



KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

January 27, 2014

Ordinance 17739

Proposed No. 2013-0499.2

Sponsors Hague and Phillips

1 AN ORDINANCE authorizing the King County executive
2 to execute a thirty-year use agreement with Northshore
3 Athletic Fields for the development, operation,
4 maintenance and use of an athletic field complex located at
5 the Northshore Athletic Fields property in Woodinville,
6 Washington.

7 STATEMENT OF FACTS:

- 8 1. King County, a home rule charter county and political subdivision of
9 the state of Washington, is the owner of the Northshore Athletic Fields
10 property located at 14600 Northeast 145th Street, Woodinville, WA, and
11 illustrated in Exhibit A of Attachment A to this ordinance.
- 12 2. In 1981, King County entered into a thirty-five year agreement
13 permitting Northshore Little League ("NSLL") to develop, operate and
14 maintain fields on the property.
- 15 3. NSLL built baseball fields and maintained and operated the
16 recreational facilities without King County funding for the past three
17 decades, ensuring public access and providing recreational opportunities
18 to King County residents.

19 4. In 2006, NSLL was reorganized and formed the Northshore Athletic
20 Fields ("NAF"), a nonprofit Washington corporation that is tax-exempt
21 under Title 26 U.S.C. Sec. 501(c)(3) of the Internal Revenue Code of
22 1986, as amended, as its successor and agent. NAF is a community-based,
23 open-membership public club organized to provide athletic opportunities
24 to youth in the Northshore and Bothell areas of King County.

25 5. King County and NAF have negotiated a new thirty-year agreement to
26 replace the existing thirty-five year use agreement and to further define the
27 roles and responsibilities, expectations, property descriptions and terms
28 and conditions regarding the future development, operation, maintenance
29 and use of the site.

30 6. Ordinance 14509 authorized the department of natural resources and
31 parks to create public recreation opportunities by empowering user groups,
32 sports associations and community organizations, such as NAF, to operate,
33 maintain and implement mutually agreed-upon capital improvements for
34 public recreation facilities on King County land, thereby addressing
35 regional or rural recreation needs without incurring new tax-funded
36 operations and maintenance costs.

37 7. Use agreements are authorized under K.C.C. 4.56.150.E. and F.

38 **BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:**

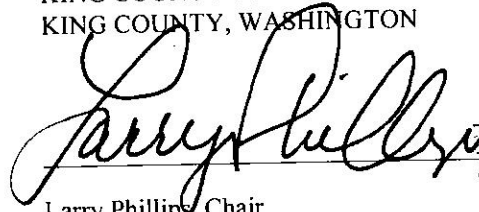
39 **SECTION 1.** The King County executive is hereby authorized to sign a thirty-
40 year use agreement, substantially in the form of Attachment A to this ordinance, with
41 Northshore Athletic Fields for the development, operation, maintenance and use of an

42 athletic field complex, a subarea defined in Attachment A to this ordinance and
43 comprised of ballfields and associated areas at Northshore Athletic Fields, Woodinville,
44 Washington.
45

Ordinance 17739 was introduced on 12/2/2013 and passed by the Metropolitan King County Council on 1/27/2014, by the following vote:

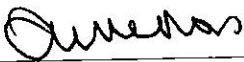
Yes: 9 - Mr. Phillips, Mr. von Reichbauer, Mr. Gossett, Ms. Hague, Ms. Lambert, Mr. Dunn, Mr. McDermott, Mr. Dembowski and Mr. Upthegrove
No: 0
Excused: 0

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON



Larry Phillips, Chair

ATTEST:



Anne Noris, Clerk of the Council

RECEIVED
2014 JAN 31 PM 3:45
KING COUNTY COUNCIL CLERK

APPROVED this 31 day of January, 2014.



Dow Constantine, County Executive

Attachments: A. Use Agreement for the Athletic Field Complex Located At Northshore Athletic Fields Property - revised 12-13-13

**USE AGREEMENT FOR THE ATHLETIC FIELD COMPLEX
LOCATED AT
NORTHSHORE ATHLETIC FIELDS PROPERTY**

This Use Agreement ("Agreement") is made and entered into by and between the Parks and Recreation Division of the King County Department of Natural Resources and Parks (hereinafter "King County" or "the Division") and Northshore Athletic Fields, a Washington nonprofit corporation (hereinafter "NAF") (collectively, the "Parties"), for the development, operation, maintenance, and use of an athletic field complex (hereinafter "the Complex") located at the Northshore Athletic Fields property in King County, Washington (hereinafter "the Site"). NOW, THEREFORE, King County and NAF agree as follows:

BACKGROUND

- A. King County, a home rule charter county and political subdivision of the State of Washington, is the owner of the Site, located at 14600 N.E. 145th Street, in Woodinville, Washington, and described and depicted with greater particularity in **Exhibit A** to this Agreement.
- B. King County has long identified athletic fields as a regional or rural recreation need in King County, and has determined that continuing to maintain and operate athletic fields on the Site fulfills a significant and unique regional and/or rural public recreation value.
- C. In 1981, King County entered into a thirty-five year Agreement (the "Original Agreement") permitting Northshore Little League ("NSLL") to develop, operate, and maintain baseball fields on the Site. This agreement expires in 2016.
- D. In June of 2006, NSLL participated in NAF's formation as a nonprofit Washington corporation that is tax-exempt under Section 501(c)(3) of the Internal Revenue Code. NAF is a community-based volunteer organization formed to manage and operate the Complex, dedicated to providing athletic opportunities to youth in the Northshore and Bothell areas of King County.
- E. In the intervening years, the Division's ability to operate and maintain park and recreation facilities was altered by changing budget structures and a shift in general tax revenue expenditures. In light of those changes, the Division has reviewed its existing agreements with outside groups to identify services that the Division can no longer provide and to partner with those organizations to enhance both recreational opportunities and revenue generation when possible.
- F. The Division and NAF (as successor to and agent of NSLL) wish to cancel the Original Agreement and replace it with this Agreement, in order to substitute NAF in place of NSLL; to better define the Parties' responsibilities; to more

precisely describe the real property and facilities that are the subject of the Agreement; to better define and update the Parties' expectations regarding development, use, and maintenance of that property; to update the schedule of improvements and completion dates; to establish a new thirty-year term; and to add other necessary terms and conditions.

- G. King County Ordinance No. 14509 authorized the Department of Natural Resources and Parks to create new public recreation opportunities by empowering user groups, sports associations, and community organizations, like NAF, to operate, maintain, and program mutually agreed upon capital improvements for public recreation facilities on King County land, and thereby address regional and/or rural recreation needs without encumbering new tax funded operations and maintenance costs.
- H. Allowing NAF to develop certain mutually agreed upon capital improvements, including improvements to the Site, and allowing NAF to provide all maintenance for the Complex, will serve to implement the authority provided in Ordinance No. 14509.
- I. King County Code Sections 4.56.150.E and F authorize the Department of Natural Resources and Parks to enter into use agreements with bona fide nonprofit organizations in order for the nonprofit organization to make improvements to King County property; or for the nonprofit organization to provide services that will benefit the public.
- J. In 2013, NAF was awarded a \$750,000 grant from the State of Washington Recreation and Conservation Funding Board (Youth Recreation Grants) and will use these funds to make capital improvements to the Complex, including those further described in **Exhibits B & C**.
- K. King County and NAF agree that in consideration of the mutual covenants and promises in this Agreement, King County will allow NAF to use, improve, operate, and maintain the Complex pursuant to and consistent with the following terms and conditions:

TERMS AND CONDITIONS

I. Use Agreement

- 1.1. Division of Responsibility.** For purposes of this Agreement, as amended, the Site shall be treated as consisting of two distinct sub areas: the "Common Areas," comprised of the parking lot area and other adjoining areas as illustrated in **Exhibit A**; and "the Complex," comprised of the ballfields and their associated areas as illustrated in **Exhibit A**. As described with greater particularity herein, during the Term of this Agreement King County will

maintain and operate the Common Areas which are adjacent to King County's Sammamish River Trail, while NAF will maintain and operate the Complex.

King County shall manage and organize the use of the Common Areas consistent with the illustration shown in **Exhibit A** attached hereto. When scheduling use of the parking lot portion of the Common Areas, King County's scheduled use shall not conflict with NAF's use of the Complex. Subject to and consistent with the restrictions set forth in **Section 1.6** of this Agreement, NAF can charge fees for the use of the Complex and retain the revenue from those fees to offset the costs of maintaining and operating the Complex.

1.2. Grant. Pursuant to KCC 4.56.150.E, and subject to the limitations set forth in this Agreement, King County hereby authorizes NAF to develop, operate, use, and maintain the Complex as a recreational facility for the benefit and use of the public, and to exercise primary control over and responsibility for management and organization of the Complex consistent with the illustration shown in **Exhibit A**.

1.3. Effect of Grant on Original Agreement. The Parties agree that this Agreement supersedes and replaces the Original Agreement; and the Parties agree that the Original Agreement is terminated as of the Effective Date of this Agreement. (The "Effective Date" is the date indicated in **Section 8.19** of this Agreement.) NSLL is a signatory to this Agreement solely for the purpose of acknowledging that the Original Agreement is hereby terminated and of no further force or effect. NSLL understands, acknowledges and agrees that it is not a party to this Agreement and that it has no rights, duties, obligations, or liability under this Agreement; and NSLL agrees that as of the Effective Date it has no further right, interest, or title in, to, or for the Site, including the Complex and the Common Areas.

1.4. Term. The term of this Agreement is thirty (30) years.

1.5. Operating Rules. NAF shall adopt and publish operating rules for the Complex. NAF's operating rules shall be consistent with King County ordinances and published policy relating to health and safety. The King County Parks and Recreation rules (King County Use of Facilities – Chapter 7.12 KCC as now codified or hereafter amended and attached hereto as **Exhibit D**) shall apply. Nothing contained in this Agreement shall be considered to diminish the governmental or police powers of King County.

1.6. Public Benefit. Both NAF and King County understand, acknowledge, and agree that King County purchased the Site with funds provided through the Washington State Interagency Committee for Outdoor Recreation ("IAC"), now called the Washington State Recreation and Conservation Office, and also with proceeds from the sale of King County's Forward Thrust bonds, such that use and development of the Site is subject to certain restrictions and requirements

imposed by the IAC and by King County Resolution No. 34571. NAF acknowledges receipt of a copy of King County Resolution No. 34571. To that end, NAF specifically agrees that:

- 1.6.1.* NAF shall abide by and enforce all terms, conditions and restrictions in King County Resolution No. 34571, including that the Site will continue to be used for the purposes contemplated by Resolution No. 34571, and that the Site shall not be converted to a different use unless other equivalent lands and facilities within King County shall be received in exchange therefore.
- 1.6.2.* NAF shall not use or permit the Site to be used in a manner that would cause the interest on King County bonds related to the Site to no longer be exempt from federal income taxation.
- 1.6.3.* The Site shall continue to be available to and be of general benefit to all of the residents of King County.
- 1.6.4.* NAF shall not permit users of the Complex to charge fees for participation in athletic programs or events at the Complex in excess of an amount reasonably related to the cost of operating such program or event.
- 1.6.5.* NAF shall require users of the Complex to open their athletic programs to all persons within their service areas on a nondiscriminatory basis consistent with federal and state law.
- 1.6.6.* NAF shall ensure that users of the Complex provide access to their athletic programs and to the Complex for outdoor park and recreational activities through the use of needs-based rates and programs, which shall be on terms that are consistent with King County standards, for all persons desiring to participate in the athletic programs or to use the Complex for outdoor park and recreational activities.
- 1.6.7.* NAF shall not charge fees to other organizations or individuals for the use of the Complex that exceed the amount charged for the use of comparable public facilities of like kind and quality. Any differential fees for non-county residents shall be reasonably related to the cost borne by King County to maintain, improve or operate comparable public facilities of like kind and quality as the Complex for parks and recreation purposes.
- 1.6.8.* Consistent with IAC Project Agreement No. 66-025 (attached hereto as **Exhibit E**), NAF agrees that it will not limit or restrict access to and use

of the Complex by non-county residents in any way that does not also apply to county residents.

