



**Board of Directors Meeting Agenda**  
**Fort Worden Lifelong Learning Center Public Development Authority (FWPDA)**  
**Wednesday, April 28, 2021 | 9 a.m.**  
**Via Zoom (Remote Meeting Per Governor Inslee’s Proclamation 20-28)**

**To join the webinar by computer/web:**

<https://zoom.us/j/91525042147?pwd=QUVSV3ZvSGNtallVZjQvS1Q4bnFzUT09>

Phone only dial:

1+253-215-8782

Meeting ID: 915 2504 2147

[No Participant ID - #]

Passcode if needed: 784777

\*9 to raise hand to speak

**Public Meeting Agenda**

- I. Call to Order
- II. Roll Call/Introductions
- III. Changes to the Agenda
- IV. Public Comment
- V. Communications of Interest
  - A. *My Edmonds News*, February 21, 2021: “Edmonds Center for Arts, Lynnwood Convention Center receive federal CARES Act funding from Snohomish County”
  - B. *Peninsula Daily News*, April 21: “Port Townsend City Council OKs Fort Worden Public Development Authority Pact Changes”
  - C. *Seattle Daily Journal of Commerce*, April 15, 2021: “Fort Worden Transformed to ‘Make Art, Not War’”
  - D. *www.kptz.org*, April 21, 2021: “KPTZ’s 19-Year Lease for New Station at Fort Worden”
- VI. Consent Agenda
  - A. Review and approval of the March 15<sup>th</sup> special board meeting minutes and the March 24<sup>th</sup> 2021 board meeting minutes  
**Action:** Motion to approve the March 15<sup>th</sup> special board meeting minutes and the March 24<sup>th</sup> 2021 board meeting minutes
- VII. Mission Review: Foundational Document Excerpts
  - A. Staff Report
    - Memo re foundational documents, including City Code guiding FWPDA
    - State Parks’ Fort Worden Business & Operating Implementation Plan
    - Master Lease between WA State Parks and FWPDA
  - B. Board Discussion

- VIII. Stakeholder Relationships and Agreements
- A. Staff Report
    - City of Port Townsend Amendments to Chapter 2.84 of the Port Townsend Municipal Code and Submitted Public Comments (from April 19<sup>th</sup> Council Business Meeting)
    - State Parks, FWPDA, City of Port Townsend Letter of Intent for MOU
  - B. Board Discussion
    - Board Transition
- IX. FWPDA Recovery and Reorganization Plan Update
- A. Staff Reports
    - Audit Update
    - Insurance Renewal
    - Financing Requests Update
  - B. Board Discussion
- X. Financial Reports
- A. Staff Reports
    - FWPDA Profit & Loss and Cash Flow Statements
    - Hospitality Business on the Books Update
    - Makers Square Financial Reconciliation
    - Infrastructure Project Funding
  - B. Board Discussion
- XI. Fort Worden Hospitality
- A. Staff Reports
    - Initial Board Appointments Status Report
    - Draft Bylaws
    - Proforma and Business Plan Update
      - Advisory Team Recommendations
    - Fort Worden Hospitality Terms and Draft Concession Agreement
  - B. Board Discussion
    - Action:** First reading of Fort Worden Hospitality Draft Concession Agreement
- XII. Public Comment
- XIII. Next Regular Board Meeting: Wednesday, May 26<sup>th</sup>, 9 a.m.
- XIV. Adjourn

# My Edmonds News

## Edmonds Center for Arts, Lynnwood Convention Center receive federal CARES Act funding from Snohomish County

Posted: February 26, 2021  532



Edmonds Center for the Arts

With the support of Snohomish County Executive Dave Somers and the Snohomish County Council, Snohomish County distributed \$415,000 of CARES act funding to three of its Public Facilities Districts for COVID-19 related improvements to help prepare the public buildings for reopening.

The public facilities districts are Everett's Angel Of The Winds Arena, Lynnwood Convention Center and Edmonds Center for the Arts – which together are responsible for \$78 million in annual economic impact in Snohomish County. The funding will ensure these facilities will be ready to open when it is allowed.

"The Lynnwood Public Facilities District and the ASM Global Management team at the Lynnwood Convention Center have invested considerable resources to ensure our facility has a safe reopening and serves as a safe place to meet for everyone," said Janet Pope, Lynnwood Public Facilities District Executive Director. We are very grateful to the county for supporting that work by allocating the critical CARES Act dollars. We look forward to welcoming the public back to our facility and continuing our mission to grow the economic vitality of our region."

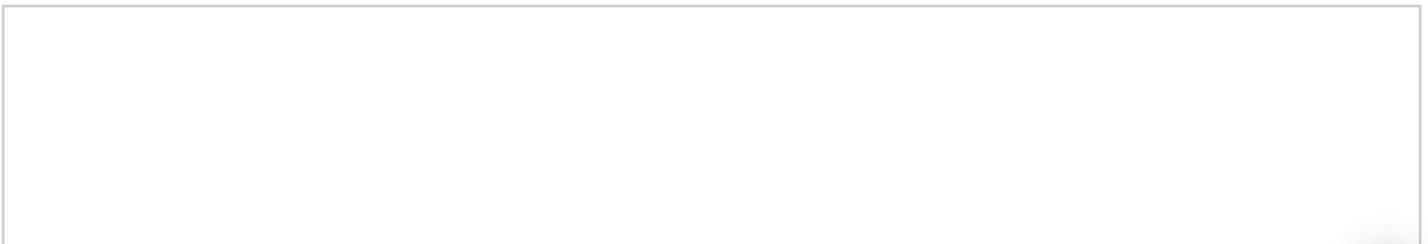
The \$415,000 CARES grant provided funding during a time when a full shutdown of these buildings has caused a loss of traditional revenue. Highlights of improvements include:

- Lynnwood Public Facilities District upgraded their air filters and purchased equipment and supplies to make catered food service more touchless to reduce potential transmission of COVID-19.
- Edmonds Public Facilities District modified its patron flow to allow for distancing of guests, upgraded restrooms with touchless fixtures and added HEPA air filtration to its performer dressing rooms while assessing and improving the air filtration system throughout the Edmonds Center for the Arts.
- Everett Public Facilities District installed state-of-the-art active air purification devices into the ventilation system across Angel Of The Winds Arena, Everett Community Ice Rink and Edward D. Hansen Conference Center to assist in preventing airborne and surface spread of COVID-19 and other airborne pathogens.

"We want to ensure these facilities are ready to open safely, since they are an important part of our economic recovery strategy for Snohomish County," said Snohomish County Executive Dave Somers. "We know our community is ready to enjoy the many opportunities these facilities have to offer, once the pandemic allows for their use. We don't want there to be any delays when that time comes."

© Copyright 2021 | All rights reserved by My Edmonds News (<https://myedmondsnews.com/>)

Website by Web Publisher PRO (<https://webpublisherpro.com>)



# Port Townsend City Council OKs Fort Worden Public Development Authority pact changes

Mission, operations remain same

By Zach Jablonski

Wednesday, April 21, 2021 1:30am | [NEWS](#) [CITY COUNCIL](#) [CLALLAM COUNTY](#)

[CORONAVIRUS](#) [JEFFERSON COUNTY](#)

PORT TOWNSEND — The Port Townsend City Council has approved changes in its oversight of the Fort Worden Public Development Authority.

The ordinance approved during a virtual meeting Monday night was modified since the April 5 meeting to focus more on pure budget oversight and make wording changes in order to leave mission and operation oversight with the PDA.

The council approved the ordinance on a 6-0 vote, with council member Pam Adams absent due to technical difficulties.



“This looks solid and clean and really a fantastic basis to go forward and help rebuild the community support for this essential institution,” council member Owen Rowe said.

“This is an essential part of Port Townsend.”

The Fort Worden Public Development Authority (PDA) is in the process of restructuring as it recovers from financial losses due to the use of capital project funds for operations and decreased revenue due to the COVID-19 pandemic.

During earlier drafts of the code changes, the city considered having the council provide budget, operations and mission oversight of the PDA, but through conversations with officials from the PDA and state parks, the council moved away from that to budgetary collaborations and corrective actions as necessary, City Manager John Mauro said.

“Since then we’ve worked that through,” Mauro said. “That might’ve been a trigger for some concern from state and the PDA.

“Because it’s now buttressed by a PDA oversight responsibility for mission and purpose, as well as a mechanism where we can trigger corrective action and work with the staff of the PDA through issues, we’re not overseeing seeing the budget,” he continued. “We’re not the new authority of the PDA.

“I think we’ve walked that tightrope really well and come out the other side with an answer that looks very different than two weeks ago.”

The PDA is required to submit its annual budget to the city manager and the financial oversight committee by Nov. 15 of each year.

However, instead of the committee developing an alternative budget if it found the budget to be unbalanced — which was the plan in earlier drafts — the committee now “shall develop recommendations and present those recommendations to the board during an open public meeting,” according to the newly adopted code.

The new language regarding members of the financial oversight committee now reads: “A financial oversight committee shall be established, consisting of the city manager, and the city finance director, together with their authority administrative equivalents (executive director and chief financial officer, for example) and the Washington State Parks Directory or designee,” according to the adopted code.

Other financial changes will require the PDA to submit quarterly financial reports to the committee.

The council also agreed Monday to add a council member and a representative of the PDA’s partner organizations will attend PDA board meetings as liaisons. Mayor Michelle Sandoval initially recommended they

be added to the board as non-voting members, but City Attorney Heidi Greenwood recommended they be liaisons due to potential liability issues.

The nomination committee for new PDA board member appointments will recommend candidates who should “have the skills and experience to best manage, promote, develop, secure funding, and enhance the Fort Worden State Park as well as bring diverse viewpoints and backgrounds,” the documents said.

The changes also added language that requires board members to refrain from serving on other nonprofit boards that have the potential for conflicts of interest with the PDA and requires them to disclose membership on a nonprofit board that has economic interests with the PDA due to business, city documents said.

The rest of the proposed changes to the code include modifying and streamlining the process for appointing board members, as well adding to the executive director responsibilities and a prohibited conduct provision from the city’s Code of Ethics.

The council also could take corrective action occasionally without having to dissolve the PDA board.

The original code has dissolution as the only corrective action.

Monday’s meeting and the full code can be read at <https://tinyurl.com/PDN-PTPDACode>.

---

Jefferson County reporter Zach Jablonski can be reached at 360-385-2335, ext. 5, or at [zjablonski@peninsuladailynews.com](mailto:zjablonski@peninsuladailynews.com)

## Construction Industry Spotlight

April 15, 2021

### Fort Worden transformed to 'make art, not war'

- ***Eventually, nine buildings will be reconfigured as flexible classrooms, galleries, studios and workspaces.***

By SAM BENNETT  
Special to the Journal

For Signal Architecture + Research, preservation has its rewards.

Signal Architecture + Research this year has seen its renovation designs of several structures at Port Townsend's Fort Worden come to life.

Signal Architecture historically rehabilitated three buildings, creating classroom and art studio space by transforming three warehouses known as Building 305, Building 308 and Building 324. Clark Construction of Bainbridge Island is the general contractor.



Photos by Art Ross [\[enlarge\]](#)

The buildings are part of Makers Square, which is the name of the Fort Worden redevelopment that will be a

hub for arts and educational programming. The state owns Fort Worden State Park, and the Fort Worden public development authority is overseeing the redevelopment.

“While preservation is not without challenges, the opportunity to merge the historic and future lives of the buildings has been incredibly rewarding,” said Mark Johnson, a principal with Signal Architecture. “Looking back at the design process as we conclude the construction phase, we can see the positive result and importance of the edits we made to our work.”

Signal Architecture's rehabilitation project marks a significant redevelopment project at Ford Worden — a project that began with Signal's work on a master plan for the buildings. Eventually, Makers Square will repurpose nine vacant or underutilized historic structures renovated into a showcase for creative community building and placemaking. The nine buildings will be reconfigured as flexible classrooms, galleries, studios and workspaces supporting a variety of programming.

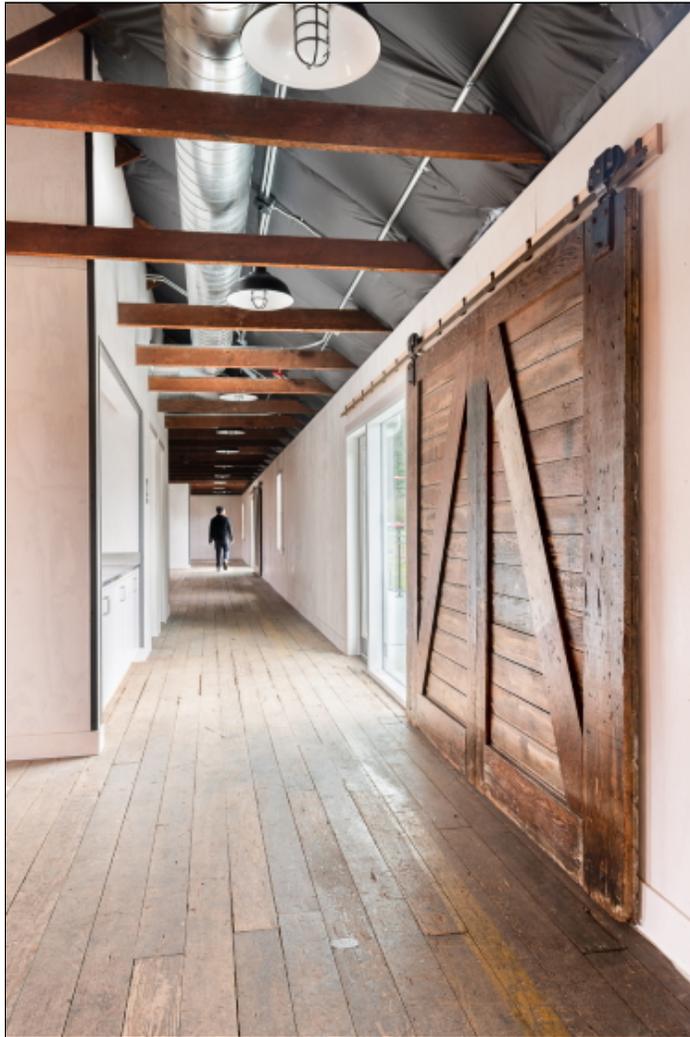
Signal Architecture redesigned the 15,000-square-foot Building 305, which was built in 1905 as the Quartermaster Storehouse. Building 305 will serve as the nucleus for new arts, culture and education programs on the campus. It has been reconfigured as flexible classrooms, galleries, studios and workspaces that can be easily and efficiently adapted to multiple uses in a day — spaces that can host a writing class in the morning, a painting class before lunch, a lecture in the afternoon and an exhibition or reception that evening.

“One of the greatest priorities and main challenge for us as architects was to retain the ephemeral character of buildings that have been hard at work for a century,” said Johnson. “The materials

scale and character that makes up these buildings were considered common in 1900. However, they are premium quality today. Our charge was to repurpose the buildings in a way that marked the next 100 years — with materials and systems that were uncomplicated, durable and beautiful.”

Johnson said his firm approached the project as “investigators,” removing accumulated elements to make space for the new arts and education programming, and as a result the historic character and texture of the buildings will be a signature experience of their reuse.

“The buildings are listed on the National Register of Historic Places, so we were strongly encouraged to maintain the exterior and interior materials in place as much as possible,” said Johnson. “As a result, the sandstone foundation is visible in the basement, most columns and beams remain visible, and interior finishes remain largely intact. From this point, the material palette is also very limited, so we were very measured in how many new materials we introduced to the project, choosing rather to adhere to the existing palette as much as possible. The roof is slate and was replaced in kind. It is expected to last at least 100 years.”



[\[enlarge\]](#)

**Most columns and beams remain visible, and interior finishes remain largely intact.**

Johnson said many of the buildings were built to be rugged, so they were finished with production materials such as Douglas fir beadboard, which he said was durable and could take any amount of abuse the user could provide.

“Inspired by the linear nature of beadboard, we employed a whitewashed Douglas fir shiplap finish on most new interior walls,” Johnson said. “The horizontal, durable nature of the new material echoes the original without mimicking it, which is a key component for the Secretary of the Interior Historic Preservation Guidelines.”

He said his design team elected to not refinish large portions of the structure, floors and places where stairwells, cabinetry and walls were removed. “These shadows of previous uses tell the story of how the buildings were used and can inspire the next generations of makers,” he said.

Since Building 305 was originally heated with steam and cast iron radiators, Signal took that cue to employ a hot water loop radiant heat system. The result has a far softer visual impact than a forced air system and prepares the project for a future district geothermal energy system.

Johnson said Building 305 was built as a storehouse and the interior retains the inventory labels that once categorized stock for construction and maintenance, equipment, gear and garments.

Buildings 308 and 324 will also be part of the classroom/art studio programming and are each 2,500 square feet.

“Military history was what founded the fort,” Johnson said. “However the cannons never fired a shot in defense. Fort Worden was a military base for 51 years, and it has been a state park for 48, with 47 of those years hosting arts and humanities organizations like Centrum. We like to say,

‘make art, not war,’ and that the military had a wise vision in creating an inspiring arts and recreation facility on a bluff overlooking the Salish Sea.”

**Previous columns:**

- [\\$550M Geffen Hall rebuild opening in fall 2022, about 18 months early, 04-08-2021](#)
- [Transferring the family business to the next generation may get more expensive, 04-01-2021](#)
- [Local AE firms share how they are getting through the pandemic — many are prospering, 03-25-2021](#)
- [With Clean Buildings mandates on the horizon, state is stepping up to help fund retrofits, 03-18-2021](#)
- [Women find inspiration at construction firms as industry becomes more accepting, 03-11-2021](#)
- [Owners drive increasing diversity on public projects — no more ‘give it your best shot’, 03-04-2021](#)
- [Katerra finds it's not easy to become the Tesla of prefab, mass timber construction, 02-25-2021](#)
- [Game over: former Trump Atlantic City casino where stars played goes out with a big bang, 02-18-2021](#)

---

Copyright 2021 Seattle Daily Journal of Commerce

# KPTZ's 19-Year Lease for New Station at Fort Worden



Photo: Barney Burke, BurkeDigitalPix

KPTZ has secured a long-term lease for our newly constructed studios at Fort Worden's Building 305. The new lease, executed with Makers Square Master Tenant LLC under the aegis of the non-profit Fort Worden Foundation, establishes KPTZ as anchor partner in the Fort's newly developed Makers Square campus.

"We expect that the move to new studios will set in motion a programming renaissance in our community," said KPTZ Board President Robert Ambrose. "A rebuilt and revitalized KPTZ will feature a significant increase of local program offerings, an expansion of local daily news programming, enhanced live musical and theatrical broadcasts, and augmented studio space for production, broadcast, and journalism training. Plus, it will enhance our emergency broadcast role."

The KPTZ 2.0 Capital Campaign in 2019 raised the ambitious goal of nearly \$1 million to construct state-of-the-art studios at Fort Worden. The station will relocate from the outgrown Mountain View school portable classroom to a larger, better-equipped space at the center of the new Makers Square arts campus. The studios will offer additional square footage,

expanded office space, acoustically designed on-air and production studios, a performance broadcast studio, a dedicated news studio, and an environmentally controlled engineering room. The move is scheduled for completion by mid-June 2021.

“We’re thrilled to bring our broadcast operations to the heart the Lifelong Learning Center at Fort Worden,” said Kate Ingram, KPTZ General Manager. “Connecting our highly creative on-air talent and operations staff with the Fort’s distinguished arts and educational partners will create expansive programming opportunities.”

KPTZ serves Washington’s North Olympic Peninsula, offering local information, education, and arts programming to over 50,000 people in its licensed broadcast area and, beyond that, streaming online worldwide to connected listeners via [KPTZ.org](http://KPTZ.org). After several years of organizing and fundraising by community leaders, KPTZ began broadcasting on May 14, 2011 with continuous 24/7 programming at 91.9 FM. It is fueled by community support and driven by the commitment of its 100+ dedicated volunteers.

Currently the station is closed to the public, in compliance with recommended COVID-19 guidelines. Now that the move is underway, KPTZ plans to reopen doors publicly and to welcome new volunteers, once the new studios and offices are completed. For more information, email [contactus@KPTZ.org](mailto:contactus@KPTZ.org).



**DRAFT Meeting Minutes**  
**Special Board of Directors Meeting – Joint Discussion with Port Townsend City Council**  
**Fort Worden Public Development Authority (FWPDA)**  
**Monday, March 15th, 2021**  
**Via Zoom (Remote Meeting Per Governor Inslee’s Proclamation 20-28)**

---

*The meeting recording and agenda materials are available on the public documents page of the FWPDA website: [www.fortworden.org/category/pda-documents/](http://www.fortworden.org/category/pda-documents/)*

**Special FWPDA Board Meeting – Joint Discussion with Port Townsend City Council**

**I. PDA Call to Order: 7:22 p.m.**

The FWPDA’s Special Board Meeting was held within the Port Townsend City Council’s March 15<sup>th</sup> business meeting. The purpose of the joint meeting was to have a public discussion about the FWPDA’s reorganization and the proposed City Ordinance 3262 amending Chapter 2.84 of the Port Townsend Municipal Code. The March 15<sup>th</sup> meeting was a remote meeting in accordance with the “Stay Home” emergency proclamation issued by Governor Jay Inslee on March 23, 2020 and subsequently extended. Access information to the meeting was published on the Fort Worden PDA website, in a meeting notice to the media, and via email to the campus partner mailing list and other stakeholders.

**II. Roll Call/Introductions**

Fort Worden PDA Board Members: Norm Tonina, Todd Hutton, Jeff Jackson, Herb Cook, Terry Umbreit, Lela Hilton, Gee Heckscher, Cindy Finnie, Jane Kilburn

FWPDA Staff: Interim Executive Director David Timmons

City Council: Pamela Adams, David Faber, Amy Howard, Monica MickHager, Owen Rowe, Michelle Sandoval, Ariel Speser

City Staff: City Manager John Mauro, City Attorney Heidi Greenwood, City Clerk Joanna Sanders

**III. Joint Discussion with the Fort Worden Public Development Authority on its Restructuring and Ordinance 3262 Relating to the Fort Worden Lifelong Learning Center Public Development Authority; Amending Chapter 2.84 of the Port Townsend Municipal Code**

Mayor Sandoval pointed out some of the public misperceptions about the Fort Worden Public Development Authority (PDA) and reviewed the challenges as a result of COVID-19 for which the PDA has tried to find solutions. She outlined that a state auditor review would address concerns of financial improprieties and that the City wants to see the PDA succeed. City Manager John Mauro spoke about the City's involvement and coordination to ensure the right balance of oversight.

The following individuals provided written comment (the Clerk read the comments into the record): Robert Gray urged that any agreements between the City and the PDA include annual audit requirements for the nonprofits as well as reporting on the progress of lifelong learning.

Mark Blatter spoke about concerns on the reorganization.

Interim Executive Director David Timmons gave a detailed presentation on how the PDA has responded to the crisis. He reviewed the financial condition, recommended code changes as well as board reorganization, and the support being requested of the City. Packet materials provided by the PDA included a Frequently Asked Questions document and memorandum.

The PDA board spoke about many financial gains thanks to City contributions, the Board's hard work in fundraising, and the challenging times the PDA has experienced. There was emphasis on the importance of having a board that understands the complex nature of the enterprise and concerns that difficulties might arise in finding new Board Members in a structure where the City has more authority and oversight and yet the PDA maintains responsibility. There were cautions about making the recommended code language changes as written without further consideration of that oversight. It was noted that the PDA self-reported financial irregularities to the State Auditor and addressed personnel issues. In addition, the PDA was responsive in addressing the public and council concerns about improved financial reporting to the City.

Council comments and questions were about the PDA's recommendations for a Board reorganization and what support is being requested on securing the loans. Mayor Sandoval urged that oversight mechanisms be put in place between the PDA executive director and the Board so the Board is aware of City requests for reporting. Mr. Timmons acknowledged that transparency mechanisms are needed, including how the PDA is fulfilling its mission for lifelong learning. Mr. Hutton talked about the important role of Fort Worden Collaborative to work with the PDA on refining its business practices and spoke about the difficulties in defining lifelong learning.

#### **IV. Adjourn**

The joint discussion/special PDA board meeting adjourned at 9:17 p.m.



**DRAFT Meeting Minutes**  
**Board of Directors Meeting**  
**Fort Worden Public Development Authority (FWPDA)**  
**Wednesday, March 24th, 2021 | 9 a.m.**  
**Via Zoom (Remote Meeting Per Governor Inslee’s Proclamation 20-28)**

---

*The meeting recording and agenda materials are available on the public documents page of the FWPDA website: [www.fortworden.org/category/pda-documents/](http://www.fortworden.org/category/pda-documents/)*

- ❖ **Action:** Motion to approve the February 24th, 2021 board meeting minutes. **Unanimously approved**
- ❖ **Action:** Motion to authorize the Board Co-Chairs, Interim Executive Director, and FWPDA attorney to incorporate the draft terms as presented into a Fort Worden Hospitality concessionaire agreement and provide a final draft with a minimum 7-day public notice of a special board meeting to consider final adoption by the FWPDA board. **Unanimously Approved**

**Regular Board Meeting**

- I. Call to Order: 9:00 a.m.**

The March 24th board meeting was a remote Internet- and phone-based meeting in accordance with the “Stay Home” emergency proclamation issued by Governor Jay Inslee on March 23, 2020 and subsequently extended. Access information to the meeting was published on the Fort Worden PDA website, in a meeting notice to the media, and via email to the campus partner mailing list and other stakeholders.
- II. Roll Call/Introductions of Board Members and Staff**

Fort Worden PDA Board Members: Norm Tonina, Todd Hutton, Jane Kilburn, Jeff Jackson, Herb Cook, Lela Hilton, Terry Umbreit, Gee Heckscher, Cindy Finnie  
Staff: David Timmons, Aislinn Diamanti, David Opp-Beckman, Natalie Maitland, Becky Wagner, Carolyn Zipeto, Joan Rutkowski, Hannah Burn (staff consultant)
- III. Board Chair Update**

Board co-chairs Norm Tonina and Todd Hutton read a statement acknowledging media coverage of the challenges confronting the FWPDA, including financial irregularities that staff uncovered as well as \$6 million in revenue loss due to COVID. They said their statement is intended to help people understand the FWPDA’s complex financial issues, offer clarifying facts, and underscore the actions that the FWPDA board and staff have taken to address the various issues. (Please see the FWPDA public documents webpage for the complete statement.)
- IV. Public Comment**
  - Joan Rutkowski read into the record questions submitted in advance by Mark Blatter questioning the structure and purpose of Fort Worden Hospitality and calling for more public input in the reorganization plan.
  - Rutkowski read into the record comments submitted in advance by Owen Rowe about the

purpose of the Fort Worden Advisory Committee.  
(Please see the FWPDA public documents webpage for the written comments.)

**V. Consent Agenda**

**A. Board Meeting Minutes**

**Action:** Motion to approve the February 24th, 2021 board meeting minutes. **Unanimously approved**

**VI. FWPDA Recovery and Reorganization Plan Update**

**A. Proposed Code Changes - Staff Report and Board Discussion**

Interim Executive Director David Timmons reviewed a memo to the City of Port Townsend summarizing concerns expressed by individual board members about the city's proposed changes to the code that governs the PDA (see agenda packet for memo.) The comments note that several proposed changes seem acceptable, while some proposed amendments and additions seem to overreach. Concerns include proposed changes to the processes for vetting potential board members and removing board members. Timmons said the creation of a Financial Oversight Committee (with more City representatives than FWPDA representatives) seems to overreach; he said this oversight is not customary for a public development authority that is financially independent from the entity that created it. One of the biggest concerns is the proposed transfer of the power to approve or disapprove the FWPDA's budget from the FWPDA board to the proposed Financial Oversight Committee, which Timmons said might cause issues with the FWPDA's contractual relationships and ability to secure financing. He said submitting a budget to the City for comment is appropriate, but transferring the authority for the budget away from the FWPDA board to the City committee is an overreach. Timmons noted that this also raises concerns about how it affects the FWPDA's ability to carry out its responsibilities per the master lease with WA State Parks, which the City is not a party to. Timmons added that he is drafting suggested triggers, such as an adverse opinion in an audit report, for the proposed trusteeship provision.

Hutton suggested caution in identifying specific triggers that demand oversight. He said the New York Board of Regents may have a good model for what triggers its oversight of public or private universities. Board member Lela Hilton asked about the response to Blatter's public comment questions. Timmons said he will be providing a response after the meeting.

**B. Fort Worden Hospitality and FWPDA Pro Forma Statements - Staff Report and Board Discussion**

Timmons discussed projections for the FWPDA and Fort Worden Hospitality (see packet for documents). He said the advisory team has been analyzing history, trends, and projections and has concluded that Fort Worden Hospitality's business model is viable and sustainable. Timmons said the advisory team involves people with extensive hospitality and/or financial management experience: David Rinn, Jeff Jackson, Cindy Finnie, and Alan Crain. Timmons said the other two parts of the FWPDA's current configuration -- administration and asset management -- have the defects that interfere with sustainability. Board Treasurer Jeff Jackson said the advisory team's approach has involved the goals of sustainability and being true to the mission. He said this holistic view does not involve dumping asset management responsibilities; asset management is being separated to find the constituents, tax benefits, and investment parties that best support it. Jackson said this allows Fort Worden Hospitality to serve partners and the community most effectively and thus benefits the lifelong learning mission.

Timmons said the five-year cash flow projections show that if the status quo is maintained, there will be a continuous deficit (over \$2.5 million in year five). Regarding deferred maintenance, Jackson said the only years the FWPDA didn't break even are the years following acquisition of campus maintenance responsibilities. Timmons said the hospitality pro forma is conservative, and includes a \$1 million startup loan that (if secured) would be paid off over a seven-year period, debt service for the glamping project, grounds maintenance, a reserve for modest capital improvements, and an operating reserve. Timmons and Jackson reviewed specific line items in the pro forma. Hutton said there are questions about the reliability of numbers used in the past for glamping, and he recommended that the projected return on investment figures be reviewed. Timmons said the numbers will be revisited. Interim Operations Director Aislinn Diamanti said some of those assumptions have already been revisited, and the glamping projections aren't based entirely on the old plan's concept. Timmons noted that the staff team has created detailed projections for each month of the five-year pro forma, and feedback from banks has been positive. Timmons said the key takeaways are that with financing, hospitality shows a positive cash flow in 2021, years 2022-2025 demonstrate potential for sustained positive cash flow, and reserves are partially funded in years 2021-2025.

