



Peninsula Metropolitan Park District

PO Box 425 – Gig Harbor, WA 98335
253-858-3400 – info@penmetparks.org
www.penmetparks.org

REGULAR MEETING AGENDA

August 03, 2021, 6:00 PM

Community Recreation Center (CRC) 2416 14th Ave NW, Gig Harbor, WA 98335

Call to Order

Commissioner Roll Call:

	Present	Excused	Comment
Amanda Babich, President			
Kurt Grimmer, Clerk			
Maryellen (Missy) Hill			
Steve Nixon			
Laurel Kingsbury			

ITEM 1 Approval of Agenda

ITEM 2 Citizen Comments

Citizens are afforded an opportunity at each regular and special meeting of the Board to offer their comments to the Board. Citizens are limited to a three (3) minute time limit and may only speak once during the citizen comment period at each meeting.

ITEM 3 Presentations

- 3a. Executive Director's Report
- 3b. Agents of Discovery Presentation
- 3c. President's Report

ITEM 4 Consent Agenda

- 4a. [Approval of Minutes](#)
[07/20/21 Study Session and Regular Meeting](#)
- 4b. Approval of Vouchers
 - \$35,760.00 Reference Number: 210703001-210703017
 - \$39,075.15 Reference Number: 210705001-210705019
 - \$767.54 Reference Number: 210706001
 - \$199,410.62 Reference Number: 210704002-210704028
 - \$9,770.70 Reference Number: 210707001

ITEM 5 Unfinished Business: None

ITEM 6 New Business



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- 6a. [R2021-018: Resolution to Adopt Policy P30-105: Criminal Background Check Policy](#)
- 6b. [R2021-019: Resolution Authorizing the Executive Director to Sign the Agreement for Appropriation of Second REET Park Funds to Peninsula Metropolitan Park District](#)

ITEM 7 Project Manager Update

- 7a. CRC Operations Committee
- 7b. Hale Pass Update

ITEM 8 Comments by Board

ITEM 9 Next Board Meetings

September 07, 2021, (Study and Regular) Study Session at 5:00 pm and Regular Meeting at 6:00 pm. Community Recreation Center

ITEM 10 Adjournment

AGENDA POLICY

No comments or discussion will be allowed on consent items.

Citizen Comments: Citizens are afforded an opportunity at each regular and special meeting of the Board to offer their comments to the Board. Citizens are limited to a three (3) minute time limit and may only speak once during the citizen comment period at each meeting. Comments will be included as part of the official record of the meeting.

Individuals wishing to submit materials or written testimony to the Board at the meeting must provide ten (10) copies at least 15 minutes prior to the start of the meeting.



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STUDY SESSION MINUTES

July 20, 2021, 5:30 PM

Sehmel Homestead Park, Volunteer Vern Pavilion (10123 78th Ave NW, Gig Harbor, WA, 98332)

Call to Order: The meeting was called to order by President Babich at 5:30 pm

Commissioners Present:

Amanda Babich, President
Kurt Grimmer, Clerk
Maryellen (Missy) Hill
Steve Nixon
Laurel Kingsbury

Staff:

Ally Bujacich
Chuck Cuzzetto
Eric Guenther
Stacie Snuffin
Louise Tieman
Matthew Kerns

ITEM 1 Approval of Agenda

Commissioner Kingsbury made a motion to approve the agenda, seconded by Commissioner Nixon. The agenda was approved with a 5-0 vote.

ITEM 2 Board Discussion

2a. Policy Review – P30-105 Background Checks Policy

Executive Director Ally Bujacich gave the background for the policy review prioritization document. Bujacich went over some changes/revisions to the current draft P30-105 Background Checks Policy. Staff and Commissioners had a discussion regarding the policy, the process, laws, and recommendations for PenMet’s background checks. Bujacich continued to go over changes in the draft Background Checks Policy with the Board.

ITEM 3 Adjournment President Babich adjourned the meeting at 5:56 pm

APPROVED BY THE BOARD ON: _____

President

Clerk

Submitted By: Stace Snuffin



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REGULAR MEETING MINUTES

July 20, 2021, **6:00 PM**

Sehmel Homestead Park, Volunteer Vern Pavilion (10123 78th Ave NW, Gig Harbor, WA, 98332)

Call to Order: The meeting was called to order by President Babich at 6:00 pm

Commissioners Present:

Amanda Babich, President
 Kurt Grimmer, Clerk
 Maryellen (Missy) Hill
 Steve Nixon
 Laurel Kingsbury

Staff:

Ally Bujacich
 Chuck Cuzzetto
 Eric Guenther
 Stacie Snuffin
 Louise Tieman
 Matthew Kerns

Attendees:

Glenn Hansen
 Joan McNeil
 Sarah Stancikas
 Allen Benson
 Aaron Houston
 Vienna Lucas
 Bob McNeil

Outside Staff:

Curt Gimmestad

Entered into Executive Session at 7:10 pm

Entered back into Regular Session at 7:49 pm

ITEM 1 Approval of Agenda

Commissioner Kingsbury made a motion to approve the agenda, seconded by Commissioner Nixon. The agenda was approved with a 5-0 vote.

ITEM 2 Citizen Comments

Glenn Hansen, a neighbor to the Fox Island Fishing pier, expressed his concerns about eliminating the PenMet Parks Host program. He reported that he and a neighbor had communications with some of the commissioners regarding the matter. He expressed that he was confused by the decision and that there was a public process for having the park host program, but there's no public process for eliminating the program.

