

**INTERLOCAL AGREEMENT
BETWEEN
THE PENINSULA METROPOLITAN PARK DISTRICT
AND
THE PENINSULA SCHOOL DISTRICT NO. 401
(JOINT USE AND DEVELOPMENT OF FACILITIES AND OPEN SPACES)**

THIS INTERLOCAL AGREEMENT (the "Agreement") is dated June ____, 2024 (for reference purposes only) and is by and between the Peninsula Metropolitan Park District ("PenMet Parks"), and the Peninsula School District No. 401 (the "School District") (collectively the "Parties" and singularly a "Party") for the purposes described herein.

RECITALS

WHEREAS, PenMet Parks is a metropolitan park district operating under authority of Chapter 35.61 RCW and is a public agency authorized to enter into interlocal agreements with other public agencies pursuant to the Interlocal Cooperation Act, Ch. 39.34 RCW; and

WHEREAS, the School District is a municipal corporation operating under the laws of the state of Washington as a public agency authorized to enter into interlocal agreements with other public agencies pursuant to the Interlocal Cooperation Act, Ch. 39.34 RCW; and

WHEREAS, chapter 39.34 RCW (the Interlocal Cooperation Act) authorizes public entities to enter into agreements with each other to promote the health and general welfare of the community and contribute to the enhancement of the educational and recreational opportunities afforded to the children in the community; and

WHEREAS, the Parties have shared goals related to:

- a. Community recreation and education;
- b. Promoting the health and general welfare of our community;
- c. Enhancing the educational and recreational opportunities afforded to children; and
- d. Cooperating and coordinating with other government agencies to innovatively deliver services to the community in the most cost-effective manner possible that incorporates inclusion for all ages and abilities, especially for those populations furthest from health and wellness opportunities.

WHEREAS, the Parties agree that an interlocal master joint use agreement is necessary and will provide a convenient vehicle for the Parties to work together in the planning, development, operation, supervision, rehabilitation and maintenance of present and future properties and facilities for increased community access in order to:

- a. Pool property resources and to encourage joint use of the respective facilities and grounds for recreational and educational programming;
- b. Provide for and expand cooperative capital investments to enhance opportunities available for our community;
- c. Maximize the community use of public facilities owned by PenMet Parks and the School District for the benefit of our community; and
- d. Efficiently and consistently manage use of the respective facilities for the benefit of our community.

WHEREAS, additional agreements providing processes and procedures with regard to specific facilities and specific obligations of both Parties may be created to effectuate the policies identified in this Agreement; and

WHEREAS, PenMet Parks' Executive Director and the School District's Superintendent shall have the authority to create and implement such processes and procedures as necessary to effectuate this Agreement; and

WHEREAS, neither Party shall be required to subsidize the other Party's programs or use unless specifically stated in a separate agreement, and

WHEREAS, the creation of a central fund is not necessary for this Agreement;

NOW, THEREFORE, in order to maximize the benefit to their citizens, the governing bodies of PenMet Parks and the School District agree to cooperate as follows:

AGREEMENT

1. **Interlocal Cooperation Act Compliance.** This is an Agreement entered into pursuant to the Interlocal Cooperation Act, chapter 39.34 RCW. Its purpose is stated in Section 2. Its duration and method of termination is stated in Section 3. Except as otherwise specifically provided herein, each Party shall bear its own costs and control its own manner of financing and of establishing and maintaining a budget for the activities contemplated herein. No separate entity is created and, except as otherwise provided in this Agreement, no real or personal property shall be acquired pursuant to this Agreement which will need to be disposed of upon partial or complete termination of this Agreement.
2. **Purpose.** The Parties acknowledge and agree that the purpose of this Agreement is specified in the recitals provided above which are incorporated by this reference as though fully set forth herein.

