MANAGEMENT AGREEMENT

AGREEMENT between the Urban Renewal Agency of the City of Coos Bay (the "Agency"), an Oregon municipal corporation, and the Egyptian Theatre Preservation Association, (the "Association") an Oregon non-profit corporation.

Recitals

1. The Agency is the owner of a facility known as the Egyptian Theatre (the Theatre).

2. The Association is a nonprofit corporation which has as its expressed purpose the renovation, operation and management of the Theatre.

3. The parties desire to enter into an agreement whereby the Association manages and operates the Facility.

4. By entering into this Agreement, the management and operation of the Theatre will be undertaken by the Association.

NOW, THEREFORE, the Parties agree as follows:

Section 1. Term. This Agreement shall take effect on July 1, 2014, and shall terminate on June 31, 2017, unless automatically renewed as provided for herein. This Agreement shall automatically renew for additional periods of one year unless either party provides the other party with notice of intent to terminate this Agreement not less than sixty days prior to the anniversary of the expiration date.

Section 2. Ownership of Facility and Improvements.

(a) The Theatre is and shall remain the property of the Agency, and any improvements to the Theatre shall inure to the benefit of the Agency. The Association is not a tenant of the Agency, and does not by this Agreement acquire any right to occupancy or possession of the Theatre, except as may be required to perform its duties under this Agreement.

(b) All fixtures and personal property within or attached to the Theatre as of July 21,2006, are and shall remain the property of the Agency, including any items purchased subsequent thereto by the Association for the repair and/or maintenance of such fixtures and personal property.

(c) Any items of personal property purchased by the Association after July 21, 2006, shall be the property of the Association, except that any personal property purchased by the Association with funds received from the Agency and/or the City of Coos Bay shall be the property of the Agency.

Section 3. Association's Duties. The Association shall perform the following:

(a) The Association shall operate the Theatre as a theatre for the exhibition of films, as well as the presentation of music and live theatrical performances. The Association shall have the discretion to determine the nature and type of exhibitions and the exhibition schedule, subject to the limitations contained in the deed transferring the Theatre to the Agency.

(b) The Association may engage in day-to-day maintenance activities, conservation and restoration efforts of the Theatre during the term of this agreement, subject to approval from the Agency.

(c) The Association shall report to the Agency on the activities of the Association with regard to the management, operation and restoration of the Theatre not less than annually each year. The Association shall report at such other times upon request by the Agency and shall provide such written reports as may be requested or required by the Agency or Agency staff. The Association agrees to make available for inspection by the Agency all records maintained by the Association relating to its duties as defined herein.

(d) The Association shall furnish the personnel necessary to provide the services set forth in this Agreement and shall be solely responsible for wages, benefits, workers' compensation insurance, unemployment insurance, and all other costs associated with the Association's employees and volunteers.

(e) The Association shall be financially responsible for the cost of any correction, repair, and/or any injury or damage to the Theatre, including all fixtures, equipment and other personal property within the Theatre, which is done or caused to be done by the Association, its agents, employees, or customers.

(f) The Agency shall have the right to designate two individuals to be members of the Association's Board of Directors. The Association shall appoint to the Association's Board of Directors, the two individuals so designated by the Agency and those individuals shall serve as non-voting directors.

Section 4. Property Management Services. The Association will provide routine and customary property management for the Theatre, including, but not limited to, maintenance of the Facility in a clean and presentable condition. Any month-to-month or longer tenancies of third parties shall be subject to approval by the agency.

Section 5. Fund Raising Activities. The Association may engage in fund raising activities at the Theatre, or elsewhere, and will be allowed to retain any income generated from such activities. The Association specifically agrees that any such fund raising activities shall be conducted at the Association's sole and exclusive risk and expense.

Section 6. Insurance.

(a) The Association shall maintain liability insurance coverages as specified in the attached Exhibit A. The Association shall add the Agency as an additional insured, and shall provide the Agency with proof of insurance including endorsements upon the Agency's request. The Association shall also provide all necessary insurance coverage for its personnel and for any property of the Association located at the Theatre. The Agency, either directly or through the City, shall provide all necessary property insurance coverage for the Theatre, including the fixtures and personal property owned by the Agency within the Theatre.

(b) In the event that the parties enter into a subsequent agreement for the purchase of the Theatre by the Association, which has provisions concerning the purchase of and payment for insurance, which are inconsistent with the provisions of this Agreement, the provisions of the purchase agreement shall take precedence over the inconsistent insurance provisions of this agreement.

Section 7. Utilities. The Association shall be responsible for the payment of all costs associated with the operation and management of the Theatre, including, but not limited to the costs of heat, electricity, water, alarm monitoring services and insurance on the Theatre (as required herein). The costs incurred for telecommunications services related to the operation and management of the Theatre, including local and long distance telephone exchange, internet service, and such other services as may be defined

as telecommunications services under federal and state law, shall be paid by the Association, as well as the costs of all custodial services.

