid unless in writing and fully executed by both parties.

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the day and year first above written.

KING COUNTY

SHORELINE SCHOOL DISTRICT

By: TIM HILL,
Executive

By: DR. ROY DUNCAN
Superintendent

DATE _____

DATE _____

APPROVED FOR ENTRY:

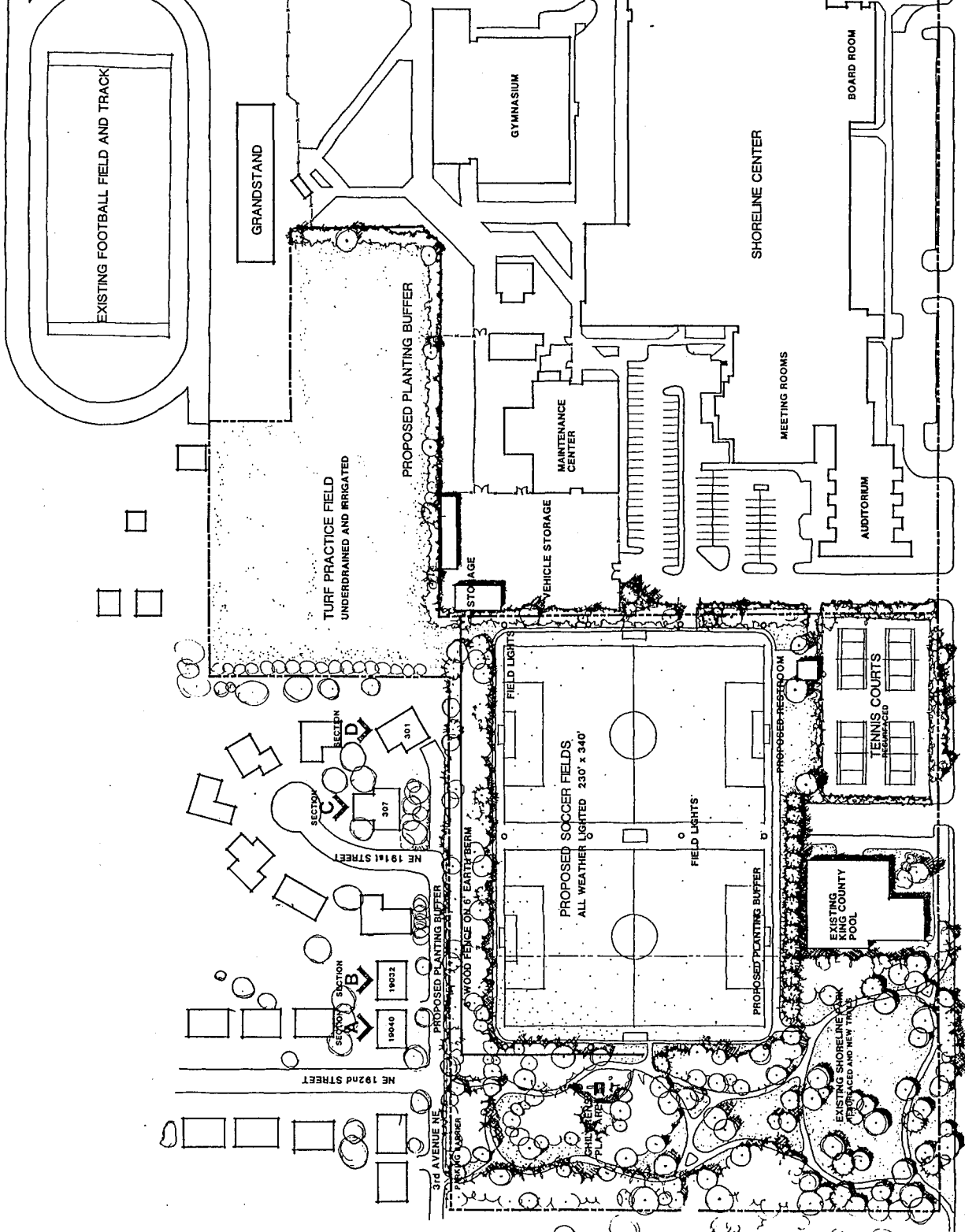
By RUSSELL W. CAHILL, Manager
Natural Resources & Parks
Division

DATE _____

APPROVED AS TO FORM:

By _____
Deputy Prosecuting Attorney

DATE _____



SHORELINE PARK PLAYFIELDS

MASTER PLAN
 KING COUNTY
 DIVISION OF NATURAL RESOURCES AND PARKS