Joan McNeil commented on the DeMolay Sandspit property and expressed her concerns about the safety at the park, which includes traffic, parking, and after park hours, and wants to know PenMet's plans to address these issues.

Sarah Stancikas from the Swim Safe Campaign gave some background on how the group was started and its purpose. She gave an update on the Facebook group's growth since the last PenMet Board meeting and spoke about the newspaper writing about a drowning incident that happened at Horseshoe Lake. In addition, she read an article about swimming lessons and drowning statistics.



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Allen Benson commented on the limited space for swimming pools in the local area. He spoke about several individual swimming pools and gave information regarding accessibility, use, etc. In addition, he talked about the closing of the Tacoma Metro Parks Titlow pool and how the pool was the local staple for competitive swimming.

Aaron Houston spoke about the major problems of getting access to local pools, about not being able to be outside most of the year due to the weather and a nonprofit group he was a part of. He spoke about having a partnership between PenMet, local swim clubs, the city, county, and donors. He expressed his hope that PenMet will consider taking a look at this project.

Administrative Assistant Stacie Snuffin read public comments that were sent in via email:

Lauren Stephens's emailed that she is in support of sunsetting the park host/caretaker program at DeMolay Sandspit and the Fox Island Fishing Pier and explained why she was supporting that decision.

Billy Sehmel emailed questions that he had asked PenMet back in October 2020 regarding the park host program. He said that he received answers to some of the questions, but not all, and in his opinion, the host program probably isn't needed if it isn't bringing in any income revenue to the park district from the hosts or if it costs taxpayers any money.

Roy and Jackie Bean, who near the Fox Island Fishing Pier, emailed that they are concerned about the host program going away and that the cost savings may sound like a good idea, but for security and safety, it is a huge sacrifice, and they want to know what PenMet's plans are for how they will keep the park family-friendly and safe.

Dr. Peggy L. Power, a Fox island Fishing Pier neighbor, emailed that she has concerns about terminating the PenMet Park Host program. She wanted to know what PenMet plans to do about the opening and closing of the parks, the plan for securing the parks outside of the opening and closing hours, and the plan for managing patron behavior during open and closed hours.

Amanda Peterson, Candice Tong, and Rachael Criddle commented on their support for the Swim Safe Gig Harbor Campaign for the need for a public community pool or aquatic center and the development of the Peninsula Gardens property to include a plan for a community aquatic center.

Iris McFadden also commented on her support for the campaign and about her childhood memories of swimming, wanting her kids to build memories like she did, and the importance of swimming lessons.

Alisa Stigter emailed about her support for the Swim Safe Campaign and her fears for her daughters coming into a water situation that they will not know how to get out of and more options for local pools. She went on to write about the local pools.

Jen Wasankari emailed in and gave a brief childhood swimming history for herself and her children. She wrote that she heard from a friend about the Infant Swim Resource(ISR) and gave details about the program and doesn't believe the



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program exists in Washington anymore. She wrote that she supports the mission of developing a community pool.

The Miller's emailed that their family is in favor of Swim Safe's proposal to consider building a community pool.

Heather Maher thanked the Board for welcoming their group and beginning conversations about a public aquatic center. She wrote that over 200 more members had joined the campaign on Facebook. They now have an active petition for a public aquatic center in Gig Harbor and continue to be in conversations with PenMet on current developments and understand that a community project like this is a process.

Jennifer Noble emailed that she supports the Swim Safe Gig Harbor campaign for a public community pool or aquatic center in Gig Harbor.

All public comments emailed will be on record with the minutes.

ITEM 3 Presentations

3a. Executive Director's Report

Executive Director Ally Bujacich gave a brief update and information on the SEEK funding program grant that PenMet applied for. Bujacich listed some of the items that the grant will pay for.

Bujacich proved an update on a maple tree at the DeMolay Sandspit that will be turned into a habitat spray. Discussion ensued, and Commissioner Kingsbury requested that PenMet replant a tree in that area.

3b. Monthly Finance Report

Interim HR & Finance Manager Louise Tieman gave the June financial report. Commissioners and Tieman had a discussion. Tieman gave an update on the Kids Need to Play! (KNP!) program.

3c. President's Report: None

ITEM 4

Consent Agenda

Commissioner Nixon made a motion to approve the consent agenda, seconded by Commissioner Grimmer. The agenda was approved with a 5-0 vote.

4a. Approval of Minutes

07/6/21 Study Session and Regular Meeting

4b. Approval of Vouchers

\$58,821.87 Reference Number: 210702001-210702027 except for 210702012, 201702015, and 210702018

ITEM 5

Unfinished Business: None

ITEM 6

New Business

6a. R2021-016: Resolution Adopting the June 19, 2021, Board Retreat Goals and Objectives, Draft CIP, Board Committees, and Annual Board Calendar



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Executive Director Ally Bujacich gave a background and recommendation regarding Resolution R2021-016.

Commissioner Nixon made the motion to approve Resolution 2021-016 adopting the June 19, 2021, Board retreat outcomes, including goals and objectives, CIP priorities, policy priority schedule, Board committees, and annual Board calendar. Seconded by Commissioner Kingsbury. The motion passed with a 5-0 vote.

6b. Resolution R2021-017: Authorizing the Executive Director to Negotiate and Sign the Agreement for Recruiting Services

Executive Director Ally Bujacich gave a background and recommendation regarding Resolution R2021-017.