3. **Duration of the Agreement: Termination.** This Agreement will commence on May 1, 2024 and will continue for a period of approximately five (5) years until June 1, 2029 and then shall automatically renew on an annual basis. Provided, however, that either Party may terminate this Agreement by resolution of their respective Board and with at least twelve (12) months prior written notice to the other Party of the termination date.
4. **Cooperative Agreement.** As provided herein, the Parties hereby agree to cooperate in coordinating programs and activities conducted at their respective properties and in their respective facilities. References to PenMet Parks' Property or School District Property in this Agreement shall include the property and the facilities located on the property. As used in this Agreement, "Owner" shall mean the Party to this Agreement that owns or operates a particular property and/or facility covered by this Agreement and "User" shall mean the other Party using the Owner's property and/or facility under the terms of this Agreement. "Public Access Hours" shall mean the hours during which the Owner normally conducts business at a specific property or facility or makes the property or facility available to the public for its use.
5. **Access to Existing Public Property and Facilities.** This section is intended to define the priority for use of each Party's facilities. The Parties overriding philosophy is that where both Parties' mission or their benchmarks are the same, properties or facilities supporting that mission or benchmark shall be strongly considered for joint use.

A. PenMet Parks' Property.

- i. **PenMet Parks' Use.** PenMet Parks shall be entitled to the exclusive use of PenMet Parks Property for the regular conduct of park, recreation, and community service activities and/or programs sponsored by PenMet Parks and at such times as PenMet Parks Property is being used by PenMet Parks or a contracted third party.
- ii. **School District Use.** At all other times and subject to the schedule jointly developed by PenMet Parks and the School District, the School District and contracted third parties of the School District will be entitled to use PenMet Parks' Property, without charge during Public Access Hours for community recreational and educational purposes for the benefit of School District students.
- iii. Contracted Third Parties of the School District using PenMet Parks' Property pursuant to this Agreement shall be subject to the obligations specified in this Agreement. The School District shall be responsible for ensuring that its Contracted Third Parties comply with all obligations under this Agreement when using PenMet Parks' Property. The School District shall also enforce all PenMet Parks rules, regulations, and policies provided by PenMet Parks while supervising community recreational activities on PenMet Parks'

Property. In planning programs and scheduling activities on PenMet Parks Property, the security, academic, athletic, and recreational needs and opportunities of school-aged children will be the highest priority. If the School District desires to use PenMet Parks' Property outside Public Access Hours, the School District should request that PenMet Parks shift its standard custodial hours to cover evenings or weekends and reschedule staff to reduce the cost incurred for after-hours and overtime use.

B. School District Property.

i. **School District Use.** The School District shall be entitled to the exclusive use of School District Property for public school and school-related educational and recreational activities, including summer school, and at such other times as School District Property is being used by the School District or its Contracted Third Parties.

ii. **PenMet Parks Use.** At all other times and subject to the schedule jointly developed by PenMet Parks and the School District, PenMet Parks and Contracted Third Parties of PenMet Parks will be entitled to use School District Property, without charge during Public Access Hours for community recreational and educational purposes for the benefit of School District students and/or the general public.

iii. Contracted Third Parties of PenMet Parks using School District Property pursuant to this Agreement shall be subject to the obligations specified in this Agreement. PenMet Parks shall be responsible for ensuring that its Contracted Third Parties comply with all obligations under this Agreement when using School District Property. PenMet Parks shall also enforce all School District rules, regulations, and policies provided by the School District while supervising community recreational activities on School District Property. In planning programs and scheduling activities on School District Property, the security, academic, athletic, and recreational needs and opportunities of school-aged children will be the highest priority. If PenMet Parks desires to use School District Property outside Public Access Hours, PenMet Parks should request the School District shift its standard custodial hours to cover evenings or weekends and reschedule staff to reduce the cost incurred for after-hours and overtime use.

C. **Contracted Third Parties.** Contracted Third Parties are defined as any governmental entity or independent contractor a Party has contracted, in writing, for services, provided that the services relate to a program, use or activity sponsored by a Party.