- 1.7. Public Access.** NAF understands, acknowledges, and agrees that substantial public access to and use of the Complex was and is a material consideration for King County's execution of the Agreement. Therefore, NAF shall make the Complex available to the general public for use by any organization or individual for reserved use or scheduled activities, consistent with and pursuant to *Article 2* of this Agreement. Consistent with King County Resolution No. 34571, NAF shall further make the Complex available to the general public without charge for use by individuals for informal, unscheduled use, consistent with and pursuant to *Article 2* of this Agreement; provided that such use by the public shall not include any use that is inconsistent with the use of the Complex for high quality athletic fields or could result in any damage to the Complex other than ordinary wear and tear; and provided further that any such use complies with all applicable laws, ordinances and regulations.
- 1.8. Tax Covenants.** At all times following the Effective Date of this Agreement, NAF will:
- 1.8.1.** Maintain its purposes and engage only in activities which are in furtherance of its purposes and which are permitted by the Washington State Nonprofit Act, Chapter 24.03 RCW, or as hereafter amended;
 - 1.8.2.** Maintain its status as a nonprofit corporation under the Act and as an organization described in Section 501(c)(3) of the U.S. Internal Revenue Code whose income does not inure to the benefit of any private person;
 - 1.8.3.** Not encumber, pledge, hypothecate or grant a security interest in all or any part of the Site;
 - 1.8.4.** Not engage in any activities related to the Site which would cause the transaction contemplated under this Agreement to constitute an unrelated trade or business under Section 513(a) of the U.S Internal Revenue Code; and
 - 1.8.5.** Not take any action or omit to take any action which, if taken or omitted, would adversely affect NAF's nonprofit status or otherwise cause a tax lien to attach to the Site.
- 1.9. Property Condition.** NAF acknowledges that the Site is made available to it under this Agreement in AS IS condition. King County does not make and specifically disclaims any warranties, express or implied, including any warranty of merchantability or fitness for a particular purpose, with respect to the Site; and no official, employee, representative or agent of King County is authorized to represent otherwise. NAF acknowledges and agrees that except as

indicated in **Section 6.8** of this Agreement, King County shall have no liability for, and NAF shall release and have no recourse against King County for, any defect or deficiency of any kind whatsoever in the Site, without regard to whether such defect or deficiency was known or discoverable by NAF or King County.

1.10. Open Membership. All of NAF's programs, including youth baseball programs shall be open to all persons within its service area on a nondiscriminatory basis consistent with federal and state law. NAF shall assure access to its youth baseball program and to the Complex for outdoor park and recreational activities through the use of needs-based rates and programs, which shall be on terms that are consistent with King County standards, for all persons residing in NAF's service area who desire to participate in the youth baseball program.

2. Operations.

2.1. Authorized Uses and Priorities. The Complex shall be open for the following uses and in the indicated order of priority:

- First, youth baseball programs, giving preference to the members and players of NAF;
- Second, adult and other baseball programs, giving preference to those having an established use history over new user applicants;
- Third, any other scheduled athletic activity not constituting a "prohibited use";
- Fourth, any other scheduled non-athletic activity not constituting a "prohibited use"; and
- Fifth, any unscheduled use (unless constituting a prohibited use) that is not organized or coordinated by any recognized group.

"Prohibited use" means any use of the Complex that (i) violates any King County ordinance setting forth rules for use of athletic fields, such as prohibitions on motorized vehicles, horseback riding, and the like; or (ii) is inherently incompatible with the maintenance and care of high-quality sports fields, such uses to be identified in the Maintenance Plan contemplated in **Section 3** of this Agreement as may be revised from time to time.

2.2. Scheduling Considerations. In scheduling use of the Complex, NAF shall:

- 2.2.1.** Allow year-round, unscheduled access to the Complex by the general public engaged in "passive recreation" if such use (i) does not otherwise

interfere with any scheduled use and (ii) does not impact any area “closed” to all use for maintenance, safety, or other valid reasons.

“Passive recreation” means any activity not expected to appreciably impact high quality natural grass sports fields. Walking, lightly jogging, informally throwing a Frisbee, informally playing catch, informally playing with a soccer ball, or flying small kites, all in small groups, are examples of “passive recreation.”

- 2.2.2. Seek to open the Complex for “active recreation” (whether scheduled or unscheduled) by all users at the earliest possible calendar date, subject to and consistent with the specific criteria set forth in the Maintenance Plan, which criteria are intended to preserve the Complex and its baseball fields.

“Active recreation” means any recreational activity that is neither a “prohibited use” nor otherwise considered passive recreation. Playing baseball, playing ultimate Frisbee, and playing similar team sports are examples of “active recreation.”

- 2.2.3. Allow “in season,” unscheduled access to the Complex by users engaged in active recreation if such use (i) is not affiliated with any organized sports organization (for which scheduled use and payment of the requisite fee shall always be mandatory); (ii) does not otherwise interfere with any scheduled use; (iii) does not impact any area “closed” to active recreation for rehabilitation; and (iv) does not impact any area “closed” to all use for maintenance, safety, or other valid reasons.

“In season” means the period of time between the date NAF “opens” the Complex to active recreation (generally March 1) and the date NAF “closes” the Complex to active recreation (generally September 30) pursuant to the Maintenance Plan described in *Article 3*.

- 2.2.4. Make the Complex available for “active recreation” for all users until the latest possible calendar date, subject to and consistent with the specific criteria set forth in the Maintenance Plan, which criteria are intended to preserve the Complex and its high quality baseball fields.
- 2.2.5. Publicize the Complex scheduling process by posting information about that process in plain view at the Complex, and by enabling scheduling requests to be made via the Internet on NAF's home page, the home page for the Complex (if applicable), and the web page for the King County Parks and Recreation Division.
- 2.2.6. At such intervals as the Parties may agree upon, give King County an updated Complex use schedule.

- 2.3. *Scope of Responsibility.*** Operations for and over which NAF shall have responsibility and control include, but are not limited to, scheduling all uses of the Complex, including league games, tournaments, practices, events, and drop-in uses; site preparation and management, including field layout, field lining, base placement and removal, signage, and concession and tent setup; meeting all garbage and sanitation requirements; and executing concession agreements with vendors and security. NAF alone shall bear all the costs of operating the Complex. King County shall be responsible to schedule use of the Common Areas, including the parking lot, the adjoining trail, and other portions of the Site. Such King County scheduled use shall not conflict with NAF's use of the Complex, provided NAF has timely provided its master schedule in accordance with the provisions of **Section 5.1.5.** King County shall retain the right to set, charge and retain parking fees for non-NAF related event traffic at the Site. King County may negotiate with NAF to share parking lot rental revenue on a case-by-case basis, provided the parties document each revenue sharing arrangement (if any) via Special Use Agreement or other contract separate from this Agreement.
- 2.4. *Designation and Signage as a Public Facility.*** Consistent with the IAC Project Agreement No. 66-025, attached hereto as **Exhibit E**, the Complex shall be identified as publicly owned and operated for public outdoor recreation on all signs, literature, and advertising. NAF shall be identified as operating the Complex on behalf of King County. NAF shall post signs at the Complex identifying them as being open to the public. NAF shall post in a prominent location the current schedule for use of the Complex, including the dates and times available for unscheduled use by the public free of charge. NAF will provide a copy of such schedule to the Division so that the Division may monitor public access to and use of the Complex.
- 2.5. *Amplification.*** NAF shall ensure any amplification is employed in accordance with rules set forth for amplification in King County parks.
- 2.6. *Concessions.*** Food, souvenir, and product concessions will be contracted for by NAF; and concession rights and revenue from concessions shall belong to NAF.
- 2.7. *Security and Nuisance during Use.*** NAF shall take reasonable precautions to secure the Complex and shall not use the Site, the Common Areas or the Complex for any unlawful purpose or use or occupy the Site in any manner that would constitute a public nuisance or otherwise violate federal, state or local laws.
- 2.8. *Advertising.*** NAF understands that the advertising of tobacco products as defined in King County Code 12.51 and spirits as defined in King County Ordinance No. 14509 is strictly prohibited. NAF further understands that pursuant to Ordinance No. 14509, additional subject-matter restrictions on advertising may be imposed by the Director of the King County Parks and

Recreations Division ("Director"). If the Director imposes additional restrictions, NAF will receive written notification thereof. Therefore, NAF expressly covenants that neither it nor any of its sponsors or concessionaires will at any time display, promote or advertise anywhere on the Site any tobacco products, spirits or other subject matter expressly prohibited by the Director.

2.9. Signage. NAF shall not erect or install any sign or notice at the Complex or the Site without the prior written approval of King County, which approval shall not be unreasonably withheld. All new signs for the Complex and/or Site shall follow the King County Sign System Guide, except as provided in **Section 2.9.1**, and shall be manufactured and installed by King County, unless NAF receives prior written approval of King County to do otherwise. Written approval shall be requested through King County's liaison. If NAF violates this provision, King County may remove the sign without any liability and may charge the expense incurred by such removal to the NAF. All signs erected or installed pursuant to King County's prior written approval shall also comply with any applicable federal, state or local statutes, ordinances or regulations.

2.9.1. NAF shall have exclusive use of ballfield fences within the Complex for the purpose of selling advertising signage to the public, pursuant to the requirements and restrictions set forth in K.C.C. 7.08.080 and the Division's Advertising and Sponsorship Policy, PAR 1-18, attached hereto as **Exhibit F**. NAF shall be authorized to design, produce, sell, install, repair, and remove advertising signage, and retain proceeds derived therefrom for the express purpose of supporting NAF's operation and maintenance of the Complex. All costs associated with advertising signage shall be the sole responsibility of NAF.

2.10. Incidental Uses. Subject to and consistent with this Agreement, NAF may use the Site and the Complex to conduct tax-exempt fundraising activities to support the Site, the Complex, or NAF's own beneficial or charitable mission as a nonprofit Washington corporation; provided, that fundraising activities to support NAF will occur during times actually reserved or scheduled by NAF for its own use, and not during times that are reserved or scheduled by others, and not during times that are otherwise allocated to drop-in use.

