

AGREEMENT FOR TEMPORARY RIGHT OF ENTRY

This Agreement for Temporary Right of Entry upon Land is entered into as of the Effective Date (defined in Section 19 below, by and between PIERCE COUNTY, a political subdivision of the State of Washington (Grantor), and EAST PIERCE FIRE AND RESCUE, a Washington municipal corporation (Grantee). Grantor and Grantee may hereinafter be referred to collectively as "Parties" or individually as a "Party."

RECITALS

Grantor is the owner of real property commonly known as Buckley Bonney Lake Park and legally described in attached **Exhibit A** ("Subject Property")

Grantor and Grantee desire to partner on the property to develop a park that includes public safety facilities to the benefit of Pierce County residents; and

Grantor desires to grant Grantee, and Grantee desires to accept from Grantor, the temporary right to enter onto certain portion of that property illustrated in attached **Exhibit B** for the sole purpose of conducting site suitability assessments and other due diligence regarding potential siting of a public safety facility on the Subject Property;

NOW THEREFORE, for and in consideration of the terms, covenants and conditions set forth in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

AGREEMENT

1. Incorporation of Recitals. The above recitals are true and correct and are incorporated herein by this reference as if fully set forth.

2. Right of Entry. Grantor hereby grants to Grantee, and Grantee hereby accepts from Grantor, a temporary right of entry (hereinafter "Right of Entry") upon the Subject Property for the uses and purposes set forth in this Agreement

3. Term and Early Termination

3.1 Term. Unless earlier terminated by the Parties, the term of this Agreement (hereinafter "Term") shall commence 12:01 a.m., May 15, 2019 (hereinafter "Commencement Date") and end 12:00 midnight, September 30, 2019 (hereinafter "Expiration Date").

3.2 Early Termination. The provisions of Section 3.1 above notwithstanding, either Party may terminate this Agreement at any time with or without cause by giving THIRTY (30) calendar days prior written notice of such termination to the other Party and by specifying the effective date of the termination; provided, that the termination shall be preceded by a face-to-face meeting.

4. Use.

4.1 Permitted Uses. Grantee shall use the Subject Property for the sole and exclusive purpose of conducting site suitability assessments and other due diligence regarding potential siting of a public safety facility on the Subject Property. Grantee will provide copies of all studies, reports and material information related to this permitted use to Grantor at the conclusion of the assessment.

Grantee understands the Property is used for recreational purposes by the general public and the rights herein granted shall at all times be exercised in a manner that does not unreasonably interfere with the public use of the Property.

4.2 Prohibited Uses. Grantee shall not use or permit the Subject Property to be used for any purpose other than as expressly set forth in Section 4.1 above without the prior written consent of Grantor, which consent may be granted, withheld, conditioned or delayed by Grantor in its sole and absolute judgment and discretion. Further, Grantee shall not use the Subject Property in violation of any statute, rule, ordinance, permit, order, regulation or code in effect and applicable to any part of thereof. Nor shall Grantee do or permit to be done in, on, under or about the Subject Property, or any part thereof, or bring into, keep, or permit to be brought into or kept in or about the Subject Property anything that may constitute a waste, nuisance or unreasonable annoyance or that may injure or damage the same. In addition to the foregoing, Grantee shall not transport, generate, handle, store, or dispose of any Hazardous Substance in, on, under or about the Subject Property other than as expressly authorized by this Agreement. As used herein, the term "Hazardous Substance" means any hazardous, toxic, or dangerous, waste, or material, which is or becomes regulated under any federal, state or local statute, ordinance, rule, regulation, or other law now or hereafter in effect pertaining to environmental protection, contamination, or cleanup. Grantee shall hold harmless, protect, indemnify and defend Grantor from and against any damage, loss, claim, or liability of any kind, type or nature whatsoever arising out of or relating in any way to any breach of this Section 4.2, including any attorneys' fees and costs incurred. The indemnity and hold harmless provisions of this Section 4.2 shall survive expiration or earlier termination of the Term.

