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ORDINANCE NO. 3061

AN ORDINANCE relating to the Hurricane Ridge National Park Concession and creating the Hurricane Ridge Public Development Authority; approving a charter and initial bylaws therefor; establishing a Board of Directors to govern the affairs of the Authority; providing how the Authority shall conduct its affairs.

THE CITY COUNCIL OF THE CITY OF PORT ANGELES, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Authority created -- City liability limited.

A. Authority created. As authorized under RCW 35.21.730 through RCW 35.21.759, and an interlocal agreement between Clallam County, Washington, and the City of Port Angeles, Washington, dated the 19th day of September, 2000, a public authority with powers and limitations as set forth in the state law, said Interlocal Agreement, this ordinance and its charter, is hereby created to undertake, assist with and otherwise facilitate or provide for the acquisition of the Hurricane Ridge Concession, the renovation, operation, and management, including leasing, of the Hurricane Ridge Lodge located in Olympic National Park, and to perform any other function specified in this ordinance or the Charter of the Authority.

B. Liability limited. The Authority is an independent legal entity exclusively responsible for its own debts, obligations and liabilities. All liabilities incurred by the Authority shall be satisfied exclusively from the assets and credit of the Authority; no creditor or other person shall have any recourse to the assets, credit, or services of the City or Clallam County on account of any debts, obligations, liabilities, acts, or omissions of the Authority.

SECTION 2. Name. The name of the public Authority shall be the Hurricane Ridge Public Development Authority.

SECTION 3. Definitions. As used herein, the term:

A. "Board of Directors" or "Board" means the governing body vested with the management of the affairs of the public authority.

- B. "Director" means a member of the board.
- C. "Bylaws" means the rules adopted for the regulation or management of the affairs of the public authority adopted by this ordinance and all subsequent amendments thereto.
- D. "Charter" means the articles of organization of the public authority adopted by this ordinance and all subsequent amendments thereto.
- E. "City" means the City of Port Angeles.
- F. "City Clerk" means the clerk of the City of Port Angeles or a person authorized to act on his or her behalf; and in the event of reorganization of the office of clerk, the successor official performing such duties or a person authorized to act on his or her behalf.
- G. "City Council" means the city council of the City of Port Angeles, Washington.
- H. "Mayor" means the mayor of the City of Port Angeles.
- I. "Public Authority" or "Authority" means the authority created under this ordinance.
- J. "Resolution" means an action of the board with the quorum required in Section 10.
- K. "State" (when used as a noun) shall mean the State of Washington.

SECTION 4. Powers -- Generally. Except as limited by the state constitution, state statute, this ordinance, or the charter of the public authority, the public authority shall have and may exercise all lawful powers necessary or convenient to effect the purposes for which the public authority is organized and to perform authorized corporate functions, as provided in its charter.

SECTION 5. Charter. The charter of the authority (the "charter"), Exhibit A of this ordinance, is hereby approved. The charter shall be issued in duplicate originals, each bearing the city seal attested by the city clerk. One original shall be filed with the city clerk; a duplicate original shall be provided to the authority. The charter shall be amended only by city

ordinance adopted at or after a public hearing held with notice to the public authority and authority directors and affording them a reasonable opportunity to be heard and present testimony.

SECTION 6. Effect of issuance of charter. The public authority shall commence its existence effective upon issuance of its charter and the holding of its initial board meeting. 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 public authority has been established in compliance with the procedures of this ordinance.

SECTION 7. Board of directors. A board consisting of seven (7) directors (the "board of directors") is hereby established to govern the affairs of the public authority. The directors shall be appointed and serve their terms as provided in the charter. All corporate powers of the public authority shall be exercised by or under the authority of the board of directors; and the business, property and affairs of the authority shall be managed under the supervision of the board of directors, except as may be otherwise provided by law or in the charter.

SECTION 8. Organizational meeting. Within thirty (30) days after issuance of the charter, the mayor or his or her designee shall call an organizational meeting of the initial board of directors, giving at least three (3) days' advance written notice to each unless waived in writing. At such meeting, the board shall organize itself, may appoint officers, and select the place of business.

SECTION 9. Bylaws. The initial bylaws (the "bylaws") of the public authority, Exhibit B of this ordinance, are hereby approved. 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 ordinance or the charter, this ordinance or the charter, as the case may be, shall control.

SECTION 10. Quorum. At all meetings of the board of directors, a majority of the board of directors then in office shall constitute a quorum.

SECTION 11. Oversight and Dissolution.

Intervention.

