

**MEMORANDUM OF AGREEMENT
PENINSULA COLLEGE
FORT WORDEN LIFE LONG LEARNING CENTER PUBLIC DEVELOPMENT AUTHORITY
CITY OF PORT TOWNSEND**

RECITALS:

1. Peninsula College ("College") operates an extension site at the Fort Worden State Park School House. The College intends to create a 21st century higher education facility in East Jefferson County through the renovation and upgrade of another Fort Worden Building, Building 202. The current extension site and the proposed extension site are located at Fort Worden, in an area leased from the State of Washington by the Fort Worden Life Long Learning Center Public Development Authority ("PDA"). The PDA was created and its Charter issued by the City of Port Townsend, Washington ("City.") Each of these entities shall be referred to individually in this Agreement as a "party" and collective as the "parties."
2. The parties agree that it is in their collective best interest, as well as the public's, to renovate and rehabilitate Building 202, and therefore agree to work cooperatively to secure remaining funding to meet the amount of the cost estimate for the renovation. Securing irrevocable commitments from the parties to meet the cost estimate is a requirement for taking the construction project to bid.
3. The cost estimate for the Building 202 construction project is \$6.7 million. Identified and committed funds total \$6.2 million: \$4.4 million in state capital appropriations; \$5 million from the City of Port Townsend; \$.7 million from a state Department of Commerce energy grant awarded to Peninsula College, and \$.6 million from Peninsula College for FF&E. The gap to be filled to meet the cost estimate is \$.5 million.
4. The College has requested that the parties commit to providing funding to complete the Building 202 construction project. Through this MOA the parties agree collectively to provide \$.5 million, with the College providing \$250,000, and the City and PDA together providing \$250,000.
5. The PDA, as the primary leaseholder with State Parks for Building 202, will sub-lease Building 202 to the College for \$1 dollar per year, for 50 years (lease duration subject to approval by State Parks) to manage and operate the programs and services intended to be provided by the College.
6. Notwithstanding Section 5 above, the parties intend to pursue [in good faith](#) alternative financing to fill the funding gap for the construction project. The parties acknowledge that pursuit of this financing may require the parties to rework the financial arrangement for the development and use of Building 202 in a way that allows the [project](#) to take advantage of this financing. This may include a renegotiation of the lease. Any use of alternative financing and lease arrangement will require the approval of all parties to this MOA. [If all of the parties to this MOA do not agree to the changes necessary to facilitate this alternative financing, the parties agree to abide by the terms of Section 5 above.](#)

The parties further agree that, if the effort to obtain historic tax credits is successful, all historic tax credit equity will be applied to the execution of the mechanisms necessary to the historic tax credit transactions, and to the construction project. The parties agree to the following precedence for uses of historic tax credit proceeds: 1) overhead and transaction costs of the signatories to this agreement and other entities who may become involved in the syndication of

historic tax credits; 2) application to construction project to address bid overages or as yet unknown construction expenses not fully funded by construction project contingencies; 3) repayment of the gap funding of \$.5 million to the parties in the same amounts as their commitment, or in proportion to their commitment, if the entire \$.5 million is not required; and 4) that any remaining funds would be set aside in a PDA building reserve fund to cover future capital repairs for Building 202. .

AGREEMENT:

In consideration of the mutual promises contained by items 1-6, the parties accept the following responsibilities:

1. COLLEGE'S OBLIGATIONS

- A. Upon signature of this agreement by all parties, request that the State Department of Enterprise Services ("DES") place the renovation contract out to bid as soon as possible.
- B. Provide the total contract price to the parties upon bid award and successful contracting by DES.
- C. Manage the construction project.
- D. Enter into a lease for Building 202 with the PDA. The lease will include provisions for a payment of a proportionate share of common expenses, including utilities, maintenance, and grounds services.
- E. Enter into an operating agreement that sets forth terms of use for building 202 by the PDA when the college is not using the facility at a cost equal to the College's sublease with the PDA. The operating agreement will include a commitment by the college and the PDA to collaboratively develop programming to advance the missions and interests of both organizations. The operating agreement will be developed using an Interest Based Bargaining approach that assures both partners clearly articulate their interests and strive to accommodate each other's interests. Provisions of the Operating Agreement will include, but not necessarily be limited to:
 - 1) Educational programs and activities offered by Peninsula College will have first priority.
 - 2) The PDA will have exclusive right to rent free use of any unused capacity in the use of building 202.
 - 3) A process to establish, within the College's normal course catalog development practices, the College's requirements for the use of building 202 sufficient to provide lead time for planning and marketing by the PDA.
 - 4) A process to establish the proportional share of common expenses, as agreed to by the College and the PDA in the sublease.
- F. Finalize its determination regarding whether to use the historic tax credits.

2. PDA'S OBLIGATIONS.

- A. In collaboration with and active participation by the College, begin negotiations with the State to extend the lease term for Building 202 as provided for in Recital No. 5.
- B. Transfer to the College the City's \$500,000 previously reserved for Building 202 capital gifts. Together with the City, transfer to the College \$250,000 in additional funding.
- C. Enter into an operating agreement that sets forth terms of use for building 202 by the PDA when the college is not using the facility at a cost equal to the College's sublease with the PDA. Operating expenses for the PDA's use will be consistent with the agreement in Subsection 1(d) above. The operating agreement will include a commitment by the college and the PDA to collaboratively develop programming to advance the missions and interests of both organizations. The operating agreement will be developed using an Interest Based Bargaining approach that assures both partners clearly articulate their interests and strive to accommodate each other's interests. Provisions of the Operating Agreement will include, but not necessarily be limited to:
 - 1) Educational programs and activities offered by Peninsula College will have first priority.
 - 2) The PDA will have exclusive right to rent free use of any unused capacity in the use of building 202.
 - 3) A process to establish, within the College's normal course catalog development practices, the College's requirements for the use of building 202 sufficient to provide lead time for planning and marketing by the PDA.
 - 4) A process to establish the proportional share of common expenses, as agreed to by the College and the PDA in the sublease.

3. CITY'S OBLIGATIONS.

- A. Work cooperatively with the parties to facilitate all tasks in items 1-5.
- B. Transfer to the PDA the \$500,000 previously allocated for capital costs, to be used for the renovations.
- C. Together with the PDA, transfer to the College \$250,000 in additional funding.

4. GENERAL CONDITIONS.

- A. Dispute resolution-- If there is a dispute regarding the terms of this Agreement, the Chief Executive Officers/Chief Operating Officers of each party will meet to

resolve the dispute. If the dispute is not resolved within 60 days of the first meeting, this Agreement will terminate, and each party will bear its own costs.

- B. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.
- C. Ratification. This Agreement is not binding until ratified by the appropriate authorities for each party.

ENTERED INTO BY THE PARTIES ON THE LAST DATE INDICATED BELOW.

PENINSULA COLLEGE

[Name][Title]
Date

**FORT WORDEN LIFE LONG LEARNING
CENTER PUBLIC DEVELOPMENT
AUTHORITY**

CITY OF PORT TOWNSEND

[Name][Title]
Date

David G. Timmons, City Manager
Date