Section 8. Maintenance, Repairs and Alterations.

(a) The Agency, either directly or through the City, shall provide all routine building maintenance and structural repairs which may be needed to maintain the integrity of the Theatre, as allowed within budgetary constraints. The Association shall promptly notify the Agency of any maintenance needs or problems.

(b) The Association may apply for grants to improve and/or renovate the Theatre. The parties recognize that the Agency has an interest in seeing improvements made which are appropriate to the functioning of the Theatre, and that the Agency may be able to assist the Association in obtaining grants to make such improvements and renovations. To this end, the Association agrees that prior to making grant applications for improvements and/or renovations to the Theatre, the Association will notify the Agency of its planned application, and the Agency will provide reasonable cooperation to the Association in preparing and/or submitting grants for such improvements and/or renovations to the Theatre. Plans for improvements shall be submitted to the Agency and the City for review and approval prior to construction. Nothing in this subsection shall be deemed to grant the Association a property interest in the Theatre, and any improvements constructed shall be the sole property of the Agency.

Section 9. Tax Liability. The Association shall refrain from any activity or use of the Theatre which would subject the Theatre, or any portion thereof, to ad valorem real property taxes. If any such tax is assessed by any taxing authority, the Association may contest the assessment of such taxes, and shall indemnify, defend, and hold the Agency and City harmless for any amount assessed thereof, together with any interest or costs connected thereto; in no event, shall the Manager permit any ad valorem taxes to become a lien against the Theatre.

Section 10. Assignment. The Association shall not assign, transfer or attempt to assign or transfer, nor permit any involuntary assignment or transfer of its rights or obligations under this Agreement, in whole or in part, without the prior written consent of the Agency. Any such assignment, transfer, or attempt to assign or transfer, whether involuntary or voluntary, without prior written consent shall render this Agreement automatically null and void.

Section 11. Independent Contractor Status. The Association shall perform the work required under this Agreement as an independent contractor. Although the Agency reserves the right to evaluate the quality of the Association's performance, the Agency cannot and will not control the means or manner of the Association's performance. The Association is responsible for determining the appropriate means and manner of performing the work. The Association represents and warrants that it is not an officer, employee, or agent of the Agency or the City, and meets the specific independent contractor standards of ORS 670.600.

Section 12. Compliance with Applicable Law. The Association shall comply with all federal, state and local laws and ordinances applicable to the work under this Agreement, including, but not limited to the rules of the Local Contract Review board, as such rules were enacted by the Local Contract Review Board pursuant to City of Coos Bay Ordinance 365. This agreement shall be governed by and construed in accordance with the laws of the State of Oregon.

Section 13. Indemnity. The Association shall defend, save, hold harmless and indemnify the Agency and the City, their officers, employees, and agents from all claims, suits, or actions of whatsoever nature resulting from or arising out of the activities of the Association, its officers, employees, subcontractors, or agents under this Agreement. The Agency, subject to the limitations of the Oregon Tort Claims Act, shall defend, save, hold harmless and indemnify the Association, its officers,

employees, and agents from all claims, suits, or actions of whatsoever nature resulting from or arising out of the activities of the Agency, its officers, employees, subcontractors, or agents under this Agreement.

Section 14. Severability. The parties agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.

Section 15. Waiver. The failure of the Agency to enforce any provision of this Agreement shall not constitute a waiver by the Agency of that or any other provision.

Section 16. Execution and Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original, and all of which shall constitute but one and the same instrument.

Section 17. Termination; Default.

(a) This Agreement may be terminated by written mutual consent of the parties. In addition, this Agreement may be terminated by the Agency by not less than three (3) months written notice to the Association specifying the termination date. This right to terminate shall be exercised in good faith, for a reasonable cause, including but not limited to: insufficient funding resources, new or modified federal or state laws, regulations, or guidelines, denial, revocation, or other loss or invalidation of any license or certificate required to be held by the Association, or the Association's inability to perform or complete the obligations set forth in this Agreement.

(b) In the event that the ownership of the Theatre is transferred by the Agency to the Association, or a third party, this Agreement shall automatically terminate.

(c) The Association's timely performance is of the essence of this Agreement. The Agency, by delivering written notice of default, may immediately terminate this Agreement, in whole or in part, if the Association fails to perform the obligations set forth in this Agreement within the times specified or allowed under this Agreement, or fails to perform any of the provisions of this Agreement, or so fails to pursue the obligations set forth in this Agreement as to endanger performance of this Agreement in accordance with its terms, and after receipt of written notice of such failure from the Agency, does not correct such failure within thirty (30) calendar days, or such other period as the Agency may authorize.