6. Collaborative Programs and Services for Community Benefit.

- A. Many co-sponsored programs offer value to both PenMet Parks and the School District. As part of the responsibility of the Interagency Coordinating Committee as defined in Section 9.B. below, the Committee will at least annually evaluate the current programs and make revisions if necessary for future programs to continue. These co-sponsored programs will not be included in any property or facility use or equity reports. PenMet Parks and the School District will continue to develop future opportunities for programming/access to additional properties and facilities as part of the annual planning meetings.
 - B. While this Agreement is meant to cover activities for all ages, both agencies are looking to prioritize youth programs: These programs, which often occur in collaboration with private and other public agencies, include activities such as supervised recreation, cultural awareness, artistic enrichment, academic assistance, mentoring, job training and placement, and gang and substance abuse prevention, education and intervention.
 - C. Additionally, both Parties are focusing on individuals with special needs. It is the desire of both Parties to enhance recreational and educational opportunities for students and members of the community who have disabilities.
7. **Capital Improvement and Jointly Developed Capital Projects.** It is in the best interest of the community that PenMet Parks and the School District provide high quality services to meet our respective objectives with the least possible expenditure of public funds. Cooperative planning, design, acquisition and development of facilities and programs that can meet both educational and recreational needs of our common constituency are desired and will benefit both PenMet Parks and the School District. In furtherance of these policies:
- A. The School District shall obtain PenMet Parks prior written consent before making any alterations, additions, or improvements to PenMet Parks' Property. Similarly, PenMet Parks shall obtain the School District's prior written consent before making any alterations, additions, or improvements to School District Property.
 - B. Any such alterations, additions, or improvements will be at the expense of the requesting Party, unless otherwise agreed upon.
 - C. Each Party may, for good cause, require the demolition or removal of any alterations, additions, or improvements made by the other Party at the expiration or termination of this Agreement. "Good cause" includes reasons of health, safety, or the School District's need to use the School District Property for educational purposes or PenMet Parks' need to use PenMet Parks Property for educational or recreational purposes.
8. **Improve Efficiency and Reduce Duplication.**

- A. PenMet Parks and the School District shall be responsible for the maintenance of their own properties and facilities. PenMet Parks and the School District will establish joint maintenance standards where practical and feasible for the safety of all participants in school and recreational activities. PenMet Parks and the School District agree to discuss the feasibility of shared maintenance responsibilities to reduce overall costs.
- B. PenMet Parks and the School District should also collaborate on programs that are similar in nature or have similarly intended outcomes. Programs of a similar nature should be consolidated and offered by one Party whenever possible.

9. **Communication.**

- A. **Designation of Employee Representative.** PenMet Parks' Executive Director and the School District's Superintendent shall respectively designate an employee with whom the other Party, or any authorized agent of the Party, should contact regarding the terms of this Agreement.
- B. **Interagency Coordinating Committee.** A Staff Interagency Coordinating Committee shall be established for the purpose of providing a regular mechanism for sharing information; evaluating projects, programs and potential land acquisitions; coordinating planning and services; implementing this Agreement; coordinating joint property or facility use schedules; and making recommendations to the PenMet Parks Executive Director and the School District Superintendent. The committee shall meet at least quarterly and update their respective Board annually. PenMet Parks' Executive Director and the School District's Superintendent shall respectively designate the members of the Coordinating Committee.
- C. **Sub-Committees.** PenMet Parks' Executive Director and the School District's Superintendent, in consultation with the Coordinating Committee, may organize sub-committees to handle day-to-day operations including the following subjects:
 - i. Planning and Capital Development
 - ii. Joint Facility Use and Scheduling
 - iii. Program Development
 - iv. Communications
 - v. Maintenance and Security

10. Fees and Documentation of Operational Costs. PenMet Parks and the School District will maintain records of their costs associated with joint use programming. PenMet Parks and the School District agree to use comparable cost accounting methodologies.

- A. **Documentation of Fees.** PenMet Parks and the School District shall maintain records of their respective costs associated with this Agreement.

