

From: Dave Robison
Sent: Monday, July 21, 2014 8:57 AM
To: Zak Tomlinson
Cc: Gerry Johnson (Gerry.Johnson@pacificallawgroup.com)
Subject: FW: informal agreements re PDA/PC MOU on PDA funding for 202

Hi Zak,

Here is the latest on the MOU with Peninsula College (PC). Please review below. We should probably schedule a time to talk. If you are comfortable with this direction, go ahead and call PC's attorney to discuss their concerns regarding the liability/insurance provisions.

Best,

Dave Robison
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www.fortworden.org

From: Dave Robison
Sent: Monday, July 21, 2014 8:54 AM
To: 'Deborah Frazier'
Subject: RE: informal agreements re PDA/PC MOU on PDA funding for 202

Hi Deb,

This pretty much reflects our conversation from last week. Please see my highlighted comments below.

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From: Deborah Frazier [<mailto:DFrazier@pencol.edu>]
Sent: Thursday, July 17, 2014 9:57 AM
To: Dave Robison
Subject: informal agreements re PDA/PC MOU on PDA funding for 202

Hi Dave,

Thanks for the conversation this morning. I found it to be very productive in moving the project forward. Below I've memorialized what we discussed; please confirm your agreement with this characterization and/or provide clarifications so that I can restate it as an accurate reflection of an agreement between us. This agreement will ultimately be captured and formalized in an MOU between the college and the PDA.

I will supply a revised MOU draft no later than COB on July 23 (much sooner, I hope) so that you can have a conversation with your attorney on July 29th. **If possible, it would be good to have the draft to review with the board for our Wed. meeting.**

Prior to that, our attorneys need to talk and work out the liability/insurance provisions. They can do that without us and achieve understanding of how to proceed to work this out amicably between the parties with the underlying understanding that it is the firm direction of the parties that we will come to a non-adversarial, interest based agreement that furthers the project and our mutual goals. PC's AAG is Cathy Marshall. She is based in Port Angeles and can be reached at Telephone - 360-417-5659 Fax - 360-417-1742 CathyM@ATG.WA.GOV. **I will have our attorney, Zak Tomlinson, call Cathy.**

You will discuss our informal agreement with your Board on Wednesday July 23 and secure their approval (**pending legal counsel review and approval**) to move forward with the formal agreement.

I will notify DES of the status of our agreement, allowing them to move forward with formal bid award and contract negotiations.

Key Financial Understandings to be Included in MOU

The college will accept responsibility for the amount of the construction bid that exceeds the cost estimate. DES has a statutory responsibility to negotiate the proposed bid down by up to 2%; the college as project lead will seek to manage the project in such a way as to eliminate the "overage" above the cost estimate; and, if actual cash is still needed to bridge this gap, the college will provide those funds.

The PDA will commit in the MOU we're currently working on to provide to the 202 construction project \$500,000 (from **the sales of the historic tax credit equity** or other funding sources). This is the amount that has been discussed for several years for the construction project, and in combination with the agreement already in place for the PDA to provide City of Port Townsend funding for the project of \$500,000, means that the PDA is providing \$1,000,000 toward the project. This total represents roughly 20% of the project budget. **(Just to be clear--It should be noted that the City/PDA was largely responsible for securing the \$2.3 M capital appropriation that was originally allocated to State Parks and then appropriated by the legislature directly to Peninsula College. Hence, in reality, our financial involvement/partnership is greater than the 20% mentioned here)**

The PDA will commit in the MOU to further provide up to \$100,000 in additional funding for the project as a proportionate share to address project overages that may result from conditions that are unknown to us all until the work starts on the building. (This amount assumes an increase in the project of up to \$500,000 due to unforeseen circumstances.) The PDA may propose to add more funding **from the sale of historic tax credits** for construction overages at its discretion pending additional negotiations. The PDA may propose to use unneeded portions of the \$100,000, or other amounts, for additional upgrades to the project after the PDA's share of construction funding requirements are satisfied.

The college/state will commit in the MOU to provide the remainder of additional funding for the project to address project overages that may result from conditions that are unknown to us all until the work starts on the building.

Due to the financial liability and responsibility that the PDA is accepting via the contribution of up to an additional \$100,000 toward construction costs, the PDA is a member of the Project Management Team so that it may participate in decision making to share responsibility for managing the overall costs of the project and protect its financial interests. **(I know you added this in to placate DES regarding our involvement, but as the master lessee of Building 202, I believe we have a role in the Project Management Team even without any financial obligation.)**

Related but separate – the PDA will issue formal notification to the Lessees of the assignment of leases from the Parks Commission to the PDA. **(I have yet to receive the signed lease assignment document back from SP. I will follow-up with Steve Hahn. In any event, it is prudent for us to begin to renegotiate the concession lease (Lease No. L839000PEN2) between SP and PC for the future operation of Building 202.)**

Did I get it all? Did I get it right? Let me know soonest so that I can revise as necessary and we can direct various folks to move on.

Deborah Frazier
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"Action is eloquence." Shakespeare