(d) Upon receiving a notice of termination, and except as otherwise directed in writing by the Agency, the Association shall immediately cease all activities related to the obligations set forth in this Agreement. As directed by the Agency, the Association shall, upon termination, deliver to the Agency all documents, information, and other property that, if the Agreement had been completed, would be required to be furnished to the Agency. By the Association's signature on this Agreement, the Association allows the Agency to use said documents for their intended use, without restriction.

(e) The rights and remedies of the Agency provided in this section are not exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

Section 18. Merger. This contract constitutes the entire agreement between the parties. The terms of this Agreement shall not be waived, altered, modified, supplemented or amended, in any manner whatsoever, except by written instrument. Any such waiver, alteration, modification, supplementation or amendment, if made, shall be effective only in the specific instance and for the specific purpose given, and shall be valid and binding only if it is signed by all parties to this Agreement. The failure of the

Agency to enforce any provision of this Agreement shall not constitute a waiver by the Agency of that or any other provision. There are no understandings, agreements or representations, oral or written, regarding this Agreement except as specified or referenced herein. The Association, by the signature of its authorized representative below, hereby acknowledges that it has read this Agreement, understands it, and agrees to be bound by its terms and conditions.

Section 19. Attorney Fees. If an action is instituted to enforce any term of this Agreement, the prevailing party shall recover from the losing party reasonable attorney fees incurred in such action as set by the trial court and, in the event of appeal, as set by the appellate courts.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed:

Egyptian Theatre Preservation Association

By, Greg Rueger, ETPA President

11/3/14
Date

Urban Renewal Agency of the City of Coos Bay

By, Rodger Craddock, City Manager

9/2/14
Date

Exhibit A
Egyptian Theatre Management Agreement 2014
Insurance Requirements

Insurance Policy Statement

Any company or individual performing work for the City of Coos Bay (hereinafter "the City") shall be required to provide proof of insurance to the City per applicable insurance level.

1. General Liability shall be a per occurrence form and must cover the time for which the work/event/contract is being performed/held.

2. Proof of insurance of not less than the amount required is to be provided. Limits shown in the requirements are a minimum per occurrence limit.

3. If the City is required to use Federal or State insurance policy limits, or is subject to the Federal or State tort claim limits, the limits required through this statement shall be superseded by such limits.

4. If a claim occurs where the amount of the claim exceeds the insurance policy limits required by this directive, the company or individual performing work/hosting event assumes full responsibility for the payment of such claim.

5. Waivers of the policy limits or provisions in this policy must be approved by the City Manager, City Attorney and the City Risk Manger of Record. Insurance policy limits may also be required to be higher based upon the City's review of the specific application for which insurance is required.

6. Tail Coverage: If any of the required liability insurance is on a "claims made" basis, recipient shall maintain either "tail" coverage or continuous "claims made" liability coverage, provided the effective date of the continuous "claims made" coverage is on or before the effective date of the Contract/Agreement, for a minimum of 24 months following the later of:

   (1) Recipient's completion of all services and the City's acceptance of all services required under the Contract/Agreement, or

   (2) The expiration of all warranty periods provided under the Contract/Agreement. Notwithstanding the foregoing 24-month requirement, if recipient elects to maintain "tail" coverage and the maximum time period "tail" coverage is reasonably available in the marketplace is less than the 24-month period described above, recipient shall maintain "tail" coverage for the maximum time period "tail" coverage is reasonably available in the marketplace for the coverage required.

7. Definitions:

   Commercial General Liability: To cover bodily injury, death, and property damage. This insurance shall include contractual liability coverage for the indemnity provided

under those listed in the Agreement/Contract, personal and advertising injury liability, products liability and completed operations liability. Coverage may be written in combination with Automobile Liability Insurance (with separate limits).

Professional Liability: To cover error, omission or negligent acts related to the professional services to be provided under the Agreement/Contract.

Automobile Liability: To cover each accident for bodily injury and property damage, including coverage for owned, hired, non-owned, leased, or rented vehicles as applicable. This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits).

Umbrella Liability: To cover excess liability over several of the insured's primary liability policies. An excess liability policy may be what is called a following form policy, which means it is subject to the same terms as the underlying policies; it may be a self-contained policy, which means it is subject to its own terms only; or it may be a combination of these two types of excess policies.

Umbrella policies provide three functions:

(1) To provide additional limits above the each occurrence limit of the insured's primary policies;

(2) To take the place of primary insurance when primary aggregate limits are reduced or exhausted; and

(3) To provide broader coverage for some claims that would not be covered by the insured's primary insurance policies, which would be subject to the policy retention.