Timmons said the separation of hospitality and related analysis suggest that FWPDA administration and asset management should stay together, and he is wondering if a public facilities district model would provide better tools for managing assets and administration and may allow for an allocation of state sales tax revenue. Hutton reiterated that Fort Worden Hospitality's commitment to lifelong learning is reflected in its mission statement. Timmons added that Fort Worden Hospitality will be self-governed and the FWPDA has oversight through its contractual relationship with the nonprofit. Timmons said his present goals are to get hospitality up and running under a concessionaire agreement and to focus on stabilizing the FWPDA and asset management in particular.

**C. Initial Hospitality Board Appointments Status Report - Staff Report and Board Discussion**

As the incorporator of Fort Worden Hospitality, Timmons makes the initial board appointments and the organization's bylaws will guide board membership after that. He said Jackson, Finnie, and Terry Umbreit will leave the FWPDA board and be appointed to the hospitality board based on their expertise in the hospitality industry. Diamanti said she has a commitment from Matt Gurney, who is on the leadership team with FareStart, a Seattle nonprofit that teaches people skills that are needed to succeed in the food service industry and in life. Timmons said he will initially appoint seven board members, and is reaching out into the community to fill the remaining three seats. Jackson said that based on his experience with start-ups over the last ten years, he can say with confidence that the approach the hospitality team has taken with the data has yielded one of the most sophisticated models he has seen in any startup. He also said the optimism should be balanced with the awareness that the endeavor is still a start-up with things that need to be worked out, but the plan presents the best chance for the asset.

**D. FW Hospitality Draft Concession Agreement Terms and Contract - Staff Report and Board Discussion**

The template for the draft contract is a concessionaire contract used by State Parks, which Timmons said should help State Parks have confidence that the contract protects its long-term interest in sustaining hospitality services at Fort Worden. (See the board packet for draft terms and agreement.) Work and additional vetting are needed to finalize the agreement, and changes may be needed after hospitality leadership is in place, he said. Timmons suggested that prior to taking final action, seven-day public notice be given when the contract is ready to be reviewed.

Timmons said this reflects a desire to be open and invite feedback from the public. He wants to make sure the contract has language that allows for changes up until December 31 for evolving details such as financing conditions, insurance, licenses or other matters that might require modification of the terms. Timmons noted that the terms include a requirement that three percent of gross operating revenue be paid to the FWPA, which he said is common in concession contracts. This fee is instead of a lease.

Based on a chat submission, Hutton asked if the rollup report assumes asset management by the FWPPDA for all buildings at the Fort and if \$1.5 million may be a low figure for managing the historic campus. Timmons confirmed that the entire enterprise would be helped by partners stepping up to take on deferred maintenance for select buildings. Timmons said he is trying to make something like this work. Jackson said multiple financial inputs are needed. The mix also could include private investment capital and historic tax credits, Timmons said.

Board and staff members discussed the lifelong learning mission and partner needs. Hilton asked how staff will ensure that hospitality pricing supports the Fort's mission and partners' needs; she also suggested that the new entity take collaborative marketing into consideration. Jackson said the term sheet includes specific language about discounts for partners. Hilton wondered if the FWPPDA reorganization could include a body or entity focused on supporting the lifelong learning mission, so that the mission is at the table in all conversations. Timmons said he thinks the mission can get lost in the matrix of multiple committees and groups involved in the campus and that changes may help. Board member Jane Kilburn said the FWPPDA board should be the one to hold responsibility for the mission, as it does today when it considers who becomes a partner. Hutton noted that lifelong learning needs to show up in the budget, and someone with responsibility at the FWPPDA needs to be involved in driving that agenda through programming or coordination with partners. Diamanti noted that Fort Worden Hospitality has budgeted an education/programming role for someone beginning in 2023. Hilton suggested that a group that includes partners and community members is needed to hold the mission campus-wide. Hutton, Hilton, and Kilburn agreed that FWPPDA staff leadership is needed in this area given how easy it is for crises to overwhelm the effort.

Kilburn asked about recent meetings between hospitality staff and partners. Diamanti said the feedback has been helpful and individual follow-up meetings are in process. Senior Sales and Marketing Manager Natalie Maitland said the plan is to have a yearly meeting in the first quarter to discuss partner programming plans and an end-of-year meeting to review how the year went and plan for the future. Changes in meetings between FWPPDA staff and partners were discussed; partners are now meeting without FWPPDA staff. Timmons said relationships have broken down and trust needs to be repaired. Diamanti and Maitland talked about hospitality's commitment to supporting partners. Tonina asked Timmons to develop ideas for the April board meeting about how the FWPPDA board can play a leadership role in partner relations.

The transition of some FWPPDA board members to the Fort Worden Hospitality board was discussed. Board member Herb Cook said that with the provision that individuals can't serve on both boards, he wondered whether those who will eventually be on the hospitality board should vote for the proposed motion. Timmons said he doesn't see any legal prohibition because board members would not gain financially from the tasking motion. They may want to recuse themselves from the final vote, he said. Cook said that with this assurance, he does not object to prospective hospitality board members voting on the motion.

**Action:** Motion to authorize the Board Co-Chairs, Interim Executive Director, and FWPPDA attorney to incorporate the draft terms as presented into a Fort Worden Hospitality concessionaire agreement and provide a final draft with a minimum 7-day public notice of a

special board meeting to consider final adoption by the FWPDA board. **Unanimously Approved**

## **VII. Financial Reports - Staff Report and Board Discussion**

### **A. Audit Update**

Timmons clarified that the State's accountability audit is underway, and the financial audit is a separate audit and it is delayed because of Makers Square accounting adjustments that need to be made. He said Makers Square financials need to be restated to remove Maker Square from the FWPDA to the Makers Square LLC. He noted that the finance department is understaffed, and extensive and detailed work is needed for both audits. Timmons said he is in constant contact with the State Auditor's Office about the process. Timmons said that when the audit team is ready with the accountability audit report, the FWPDA will receive a draft and be able to provide a response before it becomes a public document. He added that no new issues have been seen beyond what he has already reported. Tonina and Timmons talked about the restatement of financials to the Budgeting, Accounting and Reporting System (BARS).

### **B. Internal Financial Controls Update**

Bookkeeper Carolyn Zipeto summarized the FWPDA's internal financial controls, which include a return to a three-touch system with additional staff help. All transfer requests go before Timmons for his consideration, Zipeto said. Timmons said all but one credit card has been closed, and it is primarily used for food and beverage expenses. Diamanti noted that several food, beverage, and technology vendors require payment by credit cards; the card also is needed to purchase gas for campus vehicles.

### **C. Profit & Loss, Cash Flow, and Makers Square Financial Reconciliation**

Finance Department staff Becky Wagner reviewed the 2020 Profit & Loss statement (see agenda packet). She noted an error in which \$113,000 shows up under "insurance" and it should instead fall under "contracts". The loss of approximately \$1,800,000 involves \$1,054,000 for loans and notes, Wagner said. With financing draws, cash at the end of 2020 was close to \$160,000. Timmons said additional work is needed to secure the second of three income installments from the Historic Tax Credits. The project is near completion, and HTC income will pay off all liabilities to contractors, he said. As standard operating procedure, an independent audit of eligible expenses will be conducted and submitted to the National Park Service and it will help secure the final HTC installment. Wagner is working on finalizing all Makers Square grant needs to secure final payments. Zipeto said accounts receivable are caught up, and payables for operations only (not capital) will be down to below \$200,000 following a pending payment. The payables total includes a reserve for April payroll and benefits. Timmons is exploring whether the FWPDA can qualify for the latest round in federal and state stimulus and recovery funds.

### **D. Hospitality Business on the Books Update**

- Maitland reviewed business activity and projections (see report in board packet). She said there has been a big increase in queries and reservations for group business, even since the March report was published for the board packet. Leisure business in March has grown by 50 percent over the numbers presented in the February board report, she said. Maitland said Hospitality hosted its first group since the shutdown a year ago and it went well. She said the 24-rest period is still being utilized between guests due to COVID; that practice will likely no longer be in effect as of June 1st, which will open up accommodations and opportunities for more revenue. State Parks is on track with Officers Row work and those accommodations are expected to come back online May 1st, she said. Maitland said business is outpacing the hospitality pro forma projections, with revenue for the first

quarter coming in \$40,000 over what was projected and \$20,000 over projections for the second quarter thus far. Reveille has added weekend hours and is surpassing revenue projections, she said. Cancellations are still happening, but the rate is declining and most people want to reschedule, Maitland added.

- Regarding recent news stories about financial and personnel challenges that happened in 2020, Maitland said she received a few calls from people concerned that operations might be closed in the future. Maitland said she reassured callers about operations and has received positive and supportive comments.
- Only a few new hospitality staff members have been hired, but hiring will increase as hospitality business increases. Maitland said staffing will overall remain limited for a while given revenue to expense margins. Finnie and Jackson noted the impact of COVID on advance bookings and how that affects the ability to plan for staffing.

#### **E. Finance Request Updates**

Timmons provided an update on efforts to address the FWPDA's debt. He is working on a refinancing package with Kitsap Bank for a \$1.3 million line of credit that would allow the FWPDA to restore funds that were transferred from capital projects to operations. The remaining debt for glamping would be transferred with the project to Fort Worden Hospitality, and the outstanding Makers Square line of credit would remain with the FWPDA. Timmons also is seeking a \$1 million start-up loan for Fort Worden Hospitality; an application for the loan has been submitted to Craft3 (see application in board packet). Board approval would be needed for any loan agreements, he said.

[Jackson left the meeting.]

#### **VIII. Public Comment – see website for written public comments**

- Mayor Michelle Sandoval noted examples of the City's financial support for the FWPDA. She asked if State Parks has approved the strikeouts in the proposed concessionaire agreement. She said the FWPDA's existence is about the lifelong learning mission, and it is the board's responsibility. Sandoval said her concern with the restructuring is that it's a different animal from what was first created by a six-year public process, and she also noted that the restructuring may be necessary for sustainability. She encouraged leadership to have more public process and would like a public viewing of Fort Worden Hospitality's bylaws out of interest in what would guide the nonprofit as leadership changes. Sandoval said the City looks forward to continuing to work with the FWPDA and for more transparency and clarity.
- Lisa Werner, Director of Operations at Centrum, provided a written public comment that was read into the record to clarify the reason for the current configuration of partner meetings.

Diamanti said bylaws are being drafted, and Fort Worden Hospitality's board first needs to be seated in order for those bylaws to be approved. She said she will share the draft document when it is ready. The term sheet has been carefully developed with elements from the FWPDA's master lease with State Parks regarding lifelong learning and public benefits, she added. A commitment to lifelong learning is required by the term sheet and will carry into the contract. The term sheet is a work in progress and will be shared with Parks for feedback before it's finalized; Diamanti said the strikeouts mostly reflect areas where the agreement needs to be different from what is used for smaller concessionaires.

#### **IX. Adjourn**

The board adjourned its meeting at 11:55 a.m.

**DATE:** April 28<sup>th</sup>, 2021  
**TO:** FWPDA Board of Directors  
**FROM:** David Timmons, Interim Executive Director  
**SUBJECT:** Foundational Documents Guiding the Fort Worden Lifelong Learning Center Public Development Authority (FWPDA)

---

Over the past few months, the FWPDA's reorganization process has stimulated discussion in board meetings and other contexts about the lifelong learning mission that is the heart of the Fort Worden State Park campus.

To help ground discussions in the formal expectations and agreements that guide the FWPDA's mission and management of the campus, we have provided in the agenda packet the most relevant excerpts from Washington State Parks' Business & Operating Implementation Plan and from our master lease with State Parks. The recently amended charter established by the City of Port Townsend through Chapter 2.84 of the Municipal Code is the third foundational document; it is included in the packet for this topic and for a report and discussion on the recent code changes.

- ***Fort Worden State Park Long-Range Plan – Business and Operating Implementation Plan (2008)***. The business & operations plan is among the documents that comprise the long-range plan for Fort Worden. This component was developed when State Parks was directly managing the campus, and it notes that improved overnight accommodations, often provided as conference services, and diverse programs and services are the best yielding business functions of the park. To propose strategies that could lead to more sustainable operations that accommodate the vision of the lifelong learning center, the plan recommended independent management of the center by a non-governmental nonprofit organization.
- ***Charter with the City of Port Townsend (2011)***. Through City Code, the charter established the Fort Worden Lifelong Learning Center Public Development Authority to “manage, promote, develop, secure funding, and enhance the Fort Worden State Park including undertaking, assisting with, and otherwise facilitating the implementation of a Lifelong Learning Center at the park generally as envisioned in the Fort Worden Long-Range Plan (2008) adopted by the Washington State Parks and Recreation Commission, including any amendments thereto.”
- ***Master Lease with WA State Parks (2013)***. The FWPDA's 50-year lease with State Parks establishes the FWPDA as “the tenant primarily responsible for management and operation of the Campus”. As the recitals excerpted from the lease show, State Parks' mission for Fort Worden is to serve as “the state park conference center for recreation, arts, culture, history and the environment” that is “a confluence of creative learning, recreation, and retreat opportunities for people of all ages, abilities, and backgrounds.” Article 7 is provided to show what the lease has identified as key to the FWPDA's management and operation of the campus.

---

**Fort Worden State Park**  
**Long Range Development Plan**  
*Business and Operating Implementation Plan*  
**Consultant Team Recommendations**

**Prepared by:**



**August 2008**

## Executive Summary

This *Business and Operating Implementation Plan* is a culmination of work and analyses performed throughout multiple planning phases that established a new vision for Fort Worden State Park to become the Fort Worden Lifelong Learning Center. This report is an implementation tool to be utilized for purposes of clarifying the business and operational requirements of the new Fort Worden vision. Reports that have contributed to the development of this *Business and Operating Implementation Plan* includes:

- Previous Fort Worden State Park Planning - Phases 1 and 2
- Substantial Public and Stakeholder Input – Phases 1, 2, and 3
- *Operations and Management Assessment Report* – Phase 3
- *Preliminary Recommendations Report* – Phase 3
- *Preliminary Design Guidelines* – Phase 3
- *Preliminary Site and Facility Use Plan* – Phase 3
- Governance Task Force Recommendations – Phase 3

Prior to the presentation of more detailed recommendations for the Fort Worden Lifelong Learning Center concept, however, it is prudent to revisit the vision, mission, values and development principles for the outcomes of this planning phase as was determined in the previous planning exercises association with the Fort Worden State Park Long Range Plan. Additionally, the goals for the Lifelong Learning Center will be included.

### Vision

Fort Worden is a legendary gathering place where people are transformed through retreat, renewal and discovery.

### Mission

Fort Worden is Washington's state park conference center for recreation, arts, culture, history and the environment. It is a confluence of creative learning, recreation, and retreat opportunities for people of all ages, abilities, and backgrounds.

Fort Worden is a partnership of the Washington State Parks and Recreation Commission, the Washington State Arts Commission, resident cultural institutions and businesses and major funders, achieving financial vitality through coordination and collaboration. The partnership:

1. Promotes personal growth and professional development through conferences, workshops, performances, exhibitions and special events for individuals and groups.
2. Develops and manages businesses that fund annual operations; and
3. Attracts public-private funding for capital projects and endowment.
4. Restores, preserves and interprets the significant historical, cultural and natural resources of the area

## Values

### Stewardship

Fort Worden State Park develops, cares for and manages the park and serves visitors, volunteers and donors through local, native and sustainable environments and economies. Activities, programs and individual visitor experiences at the park are framed around discovery of, attentiveness to, education about and deep appreciation of its specific natural, cultural and historic environments.

### Integration

The economic vitality of the park is a direct function of the economic vitality of all Fort Worden State Park partners and the Port Townsend community. All businesses, programs and services at the park are dynamically integrated in demonstration of shared and interrelated core values and economic strategies.

### Learning: Creativity & Discovery

Fort Worden State Park serves individuals and gatherings dedicated to preserving and revitalizing cultural traditions, taking creative risks and generating new practices, ideas, and conversations.

### Culture of Hospitality

Programs, services and facilities are designed, developed and promoted to attract, welcome and be accessible to all individuals whose interests are aligned with the missions, visions and values of the park partners.

### Play

A commitment to individual health, renewal and transformation is enhanced by maintaining open space and facilities for retreat and enjoyment, as well as self-directed and organized outdoor programs that heighten respect for natural and cultural environment.

## Site Use and Development Principles

To reflect continued commitment to the exceptional character and public use of Fort Worden, staff recommends the Commission adopt principles and objectives to guide site and facility use and development. These principles and objectives augment State Parks' natural and cultural resource management policies and provide guidance for the location, function and approach to site and facility redevelopment and use in the implementation of the Long Range Plan.

### General

First and foremost, Fort Worden State Park should continue to function as a park for public use, including day-use recreational activities, camping, meetings, reunions and vacations.

The park should accommodate increasing park demand in the future.

Any organizations and businesses operating at the park should have missions and values that support the vision, mission and values of Fort Worden State Park. Organizations offering the same visitor services should be consolidated under a single management structure.

Organizations operating at the park should work collaboratively to foster symbiotic relationships. The physical use and design of the site and buildings should support these relationships.

## Site and Facilities

1. When addressing needs for additional indoor programs, lodging, visitor services or administrative spaces, first consideration should be given to the adaptive reuse of existing historic structures before construction of new facilities. Proponents of new construction must demonstrate that reuse of existing structures cannot reasonably satisfy programmatic needs or that the nature of construction would unacceptably compromise the historical integrity of existing structures.
2. In addition to complying with the State Parks and Recreation Commission's (Commission) cultural resources policy and the standards the policy adopts, any new buildings and facilities should be designed and sited so that the form, scale, massing and materials, is in keeping with the historic character of the park. As early as practical, site and architectural design guidelines specific to the park should be developed to inform rehabilitation and new construction activities.
3. Fort Worden State Park should provide access to programs, activities, and supporting facilities to people with disabilities consistent with Commission's policy on implementation of the Americans with Disabilities Act. Rehabilitation of the site and facilities should integrate accessibility and historic preservation goals, using creative approaches to provide programs, activities and alternative access routes to amenities. Development of new facilities will use a universal design approach.
4. Consistent with the Commission's sustainability policy, cultural resources policy, and within the context of the fort's historic district designation, rehabilitation of historic structures, as well as, construction of new facilities should integrate sustainable design and historic preservation goals, using "green building" practices whenever possible.
5. Rehabilitation and the location of accommodations should foster increased interaction among visitors and provide an expanded range of lodging choices, including guestrooms with private bathrooms. Reuse of facilities should be based on historic land use patterns.
6. Common-use facilities and amenities should be located within the central historic park area to foster interaction and cross-fertilization among park visitors and programs. An example of this would be the co-location of a lending library with business center and coffee shop. These shared amenities should be located geographically throughout the park area to provide convenient access. They should be located to allow visitors to have multiple levels of interaction with each other. Possible facilities could include a cafe, meeting space, library, gym, laundry and museums.
7. Within the context of the historic district designation and Commission cultural resources policy, ecological function of the main campus and surrounding areas should be restored and enhanced. Existing plant communities should be assessed for health and restoration, including planning for the removal and control of invasive species. When possible, unneeded impervious surfaces should be removed. These surfaces should be rehabilitated with drought-tolerant grasses or grass pavers to meet event parking, native vegetation and forested landscape requirements, as appropriate.
8. Permanent on-site parking should be provided to meet typical summer and weekend parking demand. All event parking should be evaluated and located in specifically designated areas using grass pavers for greater ecological function. Designated areas should be those that do not limit other concurrent uses of the park and should be located to concentrate impact in areas of the park, such as the Industrial Zone that could accommodate event parking (Appendix I). This retains the original conception of the historic fort as a village where parking is located in pods and users move on foot from facility to facility.

9. A well-developed and environmentally-friendly pedestrian and traffic circulation plan is core to enabling people access to buildings and activities. The circulation plan should consider a park-wide shuttle (perhaps using alternative fuel), bike/walking lanes, links to city bike trails and use of Jefferson County Transit to connect visitors to the city and other modes of transportation, such as the ferry. City of Port Townsend, Port of Port Townsend, Jefferson County, State Ferries, and Fort Worden State Park planners should closely coordinate transportation planning to seamlessly integrate the park into the city's transportation network and minimize traffic-related impacts on surrounding neighborhoods.
10. Park headquarters and administrative offices should be consolidated and moved closer to the visitor information center and park entrance to provide an earlier point of contact with visitors and better orient visitors to the park.
11. Housing for both full-time staff and temporary service level employees could ensure a positive and sustainable business environment. New housing should be constructed for full-time staff in the least historically significant areas of the park, if possible. This would create more privacy while allowing use of historic structures by park visitors. Service level employees should be provided dormitory housing in existing or new facilities in the least historically significant areas of the park, if possible.
12. Changing the use of some existing dormitories to single-room lodging, program, and administrative spaces would result in a reduction of modestly-priced bunkhouse accommodations for price-conscious visitors (e.g., school groups). Space in one or more existing barrack-type building should be reserved to retain this opportunity.

### Goals of Lifelong Learning Center

- To be a Lifelong Learning Center that is recognized as a full-service, year-round destination providing a diverse array of meaningful experiences for people of all ages, backgrounds, skills, and interests through its programs, events, services, and facilities.
- A multitude of resident partners will create a shared economy that supports state of the art programming in the arts and culture, health and wellness, natural science, outdoor recreation, and historic preservation.
- With a variety of conference facilities and accommodations ranging from camping to residences and single bedroom guest rooms, Fort Worden allows visitors to design their stay around their needs and preferences.
- The Fort Worden Lifelong Learning Center will remain a part of the Washington State Park System and retain all aspects of a public park facility including accessibility, reasonable and equitable pricing, and natural and cultural resource protection priorities.
- Any future development of the Fort Worden Lifelong Learning Center will responsibly address and include effective management of the energy requirements of the site as a whole, safe and efficient circulation of people to and throughout the site, the protection of tranquil and personal experiences in the outdoors, and the preservation of the character of the site and its history.

---

## Foundations of the Fort Worden Lifelong Learning Center Business Plan

### Situational Assessment

The consulting team led by PROS Consulting, LLC., has performed extensive assessments of the existing conditions and operating parameters of Fort Worden State Park as a component of the *Fort Worden State Park Long Range Plan*. This process produced a reference point from which preliminary and final recommendations can be made. The assessments included review of:

- Programs and Services
- Operations and Finance
- Organization and Management
- Facilities
- Benchmark Assessment
- Stakeholder Input

The detailed findings of these assessments are provided in the *Organizational and Management Assessment* report provided prior to the development of this *Business and Operating Implementation Plan*.

### Target Market Analysis

The detailed results of these assessments can be found in the Operations and Management Assessment Report provided to Washington State Parks in May 2008. Essentially, the analysis and reports presented herein translate the specific findings from the various assessments performed into detailed operational and capital priorities. The formulation of these priorities began with addressing the following fundamental questions:

1. What are the best yielding business functions of Fort Worden State Park?
2. What are the strategies and tactics best employed to enhance these functions?
3. What are the key best management practices needed for the success of Fort Worden's long range goals?

This report contains a review of the findings associated with these issues as determined from the assessments, the industry experience and expertise of the consulting team, and the review of market conditions surrounding the environment in which Fort Worden State Park operates.

### Realistic Opportunities for Growth and Development

This *Business and Operating Implementation Plan* was developed on the understanding gained from intensive interaction with park and agency staff, key stakeholders, and members of the public on the spectrum of opportunities that are realistic and obtainable. No recommendations or analysis in this report suggest opportunities that are not within the realm of possibilities for Fort Worden. These findings have taken into account the local, regional and state political climates; available funding possibilities and limitations; strategies that represent a reasonable probability of operational success; the capabilities of the stakeholder organizations; and the support of the local population.

In summary, this report represents well researched and tested strategies and tactics for the future and legacy of the Fort Worden Lifelong Learning Center.

## Best Yielding Business Functions

Fort Worden State Park features a tremendous diversity of programs and services available to visitors which is predominantly provided through on-site partners. While this diversity provides a rich blend of experiences to customers and guests, revenue generation is dominated by a small portion of these services. Based upon the data provided from the last six operating years and interviews with staff and stakeholders, the highest yielding business functions of Fort Worden State Park is the provision of improved overnight accommodations not including camping, and diverse programs and services.

### Improved Overnight Accommodations

There are currently nine (9) distinct types of improved overnight accommodation facilities at Fort Worden. These include:

- Duplexes
- Six-bedroom units (compliant with Americans with Disabilities (ADA) regulations)
- Five-bedroom house
- Four-bedroom house
- 11-bedroom house
- Three-bedroom apartments
- Dormitories
- Barracks
- Two-bedroom houses
- One-bedroom houses

Utilization of these facilities typically only account for approximately 11% of total estimated annual park visitation, but represent approximately 67% of total annual earned revenues. Improved overnight accommodations, often provided as conference services, are the best yielding business functions of Fort Worden State Park.

The sustainability of the Fort Worden Lifelong Learning Center will be moderately dependent on the successful conversion and operation of additional single-guest accommodations. It is strongly recommended to continue with the existing preliminary plans to convert two historic buildings into 100 rooms of single-guest accommodations, and to seek an additional partner organization to develop these services.

### Programs and Services

Fort Worden State Park currently has 16 partner organizations operating on-site providing programs and services. Each organization presents its own advertisements and conducts promotions independently of the park and other programming organizations. In addition to these quality stand alone programs, partners include another state agency, non-profit, and for-profit organizations, and are managed to provide a complimentary blend of programs and services to visitors. The nature and focus of these programs largely creates the appeal for visiting Fort Worden, and need to be developed to do so more effectively.

Well organized and facilitated destination learning programs and supporting services can reinvigorate Fort Worden's existing market, as well as build new markets both locally and nationally. Program providers need to be organized into areas of focus, with relevant program standards, and performance expectations. The core programs and services recommendations within this report detail suggested

categorization of program providers and these standards. Partners need be managed under formalized agreements that follow a consistent format and structure of terms.

## Strategies and Tactics

The accommodations and programming services establish Fort Worden State Park as a full service destination. The Consultant Team has developed consensus that the prevailing attraction for guests and visitors to stay overnight in the improved accommodation of Fort Worden are the unique programs provided by the park and its on-site partners, concerted and collaborative marketing strategies, superb customer service, and the environment and surroundings of the park.

The *Business and Operating Implementation Plan* has been developed to pursue more reliable and sustained operations, and to accommodate the vision of the Fort Worden Lifelong Learning Center through the strategies and tactics detailed below.

### Independent Management under Agreement with Washington State Parks

The Governance Task Force appointed by the Washington State Parks and Recreation Commission and the State Parks Director was directed to evaluate and recommend governance alternatives for the Fort Worden Lifelong Learning Center. Following extensive review of the current operating conditions and constraints at Fort Worden State Park, and the management needs and operational requirements of the Lifelong Learning Center the Governance Task Force issued a final recommendation to the State Parks Director. This recommendation details the optimal governance approach for Fort Worden Lifelong Learning Center is a qualified and selected non-profit organization engaged in a dynamic Memorandum of Understanding (MOU) with Washington State Parks to manage daily operations of the facilities.

The Governance Task Force included in their recommendations a suggested sequence of transitioning management responsibilities from Washington State Parks to the new managing entity that detailed an incremental approach to “earning” management responsibilities over time. This approach would enable Washington State Parks to suspend or reverse management transition of the park if the new management entity does not continually demonstrate compliance with the transition milestones or terms of the MOU. The terms of the MOU would include all concurrent reporting required by the new management entity, as well as all mandatory operational requirements addressing public access, facility and maintenance standards, other general operating mandates. In order to preserve the integrity of the process, regular review periods by an appointed third-party advisory panel commissioned by Washington State Parks can be established to verify compliance by all parties to the terms of the MOU.

The implementation of a new governance structure that engages an independent, non-governmental managing entity of Fort Worden Lifelong Learning Center will allow for more flexible management practices in tiered pricing, more efficient procurement practices, and establishing improved relationships with the private sector. This increased flexibility will enable Fort Worden to be operated more proactively with market conditions and increase the probability of successful and sustainable financial operations. This *Business and Operating Implementation Plan* has been developed in accordance with these recommendations.

### Packaged Programs and Services

Currently, programs and services provision is fragmented and inconsistent. While there are a multitude of “high quality” experiences available to Fort Worden visitors, these are not linked coherently to assist customers with grasping the full extent of on-hand programs. Providing a blend of packaged programs and services that creates a menu of opportunities from which current and future customers can choose

should greatly enhance program participation. In order to engage the best yielding business functions of the park, these programs need to include a multitude of multi-day experiences.

### **Marketing and Sales**

The existing operating functions of Fort Worden State Park do not include substantial marketing and promotions to support the programs, services and facilities of the park or its partners. The target market groups of Fort Worden and its programs are perpetually bombarded with messaging regarding the opportunities for them to spend disposable time and money for recreation, leisure, and entertainment. There needs to be consistent and prudent staffing and methodology for staying informed of the nuances and demands of the target markets for use in program planning and promotion. A responsible and strategic blend of marketing and promotion activities that support the core programs and services of the park and its partners will have a noticeable effect on park use.

### **Customer Fulfillment**

Finally, there has been significant research and practical demonstrations of the relationship between customer satisfaction and profitability / return on investment. For purposes of this report this issue will be addressed as customer fulfillment. Increased marketing and promotional activities will greatly expand the proliferation of general customer expectations about the programs and facilities of Fort Worden. These expectations will grow and evolve as prospective customers increase the depth of their research including both on-line and through direct correspondence with the park. Consistent and courteous customer service will shape the expectations to which the actual experiences will be judged upon arrival. It is critical that park and partner personnel responsible for customer interface inform prospective visitors of the benefits and realities of staying at Fort Worden. Training and development opportunities need to be provided for all staff of partner organizations involved with service delivery. This will enable the development and enforcement of customer service standards.

Subsequently, following the provision of the customer experience, an equally important aspect to customer satisfaction is staying in contact with annual visitors through cost effective emails or limited direct mailings. True to the axiom that old customers are cheaper to keep than new customers are to obtain, Fort Worden State Park and/or its partners should engage former customers through simple promotional correspondence that both fosters nostalgia from their visit and provides incentive for making future reservations.

### **Key Best Management Practices**

There are numerous best management practices currently utilized at Fort Worden State Park both by the park staff and that of the on-site partners. While continuation of these practices is critical, there were three areas in which improvement could dramatically impact operational performance: consistency, coordination, and communication.

