

MEMORANDUM

DATE: August 6, 2013

TO: Washington State Parks and Recreation Commission

FROM: Fort Worden Public Development Authority represented by:
Cindy Finnie, Chair
Norm Tonina, Treasurer

RE; Board Authorization to Execute Master Lease with Commission

Earlier this morning, after months of negotiations, the Fort Worden Public Development Authority (FWPDA) Board of Directors authorized the Board Chair to enter into a Master Lease for the Fort Worden Campus. Specifically, the Board unanimously approved Resolution No. 13-02 (see Attachment 1) that states the following:

The Board authorizes the Board Chair to execute the Master Lease for the Fort Worden State Park Campus by and between State Of Washington, acting through the Washington State Parks And Recreation Commission as Landlord, and the Fort Worden Lifelong Learning Center Public Development Authority as Tenant, as negotiated by Fort Worden Public Development Authority staff, counsel and board members with representatives of and counsel to the Washington State Parks and Recreation Commission, and presented to the Board at its meeting held August 6, 2013, as amended and accepted by the Chair, Treasurer, staff and legal counsel including any subsequent non-substantive changes approved by the Board Chair and Washington State Parks and Recreation Commission.

The Board asked us to express its appreciation and thanks to State Parks staff (especially Larry Fairleigh, Mike Sternback and Ed Girard) for their commitment and dedication to a lengthy negotiation process to work out the many nuanced and complicated details of the Master Lease. As members of the FWPDA negotiating team, we are grateful to State Parks staff for undertaking and completing this work among all their other state-wide priorities and demands. Representatives from both Parties negotiated in good faith, built trust along the way and developed a solid working relationship. We look forward to taking the next steps in working together, as partners, to implement the Lifelong Learning Center vision adopted by the Commission.

We stand ready to execute the Master Lease. However, there are a couple of provisions that the Board would like to bring to the Commission's attention as it considers entering into a Master Lease with the FWPCA. At our meeting today, the Board approved forwarding to the Commission the following suggested edits (highlighted in yellow) to the Draft Master Lease identified as LDF—Revised 8-2-13.

1.4.5 State Reserved Areas. Commission reserves certain buildings and areas within the Campus set forth on Exhibit F (the "State Reserved Areas"), for the timeframes set forth on Exhibit F and illustrated in Exhibit F-1. Commission shall be responsible for the maintenance, repair, replacement, management, regulation, and programming of the State Reserved Areas. Commission shall manage and operate the State Reserved Areas in a clean, safe, and unobstructed manner consistent with the operation of the Campus. Tenant shall not obstruct members of the public from entering upon and using and enjoying the State Reserved Areas for park purposes, except as provided herein or by separate agreement of the parties. Commission will not block or obstruct, or permit the blocking or obstruction of the State Reserved Areas or modify the State Reserved Areas except for occasional, temporary obstructions for park events. Such obstructions shall not materially interfere with public access to the remaining areas of the Campus or Tenant's ability to use the Campus for its intended purposes. Commission will consult with Tenant to minimize any impacts from any temporary blockage or obstruction.

Tenant shall have no responsibility or liability for the activities on the State Reserved Areas or the condition thereof, unless and to the extent caused by Tenant, or its employees or agents (as further provided in Section 14, Indemnity). The timeframes for State Reserved Areas being transmitted to the Tenant as set forth in Exhibit F may be adjusted upon mutual consent of the Parties.

4.4 Compliance With Laws. Each party shall be solely responsible, at its sole cost for compliance with any laws relating to the responsibilities assigned to that party under this lease. ~~The Commission shall correct any building code violations caused by the Commission, its employees or contractors between the Date of Execution and the Date of Possession.~~ By the Date of Possession, the Commission shall correct any building code violations. Each party agrees that either party shall have the right to reasonably contest, at its sole cost, any asserted or alleged violation of any laws, statutes, ordinances, regulations, rules and other governmental requirements of any kind applicable to the Campus (hereinafter "Laws").

5.1 Coordinating Committee

5.1.1 Operation and management of the Campus shall be monitored and reviewed by the Coordinating Committee, which shall be comprised of five (5) members. The members shall include two representatives from Tenant and two representatives from Commission and one at large member. The two Tenant representatives shall include the Campus Manager and a Tenant board member to be designated by the Tenant board on an annual basis. The Tenant board member representative shall not serve on the board of any Partner Group organization. The two Commission representatives shall include the Fort Worden Park Manager and the State Parks Assistant Director or his/her designee. The at large representative shall not be an elected official, PDA Board member, Partner Representative, or current member of the Commission. The Coordinating Committee shall nominate the at large member to the Director and the Chair of the PDA Board. The ~~Charter for~~ By-laws of the Coordinating Committee will describe criteria for its nomination of the at-large member. An at-large member serves a two year term with, upon the mutual consent of the Director and the Chair of the PDA Board, the potential for two extensions of two additional years each for a maximum total term of six (6) years. The Coordinating Committee will strive for solutions and recommendations that clearly support the spirit and intent of this agreement and the long-term success of Fort Worden State Park and the lifelong learning center concept. The at large member is a voting member only when the PDA and Parks representatives cannot reach consensus on an issue.