- B. Annual Review of Benefits.** PenMet Parks and the School District will annually review the exchange of benefits based upon utilization, costs, fees and charges, and capital investments associated with this Agreement. Any compensation to correct an imbalance in direct costs incurred by one Party shall occur through the payment of the net difference in documented actual costs incurred.
- C. Revenue Generating Opportunities.** To encourage revenue development and maximizing public resources, a Party may use the other Party's property or facilities for a rental or other revenue generating activity as part of this Agreement. The Owner will be entitled to reimbursement for all expenses reasonably associated with the activity, and the User sponsoring the activity will be entitled to all revenue above and beyond expenses.
- D. Revenue Generating Facilities.** In the spirit of maximizing revenue generation, the Owner of attractions and specialty facilities with a primary purpose of generating revenue may charge the User a discounted fee for program use of the attraction or specialty facility during peak times. This discounted fee will only be charged when the Owner can demonstrate that free use of the attraction or specialty facility use will result in a significant loss of revenue.
- 11. Repair and Reimbursement.** Except for normal wear and tear and maintenance, the User shall be responsible for the cost of repairing any damage to a space, area or facility caused by the User. The User shall also be responsible for the cost to replace any missing or stolen equipment or property which occurs as a result of the User's programming at the Owner's property or facility.
- A. Repairs.** Except as otherwise mutually agreed between the Parties, the User shall not cause repairs to be made to any property, facility or items of equipment of the Owner. The Owner agrees to make such repairs within the estimated and/or fixed costs agreed upon. The User agrees to reimburse the Owner at the estimated and/ or fixed cost agreed upon between the Parties.
- B. Reimbursement Procedure.** The Owner shall invoice the User within seven (7) days of completion of repairs or replacement of missing property. The invoice shall itemize all work performed, hours worked, equipment and materials with cost rates as applied to the repair work. If the repair is contracted, a copy of the contractor's itemized statement must be attached. If the actual cost is less than the estimated and/or fixed costs, the User shall only pay the actual cost. Reimbursement shall be made within thirty (30) days from receipt of such invoice.
- C. Disagreements.** The User shall have the right to object to the allocation of responsibility or cost to repair or replace for any and all items of damage to Owner's property, facilities, equipment or missing property as identified by the

Owner. The User shall provide the objection to the Owner within ten (10) working days after the Owner's first written notification.

- i. Objections shall be made in writing and shall clearly identify the reasons for refusing responsibility or disputing the cost for damages to the property, facilities or equipment. Failure to do so within the prescribed time period shall be considered acceptance of responsibility by the User or approval of the cost.
- ii. Settlement of Objections: After proper notification of an objection, an on-site investigation involving both Parties shall be performed to assist in a determination of responsibility.
- iii. In the event an agreement cannot be reached, the matter shall be referred to the representative designated by each Party for review and consideration.
- iv. In any event, the Owner shall have the right to make immediate emergency repairs or replace missing property. However, such action shall not prevent the User from objecting to either or both responsibility for the cost and the amount of the cost.

12. Indemnification and Insurance.

A. Indemnity.

- i. PenMet Parks will hold the School District and its officers, agents and employees harmless from all suits, claims or liabilities of any nature, including attorneys' fees, costs and expenses, for or on account of injuries or damages sustained by any person or property resulting from the negligent or wrongful acts or omissions of PenMet Parks, its agents or its employees, or on account of any unpaid wages or other remuneration due for services; and, if suit with respect to the above be filed, PenMet Parks shall appear and defend the same at its own costs and expense; and if judgment be rendered or settlement made requiring payment of damages by the School District, which damages were caused by the negligent or wrongful acts or omissions of PenMet Parks, its agents or its employees, PenMet Parks shall pay the same. PenMet Parks shall not be liable or responsible for any claim, demand, loss or liability arising out of the negligence or wrongful activities or omissions of the School District, its officers, agents, contractors or employees or for any costs or expenses to appear or defend the same.
- ii. The School District will hold PenMet Parks and its officers, agents and employees harmless from all suits, claims or liabilities of any nature, including attorneys' fees, costs and expenses, for or on account of injuries or damages sustained by any person or property resulting from the negligent or wrongful acts or omissions of the School District, its agents or its employees, or on