#### **Consistency**

Throughout this report the Consultant Team will refer to consistent practices as a critical element for the success of the Life Long Learning Center concept. This consistency is needed in program delivery; handling customer inquiries, requests and complaints; messaging and branding; and administrative practices. Standards in these areas that are developed jointly by the park and its partners can improve the overall quality of experiences provided to Fort Worden visitors, while also strengthening the relationships of service providers both on and off-site.

## Coordination

There are two areas of coordination identified that should be a priority for Fort Worden State Park and its on-site partners: facilities and programs. As observed through multiple site visits and stakeholder interviews, there is frequently a perceived disconnect between tenants and the state park on the required protocol for addressing facility maintenance needs. While the state park staff were frequently complimented on their resourcefulness, it seems generally unclear to on-site partners how facility needs can be addressed within a timely manner. Regular facility need coordination meetings between the park and its tenants would greatly improve the management of a unified facility needs inventory, as well as improve the communication to tenants regarding true constraints to addressing facility needs in the expected time frame.

Secondly, program planning and packaging will improve dramatically with regularly scheduled meetings between facility management and marketing staff and all program personnel from relevant on and off-site partners. These planning sessions should consist of clearly stated outcomes for programs needed to generate overnight traffic through Fort Worden facilities. It is recommended these meetings occur monthly initially, and possibly evolve to quarterly based upon the success of keeping all program providers engaged in the planning process.

## Communication

Communication is a best practice that can be improved predominantly in two areas: internal, bi-directional communication between park management and on-site partners; and external informational and promotional communication with existing and prospective customers. There are currently increased efforts to address to the former and only recognition of the issue regarding the latter. While



internal communication requires time and effort, external communication will require dedicated staff and financial investment.

## MASTER LEASE

This MASTER LEASE (“Lease”), dated as of \_\_\_\_\_, 20\_\_\_\_, is by and between the FORT WORDEN LIFELONG LEARNING CENTER PUBLIC DEVELOPMENT AUTHORITY, a Washington public authority chartered by the City of Port Townsend under authority of State law and City ordinance (“Tenant”), and the STATE OF WASHINGTON, acting through the WASHINGTON STATE PARKS AND RECREATION COMMISSION (“Commission”).

### RECITALS

- A. Fort Worden State Park (the “Park”) encompasses 434 acres within the City of Port Townsend, provides recreational opportunities, is home to more than 70 historic buildings and structures, and is designated a National Historic Landmark.
- B. Commission owns and manages Fort Worden State Park. Within the Park is a “built area” that has been devoted to cultural, artistic, educational, and historic programs and activities commonly referred to as the campus (the “Campus”). The Campus has historically been managed in partnership with the Washington State Arts Commission, the Superintendent of Public Instruction, and Centrum to serve as a conference center with a focus on arts, education, and the humanities.
- C. Long-range planning for the Park began in the fall of 2004. Since 2004, Commission has adopted a vision and mission statement for Fort Worden (May 2005); approved a roadmap and assumptions to guide long-range planning (August 2005); and adopted land classifications, long-term boundary, value statements, Park use and development principles, and refined the learning center concept (January 2007).
- D. Long-range planning concluded with Commission adoption of two documents collectively known as the Fort Worden Long-Range Plan in 2008 (the “Plan”). The Plan included the Fort Worden Site and Facilities Use and Development Plan and the Fort Worden Guidelines for Rehabilitation.
- E. As a Lifelong Learning Center, the Park provides outdoor space for recreational and educational opportunities to house a variety of tenants and groups that would offer residential and nonresidential programs and classes involving, among others, performing and visual arts, environmental and natural resources, health and wellness, historic preservation, woodworking and cultural history, and the culinary arts.
- F. The PDA’s charter (adopted in September 2011) specifically directs the PDA to undertake, assist with, and facilitate the implementation of a Lifelong Learning Center at the Park consistent with the 2008 Plan and to develop the necessary agreements and partnerships for the use, operation, management, and development of State-owned facilities and properties within the Park.
- G. Commission and the PDA have developed this Lease under which the PDA is the Tenant primarily responsible for management and operation of the Campus. State Parks will continue to manage and operate the balance of the Park not leased to the PDA (the “State Park”).

**ARTICLE 7  
OPERATIONS AND EXPENSES**

7.1 Operation and Management. Tenant shall have overall management responsibility for the Campus in order to implement the Lifelong Learning Center, subject to the terms of this Lease including, without limitation, those responsibilities set forth below:

7.1.1 Overseeing daily management and operation of the conference meeting facilities, accommodations, and hospitality services within the Campus;

7.1.2 Marketing the Center to fulfill the purposes of the Lifelong Learning Center;

7.1.3 Keeping the Campus in good, safe, and clean working order by providing the Maintenance described in Section 8 below;

7.1.4 Providing customer service to visitors of the Campus such as food services, housing, meeting rooms, technology needs, and any other hospitality provisions necessary for their health, safety, and comfort;

7.1.5 Negotiating and serving as the property manager for existing and new leases at the Campus;

7.1.6 Assisting and recruiting new partner organizations to offer programs, events, and other activities to implement the Lifelong Learning Center;

7.1.7 Operating the reservations system for a seamless customer service experience that includes Park campgrounds (which may include a process established by the Coordinating Committee for referring campground complaints to the Park Manager);

7.1.7 Operating the reservations system for a seamless customer service experience that includes Park campgrounds.

7.1.8 Keeping the Campus open for general public access and use as a Lifelong Learning Center, three hundred and sixty-five (365) days per year, except for emergency closures;

Campus Operation Activities shall exclude the improvements, restoration, repair, replacement, maintenance, operation, and management of the State Reserved Areas and all Major Maintenance as defined in Section 8 below.



Agenda Bill AB21-036

Meeting Date: April 5, 2021

Agenda Item: VI. A.

Regular Business Meeting

Workshop/Study Session

Special Business Meeting

Submitted By: John Mauro

Date Submitted: March 31, 2021

Department: City Manager

Contact Phone: 360-385-3000

**SUBJECT:** Ordinance 3262 Related to the Fort Worden Lifelong Learning Center Public Development Authority; Amending Chapter 2.84 of the Port Townsend Municipal Code

**CATEGORY:**

- Consent
- Staff Report
- Contract Approval
- Public Hearing (Legislative, unless otherwise noted)
- 3-Year Strategic Plan: N/A
- Resolution
- Ordinance
- Other: Discussion Item

**BUDGET IMPACT:**

Expenditure Amount: \$  
Included in Budget? Yes  No

**Cost Allocation Fund:** 010-011 GF - Mayor & Council

**SUMMARY STATEMENT:** Council reviewed Ordinance 3262 at the March 1, 2021 meeting. During that meeting, City Manager John Mauro and Alice Ostdiek, an attorney with Stradling Yocca Carlson & Rauth PC, presented the ordinance for Council’s review. Council expressed a desire to further discuss the ordinance with the Fort Worden Public Development Authority (PDA) leadership. On March 9, 2021, the PDA Board joined the City Council for a discussion of the proposed code amendments as well as a presentation on the PDA’s proposed restructuring. Based on concerns expressed by the PDA board and others, staff modified the proposed ordinance in the following:

1. Staff added a new section, 2.84.015, that quotes RCW 35.21.759 as to the general laws applicable to all public corporations and public development authorities. The new section reads: “The authority shall be subject to all applicable local, state, and federal laws, including, but not limited to, the applicability of general laws under RCW 35.21.759, the requirement to be audited by the state auditor and various accounting requirements provided under chapter 43.09 RCW, the open public record requirements of chapter 42.56 RCW, the prohibition on using its facilities for campaign purposes under RCW 42.17A.555, the open public meetings law of chapter 42.30 RCW, the code of ethics for municipal officers under chapter 42.23 RCW, and the local government whistleblower law under chapter 42.41 RCW.”
2. In 2.84.060(B), staff added language that guides the nominating committee in seeking diverse skills and experience. The underlined language is new. “The committee shall recommend candidates that have the skills and experience to best manage, promote, develop, secure funding, and enhance the Fort Worden State Park as well as bring diverse viewpoints and backgrounds.”

3. In 2.84.090(B)(1), staff included membership on other nonprofit boards as a potential conflict of interest. The underlined language is new. “Engage in any transaction or activity, including membership in other nonprofit boards, which is, or would to a reasonable person appear to be, in conflict with or incompatible with the proper discharge of official duties, or which impairs, or would to a reasonable person appear to impair, the officer's or employee's independence of judgment or action in the performance of official duties;”
4. In 2.84.090(E)(3), staff added language to the statement of economic interest that requires disclosure of membership on other nonprofit boards that do business with the authority. The underlined language is new. “The names and addresses of each entity doing business with the authority, including other nonprofit corporations, in which the officer or employee or a member of his or her immediate family holds a position as officer, director or trustee, and the title of each position held.”
5. In 2.84.140(B), staff modified the proposed language to clarify the role of the financial oversight committee in regards to the budget. The language now reads: “In addition to the quarterly and annual reports, no later than November 15 of each year, the authority shall submit an operating budget to the city manager and the financial oversight committee who will ensure the budget is balanced and in conformity with the purposes of the authority per PTMC 2.84.010. If the financial oversight committee determines the operating budget is unbalanced or not in conformity with the purposes of the authority, the city and the authority shall meet and confer on the development of an alternate budget.”

*From the March 1, 2021 agenda bill:* The City chartered the Fort Worden Public Development Authority (PDA) in 2008. The PDA’s mission is to “manage, promote, develop, secure funding, and enhance the Fort Worden State Park.” PTMC 2.84.010(A). The PDA is governed by Chapter 35.21 RCW, Chapter 2.84 PTMC, and its charter. It is a separate legal entity managed by a board of directors who hire an executive director that oversees the day-to-day operations of the PDA.

As the chartering municipality, the City has oversight responsibility for the PDA. RCW 35.21.745 requires the City to provide for the “organization and operations” of the PDA, to correct any funding deficiencies, and ensure that each program is reasonably accomplished. At the same time, the City needs to be careful that the PDA remains a separate entity. This protects the City from assuming the debts and liabilities of the PDA.

Because of the recent discoveries of financial deficiencies and possible financial mismanagement, the City may want to strengthen its relationship and oversight of the PDA. To that end, staff proposes several amendments to Chapter 2.84 of the Port Townsend Municipal Code. The attached ordinance includes some commentary explaining the additions to Chapter 2.84 and the reasoning behind the proposed changes. Staff also included a memo from Alice Ostdiek of Stradling Yocca Carlson & Rauth PC, a legal expert in municipal finance and public development authorities. The memo further explains the reasoning for the proposed changes.

---

**ATTACHMENTS:**

1. Ordinance 3262
2. Ordinance 3262 Exhibit A – PTMC Chapter 2.84
3. Memo from Alice Ostdiek, Stradling Yocca Carlson & Rauth PC

---

**CITY COUNCIL COMMITTEE RECOMMENDATION:** None

---

**RECOMMENDED ACTION:** Move to approve first reading of Ordinance 3262 Related to the Fort Worden Lifelong Learning Center Public Development Authority; Amending Chapter 2.84 of the Port Townsend Municipal Code

---

**ALTERNATIVES:**

- Take No Action       Refer to Committee       Refer to Staff       Postpone Action  
 Remove from Consent Agenda       Waive Council Rules and approve Ordinance \_\_\_\_  
 Other:

**ORDINANCE NO. 3262**

**AN ORDINANCE OF THE CITY OF PORT TOWNSEND RELATING TO THE FORT WORDEN LIFELONG LEARNING CENTER PUBLIC DEVELOPMENT AUTHORITY; AMENDING CHAPTER 2.84 OF THE PORT TOWNSEND MUNICIPAL CODE**

**RECITALS:**

- A. Pursuant to RCW 35.21.730 through 35.21.755 and Ordinance 3018 adopted on September 8, 2009 (the “Enabling Ordinance”), the City Council (the “Council”) of the City of Port Townsend, Washington (the “City”) authorized the creation of a public corporation known as the Port Townsend Public Development Authority (the “Authority”).
- B. On September 19, 2011, the Council adopted Ordinance 3063, renaming the Authority as the Fort Worden Lifelong Learning Public Development Authority and approving an Amended and Restated Charter.
- C. On April 4, 2016, the Council adopted Ordinance 3148, amending the nomination and reporting requirements for the Fort Worden Lifelong Learning Public Development Authority.
- D. Council has determined that the Fort Worden Lifelong Learning Public Development Authority requires additional oversight.

**NOW, THEREFORE**, the City Council of the City of Port Townsend do ordain as follows:

**Section 1: Amendment to Enabling Ordinance.** Chapter 2.84 of the Port Townsend Municipal Code is amended as set forth in Exhibit A.

**Section 2: Severability.** If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of the ordinance, or the application of the provision to other persons or circumstances, is not affected.

**Section 3: Effective Date.** This ordinance shall take effect and be in force five days after the date of its publication in the manner provided by law.

**ADOPTED** by the City Council of the City of Port Townsend, Washington, at a regular meeting thereof, held this \_\_\_\_\_ day of April 2021.

\_\_\_\_\_  
Michelle Sandoval  
Mayor

*Attest:*

*Approved as to Form:*

\_\_\_\_\_  
Joanna Sanders, MMC  
City Clerk

\_\_\_\_\_  
Heidi Greenwood  
City Attorney

## Exhibit A

### Chapter 2.84

#### PORT TOWNSEND PUBLIC DEVELOPMENT AUTHORITY

Sections:

- 2.84.010 Authority created – City liability limited.
- 2.84.015 Authority subject to local, state, and federal law
- 2.84.020 Powers – Generally.
- 2.84.030 Limitation of powers.
- 2.84.040 Charter.
- 2.84.050 Effect of issuance of charter.
- 2.84.060 Board of directors – Nominating committee – Officers.
- 2.84.065 Executive director.
- 2.84.070 Meeting.
- 2.84.080 Bylaws.
- 2.84.090 Ethics; Prohibited conduct.
- 2.84.100 Funds of the authority.
- 2.84.110 Discrimination prohibited.
- 2.84.115 Corrective action.
- 2.84.117 Trusteeship.
- 2.84.120 Dissolution.
- 2.84.125 Financial oversight committee
- 2.84.130 Insurance.
- 2.84.140 Annual reports.
- 2.84.150 Access to records.
- 2.84.160 Bonds and notes.
- 2.84.170 Public corporation.
- 2.84.180 Ancillary authority.
- 2.84.190 Liberal construction.

**2.84.010 Authority created – City liability limited.**

A. Authority Created. The council hereby authorizes the creation of a public corporation pursuant to RCW 35.21.730(5). The public corporation shall have all of the powers set forth in this chapter, RCW 35.21.730 through 35.21.755, and its charter necessary to manage, promote, develop, secure funding, and enhance the Fort Worden State Park (the “park”) including undertaking, assisting with, and otherwise facilitating the implementation of a Lifelong Learning Center at the park generally as envisioned in the Fort Worden Long-Range Plan (2008) adopted by the Washington State Parks and Recreation Commission, including any amendments thereto. The authority will partner with organizations currently residing at the park and other private and nonprofit entities to accomplish the functions specified in its charter.

B. Name. The name of the public corporation shall be the “Fort Worden Lifelong Learning Center public development authority” (hereinafter the “authority”). The board may recommend a

name change or a trade name for council review and approval. The corporate name shall take any form approved by council; provided, however, the corporate name shall not (1) end with “incorporated,” “company” or “corporation” or any abbreviation thereof or use the term “grange,” “bank,” “banking,” “trust” or “savings” therein, or any combination of words that are restricted from its usage by state law; or (2) adopt or appear deceptively similar to the name of any corporation, existing or organized under the laws of the state or authorized to transact business or conduct affairs in the state, or a corporate name reserved or registered as permitted by the laws of the state.

C. Seal. The corporate seal of the authority shall carry the name of the authority.

D. City Liability Limited. The authority is an independent legal entity exclusively responsible for its own debts, obligations and liabilities. Except as specifically agreed in writing by the city, the authority shall take no action that might impose liability upon the city. All liabilities incurred by the authority shall be satisfied exclusively from the assets, credit, and properties of the authority, and no creditor or other person shall have any right of action against or recourse to the city, its assets, credit, or services on account of any debts, obligations, liabilities or acts or omissions of the authority.

The charter of the authority shall provide that the authority is organized pursuant to this chapter and RCW 35.21.730 through 35.21.755 and state as follows:

[A]ll liabilities incurred by the Authority shall be satisfied exclusively from the assets and properties of the Authority and no creditor or other person shall have any right of action against the City of Port Townsend, Washington on account of any debts, obligations or liabilities of the Authority.

Such statement shall be displayed in a prominent location in the principal office and other offices of the authority. It shall also be printed or stamped on all contracts, bonds, and other documents that may entail any debt or liability by the authority. Failure to display, print or stamp the statement required by this section shall not be taken as creating any liability for the city.

**2.84.020 Authority subject to local, state, and federal law**

The authority shall be subject to all applicable local, state, and federal laws, including, but not limited to, the applicability of general laws under RCW 35.21.759, the requirement to be audited by the state auditor and various accounting requirements provided under chapter 43.09 RCW, the open public record requirements of chapter 42.56 RCW, the prohibition on using its facilities for campaign purposes under RCW 42.17A.555, the open public meetings law of chapter 42.30 RCW, the code of ethics for municipal officers under chapter 42.23 RCW, and the local government whistleblower law under chapter 42.41 RCW.

**2.84.020 Powers – Generally.**

Except as otherwise limited by Washington state law, this chapter, or the charter of the authority, the authority shall have and exercise all lawful powers necessary or convenient to effect the purposes for which the authority is organized and to perform authorized corporate functions, including, without limitations, the power to:

A. Own, lease, acquire, dispose of, exchange and sell real and personal property;

- B. Contract for any authority purpose with individuals, associations and corporations, municipal corporations, any agency of the state government or its political subdivisions, and the state, any Indian tribe, and the United States or any agency or department thereof;
- C. Sue and be sued in its name;
- D. Lend its funds, property, credit or services, borrow money, or act as a surety or guarantor for corporate purposes;
- E. Do anything a natural person may do;
- F. Perform and undertake all manner and type of community services and activities in furtherance of the carrying out of the purposes or objectives of any program or project heretofore or hereafter funded in whole or in part with funds received from the United States, state, county, or other political entity, or any agency or department thereof, or any other program or project, whether or not funded with such funds, which the authority is authorized to undertake by federal or Washington state law, city ordinance, city resolution, by agreement with the city, or as may otherwise be authorized by the city;
- G. Provide and implement such municipal services and functions as the council may by ordinance or resolution direct;
- H. Transfer any funds, real or personal property, property interests, or services, with or without consideration;
- I. Receive and administer governmental or private funds, goods, or services for any lawful public purpose;
- J. Purchase, acquire, lease, exchange, mortgage, encumber, improve, use, manage, or otherwise transfer or grant security interests in real or personal property or any interests therein; grant or acquire options on real and personal property; and contract regarding the income or receipts from real property;
- K. Issue negotiable bonds and notes in conformity with applicable provisions of the Uniform Commercial Code and Washington State law and this chapter in such principal amounts as, in the discretion of the authority, shall be necessary or appropriate to provide sufficient funds for achieving any corporate purposes; or to secure financial assistance, including funds from the United States, a state, or any political subdivision or agency of either for corporate projects and activities; provided, however, that all bonds and notes or liabilities occurring thereunder shall be satisfied exclusively from the assets, properties or credit of the authority, and no creditor or other person shall have any recourse to the assets, credit or services of the city thereby, unless the council shall by resolution expressly guarantee such bonds or notes;
- L. Contract for, lease, and accept transfers, gifts or loans of funds or property from the United States, a state, and any political subdivision or agency of either, including property acquired by any such governmental unit through the exercise of its power of eminent domain, and from corporations, associations, individuals or any other source, and to comply with the terms and conditions therefor;

- M. Manage, on behalf of the United States, a state, and any political subdivision or agency of either any property acquired by such entity through gift, purchase, construction, lease, assignment, default, or exercise of the power of eminent domain;
- N. Recommend to appropriate governmental authorities public improvements and expenditures for areas located within the city;
- O. Recommend to the United States, a state, and any political subdivision or agency of either any property, owned or that could be acquired by the political entity, which, if committed or transferred to the authority, would materially advance the public purpose for which the authority is chartered;
- P. Initiate, carry out, and complete such improvements of benefit to the public consistent with its charter as the United States, a state, and any political subdivision or agency of either may request;
- Q. Recommend to the United States, a state, and any political subdivision or agency of either such tax, financing, and security measures as the authority may deem appropriate to maximize the public interest in the city;
- R. Provide advisory, consultative, training, educational, and community services or advice to individuals, associations, corporations, or governmental agencies, with or without charge;
- S. Control the use and disposition of corporate property, assets, and credit;
- T. Invest and reinvest its funds;
- U. Fix and collect charges for services rendered or to be rendered, and fix and collect rents for properties or portions of properties leased, and establish the consideration for property transferred;
- V. Sponsor, lease, manage, construct, own, or otherwise participate in housing projects, where such activity furthers the purpose for which the authority is chartered;
- W. Maintain books and records as appropriate for the conduct of its affairs;
- X. Conduct corporate affairs, carry on its operations, and use its property as allowed by law and consistent with this chapter, its charter and its bylaws; designate agents and engage employees, prescribing their duties, qualifications, and compensation; and secure the services of consultants for professional services, technical assistance, or advice;
- Y. Exercise and enjoy such additional powers as may be authorized by law.

**2.84.030 Limitation of powers.**

The activities and transactions of the authority shall be limited in the following respects:

- A. The authority shall have no power of eminent domain nor any power to levy taxes or special assessments.
- B. The authority may not incur or create any liability that permits recourse by any contracting party or member of the public to any assets, services, resources, or credit of the city.

C. No funds, assets, or property of the authority shall be used for any partisan political activity or to further the election or defeat of any candidate for public office; nor shall any funds or a substantial part of the activities of the authority be used for publicity or educational purposes designed to support or defeat legislation pending before the Congress of the United States, or the legislature or governing body of any political entity; provided, however, that funds may be used for representatives of the authority to communicate with governmental entities concerning funding and other matters directly affecting the authority, so long as such activities do not constitute a substantial part of the authority's activities and unless such activities are specifically limited in its charter.

D. All funds, assets, or credit of the authority shall be applied toward or expended upon services, projects, and activities authorized by its charter. No part of the net earnings of the authority shall inure to the benefit of, or be distributable as such to, the board members or other private persons, except that the authority is authorized and empowered to:

1. Reimburse board members, employees and others performing services for the authority reasonable expenses actually incurred in performing their duties, and compensate employees and others performing services for the authority a reasonable amount for services rendered;
2. Assist board members or employees as members of a general class of persons to be assisted by a corporate-approved project or activity to the same extent as other members of the class as long as no special privileges or treatment accrues to such board members or employees by reason of his or her status or position in the authority;
3. Defend and indemnify any current or former board member or employee and their successors against all costs, expenses, judgments, and liabilities, including attorneys' fees, reasonably incurred by or imposed upon him or her in connection with or resulting from any claim, action, or proceeding, civil or criminal, in which he or she is or may be made a party by reason of being or having been a board member or employee, or by reason of any action alleged to have been taken or omitted by him or her in such position; provided, that he or she was acting in good faith on behalf of the authority and within the scope of duties imposed or authorized by law. This power of indemnification shall not be exclusive of other rights to which board members or employees may be entitled as a matter of law; and
4. Purchase insurance to protect and hold personally harmless any of its board members, employees and agents from any action, claim, or proceeding instituted against the foregoing individuals arising out of the performance, in good faith, of duties for, or employment with, the authority and to hold these individuals harmless from any expenses connected with the defense, settlement, or monetary judgments from such actions, claims, or proceedings. The purchase of such insurance and its policy limits shall be discretionary with the board, and such insurance shall not be considered to be compensation to the insured individuals. The powers conferred by this subsection shall not be exclusive of any other powers conferred by law to purchase liability insurance.

E. The authority shall not issue shares of stock, pay dividends, make private distribution of assets, make loans to its board members or employees or otherwise engage in business for private gain.

**2.84.040 Charter.**

The charter of the authority (the “charter”) is hereby approved in the form set forth at Exhibit A attached to the ordinance codified in this chapter. The charter shall be issued in duplicate originals, each signed by the mayor and bearing the city seal attested by the city clerk. One original shall be filed with the clerk of the council and filed as a public record. A duplicate original shall be provided to the authority.

The charter may be amended by the city council to comply with changes in Washington state law or to make the charter consistent with the provisions of this chapter as it may be amended by the council from time to time. Charter amendments proposed by the city council for such purposes shall not require subsequent approval of the board of directors of the authority. The charter may also be amended by resolution of the board of directors of the authority subject to approval by the city council. Any charter amendment adopted by resolution of the board of directors must be consistent with the terms of this chapter, as it may be amended from time to time. After adoption of a charter amendment, the revised charter shall be issued and filed in the same manner as the original charter.

**2.84.050 Effect of issuance of charter.**

The authority shall commence its existence effective upon issuance of its charter and appointment and confirmation of the initial board of directors as provided in the charter. Except as against the state or the city in a proceeding to cancel or revoke the charter, delivery of a duplicate original charter shall conclusively establish that the authority has been established in compliance with the procedures of this chapter.

**2.84.060 Board of directors – Nominating committee – Officers.**

**A. Board Composition.** A board consisting of no fewer than seven and no more than eleven members (the “board”) is hereby established to govern the affairs of the authority. The board members shall be appointed and serve their terms as provided in this chapter and in the charter.

**B. Board Membership.** Board members shall be appointed by the mayor with the concurrence of the city council. A nominating committee (the “committee”) consisting of one member of the current board, a partner representative, the executive director, the city manager, and a representative of the Fort Worden park manager shall be formed for the purposes of soliciting candidates and interviewing potential board members. The committee shall recommend candidates that have the skills and experience to best manage, promote, develop, secure funding, and enhance the Fort Worden State Park as well as bring diverse viewpoints and backgrounds. The mayor should give due consideration to the recommendations of the committee but is not bound to accept the committee’s recommendations.

Nominations for new appointees or for reappointment of existing members shall be processed in the manner provided in the bylaws. Vacancies occurring during the course of a term shall be filled by the mayor with city council concurrence.

**C. Terms of Office.** Except as otherwise provided herein, all members of the board shall continue to serve on the board until a successor is appointed and confirmed. Board members shall be divided into four classes: one class with two members who shall serve an initial one-year term; one class with three members who shall serve an initial two-year term; one class with four

members who shall serve an initial three-year term; and one class with two members who shall serve an initial four-year term. At the anniversary date of selection, the term of the board members with a one-year term shall expire; provided, that they shall each continue in office until their respective successor is confirmed by the city council. Successors shall serve three-year terms. This procedure shall continue annually as to successive classes of board members with expiring terms, so that at the expiration of the term of appointment, a new class of board members shall take office, provided that each person so selected shall hold office for the three-year term for which he or she is selected and until his or her successor shall have been selected. Subsequent appointments to the board shall be made as provided in this section and in the charter.

**D. Board Duties.** The board shall oversee the activities of the authority, establish and implement policy, participate in corporate activity in matters prescribed by city ordinance, and shall have stewardship for management and determination of all corporate affairs. All corporate powers of the authority shall be exercised by or under the authority of the board, and the business, property and affairs of the authority shall be managed under the supervision of the board, except as may be otherwise provided by law, this chapter (as it may be amended from time to time), or in the charter.

**E. Officers and Division of Duties.** The board shall have two or more officers as provided in the charter. The officers shall manage the daily affairs and operations of the authority. The same person shall not serve as both the chairperson of the authority and the officer responsible for the custody of funds and maintenance of accounts and finances. In no event shall there be less than two officers designated. Additional officers may be provided for in the bylaws of the authority. Any officer responsible for accounts and finances shall file with the authority a fidelity bond in an amount determined by the board to be adequate and appropriate and may hold the office only as long as such a bond continues in effect. The chairperson shall be the agent of the authority for service of process. The authority may, by resolution, designate other agents to receive or initiate process.

**F. Removal of Board Members.** The mayor, with concurrence of the city council, may remove at will any or all members of the board from office. In the event of removal, members shall be replaced in the same manner as provided for in filling vacancies on the board.

~~A board consisting of no fewer than seven and no more than 11 members (the "board") is hereby established to govern the affairs of the authority. The board members shall be appointed and serve their terms as provided in this chapter and in the Charter.~~

~~A nominating committee (the "committee") consisting of the current board chair and board secretary, the Fort Worden advisory committee chair, a partner representative, the executive director, the mayor, and the Fort Worden area park manager (or their designees) shall be formed for the purposes of soliciting candidates and interviewing potential board members. Committee members shall review the candidates (which may include current members of the board) and rank them based on skill level, experience relevant to the purposes of the authority and other qualifications deemed appropriate by the committee. The committee shall recommend candidates and their initial terms to the council for approval or rejection. The council should give due~~

~~consideration to the recommendations of the committee, but is not bound to accept the committee's recommendations. The council, if it does not appoint a member recommended by the committee, shall ask the committee for new recommendations.~~

~~Except as otherwise provided herein, all members of the board shall continue to serve on the board until a successor is appointed and confirmed. Giving due consideration to the recommendations from the committee, the city council shall divide the board members selected pursuant to the preceding paragraph into four classes: one class with two members who shall serve an initial one year term; one class with three members who shall serve an initial two year term; one class with four members who shall serve an initial three year term; and one class with two members who shall serve an initial four year term. At the anniversary date of selection, the term of the board members with a one year term shall expire; provided, that he or she shall continue in office until his or her successor is confirmed by the city council. Successors shall serve three year terms. This procedure shall continue annually as to successive classes of board members with expiring terms so that at the expiration of the term of appointment, a new class of board members shall take office, provided that each person so selected shall hold office for the three year term for which he or she is selected and until his or her successor shall have been selected. Subsequent appointments to the board shall be made as provided in this section and in the Charter.~~

~~All corporate powers of the authority shall be exercised by or under the authority of the board; and the business, property and affairs of the authority shall be managed under the supervision of the board, except as may be otherwise provided by law, this chapter (as it may be amended from time to time), or in the Charter.~~

~~The board shall have two or more officers as provided in the Charter. The officers shall manage the daily affairs and operations of the authority. The same person shall not serve as both the chairperson of the authority and the officer responsible for the custody of funds and maintenance of accounts and finances. Any officer responsible for accounts and finances shall file with the authority a fidelity bond in an amount determined by the authority to be adequate and appropriate and may hold the office only as long as such a bond continues in effect. The chairperson shall be the agent of the authority for service of process. The authority may, by resolution, designate other agents to receive or initiate process.~~

#### **2.84.065 Executive Director.**

A. The board shall appoint or otherwise make provision for an executive director of the authority, who shall be chosen solely on the basis of executive and administrative qualifications with special reference to actual experience in, and knowledge of, accepted practices in respect to the duties of the office.