2.11. Risk of Loss. As between the Parties, all personal property of any kind or description whatsoever on or in the Complex shall be at NAF's sole risk, and King County will not be liable for any damage done to, or loss of, such personal property caused by the acts or omissions of the public, users of the Site or Complex, or any other third party; provided however, King County will be responsible for damage to NAF's personal property on or in the Complex caused by the acts or omissions of King County's own employees, officers, contractors or agents.

3. Maintenance.

3.1. Scope of Responsibility. NAF shall be responsible to maintain the Complex, including, but not limited to: aerating, thatching, verticutting, fertilizing, liming, overseeding, topdressing, herbiciding, insecticiding, mowing, and irrigation of the athletic fields; upkeep of fencing and gates; upkeep of restroom facilities; and policing of litter on the Complex. The cost of maintenance and the utilities serving the Complex shall be borne solely by NAF.

3.2. Maintenance Requirements. In maintaining the Complex, NAF shall:

- Schedule maintenance in a manner that maximizes both scheduled and unscheduled use of the Complex to the greatest extent practicable;
- Maintain the fields in a manner that is consistent with a high quality athletic facility envisioned for the Site;
- Keep the Complex attractive and inviting to the public;
- Maintain sanitation and sanitary facilities in accordance with applicable state and local public health standards;
- Keep the Complex reasonably safe for public use and, in particular, maintain fire prevention and similar activities at levels reasonable to prevent loss of the lives of users;
- Keep buildings, roads, trails, and other structures and improvements in reasonable repair throughout their estimated lifetime, so as to prevent undue deterioration and not to discourage public use.

3.3. Maintenance Plan. NAF shall prepare a Complex Maintenance Plan ("Plan") every other year for approval by King County and deliver the Plan to King County on or before February 20th of the reporting year. The Plan shall be developed in a manner as to ensure the Division does not incur any new aggregate operations and maintenance costs requiring additional public funds (except as may be otherwise provided in this Agreement). The Plan will incorporate maintenance standards and NAF's anticipated or proposed field closure or rotation schedule. NAF will perform maintenance only as outlined in this Agreement or in the Plan.

3.4. Parking Lot Grading. King County will grade the gravel parking lot twice per calendar year during the Term of the Agreement. King County and NAF will coordinate to schedule parking lot grading work to provide maximum benefit to the public. Future paving of the parking lot will be contingent upon the parties agreeing to the allocation of maintenance and upkeep responsibilities of such an improvement.

3.5. **Contingency for Substantial Rehabilitation of Ballfields.** NAF will contact King County should the baseball infields need new or additional soils, or require work above and beyond the expertise of NAF or its regular user groups. NAF may contract with the Division for those services at the county salary and equipment rate in effect at the time the work is performed.

4. **Improvements.**

4.1. **Scope of Responsibility.** NAF shall have primary responsibility and control over making any and all improvements to the Complex, including, but not limited to: securing requisite funding, hiring professional consultants, completing designs, obtaining requisite permits and approvals, contracting and overseeing the work, and complying with environmental and other development restrictions. Consistent with IAC Project Agreement No. 66-025, all Site improvements shall be designed to comply with the spirit and intent of the Americans with Disabilities Act.

4.2. **Capital Improvements.** NAF has developed a Master Plan for the Site that is included, for demonstration purposes only, in **Exhibit B**. That Master Plan includes proposed capital improvements to the Complex that will be completed by NAF during the near-term, proposed capital improvements to the Complex that may be completed by NAF in the future based on funding availability, and proposed capital improvements to the Common Areas that may be completed in the future by King County or NAF based on funding availability.

4.2.1. **Near-term Capital Improvements.** NAF shall apply the funds secured through its 2013 grant from the State of Washington Recreation and Conservation Funding Board (Youth Recreation Grants) to construct the near-term capital improvements described in **Exhibit B**, based on a timeline and project sequencing reviewed and agreed to by King County. This right of review and approval is in addition to and separate from any permits or other process that may be required by law.

4.2.2. **Project Plan.** If NAF secures additional funding to be applied toward future capital improvements, NAF shall develop a "Project Plan" and present it to King County before making any material alteration to any part of the Site, including any substantial change to the landscaping. Each Project Plan shall describe the planning process with a timeline and milestones; describe the principal features of the proposed improvement; provide conceptual design drawings, if applicable; describe in reasonable detail and rationale the goals and objectives of the improvement; identify the party primarily responsible for supervising the project; and provide a schedule showing the sources and timing of funding for the project. The Division shall review the Project Plan for the Site in concept and reserves the right to approve the final design of improvements to the Site, consistent with established King County zoning, design code, or

both. Division approval shall not constitute regulatory approval by King County. Work shall not begin on any particular project without first obtaining the prior written approval of the Project Plan by the Division. This right of review and approval is in addition to and separate from any permits or other process that may be required by law.

- 4.3. *No Financial Responsibility.*** NAF understands, acknowledges, and agrees that King County will be under no obligation directly or indirectly to pay for any labor, material, or improvement associated with the Complex, for example including, but not limited to, the installation of synthetic turf ball fields, ball field lighting, or synthetic turf replacement. NAF will, upon request, inform any inquiring person or entity that King County has no further financial obligations associated with the construction of the Complex.
- 4.4. *No Liens.*** NAF acknowledges and agrees that it has no authority, express or implied, to create or place any lien or encumbrance of any kind or nature whatsoever upon, or in any manner to bind, the interest of King County in the fee interest in the Site. If any third party places or attempts to place a lien or encumbrance upon the interest of King County in the fee interest in the Site as a result of claims against NAF, NAF shall indemnify, defend and save harmless King County in accordance with Section 6.7 and Section 4.5 of this agreement. NAF's obligation to indemnify and save harmless King County pursuant to Section 6.7 and 4.5 of this agreement includes release of any such encumbrance or lien. . If any such liens are filed, King County may, without waiving its rights and remedies for breach, and without releasing NAF from its obligations under this Agreement, require NAF to post security in form and amount reasonably satisfactory to King County or to cause such liens to be released by any means King County deems proper, including payment upon satisfaction of the claim giving rise to the lien. NAF will pay to King County upon demand any sum paid by King County to remove the liens.
- 4.5. *Contractor Indemnification and Hold Harmless.*** NAF will require its construction contractors and subcontractors to defend, indemnify and hold King County, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney's fees and costs, arising out of or in connection with the design, development and construction of the Complex, except for injuries and damages caused by the negligence of King County. The indemnification and hold harmless language will be at least as broad as that set forth in **Section 6.7** of this Agreement.

In the event it is determined that RCW 4.24.115 applies to this Agreement, the Contractors shall agree to protect, defend, indemnify and save the County, its officers, officials, employees and agents from any and all claims, demands, suits, penalties, losses damages judgments, or costs of any kind whatsoever for bodily injury to persons or damage to property (hereinafter "claims"), arising out of or in any way resulting from the Contractor's officers, employees, agents

and/or subcontractors of all tiers, acts or omissions, performance of failure to perform the rights and privileges granted under this Agreement, to the maximum extent permitted by law or as defined by RCW 4.24.115, as now enacted or hereafter amended.

- 4.6. Contractor Insurance.** NAF will require its construction contractors and subcontractors to carry insurance meeting all requirements set forth in *Article 6* of this Agreement. In addition, NAF will require its construction contractors and subcontractors to provide, for the duration of construction of the Complex, Builders Risk insurance covering interests of King County, NAF, and the construction contractor in the work as their interests may appear, in the amount of the completed value of the Complex with no coinsurance provisions. Such Builders Risk insurance will be on an all-risk policy form and will insure against the perils of fire and extended coverage and physical loss or damage including flood and earthquake, theft, vandalism, malicious mischief, collapse, temporary buildings and debris removal. This Builders Risk insurance covering the work will have a deductible no larger than \$5,000 for each occurrence, which will be the responsibility of NAF or the construction contractor. Higher deductibles for flood and earthquake perils may be accepted by King County upon written request by NAF and written acceptance by King County. Any increased deductibles accepted by King County will remain the responsibility of the NAF or construction contractor. The Builders Risk insurance will be maintained until final acceptance of the work by NAF. King County shall be a loss payee as its interests may appear. NAF will require its construction contractors and subcontractors to provide copies of insurance certificates or insurance policies to King County upon request.
- 4.7. Professional Liability Errors and Omissions.** If NAF directly or indirectly requires professional services in connection with the design, construction, or improvement of the Complex, then NAF will require its professional service providers to carry insurance meeting all requirements set forth in *Article 6* of this Agreement. In addition, NAF will require its professional service providers to carry Professional Liability Errors and Omissions insurance in an amount not less than \$1,000,000 per claim/aggregate. NAF will require its professional service providers to give King County copies of all insurance certificates, endorsements or insurance policies upon request.
- 4.8. Subcontractors.** NAF will require its construction contractors during the Design and Construction Phases to include all subcontractors as insured under its policies or will furnish separate certificates and endorsements for each subcontractor. All coverage for subcontractors will be subject to all of the same insurance requirements as stated herein for the construction contractor.
- 4.9. Insurance Coverage Type and Duration.** Each insurance policy must be written on an "occurrence" form; except that insurance on a "claims made" form may be acceptable with prior approval by King County Office of Risk

Management. If coverage is approved and purchased on a "claims made" basis, NAF warrants continuation of coverage, either through policy renewals or the purchase of an extended discovery period, if such extended coverage is available, for not less than three (3) years from the date of contract termination or expiration, and/or conversion from a "claims made" form to an "occurrence" coverage form.

4.10. Verification of Coverage. NAF will furnish Parks with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the commercial general liability insurance of the construction contractor before commencement of the work. Before any exposure to loss may occur, NAF will file with Parks a copy of the builder's risk insurance policy that includes all applicable conditions, exclusions, definitions, terms, and endorsements related to work under this Agreement.

4.11 Acceptability of Insurers. Unless otherwise approved by Parks, the following provisions apply exclusively during the Design and Construction Phase:

4.11.1. Insurance is to be placed with insurers with a Best's rating of no less than A:VIII, or, if not rated by Best's, with a rating in one of the two highest categories maintained by Standard & Poor's Rating Group and Moody's Investor Service.

4.11.2. If at any time any of the foregoing policies fail to meet the above minimum standards, then NAF will, upon notice to that effect from King County, promptly obtain a new policy, and submit the same to Parks with certificates and endorsements, for approvals.

4.11.3. The required liability insurance policies (except Workers Compensation) are to be endorsed to:

- Name "King County, its officers, officials, agents and employees" as additional insured with respect to use of the Site as outlined in this Agreement (Form CG 2026 or CG 2010.) Coverage shall include ongoing operations and products-completed operations);
- Such coverage shall be primary and non-contributory insurance as respects King County;
- State that NAF's or its contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought except with respect to the limits of the insurer's liability;

- State that coverage shall not be suspended, voided, canceled, reduced in coverage or in limits except after forty-five (45) days prior written notice to King County.