account of any unpaid wages or other remuneration due for services; and, if suit with respect to the above be filed, the School District shall appear and defend the same at its own costs and expense; and if judgment be rendered or settlement made requiring payment of damages by PenMet Parks, which damages were caused by the negligent or wrongful acts or omissions of the School District, its agents or its employees, the School District shall pay the same. The School District shall not be liable or responsible for any claim, demand, loss or liability arising out of the negligence or wrongful activities or omissions of PenMet Parks, its officers, agents, contractors or employees or for any costs or expenses to appear or defend the same.

iii. The foregoing obligations shall survive termination of this Agreement.

B. Insurance.

- i. Property Damage Insurance. Each Party shall maintain insurance, or self-insurance funds, against loss or damage to their real property and facilities by fire, earthquake, flood, and the hazards now or hereafter insured by the "All Risk" form of insurance in an amount equal to the full insurable value of the improvements with a deductible for any single casualty of no more than \$100,000.00, a replacement cost endorsement without reduction for depreciation, and a fluctuating value endorsement with a waiver of the co-insurance clause (or an agreed amount endorsement with an inflation guard endorsement); Provided, that the deductible for earthquake and flood coverage shall be commensurate with prevailing standards.
- ii. Public Liability Insurance. The Parties shall at all times during the term of this Agreement, at its own cost and expense, carry and maintain general public liability insurance, against claims for bodily injury, personal injury, death, or property damage occurring or arising out of the use of any facilities or the provision of any services pursuant to this Agreement. This insurance shall cover such claims as may be caused by any act, omission, or negligence of each Party's own officers, agents, representatives, assigns or servants. The limits of liability insurance shall not be less than as follows:

Each Occurrence	\$5,000,000
Aggregate	\$10,000,000

- iii. Proof of Insurance. Certificates and/or evidence satisfactory to the each Party confirming the existence, terms, and conditions of all insurance required in this Agreement shall be delivered to each Party's employee in charge of risk management. The policy of insurance that must be maintained in accordance with this Agreement and shall not be cancelled or given notice of non-renewal nor shall the terms and conditions thereof be altered or amended without forty-five (45) days prior written notice being given to the other Party

iv. Waiver of Subrogation. The Parties waive all subrogation rights against each other for damages caused by fire or other perils to the extent covered by insurance obtained pursuant to this section. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

13. Compliance with Law. All use of PenMet Parks' Property and/or School District Property shall be in accordance with applicable federal, state, and local laws and regulations. In the case of a conflict between the terms of this Agreement and the requirements of federal or state law, the federal or state law shall govern. Any actions taken by PenMet Parks or the School District that are required by state law, but are inconsistent with the terms of this Agreement, shall not be construed to be a breach or default under this Agreement.

14. No Waiver. No failure by either Party to insist upon the performance of any of the terms of this Agreement or to exercise any right or remedy consequent upon a breach thereof shall constitute a waiver of any such breach or of any of the terms of this Agreement. None of the terms of this Agreement to be kept, observed, or performed by either Party, and no breach thereof, shall be waived, altered, or modified except by a written instrument executed by the injured Party. No waiver of any breach shall affect or alter this Agreement, but each of the terms of this Agreement shall continue in full force and effect with respect to any other then existing or subsequent breach thereof. No waiver of any default of the defaulting Party hereunder shall be implied from any omission by the injured Party to take any action on account of such default if such default persists or is repeated, and no express waiver shall affect any default other than the default specified in the express waiver and then only for the time and to the extent therein stated. One or more waivers by the injured Party shall not be construed as a waiver of a subsequent breach of the same covenant, term, or conditions.