B. The executive director shall not be a member of the board, and no member of the board shall be appointed executive director until at least one year has elapsed following expiration of the appointed board term.

C. The powers and duties of the executive director shall be:

1. To have general supervision over the administrative affairs of the authority;

2. To appoint and remove at any time all officers and employees of the authority except members of the board;

3. To attend all meetings of the board when required by that body;

4. To recommend for adoption by the board such measures as deemed necessary or expedient;

5. To prepare and submit to the board such reports as may be required by that body or as deemed advisable;

6. To keep the board fully advised of the financial condition of the authority and its future needs;

7. To prepare and submit to the board a proposed budget for the fiscal year, and to be responsible for its administration upon adoption;

8. To perform such other duties as the Board may determine by resolution.

The board shall not direct the executive director to appoint any person to, or remove any person from, employment with the authority. Except for the purpose of inquiry, the board and its members shall deal with the administrative service solely through the executive director, and the board, or any member thereof, shall not give orders to any subordinate of the executive director either publicly or privately. The provisions of this section do not prohibit the board, while in open session, from fully and freely discussing with the executive director anything pertaining to appointments and removals of board employees and affairs of the authority.

#### **2.84.070 Meeting.**

**A. Board Meeting.** Within 90 days after issuance of the charter and appointment and confirmation of the initial board, the city manager or designee shall call an organizational meeting of the initial board, giving at least 10 days' advance written notice to each director, unless waived in writing. At such meeting, the board shall organize itself, appoint officers, and select its place of business.

**B. Compliance with Open Public Meetings Laws.** All board meetings, including executive, all other permanent and ad hoc committee meetings, shall be open to the public to the extent required by Chapter 42.30 RCW.

**C. Quorum.** At all meetings of the board, a majority of members then in office shall constitute a quorum unless a higher threshold is established in this section or in the bylaws.

**D. Manner of Acting.** The board may adopt resolutions of the board only by an affirmative vote of a majority of the members then in office. Any board member present at a meeting who fails to vote without a valid disqualification shall be declared to have voted in the affirmative on the question. Any resolution authorizing or approving any of the following actions may only be passed by a vote representing a majority plus one of the board members of the members then in office at a meeting attended by at least two thirds of the members of the board:

1. Transfer or conveyance of an interest in real estate other than a release of a lien or satisfaction of a mortgage after payment has been received and the execution of a lease for a current term less than one year;
2. The contracting of debts, issuances of notes, debentures, or bonds, and the mortgaging or pledging of authority assets to secure the same;
3. The donation of money, property of other assets belonging to the public corporation;
4. An action by the public corporation as a surety or guarantor;
5. All capital expenditures in excess of an amount to be established by resolution of the board, and all other transactions in which: (i) the consideration exchanged or received by the authority exceeds the greater of one percent of the previous year's operating budget or fifty thousand dollars (\$50,000) or (ii) the performance by the authority shall extend over a period exceeding one year from the date of execution of an agreement therefor;
6. Any substantial project or major activity outside the boundaries of the city;
7. Adoption of an annual operating and capital budget;
8. Certification of annual reports and statements to be filed with the city clerk as true and correct in the opinion of the board and of its members except as noted;
9. Such other transactions, duties, and responsibilities as the charter shall require the board to approve.

Proposed charter amendments shall require an affirmative vote representing two-thirds of the board members voting on the issue and a majority of the board's voting membership.

**E. Committees.** The board may by resolution designate from among its members one or more committees to advise or perform other duties on behalf of the board, provided any final action shall require approval of the board.

~~Within 90 days after issuance of the charter and appointment and confirmation of the initial board, the city manager or designee shall call an organizational meeting of the initial board, giving at least 10 days' advance written notice to each, unless waived in writing. At such meeting, the board shall organize itself, appoint officers, and select its place of business. All board meetings, including executive, all other permanent and ad hoc committee meetings, shall be open to the public to the extent required by Chapter 42.30 RCW.~~

#### **2.84.080 Bylaws.**

The initial bylaws (the "bylaws") of the authority are hereby approved in the form set forth at Exhibit B attached to the ordinance codified in this chapter. The power to alter, amend, or repeal the bylaws or adopt new ones shall be vested in the board except as otherwise provided in the charter. The bylaws shall be consistent with the charter. In the event of a conflict between the bylaws and this chapter (as it may be amended from time to time) or the charter, this chapter or the charter, as the case may be, shall control.

**2.84.090 Ethics; Prohibited Conduct**

A. Code of Ethics. The city's code of ethics, including all amendments, apply to the board, and officers and employees of the authority. Nothing prevents the board from adopting a code of ethics for the authority, so long as its provisions supplement and are not inconsistent with the city's code of ethics. If the board adopts a code of ethics consistent with this section, the city code of ethics continues to apply, as supplemented by the one adopted by the board.

**B. Prohibited conduct.** Without limiting the foregoing, no current authority official or employee shall:

1. Engage in any transaction or activity, including membership in other nonprofit boards, which is, or would to a reasonable person appear to be, in conflict with or incompatible with the proper discharge of official duties, or which impairs, or would to a reasonable person appear to impair, the officer's or employee's independence of judgment or action in the performance of official duties;
2. Use his or her official position for a purpose that is, or would to a reasonable person appear to be, primarily for the private benefit of the officer or employee, rather than primarily for the benefit of the public corporation; or to achieve a private gain or an exception from duty or responsibility for the officer or employee or any other person;
3. Solicit or receive any retainer, gift, loan, entertainment, favor or other thing of monetary value from any person where the retainer, gift, loan, entertainment, favor or other thing of monetary value has been solicited, received or given, or to a reasonable person would appear to have been solicited, received or given, with intent to give or obtain special consideration or influence as to any action by such officer or employee in his or her official capacity; provided that nothing shall prohibit contributions which are solicited or received and reported in accordance with applicable law;
4. Use or permit the use of any person, funds or property under his or her official control, direction, custody, or of any authority funds or authority property, for a purpose which is or to a reasonable person would appear to be, for the private benefit of the official or employee or any other person or entity; provided, that nothing shall prevent the private use of authority property which is available on equal terms to the public generally, or the use of authority property in accordance with authority policy for the conduct of official authority business, if in fact the property is used appropriately;
5. Disclose or use any information gained by reason of his or her official position for the immediate or anticipated personal gain or benefit of the officer, employee or any other person or entity; provided, that nothing shall prohibit the disclosure or use of information which is a matter of public knowledge, or which is available to the public on request;
6. Except in the course of official duties, assist any person in any authority transaction where such authority official or employee's assistance is, or to a reasonable person would appear to be, enhanced by that official or employee's position with the

corporation; provided that this subsection shall not apply to any officer or employee appearing on his or her own behalf or representing himself or herself as to any matter in which he or she has a proprietary interest, if not otherwise prohibited by law;

7. Have a financial or other private interest, direct or indirect, personally or through a member of his or her immediate family, in any contract or noncontractual transaction to which the corporation may be a party, and fail to disclose such interest prior to the formation of the contract, or prior to the time the corporation enters into the transaction; provided, that this paragraph shall not apply to any contract awarded through the public bid process in accordance with applicable law;
8. Be beneficially interested, directly or indirectly, in any contract which may be made by, through or under the supervision of such officer, in whole or in part, or which may be made for the benefit of his office, or accept, directly or indirectly, any compensation, gratuity or reward in connection with such contract from any other person beneficially interested therein;
9. Fail to disqualify himself or herself from acting on any transaction which involves the corporation and any person who is, or at any time within the preceding twelve month period, has been a private client of his or hers, or of his or her firm or partnership.

**C. Permitted Conduct.** An authority official or employee may perform official duties and participate in authority affairs or activities when:

1. The proposed action or activities of the public corporation would not affect him or her in a manner different in kind from that of the public of community generally, or when the authority official is a member of a substantial class of persons included in a service or assistance program and would be not affected in a manner different in kind from other members of the class; or
2. The charter or rules or regulations repose responsibility with the board for an action that affects all board members in their official capacity alike; or
3. After disclosure of his or her personal interest, the board finds, by majority recorded vote following discussion in open meeting during which public comment is permitted, that the official's participation would further the public interest notwithstanding the personal interest disclosed.

**D. Conflicts of Interest.** In all other instances, any authority official who may have a direct or indirect financial interest in any matter coming before the board, shall disclose to the board the nature and extent of such interest, and refrain from voting, participating in board deliberations as an official, or attempting to influence any other authority official on the matter.

**E. Statements of Economic Interests.** All compensated authority employees holding executive, professional or administrative positions designated by the authority in its bylaws and all uncompensated officials and employees shall, within two (2) weeks of being appointed or hired, and thereafter annually by April 15th, file with the authority a written statement sworn as

to its truth and accuracy stating for himself or herself and all members of his or her immediate family for the preceding calendar year:

1. The names and addresses of each person or entity doing business with the authority with which the official or employee or a member of his or her immediate family has received compensation in any form of a total value of Two Thousand Five Hundred Dollars (\$2,500.00) or more, excluding campaign contributions reported in accordance with applicable law;
2. The names and addresses of each entity doing business with the authority in which the officer or employee or a member of his or her immediate family has a direct financial interest with a value of One Thousand Five Hundred Dollars (\$1,500.00) or more; provided that policies of insurance in amounts on deposit in accounts with banks, savings and loan associations or credit unions shall not constitute a direct financial interest within the meaning of this section; or
3. The names and addresses of each entity doing business with the authority, including other nonprofit corporations, in which the officer or employee or a member of his or her immediate family holds a position as officer, director or trustee, and the title of each position held;
4. A list, including legal or other sufficient description as prescribed by the authority, of all real property in areas in which the authority functions or adjacent to such areas or properties owned, leased, managed or otherwise controlled by the authority in which the officer, employee, or member of his or her immediate family holds a direct financial interest or any option to purchase.

Following discussion in an open meeting during which public comment is permitted, the board may suspend or modify by majority recorded vote any of the reporting requirements hereunder in a particular case if it finds that literal application of the requirements works a manifestly unreasonable hardship and that such suspension or modification will not frustrate the purposes of this section. Any such request for suspension or modification must be filed with the board chair or the authority's executive director not later than sixty days prior to date on which an annual filing is to be made or promptly upon appointment.

The authority shall retain the statements and make them available for public inspection upon request for a period of not less than four years following the separation from the authority. Such statements also shall be filed promptly by the authority with the city clerk.

#### **2.84.100 Funds of the authority.**

All money belonging to or collected for the use of the authority coming into the hands of any officer thereof shall immediately be deposited with the treasurer or other legal qualified public depository designated by the Washington State Treasurer, acceptable to the city manager, to the credit of the authority for the benefit of the funds to which they belong. The use of funds of the authority for any purpose not authorized by law by any officer having possession or control thereof is prohibited.

**2.84.110 Discrimination prohibited.**

The authority, its employees, agents and subcontractors, if any, shall at all times comply with any and all federal, state or local laws, ordinances, rules or regulations with respect to nondiscrimination and equal employment opportunity, which may at any time be applicable to the city by law, contract or otherwise, including but not limited to all such requirements which may apply in connection with employment or the provision of services to the public.

Specifically, the following matters or activities shall not be directly or indirectly based upon or limited by age, race, color, religion, sex, national origin, honorably discharged veteran or military status, sexual orientation, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability:

- A. Membership on the board.
- B. Employment, including solicitation or advertisements for employees.
- C. Provisions of services to and contracts with the public.

**2.84.115 Corrective action.**

When authorized by resolution of the city council, after a public hearing held with notice to the authority, the city manager or city council, as provided in the resolution, may intervene, and exercise such control over the authority as is necessary and appropriate to correct any deficiency or to assure that the purposes of a program undertaken may be reasonably accomplished, including directing corrective action, when:

- A. The board has requested such intervention by resolution;
- B. The authority has failed to set forth the statement required by Section 2.84.010(D) in written contracts, bonds or other documents;
- C. The authority has represented to the public or to creditors that recourse may be had to the assets, property or credit of the city on account of acts or omissions of the public corporation, unless such secondary or direct liability be in fact expressly assumed by the city council;
- D. The authority has failed to file an annual report or three consecutive quarterly reports as required by Section 2.84.140 after notice of such omission;
- E. A deadlock has occurred in the board, or the membership of the board is insufficient to constitute a quorum for conduct of affairs so that the authority is unable to conduct its operations or perform its projects and activities;
- F. The board has failed to conduct meetings at least three months in a row or the authority has neglected or refused to conduct a meeting after notice from the city manager or city council to do so
- G. The board has unreasonably impaired public participation in the conduct of projects and activities;

H. The assets of the authority have been or are committed to be misapplied or wasted, or illegally expended; or

I. The authority has committed or is about to commit a material violation of this chapter or its charter.

The city manager or city council may take such actions as necessary to achieve the object of the corrective action stated in the resolution of the city council and make corrections or revisions ancillary thereto, and shall accomplish the purposes of the corrective action as expeditiously as reasonable. Authority officers shall not be displaced nor the conduct of their duties impaired more than necessary to accomplish the purposes of the corrective action and the corrective action shall cease as soon as the objectives stated in the resolution and corrections ancillary thereto have been accomplished.

**2.84.117 Trusteeship.**

A. The city, by resolution of the city council, after a public hearing held with notice to the authority, may petition the superior court to impose a trusteeship over the authority and to appoint the trustees therefor under any of the following circumstances:

1. The board has requested the same by resolution;
2. The authority has filed a statement of dissolution preparatory to termination of its existence;
3. The authority becomes insolvent or otherwise unable to carry out its contractual obligations to creditors and other persons;
4. The charter was procured through fraud or misrepresentation of any material matter that has an effect upon the projects or activities to be undertaken;
5. The authority has filed an annual report with the city clerk that is false or deceptively misleading on a material matter;
6. The authority is incompetent or ineligible to carry out the public purposes for which it was chartered;
7. The authority has misused, abused, or continuously exceeded the power or authority conferred by this chapter or its charter, or committed repeated violations of this chapter or its charter; or
8. The assets of the authority have been or are committed to be misapplied or wasted, or illegally expended, or a material violation of this chapter has been committed or is about to be committed, and the city council determines that corrective as provided in Section 2.84.115 would not be feasible under the circumstances.

B. The trustees appointed by the superior court shall take such actions as necessary during the trusteeship to achieve the object thereof as reasonable. The trustees shall have the power and authority to reorganize the authority and amend its charter and its rules and regulations; suspend

or remove authority officials, and manage the assets and affairs of the authority; and exercise any and all authority powers as necessary or appropriate to fulfill outstanding agreements, to restore the capability of the authority to perform the functions and activities for which it was chartered, to reinstate its credit or credibility with its creditors or obligees; and, if so authorized by the superior court, to oversee its dissolution.

**2.84.120 Dissolution.**

A. The authority may be dissolved for any reason by an affirmative finding of the council that a resolution of the city council adopted at or after a public hearing, held with notice to the authority and affording it reasonable opportunity to be heard and present evidence, that dissolution is warranted in accordance with this section. Dissolution proceedings may be initiated by the city council or, if the board makes an affirmative finding that dissolution is necessary or appropriate, the board may adopt a resolution requesting the city to dissolve the authority. The city council may initiate dissolution under any of the following circumstances:

1. The board of the authority has requested the same by resolution;
2. The authority has discontinued its projects and activities for which chartered or remained inactive for a period of six (6) months in succession;
3. A judgment of a court of competent jurisdiction shall have become final, which judgment annuls the existence of the authority, or prohibits it from conducting all or the major portion of the activities for which chartered or permits recourse by creditors of the authority or other persons to the assets, property or credit of the city on account of any debts, obligations or liabilities of the authority;
4. Any one or more of the circumstances for imposition of a trusteeship stated in Section 2.84.117, together with an affirmative finding by the city council that a trusteeship would not be feasible under the circumstances or could not attain its objective; and that termination is warranted;
5. Repeal of Chapter 37, Laws of 1974, First Extraordinary Session (43rd Leg. 3rd Extra. Sess.), or amendment thereof or supplementary legislation thereto which singularly or cumulatively restricts all or the major portion of the activities for which the authority was chartered or permits recourse by creditors of the authority or other persons to the assets, property or credit of the city on account of any debts, obligations, or liabilities of such authority; or
6. Continuous trusteeship of the authority for one (1) year, or the imposition of a trusteeship for whatever cause(s) three (3) times in any one (1) year period.

B. In either any case, dissolution of the authority requires an affirmative finding of the city council that dissolution is warranted. Such resolution shall state the reasons for the dissolution and make such affirmative findings at or after the city council holds a public hearing, held with written notice to the authority and the board stating the reason for the proposed dissolution and affording the authority a reasonable opportunity to be heard and respond to the proposed

dissolution. Notice of such public hearing shall be given to the authority at least 60 days prior to the hearing.

**BC.** Upon enactment of a resolution by the city council for dissolution of the authority, the authority shall file a dissolution statement signed by its chairperson setting forth:

1. The name and principal office of the authority;
2. The debts, obligations and liabilities of the authority, and the property and assets available to satisfy the same; the provisions to be made for satisfaction of outstanding liabilities and performance of executory contracts; and the estimated time for completion of its dissolution;
3. Any pending litigation or contingent liabilities;
4. The board resolution providing for such dissolution and the date(s) and proceedings leading toward its adoption, whenever the dissolution be voluntary; and
5. A list of persons to be notified upon completion of the dissolution.

The city manager shall review the dissolution statement filed and oversee the dissolution to protect the public interest and prevent impairment of obligation, or if so authorized by law, authorize or initiate proceedings in the superior court for the appointment and supervision of a receiver for such purposes.

Upon satisfactory completion of dissolution proceedings, the city shall indicate such dissolution by inscription of "charter cancelled" on the original charter of the authority, on file with the clerk of the city, and, when available, on the duplicate original in possession of the authority, and the existence of the authority shall cease. The city shall give notice thereof pursuant to Washington State law and to other persons requested by the authority in its dissolution statement.

**CD.** Upon dissolution of the authority or the winding up of its affairs, title to all remaining assets or property of the authority shall vest, subject to any legal requirements including contractual requirements, as determined by the city council, after giving due consideration to first disposing of assets in the following order of priority: (1) to an independent public or nonprofit entity or private entity in partnership with a public agency to fulfill the purposes for which the authority was chartered, or (2) to the city, state or other public agency.

**2.84.125 Financial oversight committee.** A financial oversight committee shall be established, consisting of the city manager, the city finance director, and two additional members (as may be appointed from time to time by the city manager), together with three authority representatives appointed by the board of directors of the authority. The financial oversight committee shall be chaired by the city manager, and shall have the following responsibilities:

**A. Development of corrective action plans.** In the case of the occurrence of corrective action events, the financial oversight committee shall promptly meet to consider and develop corrective action plans. The financial oversight committee, in considering and developing corrective action plans, shall do so in a manner consistent with the intent and purposes of the authority.

**B. Development of monitoring program.** The financial oversight committee shall develop a monitoring program and shall carry out or provide for such monitoring tasks as required. The

monitoring program shall set forth a program for monitoring the financial and operational performance of the authority in carrying out its responsibilities. The monitoring program shall provide for frequent periodic review of authority revenues and expenditures, and projections regarding cash flows and revenue receipts. The monitoring program shall also provide for identifying and assessing potential risks to the city's general fund resulting from the authority's activities. The monitoring program may provide that monitoring activities be undertaken by city or authority staff for reporting to the financial oversight committee or city manager.

C. **Financial oversight committee meetings.** The financial oversight committee meetings shall be called by the city manager upon written notice to all members. Minutes of financial oversight committee meetings shall be kept and provided to committee members and the city council promptly as practicable following such meetings.

**2.84.130 Insurance.**

The authority shall maintain in full force and effect public liability insurance in an amount sufficient to cover potential claims for bodily injury, death or disability and for property damage, which may arise from or be related to projects and activities of the authority, naming the city as an additional insured.

**2.84.140 Annual reportsReports.**

A. **Quarterly Reports.** At least quarterly, the board, the city, and the financial oversight committee shall be provided with and review statements of revenue and expenditures which compare actual revenue and expenditures to budget estimates. The board shall review all such information at regular meetings, the minutes of which shall specially note such reviews and include such information. The report following the second quarter of the year will include a report comparing the year-to-date results of operations of the authority for the first half of the calendar year (though June 30) to the approved operating budget for that year.

B. **Annual Reports.** The authority shall, within three months after the end of its fiscal year, file an annual report with the city manager and the city council containing ~~an audited~~ statement of assets and liabilities, income and expenditures and changes in its financial position during the previous year; a summary of significant accomplishments; a list of depositories used; ~~a projected operating budget for the current fiscal year~~; a summary of projects and activities to be undertaken during the current year; a list of officers of the board; and a list of individuals that are bonded pursuant to PTMC 2.84.060; and such other matters as the authority shall deem appropriate. The authority shall also answer fully and within a reasonable time any written inquiries by city officials in the course of their duties about its finances, organization or activities. The authority will file any annual reports required by the Washington State Auditor's Office by the regulatory deadline. The authority will notify the city when it has filed its annual reports with the Washington State Auditor's Office. The authority will provide the city and the financial oversight committee with a copy of the audited financial report within fourteen days of receipt.

B. **Budget.** In addition to the quarterly and annual reports, no later than November 15 of each year, the authority shall submit an operating budget to the city manager and the financial oversight committee who will ensure the budget is balanced and in conformity with the purposes of the authority per PTMC 2.84.010. If the financial oversight committee determines the

operating budget is unbalanced or not in conformity with the purposes of the authority, the city and the authority shall meet and confer on the development of an alternate budget.

**C. Financial Plan.** No later than December 31, 2021, the authority shall submit to the city council and the financial oversight committee a five-year financial projection for costs and receipts for the authority's operations and a pro forma operating budget, which shall be reviewed at least annually, which review shall be submitted with the annual budget under subsection (C). The authority shall periodically, but not less than every three years provide an updated financial projection and pro forma budget for the next ensuing five-year period.

**2.84.150 Access to records.**

**A.** The authority shall keep an official journal containing the minutes of proceedings at all meetings of the board and any meetings of any committees and the resolutions of the board. Any person shall have access to records and information of the authority to the extent required by Washington state law.

**B.** In addition, the authority shall:

1. Maintain a principal office at a location within the limits of the city;
2. File and maintain current with the city clerk a listing of all authority officials, their positions and their home addresses, the address of its principal office and of all other offices used by it, and a current set of its rules and regulations;
3. Place the statement set forth in Section 2.84.010 (D) in a prominent location in its principal office and at all other offices where the public may readily see it; and print or stamp said statement on all contracts, bonds, and other documents that may entail any debt or liability by the authority; and
4. Establish and maintain such additional records as may be prescribed by the city manager. Except as otherwise authorized by the city manager, the authority shall retain such records for a period of three years.

**C.** The authority shall, at any time during normal business hours and as often as the city manager or the state auditor deem necessary, make available to the city manager and the state auditor for examination all of its financial records, and will permit the city manager and state auditor to audit, examine and make excerpts or transcripts from such records, and to make audits of all contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to all the aforesaid matters.

**2.84.160 Bonds and notes.**

Bonds and notes issued by the authority may be secured by the full faith and credit of the authority or may be made payable solely out of certain revenues and receipts as may be designated in the proceedings under which the issuance of the bonds or notes are authorized. All bonds or notes issued shall carry in a prominent place thereon the statement set forth in PTMC 2.84.010(D). All bonds and notes or liabilities occurring thereunder shall be satisfied exclusively from the assets or credit of the authority, and no creditor or other person shall have any recourse

to the assets, credit, or services of the city thereby, unless the city shall expressly, in writing, guarantee such bonds or notes.

Bonds and notes of the authority may be sold at such price or prices, at public or private sale, in such manner and from time to time as may be determined by the authority, provided no bonds may be sold at private sale without prior city approval. Bonds and notes may be payable at such place or places whether within or without the state, may bear interest at such rate or rates, may be in such form and denominations and of such tenor and maturities, may be in bearer form or in registered form as to principal and interest or as to principal alone, reserve such rights to redeem at such price or prices and after such notice or notices and on such terms and conditions, all as the authority may determine and provide in the proceedings under which such bonds and notes shall be issued.

The authority may at the time of the issuance of such bonds and notes make such covenants with the purchasers and holders of said bonds and notes as it may deem necessary to secure and guarantee the payment of the principal thereof and the interest thereon, including but not limited to: covenants to set aside adequate reserves to guarantee payment of principal and interest; to appoint a trustee or trustees to safeguard the expenditure of the proceeds of sale of such bonds and notes and to take possession and use or operate and manage corporate assets securing the bonds and notes in event of default or insolvency of the authority, with such powers as may be contained in any covenants relating to the bonds and notes; and to limit the amount, time, and conditions under which additional bonds and notes may be issued or debts incurred.

The authority may pay expenses, premiums and commissions which it may deem necessary in connection with the issuance and sale of its bonds and notes and take such other actions or make such commitments as are necessary or convenient in the issuance and servicing of such bonds and notes and as are consistent with this chapter although not enumerated herein.

**2.84.170 Public corporation.**

The authority is a public corporation created pursuant to RCW 35.21.730 through 35.21.755 as a separate legal entity from the city.).

**2.84.180 Ancillary authority.**

The city manager or designee is granted all such power and authority as reasonably necessary or convenient to enable him or her to administer this chapter efficiently and to perform the duties imposed in this chapter or the charter.

**2.84.190 Liberal construction.**

This chapter shall be liberally construed so as to effectuate its purposes and the purposes of RCW 35.21.730 through 35.21.755.

**From:** [Pogo Here](#)  
**To:** [publiccomment@cityofpt.us](mailto:publiccomment@cityofpt.us)  
**Subject:** Ord 3262 AB21-039  
**Date:** Monday, April 19, 2021 9:40:31 AM  
**Attachments:** [Ord 3262 LETTER.docx](#)

---

**CAUTION: External Email**

I am submitting the comment attached to be included in the packet, for the April 19, 2021 council meeting.

The following is my comment to be read by the staff during comment on this agenda item:

The City's current deliberations regarding [amendments to Chapter 2.84, PORT TOWNSEND PUBLIC DEVELOPMENT AUTHORITY](#), that threaten to establish legally binding City control over final authority to adopt PDA budgets and enhanced control by the City mayor of appointments to the PDA Board constitute an imminent threat to the financial survival of the Fort Worden PDA as well as risking City exposure to liability for PDA obligations.

The City should therefore recognize and act in concert with the following facts, principles and goals:

1. The PDA is currently engaged in negotiations to obtain refinancing of its debts, debt payment postponements, new debts and new financial grants. The successful conclusion of these negotiations are critical *just now* to its survival.
2. The appearance of this shift in authority is liable to delay disastrously PDA refinancing because in the eyes of its creditors the credibility of the PDA as debtor is threatened by the possibility that the PDA may be acting without the final authority to maintain operations designed to generate the revenue to fulfill its obligations to its creditors.

Therefore the City should just now make clear to all parties:

- the public,
- the PDA and its creditors/grantors past, present and contemplated, and
- State Parks

that it intends to further review the proposed amendments to make it explicit that the City will not exert control over PDA budgets or its purpose.

3. The adoption of the amendments discussed above exposes the City to the risk of liability for PDA financial commitments.

4. The State Auditor's forensic investigative report of the financial crisis at the PDA has not been issued. Without it the amendments to Chapter 2.84 are premature and potentially not as focused as they need to be to protect the City and to provide useful oversight and monitoring of the PDA.

Respectfully submitted

David Goldman  
2514 Thomas St/ PO Box 1954  
Port Townsend, W 98368

360-385-3455

[herepog2@gmail.com](mailto:herepog2@gmail.com)

The City Council's current consideration of revisions to *Chapter 2.84 PORT TOWNSEND PUBLIC DEVELOPMENT AUTHORITY* via Ord 3262 constitutes an imminent threat to the financial survival of the Fort Worden PDA

The Fort Worden PDA (PDA) is currently engaged in negotiations to obtain refinancing of its debts, debt payment postponements, new debts and new financial grants. The successful conclusion of these negotiations are critical *just now* to its survival. The PDA's business restructuring is intended to remedy the structural faults that, in spite of the PDA's success in raising business revenue at Fort Worden (FW) from ~\$2+ to \$6+ million per year since 2014, rendered it unable to meet the ordinary annual upper campus maintenance requirements, not to mention the \$100 mil capital restoration backlog. The PDA's initial obligation to bear the costs of annual campus maintenance in 2019, pursuant to its lease with Washington State Parks and in spite of its advance preparations for this obligation, amounted to over \$600k additional overhead per year. Worse, its public development authority municipal status rendered it ineligible for CARES or FEMA funds in 2020 with the shutdown of operations pursuant to the governor's order regarding Covid-19 safety requirements. None.

Financing entities now engaged in negotiations with PDA representatives are aware of and concerned with what appears to be an imminent shift of ultimate legal authority for PDA budgets and finances from the PDA Board to the City. The appearance of this shift in authority is liable to delay disastrously the refinancing of the PDA because the credibility of the PDA as debtor in the eyes of its creditors is threatened by the possibility that the PDA may be acting without the final authority to operate such that it generates the revenue required to meet its financial obligations.

City staff and the consultant hired by the City to advise it regarding revisions of Chap 2.84 agree that it is vitally necessary to shield the City from financial liability for the operations and commitments made by the PDA.

**John Mauro, recorded @ April 5, 2021 City Council meeting re Ord 3262:**

[@13:58 \(VI. Unfinished Business\)](#)

“So I think **the intent here is to overall provide an enhanced and more targeted oversight** as part of the city's role. But also to do so in a way that doesn't generate a set of other problems. So we've heard from, just in sum, from the PDA Board and to some smaller degree from Parks that there might be some challenges here to work through and we're committed to doing so. This is another step forward . . .