Commissioner Hill made the motion to approve Resolution 2021-017 authorizing the Executive Director to negotiate and sign the agreement for recruiting services. Seconded by Commissioner Nixon. President Babich expressed her support for hiring a recruiting service. The motion passed with a 5-0 vote.

ITEM 7 Project Manager Update

7a. CRC Marketing Committee

Bujacich reported that the committee had a further review of some donor software options and that they had opted to move the review and recommendation out of the committee and into administrative work. Bujacich also reported that the committee had reviewed a draft campaign brochure and discussed fundraising next steps.

7b. CRC Finance Committee

Project Manager Curt Gimmestad reported that the committee had met and discussed the CRC budget, went through line items of soft costs, discussed the project management role and on-site project management by Absher, and a schedule for some upcoming meetings.

7c. Hale Pass Update

Gimmestad reported that he would give a schoolhouse renovation update at the August 3, 2021, Board Meeting. In addition, he gave an update on the design and permitting timeline.

ITEM 8 Comments by Board:

Commissioner Nixon thanked President Babich for sitting in on the Compensation Connections meeting while he was gone, Commissioner Kingsbury for being at the Finance Committee meeting that he couldn't attend, and thanked Commissioner Grimmer for catching him up on the Finance Committee meeting.

Commissioner Kingsbury thanked Executive Director Ally Bujacich for all her work, effort, and leadership over the past few months. She also thanked the constituents who came and spoke at the meeting and appreciated their time. Kingsbury also commented that she had not yet visited all PenMet's parks and that she had



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recently visited Rotary Dog Park with her new puppies and talked about her positive experience while at the dog park.

President Babich commented on PenMet’s board meetings being back in person since June and had allowed emailed public comment to be still taken while transitioning back into in-person meetings. Babich commented that PenMet would no longer be accepting public comments via email but will be taking public comments in person starting at the August 3, 2021, board meeting.

- ITEM 9 Next Board Meetings**
Tuesday, August 3, 2021 (Study and Regular) Study Session at 5:00 and Regular Meeting at 6:00 pm at the CRC
- ITEM 10 Executive Session to discuss with legal counsel matters relating to litigation or potential litigation per RCW 42.30.110(1)(l).**
- ITEM 11 Adjournment:** President Babich adjourned the meeting at 7:50 pm

APPROVED BY THE BOARD ON: _____

President

Clerk

Submitted By: Stace Snuffin



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DISTRICT COMMISSION MEMO

To: District Commission

From: Ally Bujacich, Executive Director

Date: August 3, 2021

Subject: **Resolution R2021-018: Adopt Amended Policy P30-105: Criminal History Background Check Policy**

Background/Analysis

In accordance with RCW35.61.130(4), Peninsula Metropolitan Park District has adopted a policy that establishes the requirements for a criminal history record check for all current employees and prospective employees, as well as volunteers, vendors, and independent contractors who may, in the course of their work or volunteer activities, have unsupervised access to persons under the age of 18, persons with developmental disabilities or vulnerable adults, or be responsible for collecting or disbursing cash or processing credit/debit card transactions. The Board of Park Commissioners passed Resolution R2020-022 on September 1, 2020 to adopt amended Policy P30-105, Background Checks Policy.

The Board passed Resolution R2021-016 on July 20, 2021, which adopted the June 19, 2021 Board Retreat outcomes, including a policy review priority schedule. The schedule identifies reviewing Policy P30-105 as a high priority. Staff reviewed the policy and recommended changes, which were discussed with the Board at the July 20, 2021 study session.

The attached proposed amended policy contains staff recommendations and Board feedback from the study session. Following is a high level summary of recommended revisions:

- Retitled the policy to “Criminal History Background Check Policy.”
- Clarified background check requirements for employees (Section 2A).
- Adjusted language to ensure the policy supports electronic processing of background checks by an external entity that performs background checks (Section 5A).
- Confirmed the policy language supports reporting crimes, pending crimes, and negative actions that occurred during the maximum allowable period of time (Section 5B).
- Confirmed the DSHS Secretary’s List of Crimes and Negative Actions is an appropriate standard to use for determining whether a pending charge, pending crime, or conviction of any crime or negative action would constitute a failed background check (Section 5B).
- The policy was reorganized to provide clarity.

Legal counsel has reviewed the attached proposed policy.

Recommendation

Staff requests that the Board approve Resolution R2021-018 adopting the amended Policy P30-105: Criminal History Background Check Policy.

Policy Implications/Support

1. The District has adopted eight goals, including craft partnerships, acquire assets, develop and maintain-quality facilities and services, preserve open space, promote health and wellness, provide diverse recreational programs, prudent management of District funds, and trail planning and connections.
2. The District adopted the outcomes from the June 19, 2021 Board Retreat, including the policy priority schedule.

Motion

I move to approve Resolution 2021-018 adopting the adopting the amended Policy P30-105: Criminal History Background Check Policy.

If you have any questions or comments, please contact me at the earliest opportunity at (253) 858-3408 or via e-mail at abujacich@penmetparks.org.