4.12 Waiver of Subrogation. NAF will cause its contractors and subcontractors and their insurance carriers to release and waive all rights of subrogation against King County during the Design and Construction Phase to the extent a loss is covered by property insurance in force. Except as otherwise provided in Article 4 of this Agreement, NAF hereby releases from liability and waives all right of recovery against King County for any loss from perils insured against or under the respective fire insurance policies of its contractors, subcontractors, or any of them, including any extended coverage endorsements thereto; provided, that this provision shall be inapplicable if it would have the effect of invalidating any insurance coverage of NAF or King County.

4.13 Insurance Provisions are Material Terms. By requiring such minimum insurance as described in this Article 4 and Article 6, King County shall not be deemed or construed to have assessed the risks that may be applicable to NAF under this Agreement. NAF shall assess its own risks and, if it deems appropriate and/or prudent, maintain greater limits and/or broader coverage. Nothing contained within this Article 4 shall be deemed to limit the scope, application, and/or limits of the coverage afforded by the policies specified herein, which coverage will apply to each insured to the full extent provided by the terms and conditions of the policies. Nothing contained within this Article 4 shall effect and/or alter the application of any other provision contained within this Agreement. Failure by NAF, its agents, employees, officers, and/or subcontractors to comply with these insurance requirements shall constitute a material breach of this Agreement.

4.14 Payment and Performance Bonds. NAF will require its construction contractor(s) to provide payment and performance bonds, each for one hundred (100) percent of the contract price, consistent with Chapter 39.08 RCW.

4.15. Licensed Contractors and Professional Service Providers. NAF will use only contractors and professional service providers that are licensed and authorized to do business in Washington State, consistent with Chapter 39.06 RCW.

4.16. Prevailing Wage. NAF understands, acknowledges, and agrees that all work on the Complex other than ordinary maintenance constitutes a "public work" for purposes of the prevailing wage statute, Chapter 39.12 RCW, such that prevailing wages shall be paid as may be required under that statute.

5. Reporting.

5.1. Annual Report. NAF shall furnish the following information to King County on or before February 20th each year during the Term of this Agreement:

- 5.1.1.** A general summary of the usage of the Complex during the calendar year preceding the date of the report;
 - 5.1.2.** A general description of the maintenance work performed on the Complex during the calendar year preceding the date of the report;
 - 5.1.3.** A detailed summary and evidence of NAF's expenditures made on capital improvements to the Complex during the calendar year preceding the date of the report;
 - 5.1.4.** A copy of NAF's most recent Form 990 as filed with the Internal Revenue Service;
 - 5.1.5.** A master schedule detailing NAF's anticipated Complex use for that year in order that the Division may schedule maintenance or required tasks in the Common Areas, or other activities along the Sammamish River Trail with minimal impact to NAF's scheduled use of the Complex.
- 5.2. *Annual Meeting.*** NAF and King County, by and through their designated representatives, shall meet at least once per calendar year during the Term of the Agreement to discuss the prior and upcoming years' operations, maintenance, and capital improvements. The annual meeting shall occur in connection with NAF's submittal of its annual report to King County, or as soon thereafter as reasonably possible.
- 5.3. *Records and Audits.*** NAF shall keep such full and detailed accounts as may be necessary for proper financial management under this Agreement. During this Term of this Agreement, NAF's books, records and other materials related to any matters covered by this Agreement and not otherwise privileged shall be subject to inspection, review, and/or audit by King County at King County's sole expense. Such books, records and other materials shall be made available for inspection during regular business hours within a reasonable time of the request.
- 5.4. *Site Inspection.*** King County may inspect any part of the Site at any time, with or without notice. NAF staff may be present at that time. King County will take reasonable steps to exercise its right of inspection so as to avoid or minimize disturbance of any activities taking place on the Complex. NAF will provide King County with a key to any dual-locked structures, gates or storage containers. The Parties agree for reasons of protection and safety to promptly secure and lock any doors or gates unlocked for activities, use or access. King County has the right to use any and all means that King County deems proper to open doors and gates in an emergency in order to obtain entry to the Site. The Parties agree that nothing in this **Section 5.4** shall limit the governmental or police powers of King County.

King County and NAF further agree that staff from the Washington State Recreation and Conservation Office, formerly the Inter IAC, or IAC officers, or any other authorized agent or official of the State of Washington shall have the right of access to the Site, at all reasonable times, in order to monitor and evaluate performance, compliance, and/or quality assurance under IAC Project Agreement No. 66-025.

6. *Insurance and Indemnification; Environmental Hazards.*

6.1. *Minimum Scope and Limits of Insurance for NAF.* At a minimum, NAF shall maintain insurance that covers NAF's activities and usage of the Complex and the Site as follows:

- 6.1.1.** Commercial General Liability coverage shall be at least as broad as Insurance Services Office form number CG00 01, covering Commercial General Liability with a limit of not less than \$1,000,000 combined single limit per occurrence, \$2,000,000 aggregate.
- 6.1.2.** Automobile Liability, using Insurance Services Office form number (CA 00 01 Ed. 12 90) covering Business Automobile Coverage, symbol 1 "any auto"; or the appropriate coverage provided by symbols 2, 8 or 9 for a limit of not less than \$1,000,000 combined single limit per occurrence.
- 6.1.3.** Worker's compensation coverage as required by the Industrial Insurance Act of the State of Washington, statutory limits.
- 6.1.4.** Employer's Liability or "Stop Gap" coverage shall be at least as broad as the protection provided by the Workers Compensation policy Part 2 (Employers Liability) or, in states with monopolistic state funds, the protection provided by the "Stop Gap" endorsement to the general liability policy.
- 6.1.5.** "All Risk" property insurance, including Earthquake and Flood, covering the replacement value of all improvements. King County shall be a loss payee as its interest may appear.
- 6.1.6.** King County, its officers, officials, employees and agents shall be covered as additional insureds as respects liability arising out of activities and usage by NAF of the Complex and Site.
- 6.1.7.** NAF's comprehensive general liability insurance coverage shall be primary insurance as respects King County, its officers, officials, employees, and agents. Any insurance and/or self-insurance maintained by King County, its officers, officials, employees or agents will not contribute with NAF's insurance or benefit NAF in any way.

6.1.8. NAF's insurance will apply separately to each insured against whom a claim is made and/or lawsuit is brought, except with respect to the limits of the insurer's policy.

6.1.9. Coverage will not be suspended, voided, canceled, reduced in coverage or in limits except by the reduction of the applicable aggregate limits by claims paid, until after forty-five (45) days prior written notice has been given to NAF and King County.

If at any time any of the foregoing policies fail to meet the above minimum standards, then NAF will, upon notice to that effect from King County, promptly obtain a new policy and submit the same to King County with certificates and endorsements, for approvals.

6.2. *Acceptability of Insurers.* Insurance is to be placed with insurers with a Best's rating of no less than A:VIII, or, if not rated by Best's, with a rating in one of the two highest categories maintained by Standard & Poor's Rating Group and Moody's Investor Service.

6.3. *Deductibles and Self-Insured Retentions.* Any deductibles or self-insured retentions must be declared to and approved by King County. The deductible and/or self-insured retention of the policies will not limit or apply to King County and will be the sole responsibility of NAF.

6.4. *Other Insurance Matters.*

6.4.1. At all times from and after the Effective Date of this Agreement, NAF agrees to procure and maintain insurance as specified herein, in full force and effect for the duration of the Term of this Agreement, against claims for injuries to persons or property damage which may arise from or in connection with this Agreement.

6.4.2. Each insurance policy will be written on an "occurrence" form except Professional Liability.

6.4.3. By requiring such minimum insurance as specified herein, neither party is deemed to, or construed to, have assessed the risks that may be applicable to the other party to this Agreement. NAF will assess its own risks and, if it deems appropriate or prudent, or both, maintain greater limits or broader coverage.

6.4.4. Nothing contained in these insurance requirements will be deemed to limit the scope, application, and/or limits of coverage afforded, which coverage will apply to each insured to the full extent provided by the terms and conditions of the policy or policies. Nothing contained within this provision will affect or alter the application of any other provision contained within this Agreement.

- 6.4.5.** Each insurance policy required to be carried by NAF hereunder will comply with the provision of **Section 6.6** of this Agreement.
- 6.4.6.** NAF will furnish King County with certificates of insurance and endorsements as required by this Agreement. The certificates and endorsements for each policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements for NAF's insurance are to be on forms approved by King County and are to be received and approved by King County prior to the Effective Date of this Agreement. King County reserves the right to require complete certified copies of all required policies at any time.
- 6.4.7.** Additional insurance requirements applicable to NAF's contractors, subcontractors, and professional service providers are set forth in **Section 4** of this Agreement.
- 6.5. *King County Insurance.*** NAF acknowledges, agrees, and understands that King County is self-insured for all of its liability exposures, as well as all of its workers' compensation liability exposure. King County agrees, at its own expense, to maintain through its self-insurance program coverage for its liability exposures for the duration of this Agreement, or, in King County's sole discretion, to purchase equivalent insurance coverage through an insurance policy or policies, or through a risk sharing pool. King County agrees to provide NAF with at least thirty (30) days prior written notice of any change in King County's self-insured status and, upon request, will provide NAF with a letter of self-insurance as adequate proof of insurance.
- 6.6. *Waiver of Subrogation.*** NAF and its insurance carriers will release and waive all rights of subrogation against King County to the extent a loss is covered by property insurance in effect. NAF hereby releases from liability and waives all right of recovery against King County for any loss from perils insured against or under their respective fire insurance policies, including any extended coverage endorsements thereto; provided, that this provision shall be inapplicable if it would have the effect of invalidating any insurance coverage of NAF or King County.
- 6.7. *Indemnification and Hold Harmless.***
- 6.7.1.** NAF shall protect, indemnify, and save harmless King County, its officers, agents, and employees from and against any and all claims, costs, and/or losses whatsoever occurring or resulting from (i) NAF's failure to pay any compensation, wages, benefits, or taxes, and/or (ii) work, services, materials, or supplies to NAF employees or other NAF suppliers in connection with or support of the performance of this Agreement.

6.7.2. NAF further agrees that it is financially responsible for and will repay King County all indicated amounts following an audit exception which occurs due to the negligence, intentional act, and/or failure for any reason to comply with the terms of this Agreement by NAF, its officers, employees, agents, representatives, or subcontractors. This duty to repay King County shall not be diminished or extinguished by the prior termination of the Agreement.

6.7.3. NAF expressly agrees to protect, defend, indemnify and hold harmless King County, its elected and appointed officials, officers, employees, and agents from and against liability for any claims (including all demands, suits, and judgments) for damages arising out of injury to persons or damage to property where such injury or damage is caused by, arises out of, or is incident to NAF's use of the Site under this Agreement.

NAF further expressly agrees to protect, defend, indemnify, and hold harmless King County, its officers, employees and agents from any and all costs, claims, judgments, and/or awards of damages arising out of, or in any way resulting from the performance or non-performance of the obligations under this Agreement by NAF's contractor(s), its officers, employees, and/or agents in connection with or in support of this Agreement.