@16:21

The last piece [proposed 2.84.140: B(C) Budget] is actually looking at the reporting requirements. **And a discussion we had during that joint meeting about authorization of the budget and like we said many times in public meetings to this body there is a line here: the City needs to oversee not control the PDA.** And that it's appropriate for all of us to be very clear what the roles are hence these code changes to clarify roles **and to be very very clear that if that goes too far and the consequences are that the City becomes quite a bit more liable financially and legally.** And that's not something we are looking forward to-- picking up that extra responsibility. It also really undermines the purpose of having a PDA board in the established relationship that the PDA has with State Parks through the Master Lease and the co-management approach they've taken. We're trying to really balance a number of factors here. **And I think that last point we're looking at [is] not budget authority, because [that is] something the City Council is actually confusing. At least staff would suggest that it's confusing in terms of who the authority is and instead the aim here is to assist.** The aim here is to say look if you're, the language as we've included here and suggested, if you're not delivering on the purpose of the organization and if your budget is not balanced then clearly something's wrong. And so a financial oversight committee would be triggered for us to work with the PDA and city staff-- not through City Council-- to remedy the problem. **To agree on the development of an alternative budget that is actually balanced and delivers on the purpose of the organization. It does not require or see the oversight committee-- by no means City Council-- going into line items and actually operating and controlling the Fort Worden PDA. That's a bright line for us . . . We're trying to find that balance on that last item** [proposed 2.84.140: B(C) Budget] in particular. [emphasis added]

**Alice Ostdiek, Stradling Yocca Carlson & Rauth PC**

**[Memorandum 2-24-21 \(Agenda Bill AB21-036\)](#)**

## 2. Brief Background on Public Development Authorities

*The most salient feature of a PDA is that it has a legal and independent existence apart from the city (or county) that chartered it.* The closest analogy in the private sector would be wholly owned but separate subsidiary corporations of a parent company. **This shields the chartering entity [the City] from liability, and, when operating properly, provides elected officials with some assurance that an important public task will be carried out effectively under the guidance of a board whose single focus is to carry out that function for the public.**

**The principal value of PDAs is their independence and separate focus.** This is established through the existence of an independent board that must take responsibility for and be held accountable for the PDA's performance. So, while the chartering entity has a duty to provide oversight to "assure that the purposes" for which it was created are reasonably accomplished, **the chartering entity must take care not to put itself in the position of controlling the day-to-day operations of the PDA. The PDA Board must be permitted to exercise its own independence to carry out the mission as given to it in the Charter,** subject to oversight by the chartering entity to ensure financial stability and consistency with its mission. (p2)

### 3.3. Oversight

Amendments to the provisions for reporting and oversight in PTMC Section 2.84.140 and .150, and the addition of a new 2.84.125, would enhance the city's ability to monitor the activities of the PDA and its ability to identify problems as they arise. **These amendments would create a financial oversight committee to provide a forum** to provide assistance and ensure consistency with the mission of the PDA through a collaborative process between PDA and city representatives. The proposed amendments are shown in Attachment 3.

**Rationale:** These amendments are intended to assist the City in its financial oversight of the PDA. **The creation of a financial oversight committee is a forum for the PDA and the City to resolve any concerns with the PDA finances and ensure consistency with the mission at a high level, without crossing over the legal division between the City and the PDA. Too much control of the PDA by the City creates a risk that the City may become responsible for any PDA debts and obligations.** p.3 [emphasis added]

See also [2.84.010D](#):

**D. City Liability Limited.** The authority is an independent legal entity exclusively responsible for its own debts, obligations and liabilities. Except as specifically agreed in writing by the city, the authority shall take no action that might impose liability upon the city. All liabilities incurred by the authority shall be satisfied exclusively from the assets, credit, and properties of the authority, and no creditor or other person shall have any right of action against or recourse to the city, its assets, credit, or services on account of any debts, obligations, liabilities or acts or omissions of the authority. [emphasis added]

The PDA is obligated by state law to adopt annual, balanced budgets prior to each fiscal year. It has always done so, albeit one month late for fiscal 2020, in light of its better understanding of its campus maintenance costs-- \$600+k/yr-- including unanticipated fire system alarm replacements costing \$40+k per building breakdown.

In the eight years I have been attending monthly PDA Board meetings and the last three years attending monthly PDA Board Exec Com meetings I have witnessed the Board's annual deliberations over the forthcoming annual budgets. The Board reviews have been thorough and painstaking. There has always been a genuine give and take between the staff and the Board about all the components of the annual budget prior to adoption. I am highly confident this practice will continue.

**[2.84.140](#)-Proposed**

**B.(C) Budget.** In addition to the quarterly and annual reports, no later than November 15 of each year, the authority shall submit an operating budget to the city manager and the financial oversight committee who will ensure the budget is balanced and in conformity with the purposes of the authority per PTMC 2.84.010. If the financial oversight committee determines the operating budget is unbalanced or not in conformity with the purposes of the authority, the city and the authority shall meet and confer on the development of an alternate budget. [emphasis added]

Therefore in the event that a balanced budget is routinely submitted as required the only item left for the proposed “financial oversight committee” to review pursuant to proposed 2.84.140 B(C) would be an allegation that the annual balanced budget is deemed to be out of “conformity with the purposes of the authority per PTMC 2.84.010: i.e., “. . . undertaking, assisting with, and otherwise facilitating the implementation of a Lifelong Learning Center at the park generally as envisioned in the Fort Worden Long-Range Plan (2008) adopted by the Washington State Parks and Recreation Commission, including any amendments thereto.”

WA State Parks defined its vision of lifelong learning in its 2008 Plan:

### **Goals of Lifelong Learning Center**

- To be a Lifelong Learning Center that is recognized as a full-service, year-round destination providing a diverse array of meaningful experiences for people of all ages, backgrounds, skills, and interests through its programs, events, services, and facilities.
- A multitude of resident partners will create a shared economy that supports state of the art programming in the arts and culture, health and wellness, natural science, outdoor recreation, and historic preservation.
- With a variety of conference facilities and accommodations ranging from camping to residences and single guest rooms, Fort Worden allows visitors to design their stay around their needs and preferences.
- The Fort Worden Lifelong Learning Center will remain a part of the Washington State Park System and retain all aspects of a public park facility including accessibility, reasonable and equitable pricing, and natural and cultural resource protection priorities.
- Any future development of the Fort Worden Lifelong Learning Center will responsibly address and include effective management of the energy requirements of the site as a whole, safe and efficient circulation of people to and throughout the site, the protection of tranquil and personal

experiences in the outdoors, and the preservation of the character of the site and its history. [emphasis added]

#### 05-Fort Worden Site and Facilities Use an Development Plan p9 of 48

There are not likely to be many substantive reasons to review whether the PDA's annual budget supports the intended "diverse array of meaningful experiences". What comes to mind that would be pertinent to the above nonconformity-with-purposes issue are:

- the selection of tenant/partners for the delivery of "a diverse array of meaningful experiences, . ." and the 800 pound gorilla
- the landlord tenant relationships at FW with special regard for the building rental rates and long term leases allowing for credits against rent for tenant capital restoration.

The first lends itself to galloping subjectivity. The latter has been and continues to be a genuine issue at FW. Bringing an issue such as this before the "financial oversight committee" for review of the annual budget called for by proposed 2.84.140 B(C) would require a review of the landlord tenant relations at FW, the manner in which the PDA has dealt with it and a decision about the operation of FW that would entail, among other things, a close examination of the annual budget with regard to revenue forecasts, the impact of proposed changes to the rental revenues if such changes were contemplated, and so on. Recall Mr. Mauro's warning cited above about examination of the PDA budget: "It does not require or see the oversight committee-- by no means City Council-- going into line items and actually operating and controlling the Fort Worden PDA. That's a bright line for us . . . We're trying to find that balance on that last item in particular." [emphasis added]

The proposal before the City Council to amend Chapter 2.84 is intended to have this very effect: to establish control of the relationships at FW, and especially control the finances to advance one or another conception of how the “diverse array of meaningful experiences . . .” will be facilitated. This role belongs to the independent PDA charged with full legal responsibility for this mission under the Master Lease with State Parks.

What makes clear that control of the PDA is the underlying goal of these particular amendments is the amendment to vest the City mayor with sole power to pick and choose among the board candidates recommended by the nominating committee as well as to remove board members from office for no cause (“at will”). This is the power to make policy. The current [2.84.060](#) provides that:

The [nominating] committee shall recommend candidates [for the PDA Board] and their initial terms **to the council** for approval or rejection. **The council** should give due consideration to the recommendations of the committee, but is not bound to accept the committee’s recommendations. [emphasis added]

The [proposed amendment of 2.84.060](#) provides:

**2.84.060 Board of directors – Nominating committee – Officers.**

**B. Board Membership.** Board members shall be appointed by the mayor with the concurrence of the city council. . . .**The mayor** should give due consideration to the recommendations of the committee but **is not bound to accept the committee’s recommendations.**

**F. Removal of Board Members.** **The mayor**, with concurrence of the city council, may remove at will any or all members of the board from office. [emphasis added]

These amendments would politicize the appointment of PDA Board members. It reads consistent with the intention to exercise greater City control over PDA policies and operations. No justification has been offered

for them. The current City council authority to appoint PDA Board members should be retained.

## CONCLUSION

The City's current deliberations regarding [amendments to Chapter 2.84, PORT TOWNSEND PUBLIC DEVELOPMENT AUTHORITY](#), that threaten to establish legally binding City control over final authority to adopt PDA budgets and enhanced control by the City mayor of appointments to the PDA Board constitutes an imminent threat to the financial survival of the Fort Worden PDA as well as risking City exposure to liability for PDA obligations.

The City should therefore recognize and act in concert with the following facts, principles and goals:

1. The PDA is currently engaged in negotiations to obtain refinancing of its debts, debt payment postponements, new debts and new financial grants. The successful conclusion of these negotiations are critical *just now* to its survival.
2. The appearance of this shift in authority is liable to delay disastrously PDA refinancing because in the eyes of its creditors the credibility of the PDA as debtor is threatened by the possibility that the PDA may be acting without the final authority to maintain operations designed to generate the revenue to fulfill its obligations to its creditors.

Therefore the City should just now make clear to all parties:

- the public,
- the PDA and its creditors/grantors past, present and contemplated, and
- State Parks

that it intends to further review the proposed amendments to make it explicit that the City will not exert control over PDA budgets or its purpose.

3. The adoption of the amendments discussed above exposes the City to the risk of liability for PDA financial commitments.

4. The State Auditor's forensic investigative report of the financial crisis at the PDA has not been issued. Without it the amendments to Chapter 2.84 are premature and potentially not as focused as they need to be to protect the City and to provide useful oversight and monitoring of the PDA.

Respectfully submitted

David Goldman  
2514 Thomas St/ PO Box 1954  
Port Townsend, W 98368

360-385-3455  
herepog2@gmail.com

**From:** [Dianne Boeger](#)  
**To:** [publiccomment@cityofpt.us](mailto:publiccomment@cityofpt.us)  
**Subject:** Fort Worden  
**Date:** Monday, April 5, 2021 10:22:17 AM

---

I am writing in support of David Timmons Re-org plan. I am a member of Corvidae Printing Guild.  
I would like to see us pull together to bring things into balance and move forward.

Thank you,  
Sincerely,  
Dianne Boeger

Peter M. Mayer  
Director



STAT NGTON

## WASHINGTON STATE PARKS AND RECREATION COMMISSION

1111 Israel Road S.W. • P.O. Box 42650 • Olympia, WA 98504-2650 • (360) 902-8500  
TDD Telecommunications Device for the Deaf: 800-833-6388  
[www.parks.state.wa.us](http://www.parks.state.wa.us)

April 19, 2021

### **MEMORANDUM OF INTENT**

TO: Port Townsend City Council

FROM: David Timmons, Interim Executive Director, Fort Worden PDA  
John Mauro, City Manager, City of Port Townsend  
Pete Mayer, Director, Washington State Parks and Recreation Commission

SUBJECT: Intent to prepare a memorandum of understanding between the Fort Worden PDA, City of Port Townsend, and Washington State Parks

During the past several months elected officials, appointed board members, and staff of the Fort Worden PDA (PDA), City of Port Townsend (City), and Washington State Parks (State Parks) have engaged in extensive discussion and are keenly interested in securing the future of the PDA and its lifelong learning center mission. As an initial step, senior staff from the three parties have worked together to draft City code amendments that establish ethical standards, enhance fiscal safeguards, and expand financial oversight of the PDA to help rebuild its financial footing and regain public confidence.

Through this work, it has become evident that City code amendments alone do not establish and renew positive working relationships among the parties, nor do they map a productive path towards the goal of a successful PDA. Senior staff have therefore committed to preparing a three-party memorandum of understanding (MOU) as means to address these relational and planning issues and as a supplement to the more regulatory nature of the code amendments.

A preliminary framework for the MOU is attached to this memorandum for reference. As envisioned, the MOU would acknowledge the past, agree to shared values, describe desired working relationships, and set milestones towards the shared goal of a fully revitalized PDA. Collaboratively fleshing out this framework, agreeing to it, and working to achieve the prescribed milestones would result in shared experiences and successes, build trust, and ultimately help set the foundation for lasting working relationships among the three parties.

## **Preliminary Framework Memorandum of Understanding**

### **Washington State Parks and Recreation Commission, Fort Worden Public Development Authority, and the City of Port Townsend**

#### **Recitals**

- 2007 Long Range Plan and adoption of LLLC vision
- 2008 Financial Crisis
- 2011 City establishment of PDA
- 2013 Master lease with PDA
- PDA Campus operation was not able to achieve financial stability
- COVID and alleged financial improprieties pushed PDA over edge
- 2020-21 Recovery intervention by PDA to hire interim ED
- City effort to recharter PDA with enhanced financial oversight
- Parties agree they have an interdependent relationship
- Reliable working relationships are the bedrock upon which success is built
- Now therefore the parties independently commit to the values, principles, and process as outlined herein

#### **Values**

- Collaboration
- Transparency
- Maintain genuine public and partner engagement
- Respect perspectives
- Advance diversity, equity, and inclusion
- Embrace conflict and work it out

#### **Working Relationship**

- Organizational designees
- Roles and responsibilities
- Regular meetings and robust communication
- Work in good faith to achieve milestones
- Support one another in our interactions with others
- Share successes

#### **Process Milestones**

- Parties work to assemble, submit and support \$20-30 million capital improvement plan for federal stimulus funding
- Parties explore funding options for a consultant-led organization and business planning effort
- City seats interim PDA Board
- PDA completes organization and business plan with input from the parties and the public
- City seats ongoing board with expertise to implement organization and business plan
- PDA propose amendments to the State Parks master lease consistent with organization and business plan as necessary

**FORT WORDEN PDA**  
**Profit & Loss Prev Year Comparison**  
 January through March 2021

	<u>Jan - Mar 21</u>	<u>Jan - Mar 20</u>	<u>\$ Change</u>	<u>% Change</u>
<b>Ordinary Income/Expense</b>				
<b>Income</b>				
<b>4000 Accomodations</b>	155,078	234,683	-79,605	-34%
<b>4400 Food Sales Revenue</b>	22,430	239,110	-216,680	-91%
<b>4600 Other Revenues</b>	56,477	102,611	-46,135	-45%
<b>4900 PDA Grants/Donations</b>	373,254	341,739	31,514	9%
<b>Total Income</b>	607,238	918,143	-310,905	-34%
<b>Cost of Goods Sold</b>	1,950	128,252	-126,302	-99%
<b>Gross Profit</b>	605,288	789,892	-184,603	-23%
<b>Expense</b>				
<b>6010 Personnel Costs</b>	221,908	1,021,200	-799,292	-78%
<b>7000 Repairs &amp; Maintenance</b>	4,844	27,979	-23,134	-83%
<b>7100 Utilities</b>	86,091	130,984	-44,893	-34%
<b>8000 Contracts</b>	520,639	1,141,345	-620,706	-54%
<b>8500 Operating Expense</b>	45,097	183,926	-138,829	-76%
<b>Total Expense</b>	878,580	2,505,433	-1,626,854	-65%
<b>Net Ordinary Income</b>	-273,291	-1,715,542	1,442,250	84%
<b>Other Income/Expense</b>				
<b>Other Expense</b>				
<b>9500 Capital Purchase/Equipm...</b>	0	54,668	-54,668	-100%
<b>9600 Leasehold Improvements</b>	738	168,098	-167,360	-100%
<b>Total Other Expense</b>	738	222,766	-222,028	-100%
<b>Net Other Income</b>	-738	-222,766	222,028	100%
<b>Net Income</b>	<b>-274,029</b>	<b>-1,938,308</b>	<b>1,664,279</b>	<b>86%</b>

**FORT WORDEN PDA**  
**Capital Comparative Profit and Loss**  
January through March 2021 & 2020

	2021	2020	\$ change	% change
<b>Ordinary Income/Expense</b>				
<b>Income</b>				
4600 Other Revenues	\$ 10,428	\$ 3,120	\$ 7,308	234%
4900 PDA Grants/Donations	\$ 354,345	\$ 275,739	\$ 78,606	29%
<b>Total Income</b>	<b>\$ 364,773</b>	<b>\$ 278,859</b>	<b>\$ 85,914</b>	<b>31%</b>
<b>Expense</b>				
6010 Personnel Costs	\$ 10,894	\$ 141,028	\$ (130,134)	-92%
7000 Repairs & Maintenance	\$ 138	\$ 7,820	\$ (7,682)	-98%
8000 Contracts	\$ 479,603	\$ 1,082,977	\$ (603,374)	-56%
8500 Operating Expense	\$ 4,575	\$ 7,776	\$ (3,201)	-41%
<b>Total Expense</b>	<b>\$ 495,210</b>	<b>\$ 1,239,601</b>	<b>\$ (744,390)</b>	<b>-60%</b>
<b>Net Ordinary Income</b>	<b>\$ (130,437)</b>	<b>\$ (960,741)</b>	<b>\$ 830,304</b>	<b>86%</b>
<b>Other Expense</b>				
9500 Capital Purchase/Equipment	\$ -	\$ 8,373	\$ (8,373)	-100%
9601 Leasehold Improvements	\$ 738	\$ 168,098	\$ (167,360)	-100%
<b>Total Other Expense</b>	<b>\$ 738</b>	<b>\$ 176,471</b>	<b>\$ (175,733)</b>	<b>-100%</b>
<b>Net Income</b>	<b>\$ (131,175)</b>	<b>\$ (1,137,212)</b>	<b>\$ 1,006,037</b>	<b>88%</b>

**FORT WORDEN PDA**  
**Hospitality Comparative Profit and Loss**  
January through March 2021 & 2020

	2021	2020	\$ change	% change
<b>Ordinary Income/Expense</b>				
<b>Income</b>				
4000 Accomodations	\$ 155,078	\$ 234,683	\$ (79,605)	-34%
4400 Food Sales Revenue	\$ 22,430	\$ 239,110	\$ (216,680)	-91%
4600 Other Revenues	\$ 46,049	\$ 99,491	\$ (53,443)	-54%
4900 PDA Grants/Donations	\$ 18,909	\$ 66,000	\$ (47,091)	-71%
<b>Total Income</b>	<b>\$ 242,466</b>	<b>\$ 639,284</b>	<b>\$ (396,818)</b>	<b>-62%</b>
<b>Cost of Goods Sold</b>	<b>\$ 1,950</b>	<b>\$ 121,130</b>	<b>\$ (119,180)</b>	<b>-98%</b>
<b>Gross Profit</b>	<b>\$ 240,516</b>	<b>\$ 518,154</b>	<b>\$ (277,638)</b>	<b>-54%</b>
<b>Expense</b>				
6010 Personnel Costs	\$ 211,014	\$ 880,172	\$ (669,158)	-76%
7000 Repairs & Maintenance	\$ 4,706	\$ 20,159	\$ (15,453)	-77%
7100 Utilities	\$ 86,091	\$ 130,984	\$ (44,893)	-34%
8000 Contracts	\$ 41,036	\$ 58,368	\$ (17,332)	-30%
8500 Operating Expense	\$ 40,522	\$ 175,430	\$ (134,908)	-77%
<b>Total Expense</b>	<b>\$ 383,369</b>	<b>\$ 1,265,113</b>	<b>\$ (881,743)</b>	<b>-70%</b>
<b>Net Ordinary Income</b>	<b>\$ (142,853)</b>	<b>\$ (746,959)</b>	<b>\$ 604,105</b>	<b>81%</b>
<b>Other Expense</b>				
9504 Computer Software		\$ 46,296	\$ (46,296)	-100%
<b>Total Other Expense</b>		<b>\$ 46,296</b>	<b>\$ (46,296)</b>	<b>-100%</b>
<b>Net Income</b>	<b>\$ (142,853)</b>	<b>\$ (793,254)</b>	<b>\$ 650,401</b>	<b>82%</b>

**FORT WORDEN PDA**  
**Statement of Cash Flows**  
January through December 2020

---

	<u>Jan - Dec 20</u>
<b>OPERATING ACTIVITIES</b>	
Net Income	-1,800,293.46
Adjustments to reconcile Net Income to net cash provided by operations:	
Net cash provided by Operating Activities	-904,915.27
<b>FINANCING ACTIVITIES</b>	
2700 Kitsap Bonds:2705 Glamping Bond	<u>350,000.00</u>
Net cash provided by Financing Activities	<u>350,000.00</u>
Net cash increase for period	-554,915.27
Cash at beginning of period	<u>714,175.57</u>
Cash at end of period	<u><u>159,260.30</u></u>

**FORT WORDEN PDA**  
**A/P Aging Summary**  
As of April 21, 2021

Operations accounts payable as of 04/22/2021

	<u>Current</u>	<u>1 - 30</u>	<u>31 - 60</u>	<u>61 - 90</u>	<u>&gt; 90</u>	<u>TOTAL</u>
A-1 Textiles & Hospitality Products	1,808.03	4,583.42	0.00	0.00	0.00	6,391.45
American Express	0.00	1,443.46	1,372.95	1,724.39	34,417.20	38,958.00
City of Port Townsend - Water & Sewer	0.00	6,351.24	0.00	0.00	0.00	6,351.24
Cooper Fuel	0.00	1,226.04	0.00	0.00	0.00	1,226.04
NoaNet, Inc.	7,135.70	7,135.70	7,135.70	0.00	0.00	21,407.10
PUD #1 of Jefferson County	20,276.14	0.00	21,378.39	21,254.05	5,963.39	68,871.97
State Auditor's Office	7,094.30	1,169.92	0.00	0.00	0.00	8,264.22
TFWB Engineers Inc	0.00	0.00	0.00	0.00	402.50	402.50
University Mechanical Contractors, Inc	0.00	0.00	8,803.93	0.00	0.00	8,803.93
<b>TOTAL</b>	<u><b>36,314.17</b></u>	<u><b>21,909.78</b></u>	<u><b>38,690.97</b></u>	<u><b>22,978.44</b></u>	<u><b>40,783.09</b></u>	<u><b>160,676.45</b></u>

Current Business on the Books Projection 2021 Q1 & Q2

		Room Revenue	Venue Revenue	Catering Revenue**	Projected Total Revenue	Advanced Deposits	Actualized Business	Outstanding Revenue***	ADR	Occupancy
Jan	Leisure	\$ 35,597.09	\$ -	\$ -	\$ 35,597.09		\$ 35,597.09	\$ -	\$ 242.15	24.05%
	Group	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		
Feb	Leisure	\$ 43,593.26	\$ -	\$ -	\$ 43,593.26	\$ -	\$ 43,593.26	\$ -	\$ 244.90	34.56%
	Group	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		
March	Leisure	\$ 68,962.50	\$ -	\$ -	\$ 68,962.50		\$ 68,962.50	\$ -	\$ 264.70	48.28%
	Group	\$ 7,200.00	\$ 4,988.50	\$ 5,452.18	\$ 17,640.68	\$ -	\$ 17,640.68	\$ -		
April	Leisure	\$ 84,586.40	\$ -	\$ -	\$ 84,586.40	\$ 4,320.98	\$ 76,626.92	\$ 3,638.50	\$ 246.60	45.55%
	Group	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		
May	Leisure	\$ 109,305.67	\$ -	\$ -	\$ 109,305.67	\$ 93,841.03	\$ -	\$ 15,464.64	\$ 435.54	13.06%
	Group	\$ 15,117.60	\$ 8,650.00	\$ 13,000.00	\$ 36,767.60	\$ 25,709.73	\$ -	\$ 11,057.87		
June	Leisure	\$ 172,541.52	\$ -	\$ -	\$ 172,541.52	\$ 137,009.32	\$ -	\$ 35,532.20	\$ 430.27	21.00%
	Group	\$ 42,340.48	\$ 11,863.56	\$ 20,000.00	\$ 74,204.04	\$ 36,755.45	\$ -	\$ 37,448.59		
<b>TOTAL</b>		\$ 579,244.52	\$ 25,502.06	\$ 38,452.18	\$ 643,198.76	\$ 297,636.51	\$ 242,420.45	\$ 103,141.80	\$ 310.69	27.75%

\* Updated as of 4/23/2021

\*\* Most groups don't have any catering actuals, only minimums contracted; Partners have no catering estimates or minimums included

\*\*\*Outstanding Revenue is the amount still owed by guest based on projected BOB

Source: Maestro Room Occupancy Forecast, DART, Arrivals w Adv Deposits and Group BOB Reports

Makers Square Project  
status April 26, 2021

**INCOME**

<u>Grant/Source</u>	<u>Amount</u>
Sage	\$ 3,039,382
BFA- B1804	\$ 1,104,832
Chandler	\$ 2,000,000
LCP	\$ 1,204,700
Slate Roof	\$ 648,857
KPTZ	\$ 907,862
Anonymous	\$ 500,000
SAT	\$ 500,000
HCP - 19-11	\$ 666,412
Murdock	\$ 250,000
HTC	\$ 354,345
Other	\$ 175,564
<b>Received</b>	<b>\$ 11,351,954</b>
KPTZ	\$ 35,022
Murdock	\$ 250,000
HCP - 19-11	\$ 61,089
BFA- B1804	\$ 127,068
<b>Outstanding</b>	<b>\$ 473,179</b>
<b>Total contributed</b>	<b>\$ 11,825,133</b>
Kitsap Note Payable	\$ 1,500,000
HTC	\$ 1,205,844
<b>Total Income</b>	<b>\$ 14,530,977</b>

**EXPENDITURES**

<b>Clark</b>	\$ 9,275,281
<b>Signal</b>	\$ 1,888,526
<b>Labor</b>	\$ 599,213
<b>Other</b>	\$ 199,355
<b>To date</b>	<b>\$ 11,962,375</b>
Clark to complete	\$ 24,188
Clark retention	\$ 450,118
Signal to complete	\$ 58,441
Labor & Opex est	\$ 50,000
<b>Additional Exp</b>	<b>\$ 582,747</b>
<b>Total Expenditures</b>	<b>\$ 12,545,122</b>
<b>INCOME/EXP</b>	
Contributions	\$ 11,470,788
HTC	\$ 1,560,189
Note Payable	\$ 1,500,000
<b>Total Inflows</b>	<b>\$ 14,530,977</b>
Expenditures	\$ (12,545,122)
Note Payable	\$ (1,500,000)
<b>Total Outflows</b>	<b>\$ (14,045,122)</b>
<b>Net Cash</b>	<b>\$ 485,855</b>

**CASH FLOW**

Contributions & HTC	\$ 11,351,954
Note Payable	\$ 1,500,000
<b>Cash Received</b>	<b>\$ 12,851,954</b>
Expense billings	\$ 11,962,375
less unpaid bills	\$ (590,163)
<b>Cash Paid Out</b>	<b>\$ 11,372,212</b>
<b>Net cash received</b>	<b>\$ 1,479,742</b>
Outstanding	
Contributions	\$ 473,179
HTC	\$ 1,205,844
<b>Receivables</b>	<b>\$ 1,679,023</b>
Unpaid Bills	\$ (590,163)
Add'l Expenses	\$ (582,747)
Note repayment	\$ (1,500,000)
<b>Payables</b>	<b>\$ (2,672,910)</b>
<b>Net cash due</b>	<b>\$ (993,887)</b>
<b>Reconciliation</b>	<b>\$ 485,855</b>

### Estimated Makers Square Net Revenue

Clark Construction AP through Inv 23	\$	483,999
Clark Construction Retention	\$	450,118
<b>Total Clark Construction</b>	<b>\$</b>	<b>934,117</b>
Signal AP	\$	106,164
<b>Subtotal Current AP</b>	<b>\$</b>	<b>1,040,281</b>
Clark contract balance	\$	24,188
Signal contract balance	\$	58,441
Wifi, labor & other contingencies	\$	35,000
Artifacts Consulting to complete	\$	15,000
<b>Total Costs to complete</b>	<b>\$</b>	<b>1,172,910</b>
KPTZ receivable	\$	(35,022)
BFA Grant receivable	\$	(129,075)
<b>Total estimated Receivable</b>	<b>\$</b>	<b>(164,097)</b>
HCP Grant Balance	\$	(61,089)
Murdock Grant Balance	\$	(250,000)
<b>Total Grants to bill</b>	<b>\$</b>	<b>(311,089)</b>
HTC 2nd Capital Contribution	\$	(417,543)
HTC 3rd Capital Contribution	\$	(1,252,630)
<b>HTC Contributions</b>	<b>\$</b>	<b>(1,670,173)</b>
Operating Reserve	\$	275,000
Wishneff Fee	\$	156,579
Application & cost certification fees	\$	10,750
Property insurance and historian fee est	\$	22,000
<b>less HTC estimated costs</b>	<b>\$</b>	<b>464,329</b>
<b>Estimated net HTC revenue</b>	<b>\$</b>	<b>(1,205,844)</b>
<b>Total Revenue upon completion</b>	<b>\$</b>	<b>(1,681,030)</b>
<b>Estimated net revenue balance</b>	<b>\$</b>	<b>(508,120)</b>



# Fort Worden Preservation and Campus Improvements

## (DRAFT) Federal Infrastructure Projects

Originally constructed in the 1890's to protect the entrance to Puget Sound from foreign naval attack, Fort Worden has evolved into an iconic and cherished state park and lifelong learning center that includes accommodations, venues, restaurants, and catering. Fort Worden's magnificent setting encompasses 434 acres with 12 miles of forested hiking trails, two miles of walkable saltwater beaches and commanding views of the Olympic and Cascade mountains as well as views across the Strait of Juan De Fuca to the San Juan Islands. Designated a National Historic Landmark in 1976, the Fort features 73 historic buildings, original coast artillery batteries, and four museums run by enthusiastic partner organizations. . The Fort's main campus park is managed by the Fort Worden Public Development Authority, which runs hospitality services and manages facilities for thirteen resident partners, anchored by the creative arts organization Centrum, Port Townsend Marine Sciences Center, and Peninsula College. Rehabilitating and keeping up with major maintenance of a multitude of structures, some over 120 years old, is a daunting and costly task where sizable capital investment would help enormously. Project components include:

### Historic Preservation of Military Buildings - \$15,000,000

- Roof replacement, lead abatement/painting, porch, railing and structural repairs.