Peninsula Metropolitan Park District

Criminal History Background Check Policy

Policy Number: P30-105	Resolution Number: R2021-018	Date Approved: August 3, 2021	Supersedes the following Resolutions and Policies: R2020-022 September 1, 2020 R2017-011 September 25, 2017 R2015-006 May 11, 2015
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Policy: **Criminal History Background Check Policy**
(Approved by the PenMet Parks Board of Commissioners)

Purpose: Pursuant to RCW 35.61.130(4), the Peninsula Metropolitan Park District (PenMet Parks) desires to establish a policy requiring (A) all current and prospective employees pass a criminal history record check (background check) , and (B) all volunteers, vendors and independent contractors, who may, in the course of their work or volunteer activity with PenMet Parks, have unsupervised access to persons under the age of 18, persons with developmental disabilities or vulnerable adults, or be responsible for collecting or disbursing cash or processing credit/debit card transactions pass a criminal history record check.

Policy Requirements:

Section 1. PenMet Parks is committed to providing a safe environment for its employees, volunteers, vendors, independent contractors and the general public it serves. Therefore, PenMet Parks hereby requires (A) all applicants for employment with PenMet Parks and all employees of PenMet Parks pass a criminal background check as a condition of such employment with PenMet Parks, and (B) all volunteers, vendors or independent contractors who may, in the course of their work or volunteer activity with PenMet Parks, have unsupervised access to persons under the age of 18, persons with developmental disabilities or vulnerable adults, or be responsible for collecting or disbursing cash or processing credit/debit card transactions, pass a criminal background check as a condition of such contracting or volunteering with PenMet Parks. Notification of this requirement will be included in the job posting, request for proposals and request for bids.

Section 2. Background Checks of Applicants for Employment and Current Employees.

- A. PenMet Parks has limited staff who serve in a variety of capacities depending upon the day-to-day needs of the District. Consequently, all staff may at some time have unsupervised access to persons under the age of 18, persons with developmental disabilities or vulnerable adults, or be responsible for collecting or disbursing cash or processing credit/debit card transactions. Therefore, as a condition of employment with PenMet Parks, all applicants who are otherwise qualified for the position of employment must pass a background check. As a condition of continued employment, all PenMet Parks employees must pass additional background checks, which may be performed as often as once every year thereafter.
- B. When necessary, as determined by the Executive Director, a qualified applicant may be employed on a conditional basis pending receipt of the background check report.
- C. If a current employee fails a background check, Human Resources shall advise the employee’s supervisor and terminate the employee’s employment.

Section 3. Background Checks of Volunteers.

- A. As a condition of performing work or volunteer activity with PenMet Parks, all volunteers (and a volunteer organization’s employees if applicable) that may, in the course of their work or volunteer activity with

PenMet Parks, have unsupervised access to persons under the age of 18, persons with developmental disabilities, or vulnerable adults, or be responsible for collecting or disbursing cash or processing credit/debit card transactions, must pass a background check. This requirement is met if the volunteer provides a background check report acceptable to PenMet Parks, in its sole discretion, that was performed within the previous twelve (12) months and demonstrates the volunteer passed. All volunteers who have unsupervised access to persons under the age of 18, persons with developmental disabilities, or vulnerable adults, or be responsible for collecting or disbursing cash or processing credit/debit card transactions shall be subject to and must pass another background check once every twelve (12) months from the date of the prior background check report.

- B. For purposes of this policy, “volunteers” refers to individuals who directly assist PenMet Parks on a regularly scheduled or routine basis, in a programmatic or administrative capacity. This does not include individuals who serve solely as council or advisory committee volunteers and occasional “partner project” volunteers who do not register with PenMet Parks.
- C. When necessary, as determined by the Executive Director, prospective volunteers may be allowed to volunteer on a conditional basis pending receipt of the background check report.
- D. Supervisors shall confirm all volunteers who are subject to this background check requirement have passed the background check and the reports are on file with Human Resources.

Section 4. Background Checks of Vendors and Independent Contractors.

- A. As a condition of performing work with PenMet Parks, all vendors and independent contractors that may, in the course of their work with PenMet Parks, have unsupervised access to persons under the age of 18, persons with developmental disabilities, or vulnerable adults, or be responsible for collecting or disbursing cash or processing credit/debit card transactions, must pass a background check unless the vendor or independent contractor provides a background check report acceptable to PenMet Parks, in its sole discretion, that was performed within the previous twelve (12) months and demonstrates the vendor or independent contractor passed. All vendors and independent contractors who have unsupervised access to persons under the age of 18, persons with developmental disabilities, or vulnerable adults, or be responsible for collecting or disbursing cash or processing credit/debit card transactions shall be subject to and must pass another background

check once every twelve (12) months from the date of the prior background check report.

- B. When necessary, as determined by the Executive Director, prospective vendors or independent contractors may be contracted on a conditional basis pending receipt of the background check report.
- C. Supervisors shall confirm all vendors and independent contractors who are subject to this background check requirement have passed the background check and the reports are on file with Human Resources.

Section 5. Background Check Requirements.