A. When authorized by resolution of the City Council after a public hearing held with notice to the public corporation the Mayor or City Council as provided in said resolution may

intervene, and exercise such control over the public corporation as is necessary and appropriate to correct any deficiency and/or to assure that the purposes of a program undertaken may be reasonably accomplished, including directing affirmative action, when:

1. The Board of the public corporation has requested such intervention by resolution;
2. The public corporation has failed to set forth the statement required by its charter in written contracts, bonds or other documents;
3. The public corporation 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;
4. The public corporation has failed to file an annual report;
5. A deadlock has occurred in the Board, or the membership of the council is insufficient to constitute a quorum for conduct of affairs so that the public corporation is unable to conduct its operations or perform its projects and activities;
6. The Board has continuously failed to conduct meetings at least semi annually; no special meetings of the constituency have been held for a year; or the public corporation has neglected or refused to conduct a meeting after notice from the Mayor or City Council to do so;
7. The Board has unreasonably impaired public participation in the conduct of projects and activities or oppressed or hindered any constituency in its exercise of its powers and responsibilities;
8. The assets of the public corporation have been or are committed to be misapplied or wasted, or illegally expended; or
9. The public corporation has committed or is about to commit a material violation of this ordinance or its charter.

B. The Mayor or City Council may take such actions as necessary to achieve the object of the intervention stated in the resolution of the City Council and make corrections or revisions ancillary thereto, and shall accomplish the purposes of the intervention as expeditiously as reasonable; corporate officers shall not be displaced nor the conduct of their duties impaired more than necessary to accomplish the purposes of the intervention and the intervention shall cease as soon as the objectives stated in the resolution and corrections ancillary thereto have been accomplished.

#### Trusteeship.

A. The City by resolution of the City Council after a public hearing held with notice to the public corporation may petition the Superior Court to impose a trusteeship over a public corporation organized pursuant to this chapter and to appoint the trustees therefor under any of the following circumstances:

1. The Board of the public corporation has requested the same by resolution;
2. The public corporation has filed a statement of dissolution preparatory to termination of its existence;
3. The public corporation 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 public corporation has filed an annual report with the City Clerk that is false or deceptively misleading on a material matter;
6. The public corporation is incompetent or ineligible to carry out the public purposes for which it was chartered;
7. The public corporation 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 public corporation 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 intervention as provided herein would not be feasible under the circumstances.

B. The trustees appointed by the Superior Court shall take such actions as reasonably necessary during the trusteeship to achieve the object thereof. The trustees shall have the power and authority to reorganize the public corporation and amend its charter and/or its rules and regulations; suspend and/or remove corporate officials, and manage the assets and affairs of the public corporation; and exercise any and all corporate powers as necessary or appropriate to fulfill outstanding agreements, to restore the capability of the public corporation to perform the functions and activities for which it was chartered, to reinstate its credit or credibility with its creditors or obligee; and if so authorized by the Superior Court, to oversee its dissolution.

#### Termination.

The existence of the public corporation may be terminated by ordinance of the City Council at or after a public hearing, held with notice to the public corporation and affording it a reasonable opportunity to be heard and present evidence, under any of the following circumstances:

A. The Board of the public corporation has requested the same by resolution;

B. The public corporation has discontinued its projects and activities for which chartered or remained inactive for a period of twelve (12) months in succession;

C. A judgment of a court of competent jurisdiction shall have become final, which judgment annuls the existence of the public corporation, or prohibits it from conducting all or the major portion of the activities for which chartered or permits recourse by creditors of the public corporation or other persons to the assets, property or credit of the City on account of any debts, obligations or liabilities of the public corporation;

D. Any one or more of the circumstances for imposition of a trusteeship stated herein, 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;

E. 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 public corporation was chartered or permits recourse by creditors of the public corporation or other persons to the assets, property or credit of the City on account of any debts, obligations, or liabilities of such public corporation; or

F. Continuous trusteeship of the public corporation for one (1) year, or the imposition of a trusteeship for whatever cause(s) three (3) times in any one (1) year period.

Subject to any limitations that may be imposed by the judgment of a court of competent jurisdiction, provision shall be made in any termination of the public corporation's existence for causes designated in this section for payment of any obligations, bonds, notes or other contracts of indebtedness from the rights and assets of the public corporation so that such bonds and contracts be not impaired.