NAF's obligations under this **Section 6.7.3** shall include, but not be limited to:

- The duty to promptly accept tender of defense and provide defense to King County at NAF's expense for claims that fall within this section;
- Indemnification of claims, including those made by NAF's own employees and/or agents for this purpose, for claims that fall within this section;
- In the event King County incurs any judgment, award and/or cost arising from claims that fall within this section, including attorney's fees to successfully enforce the section, all such fees, expenses, and costs shall be recoverable from NAF.
- NAF expressly and specifically agrees that its obligations under this **Section 6.7.3** extend to any claim, demand, and/or cause of action brought by or on behalf of any of its officers, employees, or agents. For this purpose, NAF hereby expressly and specifically waives, with respect to King County only, any immunity that would otherwise be available against such claims under the Industrial Insurance

provisions of Title 51 RCW, but only to the extent necessary to indemnify King County;

- In all contracts entered into by NAF in conjunction with its duties under this Agreement, NAF will include a hold harmless provision similar to this **Section 6.7.3** to protect King County.

6.8. Environmental Hazards.

- 6.8.1.** "Hazardous Materials" as used herein shall mean any hazardous, dangerous or toxic wastes, materials, or substances as defined in state or federal statutes or regulations as currently adopted or hereafter amended.
- 6.8.2.** NAF shall not, without first obtaining King County's written approval, apply, store, deposit, transport, release or dispose of any Hazardous Materials, petroleum products, sewage, medicinal, bacteriological, or toxic materials, or pollutants, on the Site. All approved application, storage, deposit, transportation, release and disposal shall be done safely and in compliance with applicable laws.
- 6.8.3.** Nothing in this Agreement shall be deemed to waive any statutory claim for contribution that NAF might have against King County under federal or state environmental statutes that arises from Hazardous Materials deposited or released on the Site by King County. NAF may not, however, assert such a claim to the extent that NAF creates the need for or exacerbates the cost of remediation upon which a statutory claim for contribution is based as a result of NAF performing construction activities on the Site, changing the configuration or use of the Site, or performing or failing to perform operation or maintenance activities on the Site,
- 6.8.4.** In no event shall King County be responsible for any costs of remediation that exceed the minimum necessary to satisfy the state or federal agency with jurisdiction over the remediation.
- 6.8.5.** If NAF discovers the presence of Hazardous Materials NAF shall immediately notify King County in writing. Such notice shall in no event be provided more than ten (10) days after discovery. The Parties shall make their best efforts to reach agreement as to which party is responsible for remediation under the terms of this Agreement prior to undertaking any remediation.

7. Termination.

- 7.1. Termination for Cause.** King County may terminate this Agreement and charge NAF or any user group fair market value rent for further use of the

Complex, without penalty or liability, if, at any time during the Term of the Agreement, NAF loses or changes its status: (1) as an active Washington nonprofit corporation; (2) as a tax-exempt organization under Section 501(c)(3) of the Internal Revenue Code as now or hereafter codified; or both of them. Provided, that King County will not terminate the Agreement or charge fair market value rent if NAF cures such loss or change of status within a reasonable time.

Consistent with IAC Project Agreement No. 66-025, King County may terminate this Agreement and retake possession of the Complex without penalty or liability if, at any time during the Term of the Agreement, NAF violates the requirements of IAC Project Agreement No. 66-025 or King County Resolution No. 34571, or both of them, and does not reasonably cure such violation after written notice from King County.

Further, King County may terminate this Agreement if NAF fails in the performance of the maintenance duties and responsibilities established under *Article 3*, where such failure continues for a period of sixty (60) days after written notice is given by King County; provided that if the nature of NAF's breach is such that more than sixty (60) days are reasonably required to cure, then NAF will not be in default if NAF commences to cure within sixty (60) days of King County's notice and thereafter diligently pursues completion and completes performance within a reasonable time.

In the event of termination under this *Article 7*, title to all improvements to the Complex shall immediately vest in King County and NAF shall not be entitled to any compensation or other award for the value of such improvements. NAF understands, acknowledges and agrees that termination for any of the reasons set forth in this *Article 7* shall constitute termination for cause, and that NAF shall have no remedy at equity or law for such termination, save to remove NAF's personal property from the Complex and to be released from any further obligation or duty under this Agreement.

- 7.2. *Duties upon Termination.*** At the time this Agreement expires or is terminated and unless otherwise arranged, NAF will remove from the Site all its personal property, goods, and effects. If NAF fails to perform this duty, King County shall not be responsible for the care or safekeeping NAF's personal property, goods, and effects and may remove any of the same from their current location and place the same elsewhere on the Site or in storage in a public warehouse at the cost, expense and risk of NAF with authority to the warehouseman to sell the same in the event that NAF shall fail to pay the cost of transportation and storage. It is understood and agreed that the real property constituting the Site is the real property of King County and that all improvements to that real property will continue to belong to King County upon termination of this Agreement.

7.3. **Surrender.** At the time this Agreement expires or is terminated, all improvements affixed to the real property constituting the Site installed or constructed by or on behalf of NAF shall inure to the benefit of King County, shall remain at the Site, and will to belong to King County.

8. **General Provisions.**

8.1. **Impossibility.** The performance of this Agreement by either party is subject to causes beyond the control of either party making it illegal, impossible or impracticable to perform hereunder, including, without limitation: acts of God; war; government regulation or advisory; disasters, fire, accidents or other casualty; strikes or threat of strikes; civil disorder; acts and/or threats of terrorism; curtailment of transportation services or facilities; cost or availability of power, or other causes similar to those set forth above. Either party may terminate or suspend its obligations under this Agreement if such obligations are prevented by events such as those above, to the extent such events are beyond the reasonable control of the party whose reasonable performance is prevented.

8.2. **Dispute Resolution.** The Parties agree to use their best efforts to resolve disputes regarding this Agreement in an economic and time efficient manner to advance the purposes of this Agreement. In the event that a dispute arises between NAF and King County, they shall attempt to resolve such dispute as expeditiously as possible and will cooperate so that the express purposes of this Agreement are not frustrated, and so that any design, planning, construction, or use of the Complex or the Site is not delayed or interrupted. If the Parties are unable to resolve the dispute between themselves within ninety (90) calendar days from the date the aggrieved party first notified the other party, then the Parties agree that they shall attempt to mediate the dispute with the first available mediator from Washington Arbitration and Mediation Service (WAMS) or Judicial Arbitration and Mediation Service (JAMS) or their successors. The Parties shall each pay one half (NAF - fifty percent; King County - fifty percent) of the cost of such mediation. If such mediation shall fail then nothing in this **Section 8.2** shall otherwise limit the Parties' legal, equitable, or other rights or remedies.

8.3. **Jurisdiction and Venue.** The exclusive jurisdiction and venue for any disputes arising under this Agreement and not otherwise resolved by the dispute resolution required in **Section 8.2**, including matters of construction, validity, and performance, shall be in the Superior Court for King County in Seattle, Washington.

8.4. **Governing Law.** The laws of the State of Washington shall govern the interpretation and enforcement of this Agreement.

8.5. **Right to Participate in Litigation.** NAF shall have the right to participate in any litigation, arbitration, or dispute directly affecting the Site, the Complex, or

NAF's interest therein, including, without limitation, any suit, action, arbitration proceeding, condemnation proceeding or insurance claim. King County, upon instituting or receiving notice of any such litigation, arbitration or dispute will promptly notify NAF of the same.

8.6. Recording. This Agreement, and any memorandum thereof requested by either party, shall be made capable of being recorded with the King County Recorder's Office.

8.7. Liaisons and Notices. NAF and King County shall each identify to the other a particular person who shall serve as its designated liaison for purposes of communicating about day-to-day matters involving the Complex and the Site. Beyond this, any written notice that is required or permitted regarding this Agreement shall be given by U.S. first class mail or by personal delivery to the party which is the intended recipient of the notice at its address as follows:

If to Northshore Athletic Fields:

Northshore Athletic Fields
Attention: President
PO Box 756
Woodinville, WA 98072

Designated Liaison:

Brett Bader, President
Email: president@northshoreathleticfields.org
Phone: 206-321-1955

If to King County Department of Natural Resources and Park:

Parks and Recreation Division
Attention: Director
201 South Jackson Street, Suite 700
Seattle, WA 98104-3855

Designated Liaison:

John Villapudua, Program Manager
Email: john.villapudua@kingcounty.gov
Phone: 206-477-4598

A change in address or designated liaison of a party for purposes of receiving notices may be changed by that party by giving notice of such change as provided herein.

8.8. Permits and Licenses. NAF will obtain and maintain, or cause to be obtained and maintained, at its own cost and expense, all necessary permits, licenses, and approvals required for the activities contemplated under this Agreement.

8.9. Taxes. NAF agrees to pay on a current basis all taxes or assessments levied on its activities and property; provided, however, that nothing in this Agreement shall modify NAF's right to contest any such tax, and NAF shall not be deemed to be in default as long as it shall, in good faith, be contesting the validity or amount of any such taxes. If the Department of Revenue determines that NAF is required to pay leasehold excise tax pursuant to RCW Chapter 82.29A, NAF is solely responsible for such tax and must pay this tax in full at the current tax rate specified in the statute. All applicable leasehold tax, if any, shall be sent to:

King County Parks and Recreation Division
201 South Jackson Street, Suite 700
Seattle, WA 98104-3855

8.10. Legal Relations. Nothing in this Agreement shall make, or be deemed to make, King County and NAF a partner of one another, and this Agreement shall not be construed as creating a partnership or joint venture. This Agreement shall create no right, duty, or cause of action in any person or entity not a party to it.

8.11. Compliance with Applicable Law; Interpretation of King County Rules. NAF shall be responsible for compliance with all applicable laws, statutes, codes, and regulations, including without limitation those relating to providing a safe working environment to employees and, specifically, the requirements of the Washington Industrial Safety and Health Act (WISHA). If there is any question regarding the interpretation of any King County rule or regulation, King County's decision will govern and shall be binding upon NAF.

8.12. Headings. The headings and other formatting in this Agreement are for convenience only and shall not be deemed to expand, limit, or otherwise affect the substantive terms of this Agreement.

8.13. Neutral Authorship. Each party has been represented by counsel in connection with the negotiation, execution and delivery of this Agreement and its Exhibits. Each of the provisions of this Agreement has been reviewed and negotiated, and represents the combined work product of the Parties hereto. No presumption or other rules of construction which would interpret the provisions of this Agreement in favor of or against the party preparing the same will apply in connection with the construction or interpretation of any of the provisions of this Agreement or its Exhibits.

8.14. Non-Waiver. The failure of either party to enforce any provision of this Agreement shall not be construed as a waiver or limitation of that party's right subsequently to enforce and compel strict compliance with every provision of this Agreement.

