

MOTION NO. 1152

A Motion Authorizing Washington State Use Agreement
at East Green River Park Site - Stage IV.

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WHEREAS, King County owns certain lands known as a portion of the
East Green River Park - Stage IV, and

WHEREAS, the State of Washington, by and through the Washington
State Parks and Recreation Commission and King County are desirous of
the development of the Green River Gorge for public recreational
purposes, and

WHEREAS, the State of Washington has requested that King County
enter into a Use-Agreement for the development, operation, and
management of the subject lands as a part of the Flaming Geyser State
Park, and

WHEREAS, the King County Council deems it necessary and in the
best interest of the citizens of King County, and of the State of
Washington, to enter into such an agreement with the State of Wash-
ington for the development, operation, and management of subject
lands as a part of the Flaming Geyser State Park,

NOW THEREFORE BE IT MOVED BY THE COUNCIL OF KING COUNTY:

That having determined that it is necessary and in the best
interest of the citizens to enter into the "USE-AGREEMENT" attached
hereto as Exhibit "A", and made a part hereof as if the same had been
set forth herein, the Council of King County does hereby authorize
the King County Executive to sign the "USE-AGREEMENT" and deliver
the same to the State of Washington on behalf of King County.

PASSED this 29th day of May, 1973

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON

John T. O'Brien
Chairman

ATTEST:

Dorothy M. Owens
Deputy Administrator-Clerk
King County Council

U S E A G R E E M E N T

1152

WHEREAS, the State of Washington, by and through the Washington State Parks and Recreation Commission, and King County, are desirous of the development of the Green River Gorge for public recreational purposes, and

WHEREAS, said State Parks and Recreation Commission at its meeting of April 16, 1973 voted to request a use permit which would enable the State to establish a portion of their Flaming Geyser State Park on adjoining property owned by King County, and

WHEREAS, it is in the best public interest to develop the County property into a recreation area and park under the supervision of the said Commission;

NOW THEREFORE, in consideration of the Mutual Benefits contained herein King County does hereby grant to the Washington State Parks and Recreation Commission, a conditionally revocable license and use permit for park purposes on the following described real property situate in King County, State of Washington, to-wit:

Government Lots 6, 7 & 8 in Section 27, Twp 21 North, Rge 6 East, W.M., in King County, Washington, EXCEPT portion of said Government Lots 6 & 7 conveyed to King County for road purposes by deed recorded in Volume 7 of deeds, page 588, and EXCEPT portion of said Government Lot 6 conveyed to King County for road purposes by deed recorded in Volume 1786 of deeds page 129, records of King County, State of Washington and EXCEPT portion of said Government Lots 7 & 8 conveyed to Samuel Shorey and William L. Leecham for 15 foot roadway by deed filed under Auditor's File No. 245528, records of King County, State of Washington.

This permit and license is given and granted by King County, State of Washington, on the following terms and conditions:

1. The Commission shall prepare development plans and a report of the program for the area, said plans to facilitate the greatest public benefit through development and management of the recreational, wildlife and plant life potential of the area as described. The Commission's development plans and report of its program for the area shall be submitted for review and approval by

King County before any development of the park site is started. A joint progress report prepared by the State of Washington and King County shall be submitted to the Interagency Committee for Outdoor Recreation at the end of each calendar year.

2. The Commission will construct, maintain, and manage roads, trails, powerlines, sanitation facilities, water system, Communications, picnic grounds, and other services related to recreation use in the area, as described in cooperation with and at no cost to the County.

3. The Commission shall develop, operate, keep and maintain the County property which is the subject matter of this agreement in conformance with the terms and conditions of the project agreement 72-611A entered into between King County and the Interagency Committee for Outdoor Recreation dated January 12, 1972. (A copy of which is attached hereto and incorporated by this reference as though fully set forth herein.)

4. The Commission will keep and maintain all improvements and facilities constructed by the State in a reasonable, good state of repair, making them available to the public during the periods of reasonable demand, as a portion of the Flaming Geyser State Park.

5. The Commission shall have the right to raze the existing improvements on the subject lands, and shall utilize any or all salvable material in the development and management of the park site.

6. The Commission, in the interest of public safety and fire protection, will take whatever action it deems necessary to protect both public and private properties.