#### Dissolution--Statement.

Upon enactment of a resolution by the City Council for dissolution of the public corporation or by the public corporation for its own dissolution other than for purposes of merger or reorganization in a plan approved by the City Manager, the public corporation shall file a dissolution statement signed by its chief executive officer setting forth:

A. The name and principal office of the public corporation;

B. The debts, obligations and liabilities of the public corporation, 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;

C. Any pending litigation or contingent liabilities:

D. The Board resolution providing for such dissolution and the date(s) and proceedings leading toward its adoption, whenever the dissolution be voluntary; and

E. A list of persons to be notified upon completion of dissolution.

The City Manager shall review the 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 Manager shall indicate such dissolution by inscription of "charter canceled" on the original charter of the public corporation, on file with the City Clerk and, when available, on the duplicate original of the public corporation, and the existence of the public corporation shall cease. The City Clerk shall give notice thereof to the Secretary of State and other persons requested by the public corporation in its dissolution statement.

#### Merger with public corporation.

An application by a public corporation to merge with or into another public corporation organized by this City shall be processed in the same manner as a charter amendment by the public corporation and as an application for charter. Approval by the City Manager shall authorize the merger. In the event of such a merger, all of the rights, assets and property of the public corporation shall vest in the surviving public corporation or successor public corporation.

#### Termination--Disposition of assets.

Upon termination of the existence of a public corporation, all of the rights, assets and property of the public corporation shall pass to and be distributed as provided by agreements with donors or other parties at the time of acquisition of the property regarding its disposition. Subject thereto, all of the rights, assets and property of a public corporation shall be tendered to the entity first listed below and, if not applicable or not accepted, to the next listed entity in succession:

- A. To the surviving or successor public corporation in event of merger;
- B. To the City;
- C. To some other local municipal corporation that performs similar activities or functions for which the assets were acquired or are devoted;
- D. To the state for use in or application upon projects and activities or functions for which the assets were acquired or are devoted;

E. To the United States, any of its departments or agencies; a public authority created by the United States; or an organization acting as an authorized agent of the United States;

F. To a corporate fiduciary or their trustee, in trust for or use under the direction of any of the aforesaid entities for the purposes, projects and activities for which the assets were acquired or devoted;

G. To nonprofit organizations performing community service, charitable or educational activities similar to the projects and activities for which the assets were acquired; provided the City Council may in its discretion by resolution with respect to any particular dissolution:

1. Authorize the Mayor for and on behalf of the City to contract with the public corporation for the disposition of its rights, assets and property, and thereby designate the recipient and their terms and purposes of the transfer of assets and property; and
2. Establish procedures and terms and conditions for transfer and acceptance of the rights, assets and property of the public corporation to any of the aforesaid entities; and
3. Request some or all of the aforesaid eligible entities identified in subsections B through E to submit applications for transfer of such rights, assets and property of the public corporation setting forth the proposed uses thereof, and accept the application and contract with the entity or organization that would make the most appropriate use of such rights, assets and property in performing the projects and activities for which the public corporation was chartered.

All rights, property and assets of the public corporation upon transfer shall be vested in the entity receiving and accepting the same, together with any appurtenant obligations and liabilities.

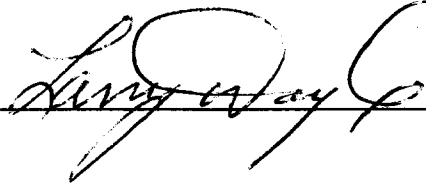
SECTION 12. Insurance. The Authority shall maintain in full force and effect liability insurance, including but not limited to commercial general liability insurance and automobile liability insurance, with coverage and policy limits specified by the City Manager sufficient to cover potential claims 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 of Port Angeles as an additional insured.

SECTION 13. Construction. This ordinance shall be liberally construed so as to effectuate its purposes and the purposes of RCW 35.21.730-.759.

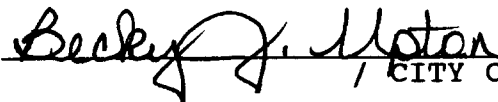
SECTION 14. Severability. If any one or more sections, subsections, or sentences of this Ordinance are held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this Ordinance and the same shall remain in full force and effect.

SECTION 15. Effective Date. This ordinance shall take effect and be in force thirty (30) days after passage by the Council.



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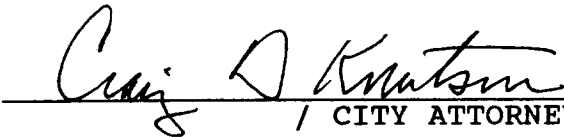
ATTEST:



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CITY CLERK

APPROVED AS TO FORM:



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CITY ATTORNEY

PASSED:            19th day of September, 2000.


APPROVED:        19th day of September, 2000.

PUBLISHED:      24th day of September, 2000.

(By Summary)

I hereby certify that this is a true copy of Ordinance No. 3061, passed by the City Council of the City of Port

Angeles, Washington, and approved by the Mayor of the City of  
Port Angeles as hereon indicated.

  
CITY CLERK