- A. All persons subject to the background check requirement shall complete the background check information and authorization form, as amended from time to time, and such additional information or documentation as may be required to adequately perform the background check. If a person subject to the background check requirement is below the age of eighteen (18) years old, a parent’s or legal guardian’s signature authorizing the background check is required. Human Resources will provide background check authorization forms. Human Resources may use the Washington state patrol criminal identification system, and the federal bureau of investigation criminal identification system, and may use a fingerprint check using a complete Washington state criminal identification fingerprint card. Alternatively, Human Resources may use a private company that performs background checks, such as the Background Investigation Bureau (BIB) or National Center for Safety Initiatives (NCSI/SSCI). Fees associated with performing the background check will be charged to the appropriate department(s) or to the person subject to the background check, at the discretion of the Executive Director. The person named on the report will receive a copy of the background check results.
- B. Any person whose background check includes a pending charge, pending crime or conviction of any crime or negative action listed in the “DSHS Secretary’s List of Crimes and Negative Actions” shall be deemed to have failed the background check and is automatically disqualified from performing work, volunteering or providing services to PenMet Parks.
- C. The definitions for the terms “pending charge”, “unsupervised” and “vulnerable adult” are as provided in the Washington Administrative Code (WAC) Section 388-113 as now stated or as amended in the future, including any successor or replacement statutes or regulations relating to this subject matter. All references to the “DSHS Secretary’s

List of Crimes and Negative Actions,” relate to the Washington State Department of Social and Health Services list of crimes and negative actions as specified in WAC Section 388-113 as now stated or as amended in the future, including any successor or replacement statutes or regulations relating to this subject matter.

- D. If the applicant for employment, employee, volunteer, vendor or independent contractor disagrees with the results of the background check, Human Resources shall provide to that person the contact information for the agency that performed the background check. An employee, volunteer, vendor or independent contractor who disagrees with the results of the background check may request special consideration and be allowed to perform the work or provide the services by demonstrating to the satisfaction of the Executive Director and Human Resources that adequate measures are in place preventing that person from having unsupervised access to persons under the age of 18, persons with developmental disabilities or vulnerable adults, or being responsible for collecting or disbursing cash or processing credit/debit card transactions.
- E. The District may have a duty to disclose to third parties, including government agencies, information disclosed by a background check when the law requires.



Peninsula Metropolitan Park District

RESOLUTION NO. R2021-018

A RESOLUTION OF PENMET PARKS ADOPTING THE AMENDED POLICY P30-105: CRIMINAL HISTORY BACKGROUND CHECK POLICY

WHEREAS, the Peninsula Metropolitan Park District (PenMet Parks) was formed in 2004 by a vote of the people and is authorized to deliver parks and recreation services under RCW 35.61; and

WHEREAS, Pursuant to RCW 35.61.130(4), PenMet Parks desires to establish a policy requiring (A) all current and prospective employees pass a criminal history record check (background check), and (B) all volunteers, vendors and independent contractors, who may, in the course of their work or volunteer activity with PenMet Parks, have unsupervised access to persons under the age of 18, persons with developmental disabilities or vulnerable adults, or be responsible for collecting or disbursing cash or processing credit/debit card transactions pass a criminal history record check; and

WHEREAS, the Board of Park Commissioners passed Resolution 2015-006 on May 11, 2015 establishing Policy P30-105: Background Check Policy, and passed Resolution 2017-011 September 25, 2017 to amend the policy, and passed Resolution 2020-022 on September 1, 2020 to amend the policy; and

WHEREAS, PenMet Parks wishes to further amend policy P30-105: Criminal History Background Check Policy to continue to provide a safe environment for its employees, volunteers, vendors, independent contractors and the general public it serves; NOW THEREFORE BE IT

RESOLVED by the Board of Park Commissioners that PenMet Parks adopts the amended policy P30-105: Criminal History Background Check Policy attached as Exhibit A. It is further

RESOLVED that the amended Policy P30-105: Criminal History Background Check Policy attached as Exhibit A supersedes all previous versions of Policy P30-105.

The foregoing resolution was adopted at a regular meeting of the Board of Park Commissioners of the Peninsula Metropolitan Park District held on August 3, 2021.

President

Clerk

Attest



Peninsula Metropolitan Park District

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www.PenMetParks.org

DISTRICT COMMISSION MEMO

To: Board of Park Commissioners

From: Eric Guenther, Planning & Special Projects Manager

Date: August 3, 2021

Subject: **Resolution R2021-019: Approve Pierce County Second REET Agreement**

Background/Analysis

Pierce County imposes an excise tax on each sale of real property in the unincorporated area of the County at a rate equal to one-quarter of one percent of the selling price. The excise tax proceeds are to be used solely for financing capital projects specified in the capital facilities plan element of the County Comprehensive Plan.

Pierce County Ordinance 2001-99s and Pierce County Code, Chapter 4.24.015 imposed an additional excise tax (“Second REET”) on each sale of real property in the unincorporated area of Pierce County at a rate of one quarter of one percent of the selling price. These tax proceeds are placed in the County’s Second REET Parks Fund

Pierce County Ordinance No. 2019-86s included a proviso regarding the Second REET Parks Fund specifying \$200,000 of the appropriation shall be allocated to the Peninsula Metropolitan Park (PenMet Parks) and Key Peninsula Metropolitan Park Districts based upon a formula where each district receives \$50,000 with the remaining balance distributed on a per capita basis. By this formula, PenMet Parks’ share is \$120,000. The funds allocated shall be utilized solely for capital purposes consistent with state law and shall be contingent upon an interlocal agreement being executed between Pierce County and the District.

The Interlocal Cooperation Act, chapter 39.34 RCW, authorizes government agencies to contract with each other to provide mutually beneficial services, activities, and undertakings, and an interlocal agreement between the District and Pierce County will provide a significant public benefit including but not limited to providing additional funding for capital projects.

This agreement has been reviewed by the District’s legal counsel.

Recommendation

Staff requests that the Board approve Resolution R2021-019, authorizing the Executive Director to sign the Interlocal Agreement with Pierce County regarding the Second REET Parks Fund.