### Utilities - \$4,000,000

- This phased project replaces the failing water system and overhead power. The existing water system is plagued by failures and has passed its useful lifespan. The overhead phase 3 power will be located underground for better system reliability.

### Upper Campus Improvements - \$8,000,000

- Replace outdated and failing fire alarm and notification system with an addressable system in all buildings, replace outdated commercial kitchen equipment and provide A/V upgrades in the Commons building, complete sitework and geothermal heating system at Makers Square, and renovate and expand parking.

### Road and Access Improvements - \$5,000,000

- Renovate public roadways and campground roads within the park, including sidewalks and parking lots, for public safety and ADA compliance.

### Readiness to Proceed

This project is part of State Parks' ten-year capital plan and has been vetted through the agency's review process.

### Public Benefit

These projects will help preserve a nationally significant historic site, improve the experience of over 1.5 million visitors enjoying the historic fort and grounds, and help support jobs and economic development of the City of Port Townsend and surrounding rural communities in Jefferson and Clallam counties on the northern Olympic Peninsula.

### Support

Fort Worden Public Development Authority, City of Port Townsend, Friends of Fort Worden, Jefferson County, Jefferson County Historical Society, Fort Worden resident partner organizations

**DRAFT BYLAWS**  
**OF**  
**FORT WORDEN HOSPITALITY**

Originally adopted on: \_\_\_\_\_, 2021

## CONTENTS

ARTICLE 1. OFFICES.....	1
ARTICLE 2. MEMBERSHIP .....	1
2.1    No Members .....	1
ARTICLE 3. BOARD OF DIRECTORS .....	1
3.1    General Powers.....	1
3.2    Number .....	1
3.3    Qualifications .....	1
3.4    Election of Directors.....	2
3.4.1    Initial Directors.....	2
3.4.2    Successor Directors.....	2
3.5    Term of Office .....	2
3.6    Annual Meeting.....	2
3.7    Regular Meetings .....	2
3.8    Special Meetings .....	3
3.9    Meetings by Telephone, Electronic Attendance .....	3
3.10   Place of Meetings.....	3
3.11   Notice of Special Meetings .....	3
3.11.1   In Writing .....	3
3.11.2   Personal Communication.....	3
3.11.3   Electronic Transmission .....	4
3.11.4   Posting Electronic Notice.....	4
3.12   Waiver of Notice .....	4
3.12.1   Record.....	4
3.12.2   By Attendance.....	5

3.13	Quorum .....	5
3.14	Manner of Acting .....	5
3.15	Presumption of Assent.....	5
3.16	Action by Board Without a Meeting .....	5
3.17	Resignation.....	6
3.18	Removal.....	6
3.19	Vacancies.....	6
3.20	Board Committees .....	6
3.20.1	Standing or Temporary Committees .....	6
3.20.2	Quorum; Manner of Acting.....	7
3.20.3	Resignation .....	7
3.20.4	Removal of Committee Member .....	7
3.21	Compensation .....	7
ARTICLE 4. OFFICERS .....		7
4.1	Number and Qualifications .....	7
4.2	Election and Term of Office .....	8
4.3	Resignation.....	8
4.4	Removal.....	8
4.5	Vacancies.....	8
4.6	President .....	8
4.7	Vice President .....	9
4.8	Secretary .....	9
4.9	Treasurer .....	9
4.10	Compensation .....	10

ARTICLE 5. EXECUTIVE DIRECTOR.....	10
ARTICLE 6. ADVISORY BOARD.....	10
ARTICLE 7. INTERESTS OF DIRECTORS AND OFFICERS .....	10
7.1 Compensation .....	10
7.2 Conflict of Interest .....	11
7.3 Review of Certain Transactions .....	11
ARTICLE 8. ADMINISTRATIVE AND FINANCIAL PROVISIONS .....	11
8.1 Loans .....	11
8.2 Loans or Extensions of Credit to Officers and Directors.....	11
8.3 Checks, Drafts, Etc.....	11
8.4 Deposits.....	11
8.5 Books and Records.....	12
8.6 Corporate Seal.....	12
8.7 Accounting Year .....	12
8.8 Rules of Procedure.....	12
ARTICLE 9. AMENDMENTS .....	12

**BYLAWS**  
**OF**  
**FORT WORDEN HOSPITALITY**

**ARTICLE 1. OFFICES**

The principal office of the corporation shall be located at its principal place of business or such other place as the Board of Directors ("**Board**") may designate.

**ARTICLE 2. MEMBERSHIP**

**2.1 No Members**

The corporation shall have no members.

**ARTICLE 3. BOARD OF DIRECTORS**

**3.1 General Powers**

The affairs of the corporation shall be managed by a Board of Directors.

**3.2 Number**

The Board shall consist of not less than 5 nor more than 11 Directors. The number of Directors may be changed from time to time by amendment to these Bylaws, provided that no decrease in the number shall have the effect of shortening the term of any incumbent Director.

**3.3 Qualifications**

Directors shall have experience in work relevant to the hospitality industry and/or the Lifelong Learning Center mission. Directors may have such other qualifications as the Board may prescribe by amendment to these Bylaws.

### **3.4 Election of Directors**

#### **3.4.1 Initial Directors**

The initial Directors will be named by the Incorporator.

#### **3.4.2 Successor Directors**

Successor Directors will be named by a two-thirds majority vote of the board.

### **3.5 Term of Office**

Unless a Director dies, resigns or is removed, they shall hold office for their full term. Initial terms will be staggered in length, while successor terms will be three years in length. Initial positions will be filled in the following manner:

- Position 1 (PDA Transition) – One-Year (cannot renew)
- Position 2 (PDA Transition) – Two-Year (cannot renew)
- Position 3 (PDA Transition) – Three Year (cannot renew)
- Position 4 – One-Year (can renew)
- Position 5 – One-Year (can renew)
- Position 6 – Two-Year (can renew)
- Position 7 – Two-Year (can renew)
- Position 8 – Three-Year (can renew)
- Position 9 – Three-Year (can renew)
- Position 10 – Three-Year (can renew)
- Position 11 – Three-Year (can renew)

### **3.6 Annual Meeting**

The annual meeting of the Board shall be held on a date chosen by the President or the Board for the purposes of electing Directors and officers and transacting such business as may properly come before the meeting. If the annual meeting is not held on the date designated therefor, the Board shall cause the meeting to be held as soon thereafter as may be convenient.

### **3.7 Regular Meetings**

By resolution, the Board may specify the date, time and place for holding regular meetings without other notice than such resolution.

### **3.8 Special Meetings**

Special meetings of the Board or any committee designated and appointed by the Board may be called by or at the written request of the President or any three Directors, or, in the case of a committee meeting, by the chairman of the committee. The person or persons authorized to call special meetings may fix any place either within or without the State of Washington as the place for holding any special Board or committee meeting called by them.

### **3.9 Meetings by Telephone, Electronic Attendance**

Members of the Board or any committee designated by the Board may participate in a meeting of such Board or committee by means of a conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other at the same time. Participation by such means shall constitute presence in person at a meeting.

### **3.10 Place of Meetings**

All meetings shall be held at the principal office of the corporation or at such other place within or without the State of Washington designated by the Board, by any persons entitled to call a meeting or by a waiver of notice signed by all Directors.

### **3.11 Notice of Special Meetings**

#### **3.11.1 In Writing**

Notices in writing may be delivered or mailed to the Director at his or her address shown on the records of the corporation not less than 7 days before the meeting. If notice is delivered via regular mail, the notice shall be deemed effective when deposited in the official government mail properly addressed with postage thereon prepaid. Neither the business to be transacted at nor the purpose of any special meeting need be specified in the notice of a special meeting.

#### **3.11.2 Personal Communication**

Notice may be by personal communication with the Director not less than 7 days before the meeting.

### **3.11.3 Electronic Transmission**

Notices may be provided in an electronic transmission and be electronically transmitted not less than 7 days before the meeting. Notice in an electronic transmission is effective only with respect to those Directors that have consented, in the form of a record, to receive electronically transmitted notices and designated in such consent the address, location or system to which these notices may be electronically transmitted. A Director who has consented to receipt of electronically transmitted notices may revoke the consent by delivering a revocation to the corporation in the form of a record. Furthermore, the consent is automatically revoked if the corporation is unable to electronically transmit two consecutive notices given by the corporation, and this inability becomes known to the person responsible for giving notice. Notice provided in an electronic transmission is effective when it is electronically transmitted to an address, location or system designated by the recipient for that purpose.

### **3.11.4 Posting Electronic Notice**

Notice may be provided to Directors who have consented to receipt of electronically transmitted notices by posting the notice on an electronic network and delivering to such Directors a separate record of the posting, together with comprehensible instructions regarding how to obtain access to the posting on the electronic network not less than 7 days before the meeting. Notice is effective when it has been posted to an electronic network and a separate record of the posting has been delivered to the recipient as provided by this Section 3.11.4.

## **3.12 Waiver of Notice**

### **3.12.1 Record**

Whenever any notice is required to be given to any Director under the provisions of these Bylaws, the Articles of Incorporation or applicable Washington law, a waiver thereof in the form of a record, including, without limitation, an electronic transmission from the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice. Neither the business to be transacted at nor the purpose of any regular or special meeting of the Board need be specified in the waiver of notice of such meeting.

### **3.12.2 By Attendance**

The attendance of a Director at a meeting shall constitute a waiver of notice of such meeting, except where a Director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened.

### **3.13 Quorum**

A majority of the number of Directors fixed by or in the manner provided by these Bylaws shall constitute a quorum for the transaction of business at any Board meeting. If a quorum is not present at a meeting, a majority of the Directors present may adjourn the meeting from time to time without further notice.

### **3.14 Manner of Acting**

The act of the majority of the Directors present at a meeting at which there is a quorum shall be the act of the Board, unless the vote of a greater number is required by these Bylaws, the Articles of Incorporation or applicable Washington law.

### **3.15 Presumption of Assent**

A Director of the corporation present at a Board meeting at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless his or her dissent or abstention is entered in the minutes of the meeting, or unless such Director files a written dissent or abstention to such action with the person acting as secretary of the meeting before the adjournment thereof, or forwards such dissent or abstention by registered mail to the Secretary of the corporation immediately after the adjournment of the meeting. Such right to dissent or abstain shall not apply to a Director who voted in favor of such action.

### **3.16 Action by Board Without a Meeting**

Any action which could be taken at a meeting of the Board may be taken without a meeting if a consent in the form of a record, which consent clearly sets forth the action to be taken, is executed by all the Directors. Any such record shall be inserted in the minute book as if it were the minutes of a Board meeting. For purposes of this Section 3.16, record means information inscribed on a tangible medium or contained in an electronic transmission.

### **3.17 Resignation**

Any Director may resign at any time by delivering written notice to the President or the Secretary at the registered office of the corporation, or by giving oral or written notice at any meeting of the Directors. Any such resignation shall take effect at the time specified therein, or if the time is not specified, upon delivery thereof and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

### **3.18 Removal**

One or more Directors (including the entire Board) may be removed from office, with or without cause, by the affirmative vote of a two-thirds majority of the Directors fixed by or in the manner provided by these Bylaws.

### **3.19 Vacancies**

A vacancy in the position of Director may be filled by the affirmative vote of a majority of the remaining Directors though less than a quorum of the Board. A Director who fills a vacancy shall serve for the unexpired term of his or her predecessor in office.

### **3.20 Board Committees**

#### **3.20.1 Standing or Temporary Committees**

The Board, by resolution adopted by a majority of the Directors in office, may designate and appoint one or more standing or temporary committees, each of which shall consist of two or more Directors. Such committees shall have and exercise the authority of the Directors in the management of the corporation, subject to such limitations as may be prescribed by the Board except that no committee shall have the authority to: (a) amend, alter or repeal these Bylaws; (b) elect, appoint or remove any member of any other committee or any Director or officer of the corporation; (c) amend the Articles of Incorporation; (d) adopt a plan of merger or consolidation with another corporation; (e) authorize the sale, lease, or exchange of all or substantially all of the property and assets of the corporation not in the ordinary course of business; (f) authorize the voluntary dissolution of the corporation or revoke proceedings therefor; (g) adopt a plan for the distribution of the assets of the corporation; or (h) amend, alter or repeal any resolution of the Board which by its terms provides that it shall not be amended, altered or repealed by a committee. The designation and appointment of any such committee and the

delegation thereto of authority shall not operate to relieve the Board or any individual Director of any responsibility imposed upon it, him or her by law.

### **3.20.2 Quorum; Manner of Acting**

A majority of the number of Directors composing any committee shall constitute a quorum, and the act of a majority of the members of a committee present at a meeting at which a quorum is present shall be the act of the committee.

### **3.20.3 Resignation**

Any member of any committee may resign at any time by delivering written notice thereof to the President, the Secretary or the chairman of such committee, or by giving oral or written notice at any meeting of such committee. Any such resignation shall take effect at the time specified therein or, if the time is not specified, upon delivery thereof and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

### **3.20.4 Removal of Committee Member**

The Board, by resolution adopted by a majority of the Directors in office, may remove from office any member of any committee elected or appointed by it.

## **3.21 Compensation**

The Directors shall receive no compensation for their service as Directors but may receive reimbursement for reasonable expenditures incurred on behalf of the corporation.

## **ARTICLE 4. OFFICERS**

### **4.1 Number and Qualifications**

The officers of the corporation shall be a President, a Vice President, a Secretary and a Treasurer, each of whom shall be elected by the Board. Other officers and assistant officers may be elected or appointed by the Board, such officers and assistant officers to hold office for such period, have such authority and perform such duties as are provided in these Bylaws or as may be provided by resolution of the Board. Any officer may be assigned by the Board any additional title that the Board deems appropriate. Any two or more offices may be held by the same person, except the offices of President and Secretary. All officers must be Directors of the corporation.

## **4.2 Election and Term of Office**

The officers of the corporation shall be elected each year by the Board at the annual meeting of the Board. Unless an officer dies, resigns, or is removed from office, they shall hold office until the next annual meeting of the Board or until his or her successor is elected.

## **4.3 Resignation**

Any officer may resign at any time by delivering written notice to the President, the Vice President, the Secretary or the Board, or by giving oral or written notice at any meeting of the Board. Any such resignation shall take effect at the time specified therein or, if the time is not specified, upon delivery thereof and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

## **4.4 Removal**

Any officer or agent elected or appointed by the Board may be removed by the affirmative vote of at least a majority of the Board whenever in its judgment the best interests of the corporation would be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the person so removed.

## **4.5 Vacancies**

A vacancy in any office created by the death, resignation, removal, disqualification, creation of a new office or any other cause may be filled by the Board for the unexpired portion of the term or for a new term established by the Board.

## **4.6 President**

The President shall be the chief executive officer of the corporation, and, subject to the Board's control, shall supervise and control all of the assets, business and affairs of the corporation. The President shall preside over meetings of the Board. The President may sign deeds, mortgages, bonds, contracts, or other instruments, except when the signing and execution thereof have been expressly delegated by the Board or by these Bylaws to some other officer or agent of the corporation or are required by law to be otherwise signed or executed by some other officer or in some other manner. In general, the President shall perform all

duties incident to the office of President and such other duties as are assigned to him or her by the Board from time to time.

#### **4.7 Vice President**

In the event of the death of the President or his or her inability to act, the Vice President shall perform the duties of the President, except as may be limited by resolution of the Board, with all the powers of and subject to all the restrictions upon the President. The Vice President shall have, to the extent authorized by the President or the Board, the same powers as the President to sign deeds, mortgages, bonds, contracts or other instruments. The Vice President shall perform such other duties as from time to time may be assigned to him or her by the President or by the Board.

#### **4.8 Secretary**

The Secretary shall: (a) keep the minutes of meetings of the Board and any minutes which may be maintained by committees of the Board; (b) see that all notices are duly given in accordance with the provisions of these Bylaws or as required by law; (c) be custodian of the corporate records of the corporation; (d) keep records of the post office address of each Director and officer; and (e) in general perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned to him or her by the President or the Board.

#### **4.9 Treasurer**

If requested by the Board, the Treasurer shall give a bond for the faithful discharge of his or her duties in an amount and with such surety or sureties as the Board may determine. The Treasurer shall have charge and custody of and be responsible for all funds and securities of the corporation; receive and give receipts for moneys due and payable to the corporation from any source whatsoever, and deposit all such moneys in the name of the corporation in banks, trust companies or other depositories selected in accordance with the provisions of these Bylaws; and in general perform all of the duties incident to the office of Treasurer and such other duties as from time to time may be assigned to him or her by the President or the Board.

#### **4.10 Compensation**

The officers shall receive no compensation for their service as officers but may receive reimbursement for reasonable expenditures incurred on behalf of the corporation.

### **ARTICLE 5. EXECUTIVE DIRECTOR**

The corporation may employ an Executive Director who shall be appointed, employed, and discharged by the Board. If employed, the Executive Director shall manage the affairs of the corporation according to the policies, principles, practices and budget authorized by the Board, and shall be responsible for management of personnel, finances and programs. If employed, the Executive Director shall be responsible for staff management including hiring, training, disciplinary action, and discharge. If employed, the Executive Director shall serve as an ex-officio, non-voting member of the Board. For the purpose of determining the number of Directors serving the corporation, the Executive Director shall not be considered a member of the Board.

### **ARTICLE 6. ADVISORY BOARD**

The Board of Directors may appoint an Advisory Board of two or more persons to provide advice and assistance to the Board. Members of the Advisory Board may be invited to meetings of the Board, but shall not be entitled to vote or exercise other powers of a director of the corporation; provided, however, to the extent permitted by law, members of the Advisory Board shall be entitled to the same limitations on liability and rights to indemnification as directors of the corporation. The Board of Directors may determine by separate resolution the operational rules which shall govern the Advisory Board. Advisory Board members may be removed at any time, with or without cause, by the Board.

### **ARTICLE 7. INTERESTS OF DIRECTORS AND OFFICERS**

#### **7.1 Compensation**

Directors who receive any compensation for services in any capacity, directly or indirectly, from the corporation may not vote on matters pertaining to that Director's compensation.

## **7.2 Conflict of Interest**

Directors and officers shall disclose to the Board any financial interest which the Director or officer directly or indirectly has in any person or entity which is a party to a transaction under consideration by the Board. The interested Director or officer shall abstain from voting on the transaction.

## **7.3 Review of Certain Transactions**

Prior to entering into any compensation agreement, contract for goods or services, or any other transaction with any person who is in a position to exercise influence over the affairs of the corporation, the Board shall establish that the proposed transaction is reasonable when compared with a similarly-situated organization for functionally comparable positions, goods or services rendered.

# **ARTICLE 8. ADMINISTRATIVE AND FINANCIAL PROVISIONS**

## **8.1 Loans**

No loans shall be contracted on behalf of the corporation and no evidences of indebtedness shall be issued in its name unless authorized by a resolution of the Board. Such authority may be general or confined to specific instances.

## **8.2 Loans or Extensions of Credit to Officers and Directors**

No loans shall be made and no credit shall be extended by the corporation to its officers or Directors.

## **8.3 Checks, Drafts, Etc.**

All checks, drafts or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the corporation shall be signed by such officer or officers, or agent or agents, of the corporation and in such manner as is from time to time determined by resolution of the Board.

## **8.4 Deposits**

All funds of the corporation not otherwise employed shall be deposited from time to time to the credit of the corporation in such banks, trust companies or other depositories as the Board may select.

## **8.5 Books and Records**

The corporation shall keep at its principal or registered office copies of its current Articles of Incorporation and Bylaws; correct and adequate records of accounts and finances, minutes of the proceedings of its Boards and any minutes which may be maintained by committees of the Board; records of the names and post office addresses of its officers and Directors, and such other records as may be necessary or advisable.

## **8.6 Corporate Seal**

If the Board determines that it is advisable, the corporation shall have a corporate seal consisting of the name of the corporation, the state of its incorporation and the year of its incorporation.

## **8.7 Accounting Year**

Unless a different accounting year is at any time selected by the Board, the accounting year of the corporation shall be the twelve months ending December 31<sup>st</sup>.

## **8.8 Rules of Procedure**

The rules of procedure at meetings of the Board and committees of the Board shall be rules contained in Roberts' Rules of Order on Parliamentary Procedure, Newly Revised, so far as applicable and when not inconsistent with these Bylaws, the Articles of Incorporation or any resolution of the Board.

## **ARTICLE 9. AMENDMENTS**

These Bylaws may be altered, amended or repealed and new Bylaws may be adopted at any meeting of the Board by the vote of a majority of the number of Directors fixed by or in the manner provided by these Bylaws, or by the written consent of each of the Directors.

FW Hospitality Operations 2021 - 2025

	Year #1	Year #2	Year #3	Year #4	Year #5
	2021	2022	2023	2024	2025
Available House/Wings	67	67	67	67	67
Available Nights (post OOI)	18,919	23,386	23,386	23,386	23,386
Occupancy	17%	44%	51%	53%	54%
Occupied Nights	3,254	10,300	12,022	12,282	12,529
ADR	\$ 483	\$ 329	\$ 339	\$ 342	\$ 344
RevPar	\$ 83	\$ 145	\$ 174	\$ 179	\$ 185
<b>Accommodations Department</b>					
Revenue	931,015	3,461,977	4,171,428	4,289,893	4,412,165
Expenses	381,984	980,325	1,193,100	1,250,051	1,307,632
Labor	296,297	753,218	916,369	961,326	1,006,737
Other	85,687	227,107	276,732	288,725	300,894
Accommodations Surplus/(Deficit)	549,031	2,481,653	2,978,327	3,039,842	3,104,534
<b>Restaurants Department</b>					
Revenue	489,861	1,061,028	1,246,237	1,277,393	1,305,781
Expenses	454,489	1,032,500	1,163,742	1,192,835	1,221,341
Labor	237,952	584,884	631,675	647,467	663,653
COGs	162,072	351,044	412,321	422,629	432,022
Other	54,465	96,571	119,746	122,739	125,665
Restaurants Surplus/(Deficit)	35,372	28,528	82,495	84,557	84,441
<b>Catering Department</b>					
Revenue	126,591	1,031,793	1,415,522	1,450,910	1,487,183
Expenses	121,508	848,468	1,037,602	1,063,542	1,089,984
Labor	63,651	389,147	420,279	430,786	441,556
COGs	43,305	360,224	494,446	506,807	519,477
Other	14,553	99,096	122,877	125,949	128,952
Catering Surplus/(Deficit)	5,083	183,325	377,920	387,368	397,199
<b>Venues Department</b>					
Revenue	66,126	279,728	372,971	382,295	391,852
Expenses	1,372	7,912	9,846	10,040	10,238
Labor	-	-	-	-	-
Other	1,372	7,912	9,846	10,040	10,238
Venue Surplus/(Deficit)	64,755	271,816	363,124	372,255	381,614
<b>Miscellaneous Revenue</b>					
Revenue	163,108	418,927	449,691	461,395	473,419
Expenses (COGs)	68,646	236,678	242,595	248,660	254,877
Misc. Surplus/(Deficit)	94,462	182,249	207,095	212,735	218,543
Total Departmental Revenue	1,776,701	6,253,453	7,655,848	7,861,886	8,070,402
Total Departmental Expenses	1,027,998	3,105,883	3,646,886	3,765,128	3,884,071
<b>Total Departmental Surplus/(Deficit)</b>	<b>\$ 748,703</b>	<b>\$ 3,147,570</b>	<b>\$ 4,008,962</b>	<b>\$ 4,096,758</b>	<b>\$ 4,186,330</b>
<b>Undistributed Other Expenses</b>					
General & Administrative	248,010	908,117	998,823	1,024,233	1,050,198
Sales & Marketing	219,334	718,971	903,796	926,789	950,309
Facilities & Maintenance	273,398	411,786	440,232	451,238	462,519
Utilities, Internet, Telephone	222,064	456,528	467,941	479,639	491,630
Insurance & Safety Contracts	55,903	114,601	117,466	120,402	123,413
B&O Taxes	11,922	41,961	51,371	52,753	54,152
Bank Financing Interest Payments	35,000	60,000	72,124	64,837	57,113
Bank Glamping Loan Interest Payments	-	-	106,049	102,841	99,474
Non-Bank Loan Interest Payments	11,667	20,000	20,000	20,000	20,000
Total Undistributed Expenses	1,077,298	2,731,963	3,177,802	3,242,733	3,308,807
<i>Operating Expense Ratio</i>	118.49%	93.35%	89.14%	89.14%	89.13%
<b>Net Operating Surplus/(Deficit)</b>	<b>\$ (328,595)</b>	<b>\$ 415,607</b>	<b>\$ 831,160</b>	<b>\$ 854,025</b>	<b>\$ 877,523</b>
<i>Net Operating Margin</i>	-18.49%	6.65%	10.86%	10.86%	10.87%
<b>Non-Operating Sources/(Uses)</b>					
PDA Restore Deposits to Policy	-	-	-	-	-
PDA Restore Glamping Capital Funding	600,000	-	-	-	-
Bank Financing	1,000,000	-	-	-	-
Non-Bank Financing	400,000	-	-	-	(400,000)
Collateral for Bank Start Up Loan	(400,000)	-	-	-	400,000
Prior Year Advanced Deposits (Spent)	(449,495)	-	-	-	-
Due to PDA for 2021 Q1 & Q2 Start Up Costs	-	(300,000)	-	-	-
Capital Expenditures	(718,750)	(137,500)	(37,500)	(37,500)	(37,500)
Bank Financing Costs	(20,000)	-	-	-	-
Bank Financing Principal Payments	-	-	121,452	128,740	136,464
Bank Glamping Loan Principal Payments	-	-	(64,144)	(67,351)	(70,718)
Total Non-Operating Sources/(Uses)	411,755	(437,500)	19,809	23,889	28,246
<b>Net Cash Flow</b>	<b>\$ 83,159</b>	<b>\$ (21,893)</b>	<b>\$ 850,969</b>	<b>\$ 877,914</b>	<b>\$ 905,768</b>

**Statement of Cash Balance**

Beginning Cash	159,000	242,159	220,266	1,071,235	1,949,149
Net Cash Flow	83,159	(21,893)	850,969	877,914	905,768
<b>Available Cash</b>	<b>\$ 242,159</b>	<b>\$ 220,266</b>	<b>\$ 1,071,235</b>	<b>\$ 1,949,149</b>	<b>\$ 2,854,917</b>
Restricted Reserves:					
Tier I Operating Rainy Day (120 Days)*	242,159	220,266	1,071,235	1,861,508	1,916,685
Glamping 1yr Debt Service Coverage	-	-	-	87,641	170,192
<b>Unrestricted Reserves</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 768,040</b>
<i>*Reserve Shortfall</i>	<i>\$ (724,739)</i>	<i>\$ (1,367,646)</i>	<i>\$ (906,240)</i>	<i>\$ (82,551)</i>	<i>\$ -</i>
<b>Total Cash</b>	<b>\$ 242,159</b>	<b>\$ 220,266</b>	<b>\$ 1,071,235</b>	<b>\$ 1,949,149</b>	<b>\$ 2,854,917</b>

Building Inventory with DRAFT FWH Assumptions

Bldg No.	Gross Sq. Ft.	Date Built	Historic Structure?	Historical Use	NPS Historical Significance	Current Use	FWH Use	Building Condition	NOTES
1	5976	1904	yes	Field (Commanding) Officer's Quarters	Contributing	COQ Museum		Good	
3	493	1920	yes	Officer's Garage-2 car		Storage		Fair	
4	10,314	1904	yes	Double Officer's Quarters	Contributing	Vacation Housing	10314	Fair	
5	5907	1904	yes	Double Officer's Quarters	Contributing	Vacation Housing	5907	Fair	
6	5907	1904	yes	Double Officer's Quarters	Contributing	Vacation Housing	5907	Fair	
7	5907	1904	yes	Double Officer's Quarters	Contributing	Vacation Housing	5907	Fair	
8	2320	1922	yes	Officer's Garage-13 car		Garage/Storage		Poor	
9	6464	1905	yes	Double Officer's Quarters	Contributing	Vacation Housing	6464	Fair	
10	6464	1905	yes	Double Officer's Quarters	Contributing	Vacation Housing	6464	Fair	
11	10,314	1905	yes	Double Officer's Quarters	Contributing	Vacation Housing	10314	Fair	
13	1400	1932	yes	Officer's Garage-6 car		Garage/Storage		Poor	
15	5979	1905	yes	Double Officer's Quarters	Contributing	Vacation Housing	5979	Fair	
16	14,719	1915	yes	Bachelor Officer's Quarters	Contributing	Vacation Housing	14719	Fair	
24	3286	1941	yes	Regimental Chapel		Event Venue	3286	Excellent	
25	4918	1932	yes	Theater	Contributing	Theater	4918	Fair	
26	19,035	1921/91	yes	Balloon Hangar	Contributing	Event Venue	19035	Good	
200	10,688	1908	yes	Post Headquarters	Contributing	PDA Offices, Park Offices, FFW Gift Shop	TBD	Good	
201	19,344	1904	yes	Company Barracks	Contributing	Coast Artillery Museum		Fair	
202	19,344	1904	yes	Company Barracks	Contributing	Peninsula College		Fair	
203	19,344	1904	yes	Company Barracks	Contributing	Dormitory	19344	Fair	
204	19,344	1905	yes	Company Barracks	Contributing	Event Venue	19344	Good	
205	7656	1904	yes	Band Barracks	Contributing	Centrum/Corvidae Press/Goddard Classroom		Fair	
221	1040	1941	yes	Company Storehouse and Administration		Laundry, Housekeeping Office	1040	Good	
223	4160	1904	yes	Administration	Contributing	Centrum Offices		Good	
225	39,200	1908	yes	2 Company Barracks	Contributing	Dormitory	39200	Fair	
229	1454	c 1890	yes	Alexander's Castle	Contributing	Vacation Housing	1454	Good	
245	1030	1898	yes	NCO Quarters		Vacation Housing	1030	Good	
246	4100	1941	yes	Regimental Recreation Hall		JFK Event Venue	4100	Excellent	