5. Indemnification. Each Party shall indemnify, defend, and hold harmless the other Party and its officers, elected officials, employees and agents while acting within the scope of their employment as such, from all claims, liabilities, costs, attorney fees and expenses of any kind, type or nature whatsoever arising out of or in any way relating to the obligations associated with this Agreement caused by or resulting from each Party's own negligent acts or omissions including, without limitation, any claim, demand and/or cause of action brought by or on behalf of any of its employees or agents. The Parties' obligations to indemnify, defend and hold harmless under this Section 5 includes an obligation to indemnify, defend and hold harmless for losses resulting from death or injury to a Party's officers, elected officials, employees and agents and the Parties accordingly hereby waives any and all immunities they now have or hereafter may have under Title 51 RCW (Industrial Insurance), or other worker's compensation, disability benefit or other similar act that would otherwise be applicable in the case of such a claim and

further acknowledge that such waiver was mutually negotiated by the Parties as required by RCW 4.24.115.

6. **Assignment.** The Right of Entry is personal to Grantee and Grantee may not be assigned to any other entity or person without the prior written consent of Grantor, which consent may be granted, withheld, conditioned or delayed by Grantor in its sole and absolute judgment and discretion.

7. **Defaults; Remedies.** In the event of any default by Grantee, Grantor may at any time, without waiving or limiting any other right or remedy, terminate the Right of Entry, order Grantee to immediately vacate the Subject Property, and/or pursue any other remedy allowed by law.

8. **Waiver.** Failure by Grantor to promptly enforce its rights under this Agreement shall not operate as a waiver of such rights.

9. **Grantor's Right of Entry.** Grantor reserves and shall at all times during the Term have the right to enter upon the Subject Property for any and all purposes not inconsistent with Grantee's Right of Entry and to observe Grantee's activities thereupon.

10. **Notices.** Any notices required or desired to be given shall be in writing and sent by either: (a) recognized overnight courier or (b) electronic mail. Notices shall be sent in accordance with the contact information set forth below and shall be deemed delivered on: (a) the delivery date shown in the delivery records of the overnight courier; or (c) the send date indicated by the sender's electronic mail.

TO GRANTOR: PIERCE COUNTY PARKS AND RECREATION
Attn: Resource Stewardship Division
9112 Lakewood Drive SW
Lakewood, WA 98499
Telephone: 253-798-4252
E-mail: ryan.walker@piercecountywa.gov

COPY TO: PIERCE COUNTY PROSECUTING ATTORNEY/CIVIL DIVISION
Attn: Todd Campbell, Deputy Prosecuting Attorney
955 Tacoma Avenue South, Suite 310
Tacoma, WA 9402-2160
Telephone: 253-798-7837
E-mail: todd.campbell@piercecountywa.gov

TO GRANTEE: EAST PIERCE FIRE AND RESCUE
Attn: Bud Backer, Fire Chief
18421 Veterans Memorial Drive East
Bonney Lake, WA 98391
Telephone: 253.863.1800
E-mail: bbacker@eastpiercefirer.org

Any Party, by written notice to the other in the manner herein provided, may designate an address different from that set forth above. Any notices sent by a Party's attorney on behalf of such Party shall be deemed delivered by such Party. The email addresses set forth above are for convenience only and shall not be used to deliver any notice required or desired to be given under this Agreement.

11. Negotiation and Construction. This Agreement was negotiated by the Parties with the assistance of their own legal counsel and shall be construed according to its fair meaning and not strictly for or against either Party.

12. Counterparts; Facsimile. This Agreement may be signed in two or more counterparts, which taken together shall constitute the complete agreement between the Parties. Signatures to this Agreement by the Parties transmitted via facsimile shall be acceptable and binding.