Policy Implications/Support

1. The District has adopted goals including:
 - Developing and Maintaining High Quality Facilities: To build and maintain high quality facilities consistent with community planning.
 - District Funds: To maximize the use of tax revenues by using other resources such as grants, user fees, volunteers, and appropriate professional resources.

Motion

I move to approve Resolution R2021-019, authorizing the Executive Director to sign the Interlocal Agreement with Pierce County regarding the Second REET Parks Fund.

If you have any questions or comments, please contact me at the earliest opportunity at (253) 313-5086 or via e-mail at EGuenther@PenMetParks.org.

**AGREEMENT FOR APPROPRIATION OF SECOND REET PARKS FUNDS TO
PENINSULA METROPOLITAN PARK DISTRICT**

THIS AGREEMENT ("Agreement") is made and entered into by and among the Peninsula Metropolitan Park District ("PenMet Parks") and Pierce County.

RECITALS

- A. RCW 82.46.010 grants the legislative body of any county or city the authority to impose an excise tax on each sale of real property in the unincorporated area of the county at a rate not exceeding one-quarter of one percent of the selling price. After April 30, 1992, revenues generated from this tax are to be used solely for financing capital projects specified in the capital facilities plan element of the County Comprehensive Plan.
- B. Pierce County Code, Chapter 4.24, County Excise Tax on Real Estate Sales, sets forth the imposition of a tax on each sale of real property situated in the unincorporated area of the County equal to one-quarter of one percent of the selling price, effective January 1, 1986.
- C. Ordinance 2001-99s and Pierce County Code, Chapter 4.24.015, Imposition of Additional Tax, imposed an additional excise tax ("Second REET") on each sale of real property in the unincorporated area of Pierce County at a rate of one quarter of one percent of the selling price, effective January 1, 2002, and specified that revenue generated from this tax is to be used solely for financing capital projects specified in Title 19E PCC, the Capital Facilities Element of the Pierce County Comprehensive Plan. PCC 4.24.015 defined "Capital Project" to mean those public works projects of a local government for planning, acquisition, construction, reconstruction, repair, replacement, rehabilitation, or improvement of streets, roads, highways, sidewalks, street and road lighting systems, traffic signals, bridges, domestic water systems, storm and sanitary sewer systems, and planning, construction, reconstruction, repair, rehabilitation, or improvement of parks.
- D. Pierce County Ordinance No. 2019-86s, an Ordinance of the Pierce County Council Adopting the Biennial Budget of Pierce County for Fiscal Years 2020 and 2021 was adopted by the Pierce County Council on November 18, 2019. This ordinance included a proviso regarding the Second REET Parks fund, "Provided \$200,000 of this appropriation shall be allocated to the Peninsula Metropolitan Park and Key Peninsula Metropolitan Park Districts based upon the following formula: Each district is to receive \$50,000 with the remaining balance to be distributed on a per capita basis. Provided further, the funds allocated to the Peninsula Metropolitan Park and Key Peninsula Metropolitan Park Districts shall be utilized solely for capital purposes consistent with state law, shall be contingent upon an interlocal agreement being executed between Pierce County and each district, and that the incorporation of each district's proposed capital project use for said funds into the Pierce County Capital Facilities Plan.
- E. This Agreement is entered into pursuant to RCW 39.34 (Interlocal Cooperation Act). The Parties represent that under state law, including but not limited to RCW 39.34.080 and

RCW 67.20.010, they each have authority to perform the services, activities, and undertakings contemplated herein.

NOW, THEREFORE, pursuant to the above Recitals which are incorporated herein as if fully set forth below and in consideration of the terms, conditions, and performances contained herein,

The Parties mutually agree as follows:

TERMS AND CONDITIONS

- 1. **PURPOSE.** The Purpose of this Agreement is to distribute \$200,000 of Second REET Parks Fund to Peninsula Metropolitan Park and Key Peninsula Metropolitan Park Districts out of the 2021 Pierce County Budget.
- 2. In accordance with Ordinance 2019-86s, \$200,000 of this appropriation shall be allocated to the Peninsula Metropolitan Park and Key Peninsula Metropolitan Park Districts based upon the following formula: Each district is to receive \$50,000 with the remaining amount to be divided on a per capita basis. Provided, the funds allocated to the Peninsula Metropolitan Park and Key Peninsula Metropolitan Park Districts shall be utilized solely for capital purposes consistent with state law, shall be contingent upon an interlocal agreement being executed with Pierce County.
- 3. According to the calculation described in 2 above, PenMet Parks shall receive \$120,000 (($\$50,000 + (\$100,000 \times .70)$) in 2021.
- 4. PenMet Parks will provide Pierce County with a list of the proposed project(s) for the next six (6) years including the total cost (comprised of land acquisition cost, design engineering cost and construction cost), funding sources, and a description of each proposed project(s) using Second REET Parks revenue no later than the 4th Monday of June each year. The County shall include the projects in the County’s Capital Facilities Element of the County Comprehensive Plan.
- 5. No later than January 31, 2022, PenMet Parks shall submit a report to Pierce County certifying completion of projects and including all project expenditures funded by Second REET Park funds.
- 6. Funding will be on a reimbursement basis, after receipt of an invoice that shows what eligible project costs the funds will be applied to.
- 7. **TERM.** The term of this Agreement shall be nine months, commencing on April 1, 2021, and terminating midnight on December 31, 2021, unless sooner terminated as provided in Section 12.
- 8. **INDEMNIFICATION**
 - 8.1 To the extent authorized by law, the Parties shall protect, defend, indemnify, and hold harmless each other and their employees, authorized agents, and/or contractors, while acting within the scope of their employment as such, from any and all costs, claims, judgments, and/or awards of damages (both to persons