6.1 Alterations. "Alterations" are any alterations, additions, or improvements made by Tenant to the Buildings or Campus grounds. Tenant may, from time-to-time, at its own cost and expense make interior alterations to the Buildings in an amount not to exceed \$100,000 per building, without the consent of the Director or designee, for such things as carpeting, interior painting, changing electrical or light fixtures, plumbing fixtures, etc. Any alteration that requires or affects the structural components such as flooring, walls or ceilings require advance consent from the ~~Commission~~ Director unless such change meets the definition of modernization improvements discussed below. In conducting any construction work on the Campus, Tenant shall cause all work to be done in a good and workmanlike manner and shall comply with or cause compliance with all Laws. Tenant shall obtain or cause to be obtained and maintain in effect, as necessary, all building permits, licenses, and other governmental approvals that may be required in connection with such work and such insurance as Tenant, in consultation with the Coordinating Committee or ~~Commission~~ Director, as applicable, determine is reasonable for the scope and scale of the work to be undertaken. Alterations must be in compliance with the United States Secretary of Interior Standards for the Treatment of Historic Properties and the Commission-adopted Fort

Worden Guidelines for Rehabilitation. The “Historic Requirements” are those imposed by the deed, the National Register of Historic Places, and the United States Secretary of Interior Standards for the Treatment of Historic Properties, all with regard to the Historic Features. Tenant shall have a right to make modernization improvements to the interior or exterior of Buildings, including adding structures, to improve energy efficiencies (Modernization Improvements) in amounts not to exceed \$100,000 per building, at its sole cost and ~~without the consent of the Commission~~ upon written notification at least ~~60~~ 30 days in advance of the commencement of any work to the Park Manager describing the work to be undertaken

Section 6.5 Capital Improvements Plan..... The Commission recognizes that future capital funding, both public and private, is important to the revitalization and long-term success of Fort Worden State Park and the Lifelong Learning Center at Fort Worden State Park. The Commission commits to a good faith effort to fulfill the State Parks portion of the Fort Worden Capital Improvement Plan adopted by the Commission and PDA Board. In any event, the Commission commits to seeking Fort Worden capital funding levels consistent with historic approved levels.

8.2. Major Maintenance. “Major Maintenance” consists of any maintenance project that meets the then established definition of a Capital Project as defined by the Office of Financial Management. Major Maintenance shall be funded as a capital project as provided under Section 6.5, subject to ~~specific~~ legislative appropriation of funds.

21.1.1 Line of Credit. Within (90) days of the Effective Date of this Lease the PDA will provide evidence of a minimum \$250,000 line of credit or term loan, including a comfort letter from a lender or financing source ~~(Material)~~

The Board and staff also discussed with State Parks staff the fact that the current Draft Master Lease will need minor edits for grammar, to fix typos and make corrections to ensure consistency between sections. In addition, there is a need to clarify and add other definitions in the **Index of Defined Terms** on p. ii, such as:

- State Park (needs clarification)
- State Reserved Area (needs clarification)
- Campus Manager (add)
- Tenant (add)
- Master Lease (add)

In summary, the FWPDA Board action today is to conditionally approve the Draft Master Lease and to provide the authority to the Board Chair to review and approve any subsequent non-substantive corrections approved by the Commission to the final lease document.

Both Parties are to be commended for holding to their respective needs and interests during the entire negotiation process, while listening closely and responding thoughtfully to each other's concerns. We have also benefited by the intensive public process that has helped shape the Business and Management Plan documents and comments raised by the general public and key stakeholders incorporated throughout these proceedings. We believe this is a win-win-win document for all parties and are proud to present it to the Commission.