7. The Commission may issue and administer licenses and permits to persons or associations for the purpose of regulating the privileges to be exercised and concession contracts under which commodities and services are made available to the public. The Commission may determine and make reasonable charges for such licenses, and permits. The Commission may impose reasonable fees and charges for the use of any or all of the facilities provided, in keeping with the aims of Commission policy, and retain such income as may offset the State's expense of operation.

8. The Commission shall make, properly post, and enforce such rules and regulations for the use of the area as are necessary and desirable to protect health and safety of persons using the area and to protect plants, fish and wildlife, to preserve the scenic, scientific, aesthetic, historical and archeological resources of the area, to protect the area from fire, and to preserve law and order in the interest of public safety.

9. The Commission may apply for and exercise water rights on any springs or streams in the area for public water supply. Any such application of water rights and exercise thereof shall run with the land in the event that the park site is returned to County operation.

10. The Washington State Parks and Recreation Commission, by the acceptance of this permit agrees to save and hold the County harmless from any and all causes of action, judgments, claims or demands, or from any liability of any nature arising out of the exercise of the provisions of this permit.

11. The County will hold the Commission harmless from any claim arising from disputed land title and will defend its title against any adverse claims.

12. The term of this permit shall be perpetual and shall be cancellable by the County only upon occurrence of any acts or omissions of the Commission in the exercise of this permit that are, in the opinion of the County, determined to be in conflict with the spirit and intent of the provisions of this agreement or that constitute a failure to comply with any or all of the provisions of this permit. Cancellation shall be preceded by a 90 day written notice by the County outlining the matters in conflict, in order to provide an opportunity for the Commission to remedy the situation in a manner satisfactory to the County by the conclusion of said 90 day period. In the event of cancellation, the County may purchase any or all improvements placed upon the lands by the Commission at a price equal to the replacement cost of the improvements less depreciation. Cancellation may also take place as a result of 90 days written notice from the Commission to the County. In the

event that the County does not purchase any of the improvements placed upon subject lands by the Commission, then the Commission shall remove such improvements, as are not purchased by the County within 6 months from the date of termination of this agreement, unless otherwise provided for as between the County and Commission by separate agreement.

13. It is expressly understood between the parties that the rights granted herein are permissive only, and shall not be construed to grant any vested rights or title to any of the lands owned by the County by usage, adverse possession or otherwise, and shall not infringe upon or impair any of the rights of the County, including but not limited to rights or title of lands, easements, waters or water rights.

14. This permit shall not be assigned without the prior written approval of the County, and assignment without such approval shall not be binding upon the County or release the obligations of the Commission.

This agreement shall be binding on and inure to the benefit of the parties hereto, their personal representatives, successors and assigns.

DATED this _____ day of _____, 19____

JOHN D. SPELLMAN, King County Executive

STATE OF WASHINGTON)
County of King) ss

On this day personally appeared before me _____ to me known to be the _____ County Executive of King County, Washington, the person who signed the above and foregoing instrument for King County for the uses and purposes therein stated and acknowledged to me that he signed the same as the free and voluntary act and deed of King County and that he was authorized to so sign.

NOTARY PUBLIC in and for the State of Washington
Residing at _____

Charles H. Odegaard
CHARLES H. ODEGAARD, Director
Washington State Parks & Recreation Comm.

STATE OF WASHINGTON)
County of King) ss

On this 13th day of April, 1973, personally appeared before me Charles H. Odegaard Director, Washington State Parks and Recreation Commission, the person who signed the above and foregoing instrument for the uses and purposes therein stated and acknowledged to me that he signed the same as the free and voluntary act and deed of the State of Washington, and that he was authorized to so sign on behalf of the State of Washington.

Donald P. Kirkland
NOTARY PUBLIC in and for the State of Washington
Residing at Tashan



Approved as to form and legality

Richard D. Eddie
Deputy Prosecuting Attorney

Dated: April 16, 1973

APPROVED AS TO FORM:
SLADE GORTON
Attorney General

By M. R. Murphy
M. R. Murphy
Assistant Attorney General

PROJECT AGREEMENT

Project Title State Agency Administration Project Number 72-011A

1. Nature of Agreement. 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:

Approved as to form
This 11th day

of January, 1972.