and/or property), arising out of, or in any way resulting from, each Party's obligations to be performed pursuant to the provisions of this Agreement. The Parties shall not be required to indemnify, defend, or hold harmless the other Party if the claim, suit, or action for injuries, death, or damages (both to persons and/or property) is caused by the negligence of the other Party; provided that, if such claims, suits, or actions result from the concurrent negligence of the parties or their employees, authorized agents, or contractors or involves those actions covered by RCW 4.24.115, the indemnity provisions provided herein shall be valid and enforceable only to the extent of the negligence of each Party, its employees, authorized agents, and/or contractors.

8.2 The Parties agree that their obligations under this section extend to any claim, demand and/or cause of action brought by, or on behalf of, any of its officers while performing under the terms of this Agreement. For this purpose, the Parties, by mutual negotiation, hereby waive any immunity that would otherwise be available to it against such claims under the Industrial Insurance provisions chapter 51.12 RCW

9. TERMINATION. This Agreement is subject to termination based upon the following:

9.1 Necessity. In the event that the County determines that termination of this Agreement is necessary due to lack of funding or any other reason, in its sole discretion, justifies termination, the County shall give the other Party thirty (30) calendar days' notice of termination of this Agreement. Upon Pierce County's termination of the Agreement, all Parties shall be released from any future funding or other obligations related to this Agreement.

9.2 Default. By reason of a breach of this Agreement by a Party, the other Party may terminate this Agreement; provided that, written notice specifying the breach and thirty (30) calendar days to cure the breach is given, and thereafter, in the absence of a substantial cure, the dispute resolution procedures set forth in Section 10 below is followed. The notice and dispute resolution requirements do not apply where protection of the public's health, welfare, or safety requires immediate termination.

9.3 Lack of Appropriation. Any Party's obligation under this Agreement that may extend beyond the current appropriation year is expressly conditioned upon that Party's legislative appropriation of sufficient funds to support the activities described in this Agreement. If the Party's legislative body does not appropriate sufficient funds for those purposes, then that Party's participation under this Agreement shall automatically terminate at midnight at the end of the current appropriation year.

9.4 Public Convenience. Any Party may withdraw from the Agreement for public convenience upon thirty (30) calendar days' written notice to the other Party; provided that, to the extent each Party has obligated itself to provide funding, that

funding obligation shall survive the Party's withdrawal from the Agreement and the obligated funding shall continue to be provided by the Party until the end of the Party's current appropriation year, after which the Party shall have no further funding obligation.

10. **DISPUTE RESOLUTION.** If a Party claims that another Party has breached any term of this Agreement, the following procedures shall be followed if, and when, informal communications such as telephone conversations fail to satisfy the claiming Party:
- 10.1 The claiming Party's representative shall provide a written notice to the other Party's representative of the alleged breach. The notice shall identify the act or omission at issue and the specific term(s) of the Agreement which the complaining Party alleges was violated.
- 10.2 The responding Party's representative shall respond to the notice in writing within seven (7) business days. The response shall state that Party's position as well as what, if any, corrective action the responding Party agrees to take.
- 10.3 The claiming Party shall reply in writing, indicating either satisfaction or dissatisfaction with the response. If satisfied, then the responding Party shall take any corrective action within fourteen (14) business days after receipt of the claiming Party's reply. If dissatisfied, the claiming Party shall call an in-person meeting. The meeting shall occur within a reasonable period of time and shall be attended by the designated representatives of each Party, and such others as they individually invite. If the claiming Party remains dissatisfied with the results of the meeting, it may sue to enforce the terms of this Agreement or it may withdraw from this Agreement. The Parties also may agree to an alternate dispute resolution process.
11. **INSURANCE.**
- 11.1 Notwithstanding any other provision within this Agreement, PenMet Parks shall procure and maintain for the duration of the Agreement:
- a) Commercial General Liability Insurance. Against claims for injuries to persons or damages to property that may arise from or in connection with activities performed under this Agreement.
- The insurance limits shall be no less than one million dollars (\$1,000,000) combined single limit per occurrence and two million dollars (\$ 2,000,000) in the aggregate for bodily injury and property damage.
- b) Automobile Liability Insurance. The limit of liability shall be no less than one million dollars (\$ 1,000,000) per occurrence.

c) Workers Compensation/Stop Gap. Statutory Worker's Compensation coverage and Stop Gap Liability for a limit no less than one million dollars (\$1,000,000).

11.2 The insurance policies required in this Agreement are to contain or be endorsed to contain the following provisions with respect to all Liability Policies except Professional Liability and Worker's Compensation:

Pierce County, PenMet Parks, their officers, officials, employees, agents, and consultants are to be covered as additional insureds as respects liability arising out of activities performed under this Agreement. Such insurance shall be Primary.