Most umbrella liability policies contain one comprehensive insuring agreement. The agreement usually states it will pay the ultimate net loss, which is the total amount in excess of the primary limit for which the insured becomes legally obligated to pay for damages of bodily injury, property damage, personal injury, and advertising injury.

8. Should the Umbrella/Excess Insurance coverage combined with Commercial General Liability coverage not equal or exceed the minimum combined coverage shown, coverage must be increased to equal or exceed the minimum total coverage limits shown.

If there is no Umbrella/Excess Insurance coverage, then the Commercial General Liability, Employers Liability, and Automobile Liability limits must be increased to equal or exceed the minimum total coverage limits shown.

9. The Certificate of Insurance(s) and Endorsement(s) will be a part of the Contract/Agreement and shall be provided to the City with endorsement(s) indicating that the Commercial General Liability insurance coverage is in effect which shall be **primary and non-contributory** with any insurance maintained by the City.

In all situations, the City shall be included as an additional insured under the commercial general liability, automobile liability, and umbrella liability policies as applicable.

As applicable, a waiver of subrogation under the workers' compensation and commercial general liability policies shall also be provided.

Copies of such endorsements or coverage enhancements **shall be attached to the certificate(s)** provided to the City and will become a part of the Contract/Agreement.

Insurance Coverage provided must be underwritten by an insurance company deemed acceptable by the City. The City reserves the right to reject all or any insurance carrier(s) with an unacceptable financial rating.

Insurance Levels

Level 2 Insurance Requirements:

Professional services contracts/agreements $50,000 and under:

Commercial General Liability	$1,000,000
Workers' Compensation (if applicable)	Statutory Limit
Employer's Liability	$ 500,000
Automobile Liability	$1,000,000
Umbrella/Excess Insurance	$ 1,000,000

AMENDMENT TO MANAGEMENT AGREEMENT

AGREEMENT between the Urban Renewal Agency of the City of Coos Bay (the "Agency"), an Oregon municipal corporation, and the Egyptian Theatre Preservation Association, (the "Association") an Oregon non-profit corporation.

Recitals

1. The Agency is the owner of a facility known as the Egyptian Theatre (the Theatre).

2. The Association is a nonprofit corporation which has as its expressed purpose the renovation, operation and management of the Theatre.

3. The parties have entered into a Management Agreement whereby the Association has agree to manage and operate the Facility.

4. The parties desire to enter into an agreement amending the Management Agreement, in order to provide provisions for the implementation and use of Financial Best Practices by the Association.

NOW, THEREFORE, the Parties agree as follows:

Section 1. The Management Agreement is amended to add the requirement that with regard to its management of the Theatre, the Association shall implement and use those Financial Best Practices set for in attached Exhibit A, which are incorporated herein as if fully set forth in the Agreement.

Section 2. All provisions of the Management Agreement which are not otherwise inconsistent with the provisions of this Amendment to the Management Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have caused this Amendment to the Management Agreement to be executed:

Egyptian Theatre Preservation Association

By, Greg Rueger, ETPA President

11/3/14
Date

Urban Renewal Agency of the City of Coos Bay

By, Rodger Craddock, City Manager

11/3/14
Date

EXHIBIT A

Financial Best Practices

- All financial accounts shall be balanced and subsequently reviewed by the Board on a quarterly basis.
- A credit card in lieu of cash should be used for purchases. All receipts for purchases by credit cards should be turned in and balanced against the credit card statement.
- Whenever possible, at least two people should work together on the cash handling, so they can monitor and vouch for each other. Have the people handling cash, count the cash they took in at the end of a shift and turn it into the Manager, along with any paper documentation of number of items sold and at how much which is made available to the Board Treasurer as well. While the Manager conducts the daily banking the Board Treasurer will be responsible for reconciling the monthly bank statements.
- Do not sign blank checks.
- Require two signatures on a check. Every check written should require two signatures. Both signatures should come from board members who have been given signing authority. When not possible, then one of the signatures can be the Manager, but not if the check is issued to the Manager.
- The Board should review reconciliation of disbursements to invoices and bank statements.
- Do not allow any cash withdrawals in any form from the bank. No organization should have a debit card for their bank account.
- Divide responsibilities of handling incoming funds and expenses for proper segregation of duties. For example, separate individuals should be responsible for opening mailed donations, making bookkeeping entries, and depositing the checks, respectively. This is similarly applicable to expenses in which the person who authorizes a purchase should be different from the person who writes the check.
- System controls such as using receipts with preprinted tracking numbers for outgoing money and confirming incoming invoices against the goods or services billed for ensures the individual transactions that make up the organization's cash flow have all been accounted for.
- Request a review of controls by a CPA firm to ensure that financial controls are sound and to identify areas where further structure is needed. An annual review or audit provides integrity to the financial system.
- Background checks and calling references and previous employers are essential for new employees or volunteers.