Building Inventory with DRAFT FWH Assumptions

255	1040	1941	yes	NCO Quarters		Centrum Housing		Fair	
256	1125	1941	yes	NCO Quarters		Centrum Housing		Fair	
259	1040	1941	yes	NCO Quarters		Centrum Housing		Fair	
260	1125	1941	yes	NCO Quarters		Centrum Housing		Fair	
261	1125	1941	yes	NCO Quarters		Centrum Housing		Fair	
262	1040	1917	yes	NCO Quarters		Vacation Housing	1040	Good	
270	1665	1904	yes	Hospital Stewards Quarters	Contributing	Vacation Housing	1665	Good	
272	4780	1941	yes	4 Family Officer's Quarters		Vacation Housing	4780	Good	
275	4780	1941	yes	4 Family Officer's Quarters		Centrum Housing		Fair	
277	4780	1941	yes	4 Family Officer's Quarters		Vacation Housing	4780	Fair	
296	2821	1941	yes	Regimental Storehouse		Lawn Mower Shop	2821	Good	
298	20,608	1904/ 1910	yes	Post Hospital	Contributing	PDA Offices, Goddard, Event Venue	TBD	Fair	Building minus Goddard-leased spaces
300	3668	1904	yes	Guard House	Contributing	Taps at the Guardhouse Bar & Restaurant (PDA)	3668	Good	
304	9240	1941	yes	Storehouse		Storage/Wood Shop	TBD	Fair	Potential changes under discussion
305	18,720	1904	yes	Quartermaster Storehouse	Contributing	Makers Square		Good	Foundation
306	4798	1904	yes	Commissary	Contributing	Port Townsend School of the Arts		Fair	
308	2505	1905	yes	Quartermaster Storehouse	Contributing	Makers Square		Good	
309	210	1920	yes	Post Exchange Gas Station		Unoccupied		Fair	TBD
310	6044	1908	yes	Post Exchange/Gymnasium	Contributing	Centrum/Madrona MindBody Inst.		Excellent	
313	2220	1905	yes	Quartermaster Workshop	Contributing	Copper Canyon Press		Good	
315	4686	1907	yes	Powerhouse	Contributing	Port Townsend School of Woodworking/Rainshadow Recording Studio		Good	Potential changes under discussion
324	3095	1909	yes	Quartermaster Storehouse	Contributing	Storage		Fair	
325	1216	1905	yes	Double NCO Quarters	Contributing	ADA Vacation Housing	1216	Fair	
326	5395	1941	yes	Service Club (USO)		Conf./Event Venue	5395	Excellent	
331	4505	1909	yes	Double NCO Quarters	Contributing	Vacation Housing	4505	Fair	

Building Inventory with DRAFT FWH Assumptions

332	4505	1905	yes	Double NCO Quarters	Contributing	Vacation Housing	4505	Fair	
333	4505	1904	yes	Double NCO Quarters	Contributing	Vacation Housing	4505	Fair	
334	4505	1904	yes	Double NCO Quarters	Contributing	Vacation Housing	4505	Fair	
335	4505	1909	yes	Double NCO Quarters	Contributing	Vacation Housing	4505	Fair	
336	2101	1909	yes	Fireman's Quarters	Contributing	Vacation Housing	2101	Fair	
352	4505	1915	yes	Double NCO Quarters	Contributing	Vacation Housing	4505	Good	
353	4505	1915	yes	Double NCO Quarters	Contributing	Vacation Housing	4505	Good	
356	4154	1921	yes	Gas Generator House		Centrum Storage		Fair	
357	2072	1921	yes	Balloon Hangar Garage		Storage		Good	
365	5000	1920	yes	Motor Pool Garage		Storage	TBD	Very Poor	
372	7872	1910	yes	Wagon Shed & Quarters	Contributing	PDA Storage	7872	Poor	
501	2000	1910	yes	Cable Storehouse	Contributing	Cablehouse Canteen (PDA)	2000	Good	
502	2000	1921	yes	Ordnance Machine Shop	Contributing	Marine Science Center		Good	
532	2735	1943	yes	Dock Warehouse		Marine Science Center		Fair	
N/A	UNK	1943	yes	Dock Structure		Marine Science Center		Fair	
210	19,679	2003	no	None	N/A	Fort Worden Commons	19679	Good	
235	861	1917	no	NCO Quarters	N/A	Vacation Housing (Bliss Vista)	861	Good	
297	972	1960	no	None	N/A	Seminar - Event Venue	972	Fair	
364	662	1917	no	Motor Pool Carpenter Shop	N/A	Grounds	662	Good	
604	36	UNK	no	None	N/A	Ticket Booth	36	Good	

445512	TOTAL
--------	-------

Proposed for FWH Concession Area: 275809
---

**Term Sheet for a Concessionaire Agreement between the Fort Worden Lifelong Learning Center Public Development Authority (“PDA”) and Fort Worden Hospitality Corp. (“Vendor”) for services to be provided by Vendor at the Fort Worden State Park Campus (“Campus”)**

PDA is the tenant under that certain Master Lease dated August 2, 2013 as amended November 7, 2019, (“Master Lease”) between the PDA and the State of Washington, acting through the Washington State Parks and Recreation Commission (“Commission”), as for the Fort Worden State Park Campus (“Fort Worden”). The purpose of this non-binding Term Sheet is to set forth the terms and conditions of a possible concessionaire agreement (“Agreement”) between PDA and Vendor pursuant to which Vendor may provide certain services at the Campus. This Term Sheet is not binding upon the parties, and only a fully executed final Concessionaire Agreement will be binding on the parties.

**Term:** The term of the Agreement will commence July 1, 2021, and end July 1, 2046, with option for an extension subject to Commission approval.

**Services to be provided:** As referenced in Section 4.1 of the Master Lease, the PDA shall promote the use of the Campus facilities for nonprofit, government and corporate events, meetings, workshops, seminars, and conferences even if such promotion and use is not the highest and best market use and may reduce the overall net revenues (due to discounted lease or conference rates); provided, however, PDA shall also actively promote, market, and make available the facilities for independent travelers, family retreats, and other users. The Vendor shall be responsible for these same duties on behalf of the PDA.

Section 7.1 of the Master Lease sets forth a list of operational duties required of the PDA, some of which will be performed by the Vendor on the PDA’s behalf. The services to be provided by Vendor shall include, but not be limited to, the following services at Fort Worden:

- (Master Lease Section 7.1.1) Overseeing daily management and operation of the conference meeting facilities, accommodations, and hospitality services within the Campus;
  - Accommodation sales and management for 43 housing units
  - Group rental coordination for dorm buildings up to 233 total beds
  - Venue sales and management for nine indoor venues, five outdoor venues; including audio visual equipment rental and services
  - Pricing must be non-discriminatory, vendor has right to discount and negotiate rates. Rates must be sufficient to meet the fiscal obligations of the Vendor.
- (Master Lease Section 7.1.2) Marketing the Center to fulfill the purposes of the Lifelong Learning Center
  - Manage branding, marketing and online presence for all hospitality offerings; work in cooperation for co-marketing opportunities across the Fort Worden Lifelong Learning Center where applicable; develop product enhancements in line with business needs
  - Develop and sell sponsorships, partnerships or marketing opportunities for products, services and events
- (Master Least Section 7.1.3) Keeping the Campus in good, safe, and clean working order by providing the Maintenance described in other parts of the agreement
  - Provide building and equipment maintenance, janitorial and sanitation, garbage and grounds maintenance within service area
- (Master Least Section 7.1.4) Providing customer service to visitors of the Campus such as food services, housing, meeting rooms, technology needs, and any other hospitality provisions necessary for their health, safety, and comfort;

- Operate three existing plus any future outlets food and beverage outlets in accordance with industry standard health regulations
- Operate event catering as the exclusive caterer for campus, retaining right of refusal and right to recommend outside caterers and/or develop a preferred vendor list for catering
- Support the campus Lifelong Learning Center mission in the vendor services that support campus partner organizations
- Provide event management services for private and public events, including vendor coordination
- Manage guest on-site experience and wayfinding in conjunction with partner agencies
- (Master Lease Section 7.1.8) Keeping the Campus open for general public access and use as a Lifelong Learning Center, three hundred and sixty-five (365) days per year, except for emergency closures;
- Develop educational programs in service of hospitality workforce needs for Fort Worden Hospitality Corp. and broader community

**Premises to be used; Maintenance:** The Agreement will provide a license for Vendor to access and use the buildings and real property located at Fort Worden necessary to provide the above-referenced services (“Licensed Premises”). The Agreement will provide a depiction detailing all of the Licensed Premises. Vendor will be required to maintain and repair all of the Licensed Premises according to standards to be identified in the Agreement. The responsibility for performing capital repairs and improvements will be detailed in the Agreement. Subleases may be required for some areas and can be executed separately and appended to the Agreement.

**Equipment:** All equipment currently on premises used in operations of services to be performed by Vendor is included, a master list of which will be incorporated as an attachment to the Agreement.

**Public Benefits; Mission:** All terms of Public Benefit, as described in Section 3.2 of the Master Lease, remain in place and Vendor agrees to fulfill those terms on behalf of the PDA. The Public Benefits generally include, but are not limited to, the following: operation of the Campus as a Lifelong Learning Center open and accessible to the public; provision of services and programs consistent with such use; provision of facilities conducive to public enjoyment of the Campus as a Lifelong Learning Center; and provision of ancillary benefits to the Port Townsend community resulting from such operation of the Campus. The scope and nature of Public Benefits may change as the Lifelong Learning Center matures. A Public Benefits Report shall be included as a part of the Annual Report from the PDA to the Commission, and the Vendor agrees to full participation in the creation of that Annual Report.

While operating within this Agreement, the Vendor’s mission statement must include reference to the Lifelong Learning Center.

**Reporting Obligations, Transparency:** In addition to full participation in the PDA’s Annual Report on Public Benefit, Vendor agrees to the following reporting requirements and provisions for operational transparency:

- Reporting Annual Audit, due by May 1<sup>st</sup> of the following year
- Twice yearly public meetings, one on future strategy and one on financial results
- Quarterly Financial Reports (closed within 45 days)
- Any kind of pending default must be reported within 15 days
- Disclosure of material adverse events/legal proceedings
- Annual marketing and advertising plan submitted
- Vendor will participate in the Operations Work Group

- Vendor may present to PDA board meetings as invited

**Fees and Financial Responsibility:** Vendor agrees to pay a Concession fee in lieu of rent, set at 3% of gross operating income. Non-operating revenues will not be included in calculation of concession fee. Concession fees will be paid quarterly within 45 days of the close of the quarter, and fees will be reviewed and reconciled with the audited yearly financials.

If the Vendor further contracts for services outlined in the Agreement, then the gross revenue shall be calculated to include sub-concessionaire's revenue as if Vendor performed the work, for purposes of calculating the concession fee.

A 120-day operating reserve is required and must be fully funded by year six of Vendor operations.

At such point as the vendor generates income in excess of funding operations, reserves, improving product offerings, and improving operating spaces, then excess funds will be directed to a restricted account for campus improvements outside of vendor's operating spaces, pursuant to agreement between PDA and Parks.

**Capital Investment:** Capital Investment is allowed subject to approval by PDA, on case-by-case basis. Capital investments may require a separate sublease.

**Subcontracting:** Vendor may further subcontract out the required services with approval of PDA, which cannot be unreasonably withheld.

**Vendor Personnel:** Vendor must include criminal background checks for all employees and establish uniform practices and policies in compliance with state and federal law.

**Assignment of Contracts:** Where applicable, contracts will be assigned by PDA to Vendor for the fulfillment of contract terms. Contract renegotiation and future contracts will be entered in directly by Vendor pursuant to governable terms of the PDA's Master Lease.

**Easements:** All easements referenced in the Master Lease are conferred to the Vendor and remain alterable by terms of the Master Lease.

**Fort Worden Lifelong Learning Center Public Development Authority  
Fort Worden Hospitality  
CONCESSION AGREEMENT**

This CONCESSION AGREEMENT (“Agreement”), by and between the FORT WORDEN LIFELONG LEARNING CENTER PUBLIC DEVELOPMENT AUTHORITY (“FWPDA”) and FORT WORDEN HOSPITALITY (“Concessionaire”), grants non-exclusive (except where otherwise stated) concession rights on the Fort Worden State Park **campus** in Jefferson County, Washington (“**Park**”), SUBJECT TO the terms and conditions contained in this Agreement, including exhibits to this Agreement, which are incorporated into and made a part of this Agreement by reference.

RECITALS

- (a) Whereas, pursuant to the Master Lease dated August 2, 2013 by and between State of Washington, acting through the Washington State Parks and Recreation Commission, as Landlord and Fort Worden Lifelong Learning Center Public Development Authority, a Washington public authority chartered by the City of Port Townsend under authority of Washington law and City ordinance (the “FWPDA”), as tenant, FWPDA assumed primary responsibility for management of the Fort Worden campus and its 72 historic buildings and additional revitalized buildings;
- (b) The State, as assignor, and FWPDA have entered into that certain Assignment and Assumption Agreement, dated as of July 16, 2014, as amended by letter agreement dated August 8, 2014, wherein the State has assigned, and the PDA has assumed, the right, title, and interest of the lessor in and under the 2013 Lease.;
- (c) On December 29, 2017, FWPDA as lessor and Makers Square Master Landlord, LLC (“Master Landlord, LLC”) as lessee entered into a lease of Buildings 305, 308 and 324 in connection with a transaction known as Makers Square to secure Historic Tax Credits (HTCs) for rehabilitation of these buildings. Separately, Master Landlord LLC leased the buildings to

Master Tenant LLC, which in turn has or intends to lease the buildings to Fort Worden Foundation. In addition, FWPCA has leased or will lease the grounds in and around the buildings to Foundation to manage with the buildings as part of its lease of the buildings. This Agreement does not pertain to or affect those buildings or grounds known as Makers Square.

(d) The FWPCA enters into this Agreement to grant to Concessionaire certain rights to operate certain services within and at certain facilities as described in this Agreement and more particularly in Exhibit A (“Business”), within and at facilities shown on Exhibit B (“Concession Facilities”). The purpose of this Agreement is to provide enhanced and expanded visitor experiences with the **Park**.

**Contractor:** A person or company that undertakes a contract and/or is under contractual obligation to provide materials or labor to perform a service or do a job.

**Concessionaire:** A Contractor that the FWPCA has authorized to use/possess a structure or location under lease to FWPCA as lessee under the Master Lease with the State. Note: A Concessionaire is always a Contractor and for purposes of this agreement the terms may be used interchangeably.

## 1. TERM

**1.1 Term.** This Agreement shall commence on Date of Execution (date of last signature) and shall expire coterminous with and in accordance with Section 1.2 – Concessionaire’s Performance

**1.2 Concessionaire Performance.** This Concessionaire shall commence performance on **July 1, 2021**, or on the date signed by the FWPCA, whichever is later (“Commencement Date”), and expire on **July 1, 2046**, unless terminated earlier under another provision of this Agreement (the period from the Commencement Date to the date of expiration or termination is the “Agreement Term”)

## 2. OPERATION

**2.1 Concessionaire’s Operation of the Business.** Concessionaire shall operate the Business as described in Exhibit A and shall perform all work, provide all labor,

and provide all, equipment, furnishings, and supplies sufficient for the operation of the Business, except that equipment, furnishings, and supplies identified in Exhibit A as being provided by the FWPDA. At all times during the Agreement Term, Concessionaire shall use reasonable efforts in operating the Business. Nothing prevents Concessionaire from entering into such agreement or agreements as it deems appropriate to carry out the Business, PROVIDED, that Concessionaire ensures that any sub-concessionaire or service provider comply with all terms of this Agreement that apply to the operation of the Business, and that Concessionaire retains the right to terminate any sub-concessionaire or service provider agreement for failure to do so.

**2.2 Additional Services.** The FWPDA may, at its sole discretion, authorize Concessionaire to provide other directly related concession services, all subject to space availability and approval in writing by the FWPDA. Any such expansion of concession services shall be documented in an amendment to the description of the Business contained in Exhibit A.

**2.3 Qualifications of Concessionaire and Concession Personnel.** Concessionaire and Concessionaire's employees and agents shall be qualified to operate the Business, including, but not limited to, operating and maintaining any necessary equipment. Concessionaire and Concessionaire's employees and agents shall perform in a businesslike and courteous manner and strive to provide quality service to park visitors. As required by state or local law, Concessionaire and employees must be in possession of all health or food and/or alcohol handling permits. If directed to do so by the Park Manager, Concessionaire or Concessionaire's employees must at all times when on duty wear a name tag and clothing approved by the FWPDA in order to be recognized as an employee of Concessionaire and any limitations or disapprovals will be communicated to Concessionaire in writing which may include email.

**2.4 Public Benefit and Mission.** All terms of Public Benefit, as described in Section 3.2 of the FWPDA Master Lease with Parks, remain in place and Concessionaire agrees to fulfill those terms on behalf of the PDA. Public Benefits generally include, but are not limited to, the following: operation of the Campus as a Lifelong Learning Center open and accessible to the public; provision of services and programs consistent with such use; provision of facilities conducive to public enjoyment of the Campus as a Lifelong Learning Center; and provision of ancillary benefits to the Port Townsend community resulting from such operation of the Campus. The scope and nature of Public Benefits may change as the Lifelong Learning Center matures. A Public Benefits Report shall be included as

a part of the Annual Report from the PDA to the Commission, and the Vendor agrees to full participation in the creation of that Annual Report.

While operating within this Agreement, the Vendor's mission statement must include reference to the Lifelong Learning Center.

**2.5 Background Checks.** A criminal background check shall be performed on each and every person working on behalf of Concessionaire under this Agreement, including, but not limited to, each employee, agent, and volunteer of Concessionaire, and Concessionaire him- or herself (if a natural person), except that a person who neither interacts with Park visitors nor enters Park lands is not subject to a background check. Background checks required under this section shall be performed at Concessionaire's expense or at the expense of the person subject to the background check. Background checks required under this section shall be completed prior to the person initially commencing work on behalf of Concessionaire and prior to resuming work on behalf of Concessionaire in each subsequent season, or a background check shall be performed at least annually for persons working year-round on behalf of Concessionaire. Concessionaire may not allow any person for whom a background check is required under this section to work on Concessionaire's behalf if the person's background check reveals information suggesting that the person poses a danger to the person or property of any Park visitor or Park staff or volunteers, or a danger to the FWPDA's property. At the FWPDA's request, Concessionaire shall provide the FWPDA with copies of any and all background checks conducted under this section.

**2.6 Compliance with Laws, Rules, and Regulations.** Concessionaire shall comply with all laws, ordinances, and rules relating to the use and occupancy of the Concession Facilities and conduct of the Business. Concessionaire will not permit any objectionable action which would constitute a nuisance or commit any waste upon the Concession Facilities.

**2.7 Permits and Licenses.** Concessionaire shall obtain and keep in force all permits, licenses, permissions, consents, and approvals required by governmental agencies or third parties in connection with Concessionaire's operation of the Business and occupation of the Concession Facilities. Application for permits shall be at the sole risk, cost, and expense of Concessionaire. A copy of UBI licensing must be submitted to the FWPDA prior to commencing operation of the Business, and copies of all other permits shall be supplied to the

FWPDA upon request. Concessionaire shall pay on a timely basis all taxes as may be lawfully imposed and will comply with all applicable local, state, and federal licensing requirements and standards necessary in the performance of this Agreement.

**2.8 Watercraft Rental.** If renting watercraft, Concessionaire shall provide Coast Guard approved personal flotation devices and a whistle to all watercraft rental customers and shall require in rental agreements, and in practice, their use by all persons in or on the watercraft as a condition of rental. The sale, rental, or provision of flotation devices not approved by the U.S. Coast Guard is prohibited. Rentals shall only be offered during daylight hours and must be returned by sundown. No rentals shall be taken out during inclement weather (such as high winds or chance of lightening).

**2.9 Independent Contractor:** Concessionaire operates the Business as an independent contractor of FWPDA. Operation of the Business is not in any way a partnership, agency, franchise, or joint venture between the FWPDA and Concessionaire. Except as expressly provided in this Agreement, neither party shall be bound, with respect to third parties, by any representation made by the other party. The FWPDA has no obligation with respect to Concessionaire's debts or other liabilities. Concessionaire has the sole and exclusive right to hire, transfer, suspend, lay off, recall, promote, discipline, and discharge its employees and contractors and Concessionaire has the sole and exclusive control over its labor and employee relations policies and its policies related to wages, hours, and working conditions of its employees and contractors. In performing under this Agreement, neither Concessionaire nor Concessionaire's employees or contractors are employees of the FWPDA.

### **3. FINANCIAL RECORD KEEPING AND REPORTING**

**3.1 Reporting and Cash Handling.** Concessionaire shall adhere to written cash handling procedures. Such cash handling procedures shall be commercially reasonable given the nature of the Business and sufficient to ensure safe and accurate accounting of all monies received by Concessionaire through operation of the Business.

**3.2 Credit and Debit Cards.** Concessionaire's payment and record-keeping systems must be fully compliant with all Payment Card

Industry Data Security Standards (PCI DSS) issued by the official Payment Card Industry Security Standards Council. Concessionaire acknowledges that it is responsible for the security of cardholder data that it possesses, or otherwise stores, processes, or transmits on behalf of the customer.

**3.3 Financial Sustainability.** A 120-day operating reserve is required and must be fully funded by year six of Concessionaire's operations. The Concessionaire must establish a Strategic Plan, updated yearly, in addition to their Annual Budget, that includes a Financial Sustainability element. The Concessionaire's Annual Budget must include provisions for funding and then maintaining the operating reserve. At such time as reserve funds may be needed they may only be accessed by vote of the Concessionaire's board for budgeted uses.

**3.4 Review and Audit.** Concessionaire shall maintain a true account of all receipts and disbursements and other commercially reasonable financial and accounting records related to operation of the Business. Concessionaire shall make available to a contracted independent auditor any and all financial and accounting records related to operation of the Business, including, but not limited to, individual transaction receipts, daily records of gross sales, annual financial statements (balance sheet and income statement), and Excise Tax Returns submitted to the Washington State Department of Revenue. In addition to full participation in the FWPDA's Annual Report on Public Benefit, Vendor agrees to the following reporting requirements and provisions for operational transparency: Reporting Annual Audit, due by May 1st of the following year; Twice yearly public meetings, one on future strategy and one on financial results; Quarterly Financial Reports (closed within 45 days); Any kind of pending default must be reported within 15 days; Disclosure of material adverse events/legal proceedings ; Annual marketing and advertising plan submitted; Vendor will participate in the Operations Work Group as defined in the FWPDA Master Lease; Vendor may present to FWPDA board meetings as invited.

#### **4. REQUIRED PAYMENTS**

**4.1 Concession Fee.** Vendor agrees to pay a Concession fee in lieu of rent, set at 3% of gross operating income. Non-operating revenues will not be included in calculation of concession fee. Concession fees will be

paid quarterly within 45 days of the close of the quarter, and fees will be reviewed and reconciled with the audited yearly financials.

**4.2 Subcontracting Fees Apply.** If the Vendor further contracts for services outlined in the Agreement, then the gross revenue shall be calculated to include sub-concessionaire's revenue as if Vendor performed the work, for purposes of calculating the concession fee.

**4.3 Master Lease Revenue Sharing.** Concessionaire acknowledges that FWPDA are currently negotiating with State Parks an amendment to eliminate the obligation in Section 7.9 of the Master Lease that commences as of the 7<sup>th</sup> annual anniversary of the Date of Possession (as defined in the Master Lease). Pursuant to that negotiation, at such point as the vendor generates income in excess of funding operations, reserves, improving product offerings, and improving operating spaces, then excess funds will be directed to a restricted account for campus improvements outside of vendor's operating spaces, as directed by FWPDA.

**4.4 Uses and Maintenance Fees for Common Areas and Campus Areas**

Common areas and campus areas are defined as areas leased to FWPDA by State and under FWPDA's control (unless exclusively leased to another entity.)

(a) Use of the Common Areas and Campus Areas shall be governed by FWPDA's policies and applicable rules as may be amended from time to time.

(b) FWPDA shall at all times have exclusive control and management of the Common Areas and Campus Areas (subject to the terms of its Master Lease with State Parks) and no diminution thereof shall be deemed a constructive or actual eviction or entitle Concessionaire to compensation or a reduction or abatement of fees.

(c) Beginning in 2022, (a) Concessionaire may be charged an annual Common Area maintenance (“CAM”) fee and (b) an annual Campus Area maintenance fee (fees to be determined by FWPDA in consultation with Concessionaire, and existing tenants or subtenants based on historical operational and maintenance cost data provided by FWPDA) for the Fort Worden Campus area and projected operational and maintenance costs for the common areas. Concessionaire shall pay to FWPDA (or its designee), a Common Area maintenance fee which will be a pro rata share of operational and maintenance costs related to any shared elevator within the building where the leased premises are located, shared performance space, gallery space, restrooms, and other maintenance.

(d) FWPDA (or designee) reserves the right, in its sole determination, to require additional, future, common area user or maintenance fees (in addition to facility charges) for the maintenance, repair and upgrades to campus-wide facilities that serve Concessionaire and other tenants and users of the campus area. The common area user or maintenance fees would be based on fees or projected fees for the maintenance, repair and upgrades to campus-wide facilities that are related to Concessionaire’s use. For example, if FWPDA determined that parking areas that serve Concessionaire and other users needed maintenance (or would need maintenance in the near future), user fees would be charged to cover Concessionaire’s share of the costs based on Concessionaire’s parking use.

Operating costs are based on actual costs and normal maintenance and repair (but not capital projects as defined by Office of Financial Management of the State of Washington), including utilities, alarm response service, police, fire and EMT service contracts, janitorial, HVAC and elevator inspections, attributable to or incurred in connection with the operation of facilities.

**4.5 Utilities and Other Expenses.** During the term of this Agreement, Concessionaire shall pay all expenses incurred by Concessionaire in the use of the Concession Facilities and operation of the Business, including, but not

limited to, all utility charges, including all charges for electricity, water, gas, telecommunications, and all costs of maintaining and repairing the Concession Facilities and all improvements thereon whether now existing or hereafter installed. Concessionaire is so obligated whether or not such expenses are billed to Concessionaire, to the FWPDA, or to any other party. Concessionaire shall indemnify, defend, and hold the FWPDA harmless against and from any loss, liability, or expense resulting from any failure of Concessionaire to pay all such charges when due. All service lines of such utilities shall be installed and connected to existing public utilities at no cost to the FWPDA.

**4.6 Taxes and Assessments.** Concessionaire shall pay all taxes and assessments and other governmental charges of any kind applicable or attributable to the operation of the Business or use and occupation of the Concession Facilities, including, without limitation, any leasehold tax payable to the FWPDA pursuant to RCW 82.29A.

**4.7 Manner of Payment.** All payments, including fee payments and payments for other sums owed, shall be made by check or money order payable to the FWPDA and mailed to the address listed in section 12.1 (Notices and Submittals), or to any other payee as directed by the FWPDA in writing, or mailed to any other address which the FWPDA, or any successors-in-interest to the FWPDA, may designate to Concessionaire in writing. Notwithstanding that payments may be made by mail, payments shall in any event be received by the FWPDA on or before the date due as specified in this Agreement. Payments may also be made to the FWPDA by electronic funds transfer, per arrangement through the FWPDA's Financial Services Office.

**4.8 Charges for Late Payments and NSF Checks.** Notwithstanding the FWPDA's right to terminate this Agreement for nonpayment of fees, Concessionaire shall pay interest at the rate of one percent (1%) per month on delinquent sums owing under the terms of this Agreement, commencing with the date originally due. Payment of fees and other sums when due is required under this Agreement and this section does not constitute or imply the extension of credit by the FWPDA. There shall be a thirty-dollar (\$30.00) handling fee for any check returned by the bank as uncollectible for any reason. The parties agree that such charges represent a fair and reasonable estimate of costs incurred by the FWPDA by reason of late payments and uncollectible checks.

**4.9 No Counterclaim, Setoff, or Abatement of Rent or Other Sums Owed.** Rent, additional Rent, if any, and all other sums for which Concessionaire is obligated to pay the FWPDA under this Agreement shall be paid without notice, demand, counterclaim, setoff, deduction, or defense and without abatement, and the obligations and liabilities of Concessionaire shall in no way be released, discharged, or otherwise affected (except as expressly provided in this Agreement) by reason of:

- a. Any damage to or destruction of or any taking of the Concession Facilities or any part thereof;
- b. Any restriction of or prevention of or interference with any use of the Concession Facilities or any part thereof;
- c. Any title defect or encumbrance or any eviction from the Concession Facilities or any part thereof by title paramount or otherwise;
- d. Any bankruptcy, insolvency, reorganization, composition, adjustment, dissolution, liquidation, or other like proceeding relating to the FWPDA, or any action taken with respect to this Agreement by any trustee or receiver of the FWPDA, or by any court, in any such proceeding;
- e. Any claim which Concessionaire has or might have against the FWPDA;
- f. Any failure on the part of the FWPDA to perform or comply with any of the terms of this Agreement or of any other agreement with Concessionaire; or
- g. Any other occurrence whatsoever, whether similar or dissimilar to the remedy consequent upon a breach thereof, and no submission by Concessionaire or acceptance by the FWPDA of full or partial Rent during the continuance of any such breach, shall constitute a waiver for any such breach or of any such term.

No waiver of any breach shall affect or alter this Agreement, which shall continue in full force and effect, or the respective rights of the FWPDA and Concessionaire with respect to any other then-existing or subsequent breach.

- 4.9 Failure to Pay.** In the event Concessionaire fails to pay any expense or amount due under this Agreement, the FWPDA may, but shall not be obligated to, pay any such amount, and the amounts so paid shall immediately be due and payable by Concessionaire to the FWPDA and shall thereafter bear interest at the rate of 12% per annum.
- 4.10 Late Charge for Failure to Pay.** In the event Concessionaire fails to make any payment due under this Agreement upon the date due, including, but not limited to, payment of Rent, the FWPDA shall be entitled to collect from Concessionaire a late charge equal to one percent (1%) of the amount of the delinquent payment.
- 4.11 Application of Payments.** Payments made under this Agreement will be applied in the following order: (1) interest, (2) Rent, (3) leasehold tax (if any), and (4) other charges.