12. NOTICE. Any written notice, which 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 Peninsula Metropolitan Park District:

Peninsula Metropolitan Park District
Executive Director
5717 Wollochet Drive
PO Box 425
Gig Harbor, WA 98335

If to Pierce County Parks and Recreation Department:

Pierce County Parks and Recreation Department
Director
9850 -64th St W
University Place, WA 98467

13. ENTIRE AGREEMENT. This Agreement contains the Parties' entire understanding with respect to the subject matter hereof. There are no other agreements, oral or written, except as expressly set forth herein.

14. AMENDMENTS IN WRITING. Any amendment or modification of this Agreement must be in writing and executed by the Parties agreeing thereto.

15. NO CONTINUING WAIVER OF DEFAULT. The waiver of any default under any provision of this Agreement must be in writing to be valid and shall not constitute a waiver of any other default, whether of the same or of any other provision.

16. APPLICABLE LAW. This Agreement and the rights of the parties herein shall be governed by the laws of the state of Washington. Venue shall be in any of the three superior courts authorized by RCW 36.01.050 for actions against Pierce County.

17. **EXECUTION IN COUNTERPARTS.** This Agreement may be executed in counterparts, each of which shall be deemed an original.
18. **HEADINGS NOT PART OF TERMS OR CONDITIONS.** The headings of the various sections and subsections of this Agreement are inserted for convenience only and shall not be deemed to expand, limit, or otherwise affect them.
19. **ASSIGNABILITY; TERMS AND CONDITIONS BINDING ON SUCCESSORS AND ASSIGNS.** Any or all of the rights and obligations of a Party to this Agreement may be assigned and delegated to other persons, firms, or corporations only with the express written consent of the other Parties. This Agreement shall be binding on such approved assignees and delegates.
20. **NO AGENCY, PARTNERSHIP, OR EMPLOYMENT RELATIONSHIP CREATED.** Nothing herein shall be construed as creating an agency, partnership, or employment relationship between or among the Parties or any of their employees, representatives, or agents.
21. **NO THIRD-PARTY BENEFICIARIES.** Nothing in this Agreement shall create or be construed to create any rights, duties, obligations, or cause of action in any person not a Party to it.
22. **NO RESTRICTION ON POLICE POWERS.** Nothing in this Agreement shall diminish any of the Parties' governmental or police powers.
23. **SEVERABILITY.** If any provision of this Agreement is deemed unlawful or unenforceable, such provisions shall be fully severable, and the remainder of this Agreement shall be in full force and effect with the automatic addition of a provision as similar in its terms to such illegal or unenforceable provision as may be possible to make such provision legal and enforceable.
24. **RECORDING.** Pierce County shall record this Agreement following approval and execution by all of the Parties'.
25. **BUSINESS DAYS:** Business days for this Agreement are defined as Monday through Friday, excluding Washington State holidays per RCW 1.16.05.

Pierce County
Contract Signature Page
Peninsula Metropolitan Park Agreement For REET 2021

Contract # SC-108441

IN WITNESS WHEREOF, the parties have executed this agreement this _____ day of _____, 20____.

PIERCE COUNTY:
Approved as to form only:

**PENINSULA METROPOLITAN
PARK DISTRICT:**

By _____
Deputy Prosecuting Attorney Date

Director Date

By _____
Budget & Finance Date

Approved as to form only:

Approved:

Peninsula Metropolitan Park District Attorney Date

By _____
Director Date

By _____
Pierce County Executive Date
(\$250,000 or more)



Peninsula Metropolitan Park District

RESOLUTION NO. R2021-019

AUTHORIZING THE EXECUTIVE DIRECTOR TO SIGN AN INTERLOCAL AGREEMENT BETWEEN PIERCE COUNTY, WASHINGTON AND PENINSULA METROPOLITAN PARK DISTRICT REGARDING THE SECOND REET PARKS FUND

WHEREAS, RCW 82.46.010 grants to Pierce County the authority to impose an excise tax on each sale of real property in the unincorporated area of the county at a rate not exceeding one-quarter of one percent of the selling price to be used solely for financing capital projects specified in the capital facilities plan element of the County Comprehensive Plan; and

WHEREAS, Pierce County Code Chapter 4.24 sets forth the imposition of a tax on each sale of real property situated in the unincorporated area of the County equal to one-quarter of one percent of the selling price; and

WHEREAS, Ordinance 2001-99s and Pierce County Code, Chapter 4.24.015, imposed an additional excise tax ("Second REET") on each sale of real property in the unincorporated area of Pierce County at a rate of one quarter of one percent of the selling price; and

WHEREAS, Pierce County Ordinance No. 2019-86s included a proviso regarding the Second REET Parks fund specifying \$200,000 of the appropriation shall be allocated to the Peninsula Metropolitan Park and Key Peninsula Metropolitan Park Districts contingent upon an interlocal agreement being executed between Pierce County and each district; and

WHEREAS, the Interlocal Cooperation Act, chapter 39.34 RCW, authorizes government agencies to contract with each other to provide mutually beneficial services, activities, and undertakings; and

WHEREAS, an interlocal agreement between the District and Pierce County will provide a significant public benefit including but not limited to providing additional funding for capital projects.

NOW, THEREFORE BE IT

RESOLVED by the Board of Park Commissioners that the Executive Director is authorized to sign the Interlocal Agreement Between Pierce County, Washington and Peninsula Metropolitan Park District regarding the Second REET Parks Fund.

The foregoing resolution was adopted at a regular meeting of the Board of Park Commissioners of the Peninsula Metropolitan Park District held on August 3, 2021.

President

Clerk
Peninsula Metropolitan Park District Commission

Attest