

R. 76-315

SEP 10 1975

RESOLUTION NO. 214212

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO, APPROVING AND PROVIDING FOR THE EXECUTION OF A PROJECT AGREEMENT FOR STATE BEACH, PARK, RECREATIONAL AND HISTORICAL FACILITIES BOND ACT OF 1974, PROJECT NO. 37-0013, CREST CANYON PARK, BY AND BETWEEN THE CITY AND THE STATE OF CALIFORNIA, DEPARTMENT OF PARKS AND RECREATION.

The Council of the City of San Diego resolves as follows:

1. The Project Agreement attached hereto as Exhibit A, between the City and the State of California, the terms of which provision is made for a grant of an amount not to exceed \$450,000 under the provisions of the State Beach, Park, Recreational and Historical Facilities Bond Act of 1974 for the acquisition and/or development of Project No. 37-0013, CREST CANYON PARK, as described below,

The 130 acre Crest Canyon Park site will be acquired in fee simple. The site is located in the northwest portion of the City of San Diego.

When "developed", this natural park site will provide opportunities for picnicking, hiking and nature study.

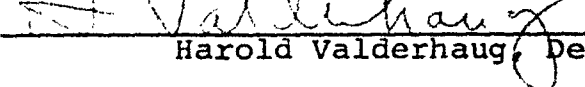
No relocation is involved.

is hereby approved in all respects.

2. The City Manager of the City of San Diego is hereby authorized and directed to execute five copies of said Project Agreement.

3. The City Clerk shall certify to the passage of this Resolution by the City of San Diego, and it shall thereupon take effect.

APPROVED: JOHN W. WITT, City Attorney

By   
Harold Valderhaug, Deputy

MICROFILMED  
MAY 18 1978

HOV:jat  
8-11-75

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STATE OF CALIFORNIA  
Resources Agency  
Department of Parks and Recreation

PROJECT AGREEMENT  
STATE BEACH, PARK, RECREATIONAL AND HISTORICAL FACILITIES  
BOND ACT of 1974

Project Title Crest Canyon Park

Applicant City of San Diego Project Number 37-0013

Project Performance Period Date of approval to 6/30/78

Description of Project (and purposes for which grant moneys were requested)

The 130 acre Crest Canyon Park site will be acquired in fee simple. The site is located in the northwest portion of the City of San Diego.

When "developed", this natural park site will provide opportunities for picnicking, hiking and nature study.

No relocation is involved.

Budget Act of 1975 Item Number 390(244)

1. Allocated for acquisition \$ 450,000
2. Allocated for development \_\_\_\_\_

Total State Grant not to exceed \$ 450,000

The General and Special Provisions attached are made a part of and are incorporated into this Agreement.

City of San Diego  
Applicant

By \_\_\_\_\_

Title City Manager

Date \_\_\_\_\_

By \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

STATE OF CALIFORNIA  
DEPARTMENT OF PARKS AND RECREATION

By \_\_\_\_\_  
Date MICROFILMED

MAY 18 1978

214212 EXHIBIT A

STATE BEACH, PARK, RECREATIONAL AND HISTORICAL FACILITIES BOND ACT OF 1974

Project Agreement  
Special Provisions

General Provisions

A. Definitions

1. The term "State" as used herein means the California State Department of Parks and Recreation.
2. The term "Act" as used herein means the State Beach, Park, Recreational and Historical Facilities Bond Act of 1974 as amended.
3. The term "Project" as used herein means the project which is described on page 1 of this agreement.
4. The term "Applicant" as used herein means the party described as applicant on page 1 of this agreement.

B. Project Execution

1. Subject to the availability of grant moneys in the Act, the State hereby grants to the Applicant a sum of money (grant moneys) not to exceed the amount stated on page 1 in consideration of and on condition that the sum be expended in carrying out the purposes as set forth in the Description of Project on page 1 and under the terms and conditions set forth in this agreement.

Applicant agrees to assume any obligation to furnish any additional funds that may be necessary to complete the project. Any modification or alteration in the project as set forth in the application on file with the State must be submitted to the State for approval prior to disbursement of grant moneys.