13. Prior Agreements. This Agreement contains all of the agreements of the Parties with respect to any matter covered or mentioned herein and no prior agreement, letter of intent, negotiation or understanding pertaining to any such matter shall be effective for any purpose. No provision of this Agreement may be amended or added to, except by an agreement in writing signed by the Parties or their respective successors in interest.

14. Successors and Assigns. Except as otherwise expressly provided in this Agreement, all of the terms, covenants and conditions of this Agreement are binding upon and shall inure to the benefit of the Parties and their respective heirs, personal representatives, successors and/or assigns.

15. Performance by Grantee. Except as otherwise expressly provided in this Agreement, all covenants and agreements to be performed by Grantee hereunder shall be performed by Grantee at its sole cost and expense.

16. Severability. Any provision of this Agreement that proves to be invalid, void, or illegal shall in no way affect, impair, or invalidate any other provision hereof, and such other provisions shall remain in full force and effect.

17. Governing Law; Venue. This Agreement shall be governed by and construed and interpreted in accordance with the laws of the state of Washington. Grantor and Grantee agree that venue of any action between the Parties relating to the subject matter of this Agreement shall be in Pierce County, Washington.

18. Exhibits. The following exhibit is attached to and by this reference incorporated herein as if fully set forth:

- | | | |
|------------------|---|---------------------------------------|
| Exhibit A | - | Legal Description of Subject Property |
| Exhibit B | - | Illustration of Subject Property |

19. Effective Date. The effective date of this Agreement shall be the date Pierce County's Executive has signed this Agreement as indicated opposite her name below.


[SIGNATURES & ACKNOWLEDGEMENTS APPEAR ON FOLLOWING PAGES]




PIERCE COUNTY, a municipal corporation and political subdivision of the state of Washington:

For Campbell 5-17-19
Deputy Prosecuting Attorney Date

Roxanne Smith 5/10/19
Department Director Date

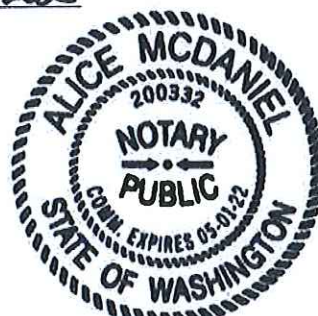

Pierce County Executive


Date

STATE OF WASHINGTON)
) ss.
COUNTY OF PIERCE)

I certify that I know or have satisfactory evidence that BRUCE DAMMEIER is the person who appeared before me and who acknowledged that she is the Executive of Pierce County, Washington, the municipal corporation that executed the within and foregoing instrument, and who acknowledged said instrument to be the free and voluntary act and deed of said municipal corporation, for the uses and purposes therein mentioned, and on oath stated that she was authorized to execute said instrument.

Alice McDaniel / Alice McDaniel
Notary Public in and for the State of Washington
Residing at: TACOMA, WA
My appointment expires: 05/01/22



EAST PIERCE FIRE AND RESCUE SIGNATURE PAGE

EAST PIERCE FIRE AND RESCUE, a Washington
municipal corporation:

By: Bud Backer 5/8/19
Name Date
Title Fire Chief

STATE OF WASHINGTON)
COUNTY OF Pierce) ss.

I certify that I know or have satisfactory evidence that Bud Backer is the
person who appeared before me and who acknowledged that he is Fire Chief
s/he is the municipal corporation that executed the within and foregoing instrument, and who
acknowledged said instrument to be the free and voluntary act and deed of said municipal
corporation, for the uses and purposes therein mentioned; and on oath stated that he was
authorized to execute said instrument.

Given under my hand and seal this 8th day of May, 2019.

Jeanette E. Peters
Notary Public in and for the State of Washington
Residing at: 1772 Bridgeway Dr.
My appointment expires: 06-02-2019



EXHIBIT A
(Legal Description of Subject Property)

Township 19 Range 05 Section 15 – the NW quarter of the NW quarter; located in Pierce County Washington.



Exhibit B: Illustration of Subject Property