8.15. Severability. If any provision of this Agreement shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable unless striking such provision materially alters the

intention of the Parties. If a court finds that any provision of this Agreement is invalid or unenforceable, but that by limiting such provisions it would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

8.16. Amendments. This Agreement may be modified or amended only if the amendment is made in writing and is signed by King County and NAF with this same formality as this Agreement; provided that the Exhibits to this Agreement may be amended in writing with the approval of King County and NAF, or their designated representatives.

8.17. Approved Exhibits. The following exhibits are attached to this Agreement:

- (A) Illustration of the Site, the Common Areas, and the Complex;
- (B) Development (NAF's Proposed List of Capital Improvements);
- (C) Schedule (NAF's Proposed Timing and Sequence of Capital Improvements).
- (D) King County Code 7.12
- (E) IAC Project Agreement No. 66-025
- (F) Division's Advertising and Sponsorship Policy, PAR 1-18

8.18. Entire Agreement. This Agreement contains the entire agreement of the Parties and there are no other promises or conditions in any other agreement whether oral or written. This Agreement supersedes any prior written or oral agreements between the Parties.

8.19. Effective Date. The effective date of this Agreement is the ____ day of _____, 2013.

KING COUNTY:

NORTHSHORE ATHLETIC FIELDS:

(Signature)

(Signature)

Dow Constantine

(Printed Name)

(Printed Name)

King County Executive

(Title)

President

(Title)

Approved as to form:

NORTHSHORE LITTLE LEAGUE:

OFFICE OF THE KING COUNTY
PROSECUTING ATTORNEY

(Signature)

(Printed Name)

President

(Title)

EXHIBIT – A

Illustration of the Site, the Common Areas, and the Complex



EXHIBIT – B

NAF's Master Plan and Proposed List of Capital Improvements

IMPROVEMENT PROJECT	BUDGET
<p data-bbox="142 352 1073 394">Restroom/Concession Building (sample drawing; CXT Precast Products)</p> <p data-bbox="1365 814 1490 856">\$250,000</p>	
<p data-bbox="154 1350 1117 1392">Batting Cages (sample image represents a dual bullpen, 80' x 30' structure)</p> <p data-bbox="1393 1560 1502 1602">\$20,000</p>	

EXHIBIT - B

Schedule 1 (NAF's Near Term Capital Improvements)

<div style="border: 1px solid black; padding: 5px;"> <p>Maintenance Building</p> <div style="border: 1px solid black; padding: 5px; margin-bottom: 10px;"> <p> (150") RIDGE CAP 1 (100") ROOF STRAIGHT 2 (09") EAVE PANELS 2 (150") VERTICAL STRAIGHT 2 </p> </div> </div>	<p style="font-size: 24px; font-weight: bold;">\$25,000</p>
Electrical (upgrade to code)	\$15,000
Picnic Area & Kids Play Structure	\$50,000
Field—1 Bleachers	\$15,000
Walkway / Accessibility	\$50,000
Entry	\$15,000
Infield Turf and/or Fencing / Backstops / Netting	<p>\$350,000</p> <p>\$100,000</p>

EXHIBIT – C

Schedule (NAF's Proposed Timing and Sequence of Capital Improvements)

Project	Timing
Concessions / Restroom Building	Near-term
Maintenance Building	Near-term
Electrical (upgrade to code)	Near-term
Batting Cages	Near-term
Picnic Area & Kids Play Structure	Pending funding availability
Field—1 Bleachers	Pending funding availability
Walkway / Accessibility	Pending funding availability
Entry	Pending funding availability
Infield Turf and/or Fencing / Backstops / Netting	Pending funding availability

EXHIBIT – D
King County Code – 7.12

EXHIBIT – D

Refer to King County Code 7.12:

http://www.kingcounty.gov/council/legislation/kc_code/10_Title_7.aspx

EXHIBIT - E

Interagency Committee for Outdoor Recreation (IAC) Project Agreement No. 66-025

PROJECT AGREEMENT

THIS CONTRACT agreed upon by and between King County
(herein called the "Contractor")
and the Washington State Interagency Committee for Outdoor Recreation (herein called
the "State" or the "IAC"), WITNESSETH THAT:

WHEREAS, the State, pursuant to Chapter 12, Laws of 1963, Ex. Sess. (Referendum Bill No. 11, adopted and ratified by vote of the people at the State General Election, November 3, 1964), and the Marine Recreation Land Act of 1964, Chapter 5, Laws of 1965 (Initiative Measure No. 215, passed by vote of the people at the State General Election, November 3, 1964), has undertaken a program assisting in the development and improvement of outdoor recreation lands, which is expected to be partially financed under the Federal Open Space Land Program administered by the Department of Housing and Urban Development.

WHEREAS, the Contractor desires financial assistance in connection with an outdoor recreation project (Project No. 66-025); which project has been approved by the State and found to be eligible for allocation of funds. (Sammamish River)

WHEREAS, the parties hereto recognize that the undertakings of the federal and state government and of the recipient with regard to this new program constitute, in many respects, pioneer efforts in intergovernmental relations and that changes and adjustments in this agreement are to be expected.

NOW, THEREFORE, the parties hereto do mutually agree as follows:

1. Definitions

- a. The term "HUD" as used herein means the United States Department of Housing and Urban Development.
- b. The term "IAC" as used herein means the State Interagency Committee for Outdoor Recreation.
- c. The term "Secretary" as used herein means the Secretary of the United States Department of Housing and Urban Development, or any representative lawfully delegated the authority to act for such Secretary.
- d. The term "Chairman" as used herein means the Chairman of the Interagency Committee for Outdoor Recreation.
- e. The term "Administrator" as used herein means the Administrator of the Interagency Committee for Outdoor Recreation.

EXHIBIT - E

Interagency Committee for Outdoor Recreation (IAC) Project Agreement No. 66-025

- f. The term "Project" as used herein means that project or project segment which is the subject of this agreement.
- g. The term "State" as used herein means the State of Washington acting through the Interagency Committee for Outdoor Recreation.
- h. The term "Committee" as used herein means the President's Committee on Equal Employment Opportunity, except where there is an obvious reference to the Interagency Committee for Outdoor Recreation.

2. Contingency

All obligations undertaken by the parties to this agreement are contingent upon project approval and matching fund participation by the HUD to the extent recommended by the State, and allotment of federal and state matching funds by appropriate federal and state authorities. The obligations of the state hereunder are also contingent upon payment by the Contractor of the amount indicated in item 4 (f) of this agreement.

3. Statement of Policy

One of the basic objectives of both the federal and state outdoor recreation programs involved herein is to enhance and increase the Nation's outdoor recreation resources. It is intended that recipients of assistance will use moneys granted for outdoor recreation purposes in such a manner that assistance results in a net increase in outdoor recreation expenditures. It is therefore agreed by both parties hereto that assistance hereby granted will be added to, rather than replace or be substituted for, other outdoor recreation funds.

4. Project Description

- a. The Contractor shall, consistent with the "Project Proposal - Assurances" previously executed (a copy of which is herewith attached and by this reference incorporated herein); in accordance with representations made in the project application as finally presented; and in compliance with plans and proposals submitted, carry out the following:

This project is for the acquisition of land for outdoor recreation purposes within the confines of the following legally described area known as Sammamish River Park: See attached legal description.

EXHIBIT - E

Interagency Committee for Outdoor Recreation (IAC) Project Agreement No. 66-025

- b. The period covered by this agreement shall be March 11, 19 66 to December 31, 19 69. If future stages are contemplated by the Contractor, the total project period is estimated to be Not applicable, 19 to , 19 .
- c. The total cost of the project covered by this agreement is \$ 600,000. If future stages are contemplated by the Contractor, the total project cost, including all stages, is estimated to be \$ not applicable.
- d. The Contractor agrees to contribute any combination of land, cash or services, material and equipment as defined by the HUD to the project in a value of \$ 150,000, which is 25 % of the total cost of the project covered by this agreement.
- e. The State through the I. A. C. agrees to contribute cash to the project from State funds available in an amount not exceeding \$ 150,000, which is 25 % of the total project cost covered by this agreement. The State further agrees to recommend to the HUD that federal funds totaling \$ 300,000, which is 50 % of the total project cost covered by this agreement, be granted, and to contribute certain administrative and other services to the project relative to processing and securing federal assistance.
- f. The Contractor agrees to contribute in cash \$ 6,000, which is 1 % of the total cost of the project covered by this agreement, to the I. A. C. to offset a portion of the State's administrative expense incident to the project, which shall be payable immediately upon notification in writing by the Chairman or Administrator that the project has been approved for funding by the IAC and HUD.

5. Project Execution

- a. The Contractor shall execute and complete the approved project in accordance with the time schedule set forth in the project application. Failure to render satisfactory progress or to complete this or any other project which is the subject of Federal or State assistance under this program to the satisfaction of the Secretary, the Chairman, or the Administrator, may be cause for the suspension of all obligations of the United States or the State, or both, under this agreement. Unless otherwise agreed, in no event shall the Contractor's performance commence later than sixty days after notification in writing by the Chairman or Administrator that the project has been approved for funding by the IAC and the HUD. Unless otherwise agreed, the Contractor's performance shall be completed at the end of the period covered by this agreement.

EXHIBIT - E

Interagency Committee for Outdoor Recreation (IAC) Project Agreement No. 66-025

- b. Where the project includes land acquisition, funding assistance for acquisition provided by this agreement will be remitted to the Contractor only after acquisition has been accomplished and appropriate billings for reimbursement have been submitted. Where approved by the HUD, funding assistance may be remitted upon submission of proof of Contractor's contractual right to acquire the land at a specific price.
- c. Where the project includes eligible development costs, funding assistance provided by this agreement for development will be remitted to the Contractor 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 Chairman or Administrator, after consultation with the Contractor and with the approval of HUD. Installment payments shall in no event be made more frequently than monthly. An amount equal to 10% of the funding assistance provided the Contractor by this agreement for eligible development costs will be withheld until final inspection and certification of project completion is made by the IAC and approved by the HUD.

- d. Where the project includes land acquisition, the Contractor shall be responsible for supplying, at Contractor's own expense, prior to receipt of funds provided by this agreement, evidence establishing to the satisfaction of the IAC that the land acquisition cost represents a fair and reasonable price for the land in question.

Unless otherwise agreed, such evidence shall include in every case the appraisal of the land in question by a competent appraiser whose selection shall be approved by the Chairman or the Administrator.

The reports of any other appraisers relative to the land in question obtained by or available to the Contractor, shall be identified and shall be made available for inspection by the Secretary, the Chairman, or the Administrator upon request.