Richard R. Curtis, Dep. Dir.
Attorney for
Contracting Party

King County

Contracting Party

By [Signature]

Title County Executive

Date JAN 12 1972

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 17th day

of December, 1971

SLADE GORTON
Attorney General

[Signature]
Assistant Attorney General

STATE OF WASHINGTON
Interagency Committee for
Outdoor Recreation

[Signature]
Administrator, STANLEY E. FRANCIS

Date: 1-4-72

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period from November 23, 19 71 until December 31, 19 72.

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 September 29, 1971, as approved for funding by the Interagency Committee at its meeting on the 23 day of November, 19 71. For identification purposes it is entitled Green River IV Acquisition and briefly described as follows:

This agreement is for the acquisition of approximately 100 acres along the Green River in King County. The legal description is as follows:

Government Lots 6, 7 and 8 in Section 27, Township 21 North, Range 6 E.W.M., in King County, Washington, EXCEPT portion of said government Lots 6 and 7 conveyed to King County for road purposes by deed recorded in Volume 7 of deeds, page 588, and EXCEPT portion of said Government Lot 6 conveyed to King County for road purposes by deed recorded in Volume 1786 of Deeds, page 129, records of King County, and EXCEPT portion of said Government Lots 7 and 8 conveyed to Samuel Shorey and William L. Leecham for 15 foot roadway by deed filed under Auditor's File No. 245528, records of King County.

6. Funding of Project. (a) The total cost of the project covered by this agreement is \$ 250,000.

(b) The Interagency Committee agrees to pay \$ 187,500 or 75 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 \$ N.A. or N.A. 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 agreement.

7. Contingencies. The duty of the Interagency Committee to approve disbursement of funds pursuant to this agreement is contingent upon strict compliance by the Contracting Party with the terms of this agreement.

The duty of the State of Washington to disburse funds is contingent upon 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 6 (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 agreement 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 agreement, the contractor's performance shall commence not later than sixty days after the date this agreement 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 agreement.

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 agreement 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 agreement 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.

(c) The Contracting Party has made misrepresentation in its application or in any other information furnished to the Interagency Committee in connection with this project.

12. Remedies. Because the benefit to be derived from the full compliance with the terms of this agreement 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 agreement, the Contracting Party agrees that repayment of an amount equal to the amount of assistance extended under this agreement 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 agreement 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 agreement, 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 agreement. 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 agreement 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 agreement.

17. Identifying Markers. The Interagency Committee reserves the right to display, during the period covered by this agreement 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 agreement.

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

(a) Evidence of Land Value. Prior to disbursement of the assistance provided for in this agreement, 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.

(b) 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 agreement. Such evidence may include title insurance policies, Torrens certificates, or abstracts, and attorneys' opinions establishing that the land is free from any impediment, lien, or claim which would impair the uses contemplated by this agreement.

(c) Recital in Deeds. The Contracting Party shall require that every deed or other instrument of conveyance of land acquired for this project with state assistance shall contain the following provision:

"This conveyance is made in consideration of money coming in whole or in part from the Outdoor Recreation Account of the General Fund of the State of Washington. The purchaser takes subject to the obligations of the project agreement contract between it and the Washington State Interagency Committee for Outdoor Recreation dated (insert date of this agreement), copies of which are in possession of the purchaser and the Interagency Committee. The project agreement contract provides, among other

things, that the purchaser shall not be permitted to convert this property to uses other than for which state assistance was originally granted unless it has obtained prior approval of the Interagency Committee for Outdoor Recreation in the manner required by RCW 43,99,100 for marine recreation land, whether or not the property is marine recreation land."

20. Provisions Applying Only to Development Projects. The following provisions shall be in force if the project covered by this agreement 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 agreement 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 agreement 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. No contract required to be let after competitive bidding shall be awarded until approved by the Administrator. 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.

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, 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, color, or national origin.

"(3) The Contractor will send to each representative of workers with whom it 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.

foregoing paragraphs to 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
P. O. Box 1489
Olympia, Washington 98501

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

(b) Notice to the Contracting Party

To Carlyn Joan Rottsoik, who serves in the capacity of Fed/St. Grant Coordinator for the Contracting Party, and who has been designated as the Contracting Party's liason 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.

LOCAL AGENCIES

(a) 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;

(b) 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.

STATE AGENCIES

(a) 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.