15. Notices. All notices which may be or are requested to be given pursuant to this Agreement shall be deemed given when personally delivered, or when deposited in the United States Mail, postage prepaid, and marked registered or certified mail, return receipt requested, and addressed to the Parties at the following addresses unless otherwise provided for herein:

To PenMet Parks: Ally Bujacich, Executive Director
PenMet Parks
2416 - 14th Ave. NW
Gig Harbor, WA 98335

To the School District: Krestin Bahr, Superintendent
Peninsula School District

14015 - 62nd Ave. NW
Gig Harbor, WA 98332

Either party may change the address to which notices shall be sent by notice to the other party.

16. **Integration and Amendments.** There are no oral Agreements between the Parties affecting the meaning, content, purpose, or effect of this Agreement. This Agreement shall only be amended by resolutions of both the PenMet Parks' Board and the School District's Board. All amendments and/or addendums shall be incorporated into the original Agreement, and shall not supersede nor replace the original Agreement unless otherwise indicated.
17. **Adoption of Implementing Processes and Procedures.** The Parties hereby authorize the PenMet Parks' Executive Director and the School District's Superintendent to create, approve and implement such processes and procedures as necessary to further the policies of this Agreement without the necessity of approval by the Party's respective Board. Any such processes and procedures shall be consistent with the policy directives in this Agreement, applicable laws and regulations governing each Party, in writing and signed by PenMet Parks' Executive Director and the School District's Superintendent or their designees before becoming effective.
18. **Dispute Resolution.** In the event of a dispute between PenMet Parks and the School District arising out of or relating to this Agreement, PenMet Parks' Executive Director and the School District's Superintendent, or their designated representatives, shall review such dispute and options for resolution. If the dispute cannot be resolved by PenMet Parks' Executive Director and the School District's Superintendent, the dispute may be submitted to mediation, if mutually agreed to by the Parties. Otherwise the dispute shall be resolved by binding arbitration.
19. **Enforcement, Interpretation, Venue.** The laws of the State of Washington shall govern the validity, performance, interpretation, and enforcement of this Agreement. Should either party institute arbitration for enforcement or interpretation of any provision contained herein, the venue of such arbitration shall be in Pierce County, Washington.
20. **Equal Participation in Drafting.** The Parties agree that each of them were adequately represented by independent counsel, and that both Parties shared equally in the drafting of this Agreement. Therefore, this Agreement shall not be construed either for or against Metro Parks or the School District as drafter, but this Agreement shall be interpreted in accordance with the general tenor of the language in an effort to reach an equitable result.

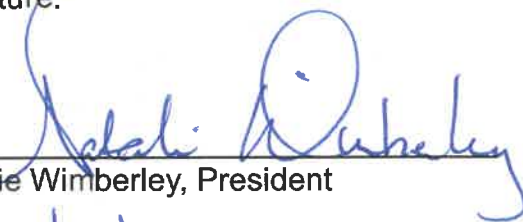
21. **Invalid Provisions.** If any provision of this Agreement shall be held invalid, the remainder of the Agreement shall not be affected thereby, if such remainder would then continue to serve the purposes and objectives of the Parties.

22. **Filing.** By its signature below, each party confirms it approves of and is authorized to enter into this Agreement pursuant to RCW 39.34.080. Pursuant to RCW 39.34.040, a copy of this Agreement shall be filed with the Pierce County Auditor or this Interlocal Agreement may be listed by subject on PenMet Parks' and the School District's website or other electronically retrievable public source.

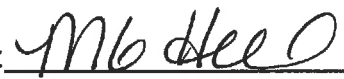
23. **Confirmation of Authority.** By its signature below, each party confirms it approves of and is authorized to enter into this Agreement pursuant to RCW 39.34.080.

24. **Effective Date.** This Agreement is effective July 1, 2024.

In witness thereof, the Parties subscribe their names on the dates below each signature.

By: 
Natalie Wimberley, President

Dated: 4 JUNE, 2024.

By: 
Maryellen "Missy" Hill, President

Dated: June 12, 2024.

By: 
Krestin Bahr, Superintendent

Dated: 4 June, 2024.

By: 
Ally Bujacich, Executive Director

Dated: June 10, 2024.