RESOLUTION NO. 13-02**A RESOLUTION OF THE OF THE BOARD OF DIRECTORS OF THE FORT WORDEN LIFELONG LEARNING CENTER PUBLIC DEVELOPMENT AUTHORITY AUTHORIZING THE BOARD CHAIR TO EXECUTE THE MASTER LEASE FOR THE FORT WORDEN STATE PARK CAMPUS.****RECITALS:**

- A. Fort Worden State Park (the "Park"), encompasses 434 acres within the City of Port Townsend (the "City"), provides recreational opportunities, is home to more than 70 historic buildings and structures, and is designated a National Landmark Historic District.
- B. The Washington State Parks and Recreation Commission ("Commission") owns and manages Fort Worden State Park (the "Park"), in a 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. 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").
- C. Long-range planning for the Park began in the fall of 2004. Since 2004, the 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. This planning process, supported with over one million dollars in public and private funds, has resulted in an adopted Long-range Plan for Fort Worden (2008) (the "Plan") to transform the Park into a Lifelong Learning Center. Hundreds of City residents, visitors to the Park and residential partner organizations have been involved in the planning process resulting in broad support for the Lifelong Learning Center vision at the Park.
- E. As a Lifelong Learning Center (the "Center"), the Park is envisioned to provide (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. As part of the adopted Plan, the Commission recognized that the State did not have adequate resources to fully implement the Plan. The Plan recommended that a new management structure for the Park was needed to carry out the State's vision of a lifelong learning center. A task force was formed and recommended that a nonprofit management entity was best suited to manage the lifelong learning center functions of the Park.

Following a national request for proposals, Centrum was approved to negotiate terms with the Commission to serve as the new managing entity for the Center.

- G. In the Memorandum of Understanding (“MOU”) adopted between the Commission and Centrum (March 2010), it was acknowledged that the City, represented by the Port Townsend Public Development Authority, now known as the Fort Worden Lifelong Learning Center Public Development Authority (the “PDA”), a public corporation chartered under RCW 35.21.730 through 35.21.755, would support Centrum in the development of the Center.
- H. However, the effects of the ongoing recession and cuts in the State budget, among other factors, led to a decision by the Centrum Board of Directors to withdraw from leadership on implementation of the MOU and decline eventual management of the Center. It would instead serve as a partner and support the PDA in that undertaking.
- I. 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
- J. At the Commission’s March 26, 2012 meeting, the Commission reaffirmed its previous resolutions supporting the PDA as potentially fulfilling the role as the managing entity for the Lifelong Learning Center, directed State Parks staff to work collaboratively with the PDA to identify the business plan requirements, criteria and governance options for the long-term management at Fort Worden, and requested that the PDA submit a Business and Governance Plan to the Commission for its review and consideration in October, 2012.
- K. The Washington Legislature, in House Bill 1058, directed the Commission to work with the PDA to development a management structure that would further the development of the Center for its cultural, artistic, educational, and historic functions.
- L. At the Commission’s December 6, 2012 meeting, the Commission accepted the PDA’s Business and Management Plan regarding the management and operation of the Center and directed the Director to negotiate an agreement with the PDA for the Commission’s review and consideration.
- M. The Commission and the PDA have supplemental authority under RCW 39.34 to develop an agreement for the management and operation of the Center.
- N. 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.
- O. Based on their mutual interest in ensuring that the Center continues to develop in the most efficient and productive manner, the Parties have agreed upon a management structure that fulfills that mutual goal. That structure is more specifically described in the

Master Lease under which the PDA will manage the Campus. This Agreement reflects the allocation of responsibility for operation and management of portions of the Park between the Commission and the PDA provided under the Master Lease; provides for appointment of the collaborative advisory body to facilitate coordination between them; and addresses certain matters in connection with the transition of the Campus to PDA management

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Fort Worden Lifelong Learning Center Public Development Authority as follows:

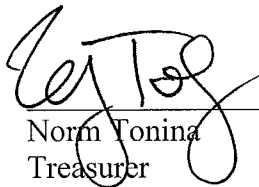
The Board authorizes the Board Chair to execute the Master Lease for the Fort Worden State Park Campus by and between State Of Washington, acting through the Washington State Parks And Recreation Commission as Landlord, and the Fort Worden Lifelong Learning Center Public Development Authority as Tenant, as negotiated by Fort Worden Public Development Authority staff, counsel and board members with representatives of and counsel to the Washington State Parks and Recreation Commission, and presented to the Board at its meeting held August 6, 2013, as amended by the Chair, Treasurer, staff and legal counsel including any subsequent non-substantive changes approved by the Board Chair and Washington State Parks and Recreation Commission.

ADOPTED by the Board of Directors of the Fort Worden Lifelong Learning Center Public Development Authority at a properly noticed special meeting of the Board at which a quorum was present, held on the 6th day of August, 2013.



Cindy Hill Finnie
Chairperson

Attest:



Norm Tonina
Treasurer