2. The Applicant agrees to execute and complete the Project in accordance with the time of project performance set forth on Page 1 and under the terms and conditions of this agreement.
3. If the Project includes development, the development plans and specifications shall be reviewed and approved by the State before construction is commenced.
4. The Applicant shall secure completion of the development work in accordance with the approved development plans and specifications.
5. The Applicant shall permit periodic site visits by the State to determine if development work is in accordance with the approved plans and specifications including a final inspection upon Project completion.
6. All significant deviations from the Project shall be submitted to the State for prior approval.
7. If the Project includes acquisition of real property, the purchase price for such real property shall be determined from a State approved appraisal report prepared by a competent appraiser or through proceedings in eminent domain. The appraisal report and qualifications of such appraiser shall be submitted for review and approval by the State before initiation of the acquisition procedure.

Applicant agrees to furnish State preliminary title reports respecting such real property or such other evidence of title which is determined to be sufficient by State. Applicant agrees in negotiated purchases to correct prior to or at the close of escrow any defects of title which in the opinion of State might interfere with the operation of the Project. In condemnation actions such title defects must be eliminated by the final judgment.

8. Applicant in acquiring real property, the cost of which is to be reimbursed with grant moneys under this agreement, shall comply with Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 of the Government Code and any applicable federal, state, or local laws or ordinances. Documentation of such compliance will be made available for review by the State upon request.

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### C. Project Costs

The grant moneys to be provided Applicant under this agreement shall be disbursed as follows:

1. If the Project includes acquisition of real property, the State shall disburse to Applicant the grant moneys as follows, but not to exceed in any event the State grant amount allocated for acquisition as set forth on page 1 of this agreement:
  - a. When acquisition is through negotiated purchase, upon close of escrow, State will disburse the amount of the State approved purchase price together with State approved costs of acquisition.
  - b. When acquisition is through proceedings in eminent domain, State will disburse the amount of the total award as provided for in the final order of condemnation together with State approved costs of acquisition.
  - c. In the event Applicant abandons such eminent domain proceedings, Applicant agrees to bear all costs in connection therewith and that no grant moneys shall be disbursed for such costs.
2. If the Project includes development, after approval by State of Applicant's plans and specifications and after completion of the Project or any phase or unit thereof, State shall disburse to Applicant upon receipt and approval by State of a statement of incurred costs from Applicant, the amount of such approved incurred costs shown on such statement, not to exceed the State grant amount allocated for development, as set forth on page 1 of this agreement, or any remaining portion of such grant amount to the extent of such statement. State may disburse up to 90% of the State grant amount allocated for development as shown on page 1 of this agreement, upon receipt and approval by State of a statement of estimated costs from Applicant. All moneys advanced to Applicant shall remain property of State until expended for project purposes.

The statements to be submitted by Applicant shall set forth in detail the incurred or estimated cost of work performed or to be performed on development of the Project and whether performance will be by construction contract or by force account. Statements shall not be submitted more frequently than ninety day periods unless otherwise requested by State.

Modifications of the development plan and schedule must be approved by State prior to any deviation from the State approved plan and schedule.

### D. Project Administration

1. The Applicant shall promptly submit such reports as the State may request.

In any event Applicant shall provide State, a report showing total final Project expenditures including State and all other moneys expended within sixty (60) days after completion of Project.
2. Property and facilities acquired or developed pursuant to this agreement shall be available for inspection by the State upon request.
3. The Applicant shall use any moneys advanced by the State under the terms of this agreement solely for the Project herein described.
4. If grant moneys are advanced, the Applicant shall place such moneys in a separate interest bearing account, setting up and identifying such account prior to the advance. Interest earned on grant moneys advanced pursuant to this agreement shall be paid to State. If grant moneys are advanced and not expended, the unused portion of the grant shall be returned to the State within 60 days of completion of the Project or end of the Project performance period whichever is earlier.
5. Gross income that is earned by the Applicant from a State approved non-recreational use on an acquisition project, subsequent to taking title by the Applicant, must be used by the Applicant for recreational purposes at the Project.

### E. Project Termination

1. The Applicant may unilaterally rescind this agreement at any time prior to the commencement of the Project. After Project commencement this agreement may be rescinded, modified or amended by mutual agreement in writing. A project shall be deemed commenced when the Applicant makes any expenditure, receives an advance of grant moneys or incurs any obligation with respect to the Project.
2. Failure by the Applicant to comply with the terms of this agreement or any other agreement under the Act may be cause for suspension of all obligations of the State hereunder.
3. Failure of the Applicant 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 judgment of the State such failure was due to no fault of the applicant. In such case, any amount required to settle at minimum cost any irrevocable obligations properly incurred shall be eligible for reimbursement under this agreement.