- e. Where the project includes land acquisition, the Contractor shall be responsible for providing satisfactory evidence of title or ability to acquire title for each parcel prior to receipt 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.
- f. Construction contracted for by the Contractor shall meet the following requirements:

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Interagency Committee for Outdoor Recreation (IAC) Project Agreement No. 66-025

- (i) Contracts for construction in excess of \$2,500 shall be awarded through a process of competitive bidding. No contracts shall be awarded unless approval of the Chairman or Administrator is first obtained. Where all bids are substantially in excess of project estimates, the Chairman or Administrator may by notice in writing suspend the project and refer the matter to the IAC for determination of appropriate action, which may include termination of assistance for development for the project. Copies of all bids and a copy of the contract awarded shall be retained for inspection by the Secretary, Chairman, or Administrator upon request.
- (ii) The Contractor shall inform all bidders on contracts for construction in excess of \$2,500 that Federal funds are being used to assist in construction.
- (iii) Written change orders to contracts for construction in excess of \$2,500 shall be issued for all necessary changes in the facility. Such orders shall be made a part of the project file and shall be kept available for audit upon request.
- (iv) The Contractor shall comply with the regulations of the United States Secretary of Labor contained in 29 CFR 3 (1964), made pursuant to 40 U. S. C. 276 (c) (1958), which require from each contractor or subcontractor a weekly wage payment statement. Such regulations are hereby incorporated into this agreement by reference.
- (v) The Contractor shall incorporate, or cause to be incorporated, into all construction contracts the following provisions:

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

- "(i) 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 non-discrimination clause.

EXHIBIT - E

Interagency Committee for Outdoor Recreation (IAC) Project Agreement No. 66-025

- "(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, 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 comply with all provisions of Executive Order No. 10925 of March 6, 1961, as amended, and of the rules, regulations, and relevant orders of the President's Committee on Equal Employment Opportunity (hereinafter referred to as the Committee) created thereby.
- "(5) The Contractor will furnish all information and reports required by Executive Order No. 10925 of March 6, 1961, as amended, and by the rules, regulations, and orders of the said Committee, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Committee for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- "(6) In the event of the Contractor's non-compliance with the non-discrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be cancelled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further government contracts in accordance with procedures authorized in Executive Order No. 10925 of March 6, 1961, as amended, and such other sanctions may be imposed and remedies invoked as provided in the said Executive Order of the President's Committee on Equal Employment Opportunity, or as otherwise provided by law.
- "(7) The Contractor will include the provisions of the foregoing paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the President's Committee on Equal Employment Opportunity, issued pursuant to section 303 of Executive Order No. 10925 of March 6, 1961, as amended, so that such provisions will

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Interagency Committee for Outdoor Recreation (IAC) Project Agreement No. 66-025

be binding upon each said subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the contracting agency 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 United States to enter into such litigation to protect the interests of the United States."

- (vi) The Contractor agrees that in addition to the above nondiscrimination provisions, the Contractor will comply with all provisions of the State laws against discrimination (Chapter 49.60 RCW, as it now exists or may be amended) and the rules, regulations, and relevant orders of the Washington State Board Against Discrimination.
- (vii) The Contractor shall (1) comply with the above provisions in construction work carried out by itself, and (2) assist and cooperate actively with the above-mentioned Committee in obtaining the compliance of contractors and subcontractors with the above contract provisions and with the rules, regulations, and relevant orders of the Committee, (3) obtain and furnish to the HUD and to the Committee such information as they may require for the supervision of such compliance, (4) enforce the obligation of contractors and subcontractors under such provisions, rules, regulations and orders, (5) carry out sanctions and penalties for violation of such obligations imposed upon contractors and subcontractors by the Committee pursuant to Part III, Subpart D, of Executive Order No. 10925.
- g. The Contractor shall secure completion of the work in accordance with the approved construction plans and specifications, and shall secure compliance with all applicable Federal, State, and local laws and regulations. Copies of all pertinent contracts, where required by the HUD or the IAC, shall be provided by the Contractor.
- h. The Contractor shall permit periodic site visits by the Secretary, his designee, and the Chairman or his designee, to insure work progress in accordance with the approved project, including a final inspection upon project completion.
- i. In the event funds should not be available for future stages of the project, the Contractor shall bring the project to a point of usefulness agreed upon by the Contractor, the IAC and the Secretary.
- j. All significant deviations from the project application and proposal shall be submitted to the Secretary and the Chairman for prior approval.

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Interagency Committee for Outdoor Recreation (IAC) Project Agreement No. 66-025

- k. Development plans and specifications necessary for completion of the project shall be available for review by the Secretary, the Chairman, or the Administrator, upon request.

6. Project Costs

Project costs eligible for assistance shall be determined upon the basis of the criteria announced by HUD.

7. Project Administration

- a. The Contractor shall promptly submit such reports as the Secretary, Chairman, or the Administrator may request.
- b. Property and facilities acquired or developed pursuant to this agreement shall be available for inspection by the Secretary, Chairman, or the Administrator, upon request.
- c. Interest earned on funds granted pursuant to this agreement shall not be available for expenditure by the Contractor but shall be disposed of according to instructions issued by the Secretary, Chairman, or the Administrator.
- d. Any unexpended balance of funds provided by this agreement or interest accrued on hand upon expiration or termination of this agreement as a result of failure for any reason for the project covered by this agreement to be completed shall be returned to the IAC.
- e. A final report must be submitted when the project is completed, prematurely terminated, or project assistance is terminated. This report will include a final accounting of all expenditures and a description of the work accomplished. If the project is not completed, the work summary should estimate the percentage of completion, indicate the degree of usefulness of the incomplete project, and give the reasons for the premature termination of the project, if not previously explained. The final accounting should summarize all expenditures not previously reported and should include an overall summary for the entire project.
- f. Upon receipt of the final project report and final project billings, a determination will be made as to the total sum of (1) any amount not otherwise accounted for, (2) any credits allowable, and (3) any payments or funds to be refunded to the State. Such total sum will be balanced against any amount due the Contractor. In the event the total sum exceeds the amount owed to the Contractor, the excess will constitute a debt owed by the Contractor to the IAC, and shall be recovered from the Contractor in a manner which the IAC shall prescribe. If the amount owed to the Contractor is greater than the total sum, the balance will be paid to the Contractor.

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Interagency Committee for Outdoor Recreation (IAC) Project Agreement No. 66-025

8. Project Termination

- a. The Contractor may unilaterally rescind this agreement at any time prior to the commencement of the project upon notice to the IAC, the Chairman or the Administrator. After project commencement, this agreement may be rescinded, modified, or amended only by mutual agreement. A project shall not be deemed commenced until the Contractor receives notification in writing from the Chairman or Administrator that the project has been approved by the IAC and the HUD.
- b. Failure by the Contractor to comply with the terms of this agreement or any similar agreement may be cause for the suspension of all obligations hereunder of the United States or of the State.
- c. Inability on the part of the Contractor to complete the project, or any portion thereof, within the scheduled cost estimates shall be grounds for termination of project assistance and suspension of all obligations of the State hereunder.
- d. Failure by the Contractor to comply with the terms of this agreement shall not be cause for the suspension of all obligations of the State hereunder if, in the judgement of the Chairman, such failure was due to no fault of the Contractor. In such case, any amount required to settle at minimum costs any irrevocable obligations properly incurred shall be eligible for assistance under this agreement, where matching assistance from the HUD is obtained.
- e. The making of any misrepresentation by the Contractor in its application or in the furnishing of any information to the IAC or the HUD shall be grounds for project termination and suspension of all obligations of the State hereunder.

9. 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 by the United States and the State of Washington by way of assistance under the terms of this agreement, the Contractor agrees that repayment of an amount equal to the amount of assistance extended under this agreement by the United States and the State of Washington would be inadequate compensation for any failure to comply with the terms of this agreement. The Contractor further agrees, therefore, that the only appropriate remedy in the event of a breach by the Contractor of this agreement shall be the specific performance of this agreement.

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Interagency Committee for Outdoor Recreation (IAC) Project Agreement No. 66-025

10. Conflict of Interests

- a. No official or employee of the Contractor who is authorized in his official capacity to negotiate, make, accept, or approve, or to take part in such decisions regarding a contract or subcontract in connection with this project shall have any financial or other personal interest in any such contract or subcontract.
- b. No person performing services for the Contractor in connection with this project shall have a financial or other personal interest other than his employment or retention by the Contractor, in any contract or subcontract in connection with this project. No officer or employee of such person retained by the Contractor shall have any financial or other personal interest in any real property acquired for this project unless such interest is openly disclosed upon the public records of the Contractor, and such officer, employee or person has not participated in the acquisition for or on behalf of the Contractor.
- c. No member of or delegate to Congress or the State Legislature shall be admitted to any share or part of this agreement, or to any benefit to arise hereupon, unless such benefit shall be in the form of an agreement made with a corporation for its general benefit.
- d. The Contractor shall be responsible for enforcing the above conflict of interest provisions.

11. Hatch Act

No officer or employee of the Contractor whose principal employment is in connection with any activity which is financed in whole or in part pursuant to this agreement shall take part in any of the political activity proscribed in the Hatch Political Activity Act, 5 U. S. C. 118k (1958), with the exceptions therein enumerated.

12. Financial Records

- a. The Contractor shall maintain financial accounts, documents, and records satisfactory to and approved by the Chairman or Administrator and shall make them available to the IAC, HUD, and to the federal general Accounting Office of the Federal Comptroller General and to the Washington State Auditor's Office for auditing at reasonable times. Such accounts, documents, and records shall be retained by the Contractor.

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Interagency Committee for Outdoor Recreation (IAC) Project Agreement No. 66-025

tor for at least three years following project termination, and longer where required by state law.

- b. The Contractor may use any accounting system generally accepted by the Washington State Auditor's Office, provided such system meets the minimum requirements set forth by the HUD.

13. Use of Facilities

- a. The Contractor shall not at any time convert any property or facility acquired or developed pursuant to this agreement to other than a public outdoor recreation use without the prior approval of the Secretary and the Chairman.
- b. The Contractor shall operate and maintain, or cause to be operated and maintained, the property or facilities acquired or developed pursuant to this agreement as follows:
 - 1. The property or facilities shall be maintained so as to appear attractive and inviting to the public.
 - 2. Sanitation and sanitary facilities shall be maintained in accordance with applicable State and local public health standards.
 - 3. Properties shall be kept reasonably safe for public use. Fire prevention, life guard, similar activities shall be maintained at levels reasonable to prevent loss of the lives of users.
 - 4. Buildings, roads, trails, and other structures and improvements shall be kept in reasonable repair throughout their estimated lifetime, so as to prevent undue deterioration and not to discourage public use.
 - 5. 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.
 - 6. All other standards set forth by the HUD shall be complied with.
- c. The Contractor shall not discriminate against any person on the basis of race, color, or national origin in the use of any property or facility acquired or developed pursuant to this agreement, and shall comply with the terms and intent of Title VI of the Civil Rights Act of 1964, P. L. 88-354 (1964), and of the regulations promulgated pursuant to such Act by the Secretary of the Interior and contained in 43 CFR 17.
- d. The Contractor shall not discriminate against any person on the basis of

EXHIBIT - E

Interagency Committee for Outdoor Recreation (IAC) Project Agreement No. 66-025

residence, except to the extent that reasonable differences in admission or other fees may be maintained on the basis of residence.

14. Compliance

The Contractor shall be responsible for compliance with the terms of this agreement by any subdivision or public agency which undertakes responsibilities imposed by this agreement. Failure by such subdivision or public agency to so comply shall be deemed a failure by the Contractor with the terms of this agreement.