## **5. INDEMNITY AND INSURANCE**

- 5.1 Indemnity.** Concessionaire shall release, indemnify, defend (with counsel acceptable to the FWPDA), and hold harmless the FWPDA, its employees, officers, and agents from and against any and all claims arising out of Concessionaire's operation of the Business and the use, occupation, or control of the Concession Facilities by Concessionaire, Concessionaire's sublessees, invitees, agents, employees, licensees, or permittees, or caused by the operation or failure to operate any equipment, improvements, or other property or fixtures on the Concession Facilities, except as may arise solely out of the willful and grossly negligent acts of the FWPDA or the FWPDA's officials, employees, or agents. "Claim" as used in this section means any claim of any nature whatsoever for penalties, financial loss, damages (including, but not limited to, bodily injury, sickness, disease, or death, or injury to or destruction of property, land, and other natural resources, including the loss of use thereof), costs or expenses (including, but not limited to, attorneys' fees), whether or not resulting in a suit or action or reduced to judgment. This release and the obligation to indemnify shall not be eliminated or reduced by the concurrent negligence of the FWPDA, its officials, employees, or agents, except as provided in this section. To the extent that RCW 4.24.115 is applicable to any indemnification provision of this Agreement, the FWPDA and Concessionaire agree that provision shall not require Concessionaire to indemnify, defend, and hold the FWPDA harmless from the FWPDA's

sole or concurrent negligence, if any. Concessionaire waives its immunity under RCW Title 51 to the extent it is required to indemnify the FWPDA. This subsection is in addition to and does not in any way limit or diminish Concessionaire's liability or indemnity obligations otherwise provided for in this Agreement. If a Concessionaire requires any person to execute a personal release of liability related to use of goods or services provided through the Business, Concessionaire shall include within the release an express release of the FWPDA in addition to any other persons or entities released.

**5.2 Liability Insurance.** At all times during the Agreement Term, Concessionaire shall keep in full force a commercial general liability insurance policy, acceptable to the FWPDA, insuring Concessionaire and providing coverage for liability for both bodily injury and property damage arising out of any and all of Concessionaire's actions or omissions related to operation of the Business or use of the Concession Facilities. Said commercial general liability insurance policy shall also name the FWPDA as an additional insured under the policy and provide coverage as well against any liability arising out of the use, occupancy, or maintenance of the Concession Facilities and all areas appurtenant thereto, including, but not limited to, liability arising out of any and all activities described in Exhibit A. Such insurance must be provided on an occurrence basis of not less than **one million dollars (\$1,000,000) combined single limit per occurrence, with a general aggregate limit of not less than two million dollars (\$2,000,000)**. Purchase of these minimum limits does not relieve Concessionaire from liability for losses greater than these amounts. The amount of the insurance required may hereafter be increased or decreased by written notice of the FWPDA at its sole option. A certificate evidencing such coverage referencing the Park and Agreement shall be provided to the FWPDA at its address of record provided in this Agreement. All policies shall specify that any legal expenses incurred by any claim against the insured shall be covered over and above said liability limit, such that said liability limit represents a "net" liability limit. In the event insurance containing such specifications cannot be acquired, then Concessionaire shall purchase insurance with liability limits which are fifty percent (50%) higher than set forth above.

**5.3 Cancellation.** The Certificate(s) of Insurance must provide a minimum of 30 days' written notice to the FWPDA by the insurer before

cancellation, non-renewal, or any material change of any insurance coverage included therein. No reduction in the amount of coverage shall be made without the prior written approval of the FWPDA.

- 5.4 Industrial Insurance Coverage.** Concessionaire shall obtain and maintain at all times during the Agreement Term industrial insurance coverage as required by the Department of Labor & Industries for itself and its employees prior to commencing operation of the Business under this Agreement. The FWPDA will not be responsible for payment of industrial insurance premiums or for any other claim or benefit for Concessionaire, or any subcontractor or employee of Concessionaire, which might arise under the industrial insurance laws during Concessionaire's operation of the Business under this Agreement.
- 5.5 Automobile Insurance.** Concessionaire shall obtain and maintain at all times during the Agreement Term business auto liability as required by state law and, if necessary, commercial umbrella liability insurance with a limit of not less than one million dollars (\$1,000,000) per accident. Such insurance shall cover liability arising out of "Any Auto."
- 5.6 Fire Insurance.** Unless expressly waived, Concessionaire shall obtain and maintain at all times during the Agreement Term insurance for fire and casualty. Such insurance shall be a fire legal liability policy in the amount of full replacement value or fifty thousand dollars (\$50,000), whichever is higher, naming the FWPDA as the beneficiary. The amount of insurance required may hereafter be increased or decreased at the option of the FWPDA. All policies shall carry a minimum 30 days' notification of cancellation clause.
- 5.7 Other Insurance.** In addition to that insurance specifically required by this Agreement, Concessionaire shall obtain and maintain at all times during the Agreement Term such other insurance as is typically or customarily maintained for the Business.
- 5.8 Evidence of Insurance.** Concessionaire must furnish evidence of all insurance required under this Agreement in the form of a Certificate of Insurance satisfactory to the FWPDA (such as ISO form CG 00 01 or equivalent), executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements set forth herein, and shall be sent marked "Concession Program" to the FWPDA's address shown herein.

**5.9 Independent Contractors.** Concessionaire shall require any independent contractors, if any, to obtain and maintain the same insurance coverage required of Concessionaire, at all times such independent contractor is performing work at the Concession Facilities on behalf of Concessionaire during the Agreement Term.

## **6. FACILITIES**

**6.1 Use of Facilities.** The FWPDA authorizes Concessionaire to use the Concession Facilities as described in Exhibit B for purposes of operation of the Business. The Concession Facilities shall be used only for the operation of the Business as authorized in this Agreement. Other commercial or non-commercial activities, or use and occupancy by other parties of the Concession Facilities not directly related to Concessionaire's operation of the Business are prohibited unless approved in advance and in writing by the FWPDA.

**6.2 Condition of Concession Facilities.** Concessionaire accepts the Concession Facilities in its present condition, after renovation work by the FWPDA and removal of trade fixtures and other personal property of the FWPDA's predecessor concessionaire, if any, as set forth in Exhibit B. The condition of the Concession Facilities shall be verified by the Concessionaire's inspection of the Concession Facilities prior to the commencement of this Agreement.

**6.3 Access to Concession Facilities.** Concessionaire shall have access to the Concession Facilities as necessary to operate the Business over established Park roads and driveways during all normal Park operating hours, and during other times as may be approved by the Park Manager. Concessionaire may park vehicles and equipment only in those areas designated by FWPDA. Concessionaire's access rights shall not be exercised in such manner and to such extent as to: (i) impede or interfere with the operation of the Park or business conducted other concessionaires or authorized occupants; or (ii) violate any lease or agreement entered into between the FWPDA and a third party. FWPDA cannot and does not guarantee access in the event of an emergency or other factor beyond FWPDA's control, including, for example, infrastructure failure for which FWPDA does not in its determination have budget to address.

- 6.4 Parking.** Concessionaire shall have non-exclusive use of parking areas managed by FWPDA. Concessionaire does not have exclusive parking areas unless the same are specifically identified in Exhibit B (Facilities).
- 6.5 Management.** Concessionaire shall manage and maintain the Concession Facilities and all improvements thereon in accordance with the customary standards of the industry.
- 6.6 Maintenance.** Concessionaire shall perform all minor maintenance and repairs to keep the Concession Facilities in a safe, inviting, sanitary, and usable condition. Minor maintenance and repairs shall include, but is not limited to, routine maintenance; cleaning; removal of debris, litter, and obstructions; painting the inside of buildings; replacing light bulbs; and performing other minor interior maintenance, including minor electrical and plumbing repairs. Concessionaire shall immediately notify **Park Manager** in writing of any major maintenance or repair needs in the Concession Facilities. Major maintenance and repair necessitated by the failure of Concessionaire to perform minor maintenance and repair shall be the responsibility of Concessionaire.
- 6.7 Damage.** Concessionaire shall, at its own expense, repair to the FWPDA's satisfaction any damage to the FWPDA's property resulting from actions or omissions by Concessionaire or its agents or employees, beyond normal wear and tear.
- 6.8 Signs and Advertisements.** All signs of Concessionaire, whether affixed to the Concession Facilities, or placed upon or adjacent to the Concession Facilities, or used in any manner by Concessionaire, must fit into the Park's aesthetics and agency sign policy.
- 6.9 Sanitation.** Concessionaire is responsible for the cleanliness of the Concession Facilities, including all equipment, appliances, storage areas, and grounds used by Concessionaire. Concessionaire is responsible for removal and disposal of all garbage and refuse generated in the operation of the Business and shall participate in the FWPDA's recycling programs. As may be specified in Exhibit A, Concessionaire is responsible for disposal of all garbage and refuse in the area adjacent to the Concession Facilities as designated by the Park Manager. If serving food is part of the Business, Concessionaire shall use recyclable food and beverage containers as practicable. Concessionaire shall promptly provide to the Park Manager a copy of

any and all health department inspection reports conducted by or on behalf of any governmental authority.

- 6.10 Hazardous Substances Prohibited.** Except as expressly allowed in writing by the FWPDA in Exhibit A as essential to the operation of the Business, Concessionaire shall not bring or keep in, on, or about the Concession Facilities, any hazardous substances. For purposes of this Agreement, hazardous substances include any that have been designated as hazardous, toxic, dangerous, or harmful, or which are subject to regulation as hazardous, toxic, dangerous, or harmful by any federal, state, or local law, regulation, statute, or ordinance. Concessionaire is liable for all cleanup costs and damages associated with the use, disposal, transportation, or generation of hazardous substances by Concessionaire or its employees, agents, assigns, contractors, subcontractors, licensees, or invitees. This provision shall survive the expiration or termination of the Agreement.
- 6.11 Personal Property.** The FWPDA is not be liable in any manner for or on account of any loss of damage sustained to any property in or about the Concession Facilities, except for such claims or losses which may be caused by the FWPDA or its authorized agents or employees.
- 6.12 Condition at End of Agreement Term.** Concessionaire shall, at its sole expense, clean and repair the Concession Facilities and restore it to the condition it was in upon delivery of the Concession Facilities to Concessionaire at the Commencement Date, reasonable wear and tear excepted.
- 6.13 Non-Applicability of Relocation Assistance.** Concessionaire acknowledges that this Agreement does not at any time entitle Concessionaire to assistance under the Uniform Relocation and Real Property Acquisition Policy (RCW 8.26).

## **7. CONCESSIONAIRE EQUIPMENT, FURNISHINGS, AND SUPPLIES**

- 7.1 Equipment, Furnishings, and Supplies.** As set forth in Exhibit A, Concessionaire shall, at its own expense, provide all equipment, furnishings, and supplies necessary for operating the Business beyond any equipment, furnishings, or supplies provided by the FWPDA at its sole discretion. The FWPDA shall have no responsibility to provide

any equipment, furnishings, or supplies, except as identified in Exhibit A. Concessionaire accepts any equipment, furnishings, or supplies provided by the FWPDA in its present condition, as-is-where-is. Concessionaire may attach or fasten (such as by screwing, nailing, welding, gluing, etc.) equipment in or on the Concession Facilities without the prior written approval of the FWPDA provided that premises are returned to FWPDA at end of term in same condition as at start of agreement, less reasonable wear and tear.

**7.2 Maintenance Equipment, Furnishings, and Supplies.**

Concessionaire shall, at its own expense, maintain, in good working order and in a safe and sanitary condition, all equipment, furnishings, and supplies necessary for operating the Business, including that equipment provided by the FWPDA (if any). The FWPDA shall have no responsibility to maintain any equipment, furnishings, or supplies or for the loss or damage to Concessionaire's equipment, furnishings, or supplies. To mitigate the potential for damage or loss through theft or malicious mischief, Concessionaire shall store equipment and supplies as provided in Exhibit A when not in use.

**7.3 Equipment Replacement.**

Concessionaire shall maintain that equipment provided by the FWPDA (if any) in good working order and shall, at its own expense, replace any equipment provided by the FWPDA that is not in good working order or that may otherwise pose a hazard. Concessionaire shall maintain any Concessionaire-owned equipment and shall replace, at its own expense, any of its own equipment that is not in good working order or that may otherwise pose a hazard. Equipment purchased by Concessionaire, including equipment purchased by Concessionaire to replace equipment provided by the FWPDA, shall remain the property of Concessionaire. Except as expressly agreed to in writing by the FWPDA, the cost of equipment replacement or repair shall in no way reduce or offset fees or other payments due to the FWPDA under this Agreement.

**7.4 Ownership of Equipment and Supplies at Agreement Expiration or Termination.**

Any personal property owned by Concessionaire used in the conduct of business by Concessionaire and placed by Concessionaire in or on the Concession Facilities shall not become part of the real property, even if attached or fastened to the Concession Facilities. Such personal property may be removed by Concessionaire at any time during the term of this Agreement, or within 30 days of the

expiration or termination of this Agreement, provided Concessionaire is not in default under this Agreement, and provided any damage to the Concession Facilities occasioned by such removal is immediately repaired to the satisfaction of the FWPDA. All other fixtures, equipment, and improvements constructed or installed in or upon the Concession Facilities shall be deemed to become part of the real property and, upon completion, shall become the sole and exclusive property of the FWPDA, free of any and all claims of Concessionaire or any person or entity claiming by or through Concessionaire. In the event Concessionaire does not remove its personal property from the Concession Facilities within 30 days of the expiration or termination of this Agreement, the FWPDA may at its sole election:

- a. Require Concessionaire to remove such property at Concessionaire's sole expense, and Concessionaire shall be liable for any damage to the Concession Facilities;
- b. Treat said personal property as abandoned, retaining the property as part of the Concession Facilities; or
- c. Have the personal property removed and stored or disposed of at Concessionaire's sole expense.

Concessionaire shall promptly reimburse the FWPDA for damage caused to the Concession Facilities by the removal of any of Concessionaire's personal property from the Concession Facilities, whether removal is by Concessionaire or the FWPDA.

## **8. IMPROVEMENTS**

**8.1 Authorized Improvements.** Concessionaire may, at no cost to the FWPDA and with the FWPDA's prior approval, make improvements, including additions and modifications to Concession Facilities provided by the FWPDA to enable provision of the services as set forth in the Agreement. In making any improvements, Concessionaire shall obtain all licenses and permits, and comply with all applicable codes, regulations, and statutes. Concessionaire shall supply such plans, drawings, and specifications as needed by the FWPDA to evaluate the acceptability of any improvements prior to commencing work. The FWPDA may condition, limit, or deny approval of proposed improvements at its sole discretion, which approval shall be provided

only in writing. Improvements become the property of the FWPDA upon completion unless otherwise agreed upon by the FWPDA in writing in advance.

**8.2 Development Plan.** Prior to any development or the construction of any and all improvements on or to the Concession Facilities, Concessionaire may be required to submit a complete development plan to the FWPDA for its written approval. The plan shall include, but is not limited to, the following:

- a. Map showing areas to be developed, location of improvements, and location of utility and other easements;
- b. Land clearing, leveling, and erosion control plans;
- c. List of proposed improvements and detailed plans for the improvements;
- d. Estimated itemized cost of proposed improvements; and
- e. Schedule of completion dates for proposed improvements.

After completion of construction, Concessionaire shall provide to the FWPDA “as-built” drawings showing the exact location of all improvements. In case of incomplete improvements or development, Concessionaire shall restore the land to its original condition unless otherwise directed in writing by the FWPDA.

**8.3 Unauthorized Improvements.** Any improvements not included in the original or amended development plan as approved by the FWPDA, or as provided for by Letters of Authorization issued by the FWPDA, made on or to the site, without the written consent of the FWPDA, shall immediately become the property of the FWPDA or at the FWPDA’ option, must be removed by Concessionaire at Concessionaire’s sole cost. Said removal shall occur within 30 days unless sooner required by Park Manager for reasons of safety.

**8.4 Concessionaire Liens.** Concessionaire must not suffer or permit any lien to be filed against the FWPDA’s interest in the Concession Facilities, or improvements thereon by reason of work, labor, or services performed thereon or materials supplied to, by, or through Concessionaire. Concessionaire agrees to pay or cause to be paid all

sums legally due and payable by it on account of any labor performed or materials furnished in connection with any work performed on the Concession Facilities. Concessionaire must indemnify the FWPDA for any costs, damages, or expenses (including attorneys' fees and court costs) incurred in defending any liens or in obtaining their discharge or as a result of such other asserted claims against the right, title, and interest of the FWPDA in the Concession Facilities or under the terms of this Agreement, whether such costs, damages, or expenses were incurred prior or subsequent to expiration or termination or cancellation of this Agreement.

## 9. RESERVATIONS BY THE FWPDA

- 9.1 The FWPDA's Reserved Rights.** The FWPDA reserves the right to merchandise, through vending machines or other means, at any location within the Park, other than the Concession Facilities, certain items including, but not limited to, snacks, beverages, and educational, recreational, and interpretive materials, as well as official FWPDA memorabilia. The FWPDA further reserves the right to grant privileges on occasion to certain non-profit groups to sell materials and provide food and beverage for fund-raising purposes.
- 9.2 Compliance.** The FWPDA shall have access to the Concession Facilities at all times to secure compliance with this Agreement.
- 9.3 Park Closure.** Concessionaire acknowledges that the Park may be closed, or access to the Park may be limited, from time-to-time. Concessionaire hereby waives any claim against the FWPDA for any losses suffered or allegedly suffered due to change of fees, park-operating periods or conditions, or closure of the Park for any reason.
- 9.4 Easements.** The FWPDA reserves the right to grant easements, permits, and other rights ("Easements") over and across the Concession Facilities and the right for Easement holders to enter upon the Concession Facilities to maintain, repair, and enhance existing facilities and install new facilities. Such rights shall be exercised in such a manner so as to minimize any disruption to Concessionaire.
- 9.5 The FWPDA Modification/Improvement of the Park or Concession Facilities.** The FWPDA may at any time, at its discretion and expense, make improvements to, or repairs, maintenance, and/or modifications

of the Park or the Concession Facilities. Concessionaire hereby waives any claim against the FWPDA for any loss of income suffered or allegedly suffered by Concessionaire from the FWPDA's improvement to, or repairs, maintenance, and/or modifications of the Concession Facilities.

## **10. ASSIGNMENT**

- 10.1 Assignment/Transfer.** The rights granted under this Agreement may not be transferred to any other person or entity by act of Concessionaire, operation of law, or other means without the expressed prior written approval of the FWPDA at its sole discretion. Concessionaire shall not mortgage, assign, encumber, transfer, sublease, or otherwise alienate this Agreement without the prior written approval of the FWPDA. Concessionaire shall not grant any interest therein or engage in any other transaction that has the effect of transferring or affecting the right of enjoyment of the Concession Facilities without the prior written approval of the FWPDA, at its sole discretion. Notwithstanding the forgoing, nothing prevents Concessionaire from entering into such agreement or agreements as it deems appropriate to carry out the Business without prior approval by FWPDA, PROVIDED, that Concessionaire ensures that any sub-concessionaire or service provider comply with all terms of this Agreement that apply to the operation of the Business, and that Concessionaire retains the right to terminate any sub-concessionaire or service provider agreement for failure to do
- 10.2 Non-Waiver.** Consent of the FWPDA to an assignment will not waive its right to approve or deny subsequent assignments. The acceptance by the FWPDA of payment or performance following an assignment shall not constitute consent to any other assignment, and the FWPDA's consent shall be evidenced only in writing.
- 10.3 Assignee Obligations.** Each permitted assignee of Concessionaire shall assume and be deemed to have assumed all obligations of Concessionaire under this Agreement. Notwithstanding any such assignment, Concessionaire shall be and remain jointly and severally liable with the assignee for all obligations under this Agreement, unless released in writing by the FWPDA. Concessionaire's obligations shall continue in full force and effect as to include any additional obligations created by any renewal, amendment, modification, extension, or assignment of the Agreement, whether or not Concessionaire shall have

received notice of or consented to the same. Concessionaire waives all surety defenses and waives notice of any breach by a subsequent assignee.

**10.4 Corporations, Limited Liability Corporations, General Partnerships, Limited Partnerships.** If Concessionaire is a corporation, any merger, consolidation, liquidation, or any change in ownership, control, or the power to vote the majority of its outstanding voting stock, shall constitute an assignment, whether the result of a single transaction or a series of transactions. If Concessionaire is a limited liability company, the death, withdrawal, or expulsion of a member or members owning, or transfer of interests representing, in the aggregate, more than fifty percent (50%) of the company profits or capital shall constitute an assignment, whether the result of a single transaction or a series of transactions. If Concessionaire is a general partnership, the death, withdrawal or expulsion of a partner or partners owning, or transfer of interests representing, in the aggregate more than fifty percent (50%) of the partnership profits or capital shall constitute an assignment, whether the result of a single transaction or a series of transactions. If Concessionaire is a limited partnership, the death, withdrawal or expulsion of any general partner shall constitute an assignment.

## **11. TERMINATION**

**11.1 Breach and Default.** In the event of any breach of any provision of this Agreement by Concessionaire, the breach shall be deemed a default entitling the FWPPA to the remedies set forth in this Agreement or otherwise available at law after the FWPPA has delivered to Concessionaire notice of the alleged breach and a demand that the breach be remedied as required by this Agreement (“Breach Notice”). If the breach pertains to a matter other than the payment of Rent, Concessionaire shall not be in default after receipt the Breach Notice if Concessionaire promptly commences to cure the breach and cures the breach within 30 days after receipt of the Breach Notice. If the breach pertains to the payment of Rent, Concessionaire shall not be in default after receipt of the Breach Notice if Concessionaire cures the breach by paying all outstanding Rent to the FWPPA within 15 days after receipt of the Breach Notice. If the breach is non-monetary in nature, and as determined by the FWPPA, is not reasonably susceptible of being cured within 30 days from the date the Breach Notice (provided that the

lack of funds, or the failure or refusal to spend funds, shall not be an excuse for a failure to cure), Concessionaire shall commence to cure such breach within the 30-day period and diligently pursue cure with continuity to completion. If a breach has been cured within the grace periods permitted by this section, it shall not constitute a default. In the event the FWPDA deems the breach to constitute a threat to safety, life, or property, it may elect to intervene immediately, without notice, to remedy the breach, and Concessionaire hereby agrees to repay the FWPDA for any and all costs in remedying the breach upon demand, together with interest thereon from the date of expenditure at the rate set forth in this Agreement. Alternatively, the FWPDA may require Concessionaire to act immediately to remedy the breach should the FWPDA deem it a threat to safety, life, or property.

**11.2 Multiple Default.** If Concessionaire breaches any provision of this Agreement three times within any 12-month period, whether the same provision or not, the third breach will be deemed “noncurable” and a default entitling the FWPDA to the remedies set forth in this Agreement or otherwise available at law.

**11.3 Remedies.** Upon the occurrence of any default, the FWPDA shall have the option to pursue any one or more of the following remedies without any notice or demand whatsoever:

- a. Terminate this Agreement, in which event Concessionaire must immediately surrender the Concession Facilities to the FWPDA, and if Concessionaire fails so to do, the FWPDA may, without prejudice to any other remedy which it may have for possession or arrearages in Rent, enter upon and take possession of the Concession Facilities and expel or remove Concessionaire and any other person who may be occupying the Concession Facilities or any part thereof, without being liable for prosecution or any claim of damages therefore, and Concessionaire agrees to pay the FWPDA on demand the amount of all loss and damage which the FWPDA may suffer by reason of such termination, whether through inability to re-lease the Concession Facilities on satisfactory terms or otherwise.
- b. Enter upon the Concession Facilities, without being liable for prosecution or any claim for damages therefore and do whatever Concessionaire is obligated to do under this Agreement; and

Concessionaire agrees to reimburse the FWPDA on demand for any expenses the FWPDA incurs in performing Concessionaire's obligations under this Agreement.

- c. Obtain damages from Concessionaire, including, but not limited to: all rentals lost, all legal expenses, and other related costs incurred by the FWPDA in restoring the Concession Facilities to good order and condition, or in remodeling, renovating, or otherwise preparing the Concession Facilities for re-leasing, all costs (including, but not limited to, any brokerage commissions and the value of the FWPDA's time) incurred by the FWPDA, plus interest thereon from the date of expenditure until fully repaid at the rate of 12% per annum.

Pursuit of any of the foregoing remedies will not preclude immediate pursuit of any of the other remedies under this Agreement or any other remedies provided by law, such remedies being cumulative and non-exclusive. No waiver by the FWPDA of any violation or breach of any of the terms, provisions, and covenants of this Agreement will be deemed or construed to constitute a waiver of any other violation or breach of any of the terms, provisions, and covenants of this Agreement. If, on account of any breach or default by Concessionaire in Concessionaire's obligations under the terms and conditions of this Agreement, it becomes necessary or appropriate for the FWPDA to employ or consult with an attorney concerning or to enforce or defend any of the FWPDA's rights or remedies hereunder, Concessionaire agrees to pay any reasonable attorneys' fees so incurred.

**11.3 The FWPDA's Entry.** In the event of any default by Concessionaire, the FWPDA shall have the right, with or without canceling this Agreement, to secure and/or enter the Concession Facilities and to remove all persons and property from the Concession Facilities and take whatever actions may be necessary or advisable to re-lease, protect, or preserve the Concession Facilities. Any property so removed may be stored in a public warehouse or other suitable place or otherwise disposed of in the FWPDA's discretion at the expense and for the account of Concessionaire. The FWPDA shall not be responsible for any damages or losses suffered by Concessionaire as a result of such the FWPDA entry, removal, storage, or other disposition, and no such action shall be construed as an election to terminate this Agreement unless a written notice of termination is given to Concessionaire.

**11.4 Termination of Agreements.** Whether or not the FWPDA elects to terminate this Agreement based on any default by Concessionaire and subject to any non-disturbance and attornment agreements, if any, the FWPDA shall have a right to terminate any and all subleases, licenses, concessions, or other arrangements for possession affecting the Concession Facilities. Alternatively, the FWPDA, in its sole discretion, may succeed to Concessionaire's interest in such sublease, license, concession, or arrangement, and Concessionaire shall have no further right to or interest in the lease or other consideration receivable thereunder.

**11.5 Termination due to exchange, transfer, or sale.** Either the FWPDA or Concessionaire may terminate this Agreement upon **90 days'** written notice in the event the FWPDA includes the Concession Facilities in a land exchange, transfer, and sale or if the Park is closed due to budgetary conditions.

**11.6 Vacation of Premises.** Concessionaire must give written notice to the FWPDA at least **30 days prior** to vacating the Concession Facilities and must arrange to meet with the FWPDA for a joint inspection of the Concession Facilities prior to vacating. Failure to inspect or enforce compliance with Concessionaire's obligations under this Agreement with respect to the condition of the Concession Facilities at the end of the Agreement term will not be construed as a waiver of the FWPDA's right to declare a breach, or relieve Concessionaire of any liability to the FWPDA for any breach of the terms, conditions, or requirements of this Agreement. In the event Concessionaire fails to vacate the Concession Facilities on the date of expiration or termination of this Agreement, Concessionaire will be liable for any and all costs to the FWPDA arising from such failure.

## **12. MISCELLANEOUS**

**12.1 Notices and Submittals.** Any notice or submittal given under this Agreement shall be deemed as received when delivered by hand or five (5) days after deposit in the United States mail with first-class postage affixed, addressed as provided in this section. Changes of address may be given in accordance with this section. Any notice or submittal given under this Lease shall be:

**To FWPDA:**  
Fort Worden PDA  
200 Battery Way  
Port Townsend, WA 98368

**To Concessionaire:**  


**12.2 Entire Agreement.** This Agreement, including the attached Exhibits, is the entire agreement of the parties and no other agreement, statement, or promise made by any party, or by any employee, officer, or agent of any party, will be binding or valid.

**12.3 Modification.** The parties agree to a modification period of 12 months from the date the agreement takes effect. Modifications may be made by mutual written agreement of the parties, executed by party agents and reported to boards monthly, and are expected as a regular course of business during the modification period. The modification period will conclude with a set of changes voted for adoption by the boards of the parties. Following the modification period, modifications must be filed as addendums to the agreement and require individual votes. Except where this Agreement expressly provides that specific provisions of this Agreement may be modified by the FWPDA, this Agreement may not be modified except by mutual written agreement of the parties.

**12.5 Venue.** Venue for any litigation arising out of this Agreement will be brought in the Superior Court of Jefferson County, Washington. Any litigation wrongly filed in any other county shall be transferred by court order to the Superior Court of Jefferson County with the plaintiff to pay all related attorneys' fees and court costs.

**12.6 Governance.** This Agreement is entered into pursuant to and under the authority granted by the laws of the state of Washington and any applicable federal laws. The provisions of this Agreement shall be construed to conform to those laws. In the event of an inconsistency in the terms of this Agreement, or between its terms and any applicable statute or rule, the inconsistency shall be resolved by giving precedence in the following order:

- a. Applicable state and federal statutes and rules;
- b. The Special Terms and Conditions;

- c. The General Terms and Conditions;
- d. Any other provisions of this Agreement, including materials incorporated herein by reference.

**12.7 Severability.** If any provision of this Agreement shall be deemed void or otherwise invalid for any reason, the remainder of the Agreement shall be interpreted in a manner as to be effective and valid to the fullest extent possible. The parties further agree to amend this Agreement to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision.

**12.8 Interpretation.** This Agreement has been submitted to the scrutiny of all parties hereto and their counsel, if desired, and will be given a fair and reasonable interpretation in accordance with the words of the Agreement, without consideration or weight being given to its having been drafted by any party hereto or its counsel.

**12.9 Disputes.** Whenever Concessionaire and a successor, or Concessionaire and the FWPCA, cannot agree, the matter at issue shall be submitted to arbitration and such arbitration shall be binding. Each party to the dispute will appoint one arbitrator who together will choose a third arbitrator. The arbitration shall be governed by the State Arbitration Act, contained in RCW 7.04.

**12.10 Attorneys' Fees.** If either party brings suit or submits to an alternative dispute process to interpret or enforce any provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees, paralegal fees, accountant, and other expert witness fees, and all other fees, costs, and expenses actually incurred in connection therewith, including those incurred on appeal, in addition to all other amounts provided by law, regardless of whether the matter proceeds to judgment or is resolved by the defaulting party curing the default.

**CONCESSIONAIRE**

By: \_\_\_\_\_

Date \_\_\_\_\_



## Exhibit A

1. **Description**
2. **Season and hours of operation of Business.** The period of operation of the Business shall be from January through December of each year during the Agreement Term. The Business is open seven days a week, hours vary seasonably.
3. **Equipment, Furnishings, and Supplies**
4. **Marketing, Advertising, and Signage**
5. **Pricing List** (attached) On each subsequent anniversary of this contract, the Business shall submit an updated price list to the park manager.
6. **Point of Contact**  
Name, phone, e-mail, website
7. **Grounds Maintenance**
8. **Utilities**

## **Exhibit B: Facilities**

### **1. Description of Facilities**

Give Description and Place Photo

### **2. Site Access**

Give access description and map photo

### **3. Fixtures**

### **4. Improvements**