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4. Because the benefit to be derived by the State, from the full compliance by the Applicant with the terms of this agreement, is the preservation, protection and net increase in the quantity and quality of beaches, parks, public outdoor recreation facilities and historical resources available to the people of the State of California and because such benefit exceeds to an immeasurable and unascertainable extent the amount of money furnished by the State by way of grant moneys under the terms of this agreement, the Applicant agrees that payment by the Applicant to the State of an amount equal to the amount of the grant moneys disbursed under this agreement by the State would be inadequate compensation to the State for any breach by the Applicant of this agreement. The Applicant further agrees therefore, that the appropriate remedy in the event of a breach by the Applicant of this agreement shall be the specific performance of this agreement.

F. Hold Harmless

1. Applicant hereby waives all claims and recourse against the State including the right to contribution for loss or damage to persons or property arising from, growing out of or in any way connected with or incident to this agreement except claims arising from the concurrent or sole negligence of State, its officers, agents, and employees.
2. Applicant shall indemnify, hold harmless and defend State, its officers, agents and employees against any and all claims, demands, damages, costs, expenses or liability costs arising out of the acquisition, development, construction, operation or maintenance of the property described as the Project which claims, demands or causes of action arise under Government Code Section 895.2 or otherwise except for liability arising out of the concurrent or sole negligence of State, its officers, agents, or employees.
3. In the event State is named as codefendent under the provisions of Government Code Section 895 et. seq., the Applicant shall notify State of such fact and shall represent State in the legal action unless State undertakes to represent itself as codefendent in such legal action in which event State shall bear its own litigation costs, expenses, and attorney's fees.
4. In the event of judgment entered against State and Applicant because of the concurrent negligence of State and Applicant, their officers, agents, or employees, an apportionment of liability to pay such judgment shall be made by a court of competent jurisdiction. Neither party shall request a jury apportionment.

G. Financial Records

1. The Applicant shall maintain satisfactory financial accounts, documents and records for the Project and shall make them available to the State for auditing at reasonable times. Such accounts, documents and records shall be retained by the Applicant for three years following project termination or completion.

During regular office hours each of the parties hereto and their duly authorized representatives shall have the right to inspect and make copies of any books, records or reports of the other party pertaining to this agreement or matters related thereto. Applicant shall maintain and make available for inspection by State accurate records of all of its costs, disbursements and receipts with respect to its activities under this agreement.

2. The Applicant may use any generally accepted accounting system provided such system meets the minimum requirements as may be established by State.

H. Use of Facilities

1. The property acquired or developed with grant moneys under this agreement shall be used by the Applicant only for the purpose for which the State Grant moneys were requested and no other use of the area shall be permitted except by specific act of the Legislature.
2. The Applicant shall without cost to State operate and maintain the property acquired or developed pursuant to this agreement in the manner and according to the standards acceptable to State.

I. Nondiscrimination

1. The Applicant shall not discriminate against any person on the basis of sex, race, color, or national origin in the use of any property or facility acquired or developed pursuant to this agreement.
2. The Applicant shall not discriminate against any person on the basis of residence except to the extent that reasonable differences in admission or other fees may be maintained on the basis of residence and pursuant to law.

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CITY CLERK

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MAY 18 1978

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SEP 10 1975

Passed and adopted by the Council of The City of San Diego on \_\_\_\_\_, by the following vote:

Councilmen	Yeas	Nays	Excused	Absent
Gil Johnson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Maureen F. O'Connor	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lee Hubbard	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Leon L. Williams	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Floyd L. Morrow	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bob Martinet	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Jim Ellis	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jess D. Haro	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Pete Wilson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

PETE WILSON

Mayor of The City of San Diego, California.

(Seal)

EDWARD NIELSEN

City Clerk of The City of San Diego, California.

By *Kathleen Martinet*, Deputy.

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SAN DIEGO, CALIF.

Office of the City Clerk, San Diego, California

Resolution Number **214212** Adopted **SEP 10 1975**

CC-1276 (REV. 1-75)

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