15. Verbal Agreements

It is mutually agreed and understood that no alteration or variation of the terms of this contract shall be valid unless made in writing and signed by the parties hereto and that no oral understandings or agreements not incorporated herein or no alterations or variations of the terms hereof, unless made in writing between the parties hereto, shall be binding.

16. Disputes

Any dispute between the Contractor and the State concerning a question of fact under this agreement which is not disposed of by amicable settlement shall be decided by the Chairman of the Interagency Committee for Outdoor Recreation, after a hearing at which the Contractor shall be afforded an opportunity to be heard and represented by counsel and to offer evidence in support of its position. The Chairman shall render his decision in writing and mail or otherwise furnish a copy to the Contractor. The decision of the Chairman shall be subject to review by the Interagency Committee for Outdoor Recreation and if approved by that body shall be final and conclusive, unless the Contractor brings an appeal pursuant to the provisions of the Administrative Procedures Act, Revised Code of Washington, Title 34. Pending final decision of an appeal thereunder, the Chairman's decision shall be controlling.

17. Amendments

This agreement may be amended by mutual consent of the parties, evidenced in writing and appended herewith, provided that prior notice of proposed changes is given to the HUD and the approval or the implied consent of that body obtained.

18. Notices

All notices, demands, requests, consents, approvals, and other communications which may or are required to be given by either party to the other or to

EXHIBIT - E

Interagency Committee for Outdoor Recreation (IAC) Project Agreement No. 66-025

the HUD 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.

a. Notice to the State

Administrator
To the ~~Chairman~~, Interagency Committee for Outdoor Recreation
~~1018 East Lincoln Avenue~~ 114 North Columbia
Olympia, Washington 98501

or at such other address as the state shall have furnished to the Contractor in writing.

b. Notice to the Contractor

To Edward Sand, who serves in the capacity of
Planning Director for the Contractor and who has
been designated as the Contractor's liaison officer for purposes of this
agreement, or to such other officer or address as the Contractor shall
have furnished to the Chairman in writing.

19. Reporting.

Once each year, the Contractor shall certify to the Chairman that the project and all assisted facilities are being retained, operated, maintained, and used in accordance with the terms of this agreement.

This report and certification will be partially prepared by the IAC as of March 31 of each year, and will be sent to the Contractor soon after that date. In addition to certification the Contractor will be asked to report on instances where IAC inspections show a need for remedial action and to acknowledge that assistance has been given in accordance with the report form. The Contractor will make every effort to return the completed form to the IAC promptly.

20. No waiver by the State

The Contractor agrees that the State or the IAC's failure to insist upon the strict performance of any provision of this project agreement or to exercise any right based upon a breach thereof, or the acceptance of any performance during such breach, shall not constitute a waiver of any rights under this project agreement.

21. Identifying Markers

The IAC and the HUD reserve the right to display, during the period covered by this agreement and after project completion, appropriate signs or markers, identifying the roles of the Federal, State, and local agencies participating in this project.

EXHIBIT - E

Interagency Committee for Outdoor Recreation (IAC) Project Agreement No. 66-025

IN WITNESS WHEREOF, the parties hereto have executed this project agreement in several counterparts.

STATE OF WASHINGTON

By *Edward Ardida* Date 29 Apr 68
Administrator, Interagency Committee
for Outdoor Recreation

Board of County Commissioners, King
Contractor County, Washington

* By *John T. O'Brien* Date 4-26-68
Chairman
Title

Approved as to form
This 26th day
of April 1968.
CHARLES O. CARROLL
Prosecuting Attorney

By *M. M. [Signature]* Deputy Prosecuting Attorney
Attorney for Contractor

Approved as to form
This 27th day
of April 1968.

JOHN J. O'CONNELL
Attorney General

By *Morton M. [Signature]*
Attorney for Interagency
Committee for Outdoor
Recreation

EXHIBIT - E

Interagency Committee for Outdoor Recreation (IAC) Project Agreement No. 66-025

AMENDMENT TO IAC PROJECT AGREEMENT

INTERAGENCY COMMITTEE
FOR OUTDOOR RECREATION

Project Agency: King County
Project Name: Sammamish River
Project No.: 66-025
Amendment No.: 66-025.1

The project agreement identified above is amended as follows:
Page 3, paragraphs c through f are changed as follows:

- c. The total cost of the project covered by this agreement is \$1,000,000. If future stages are contemplated by the Contractor, the total project cost, including all stages, is estimated to be not applicable,
- d. The Contractor agrees to contribute any combination of land, cash or services, material and equipment as defined by the HUD to the project in a value of \$250,000, which is 25% of the total cost of the project covered by this agreement.
- e. The State through the I.A.C. agrees to contribute cash to the project from State funds available in an amount not exceeding \$250,000, which is 25% of the total project cost covered by this agreement. The State further agrees to recommend to the HUD that federal funds totaling \$500,000 which is 50% of the total project cost covered by this agreement, be granted; and to contribute certain administrative and other services to the project relative to processing and securing federal assistance.
- f. The Contractor agrees to contribute in cash \$10,000, which is 1% of the total cost of the project covered by this agreement, to the I.A.C. to offset a portion of the State's administrative expense incident to the project, which shall be payable immediately upon notification in writing by the Chairman or Administrator that the project has been approved for funding by the IAC and HUD.

In all other respects the agreement of which this is an amendment, and the plans and specifications relevant thereto, shall remain in full force and effect. In witness whereof the parties hereto have executed this amendment.

IAC
BY *E. M. Anderson*
TITLE Administrator
DATE September 23, 1968

PROJECT AGENCY
BY *Thomas M. Ryan*
TITLE Associate Director
AGENCY King County Park & Recreation Dept.
DATE September 3, 1968

EXHIBIT - E

Interagency Committee for Outdoor Recreation (IAC) Project Agreement No. 66-025

AMENDMENT TO IAC PROJECT AGREEMENT

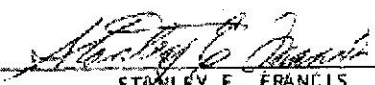
INTERAGENCY COMMITTEE
FOR OUTDOOR RECREATION

Project Agency: King County
Project Name: Sammamish River
Project No.: 66-025A
Amendment No.: 66-025A.2

The project agreement identified above is amended as follows:

The ending date of the agreement period shall be changed from December 31, 1969
to December 31, 1970.

In all other respects the agreement of which this is an amendment, and the plans and specifications relevant thereto, shall remain in full force and effect. In witness whereof the parties hereto have executed this amendment.

IAC
BY 
STANLEY E. FRANCIS
TITLE Administrator
DATE January 6, 1970


PROJECT AGENCY
BY 
TITLE County Executive
AGENCY King County
DATE January 13, 1970

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Interagency Committee for Outdoor Recreation (IAC) Project Agreement No. 66-025

AMENDMENT TO IAC PROJECT AGREEMENT

INTERAGENCY COMMITTEE
FOR OUTDOOR RECREATION

Project Agency: King County
Project Name: Sammamish River
Project No.: 66-025A
Amendment No.: 66-025A.3

The project agreement identified above is amended as follows:

Project ending date is changed from December 31, 1970 to December 31, 1972.

In all other respects the agreement of which this is an amendment, and the plans and specifications relevant thereto, shall remain in full force and effect. In witness whereof the parties hereto have executed this amendment.

IAC

BY

Stanley E. Francis
STANLEY E. FRANCIS

TITLE

Administrator

DATE

February 15, 1972

PROJECT AGENCY

BY

John D. Spellman
JOHN D. SPELLMAN

TITLE

County Executive

AGENCY

King County, Wash.

DATE

FEB 23 1972

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Interagency Committee for Outdoor Recreation (IAC) Project Agreement No. 66-025

to the description
AMENDMENT TO IAC PROJECT AGREEMENT

INTERAGENCY COMMITTEE
FOR OUTDOOR RECREATION

Project Agency: King County
Project Name: Sammamish River
Project No.: 66-025A
Amendment No.: 66-025A, 4

The project agreement identified above is amended as follows:

The legal description of the property to be acquired is amended as per Exhibit A attached hereto.

In all other respects the agreement of which this is an amendment, and the plans and specifications relevant thereto, shall remain in full force and effect. In witness whereof the parties hereto have executed this amendment.

IAC

BY

Stanley E. Francis
STANLEY E. FRANCIS

TITLE Administrator

DATE March 27, 1973

PROJECT AGENCY

BY

John D. Spillman
County Executive

AGENCY King County, Washington


DATE 2 May 1973

EXHIBIT - F
County Advertising Policy



King County
Department Policies and Procedures

General Department
Policies & Procedures

Title	ADVERTISING AND SPONSORSHIP POLICY	Document Code No.	PAR 1-18 (DP)
Department/Issuing Agency	Department of Parks and Recreation	Effective Date	Jan 6, 1998
Approved			

1.0 SUBJECT TITLE: Advertising and Sponsorship Policy

1.1 EFFECTIVE DATE: January 6, 1998

1.2 TYPE OF ACTION: New.

1.3 KEY WORDS: Advertising, Sponsorship

2.0 PURPOSE:

2.1 To seek advertisers and sponsors in order to generate revenue to support and enhance King County Park System events, publications, programs and facilities.

2.2 To maintain control of and share in the economic benefits of the commercial use of Department property, image and trademarks.

2.3 To ensure that advertising in King County Parks is appropriate for all age levels, is not offensive to the general public and is in the best interest of the community.

3.0 ORGANIZATIONS AFFECTED: King County Department of Parks and Recreation.

4.0 DEFINITIONS:

4.1 Advertising, Sponsorships

5.0 POLICIES:

5.1 No advertising is accepted which:

- Inhibits the use or function of any park, park facility, program or event
- Attacks any ethnic, racial, religious or minority groups
- Promotes the use of illicit drugs, tobacco or firearms
- Promotes alcohol use by minors

EXHIBIT - E

Interagency Committee for Outdoor Recreation (IAC) Project Agreement No. 66-025

Advertising and Sponsorship Policy
January 6, 1998
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- Promotes hostility, disorder or violence
 - Is libelous
 - Is of a sexual nature
 - Infringes on the rights of others
 - Promotes a specific religion or religious belief
 - Promotes or opposes any political candidate or cause
- 5.2 Advertising and sponsorships may be accepted for appropriate King County Park System resources, including, but not limited to, Recreation and Youth Programs, Department-sponsored special events; printed materials; outdoor recreation areas; swimming pools; sports fields; the King County Aquatic Center; the Marymoor Velodrome; and the King County Fairgrounds.

6.0 PROCEDURES:

- 6.1 To ensure adherence to Department policies, all advertising and sponsorship activities of the King County Department of Parks and Recreation are centrally managed by Department staff under the immediate supervision of the Director.

7.0 RESPONSIBILITIES:

- 7.1 The Department of Parks and Recreation accepts only those advertising messages and sponsors which are supportive of the Department's goals and are in the best interests of the community and the King County Park System.
- 7.2 Because advertisements and sponsorships are sought to enhance park programs and facilities, advertiser and sponsor messages in the King County Park System are integrated thoughtfully, tastefully and only where appropriate.