

CITY OF COOS BAY URBAN RENEWAL AGENCY
Agenda Staff Report

MEETING DATE	AGENDA ITEM NUMBER
July 3, 2012	

TO: Chair Gene Melton and Board Members

FROM: Joyce Jansen, Economic Development Administrator 

Through: Rodger Craddock, City Manager 

ISSUE **Approval of a Management Agreement with the Coos Bay Downtown Association Main Street Program**

BACKGROUND

The Main Street approach is a proven comprehensive approach to historic commercial district revitalization. The program works together with the State Historic Preservation Office (SHPO), Business Oregon, and the Historic Preservation League of Oregon (HPLO) to assist cities in revitalizing their downtown areas by supporting existing businesses and development of new businesses. Services offered include technical assistance, funding opportunities, and training. Main Street is successful because it is a community-based program involving business and property owners.

The Coos Bay Downtown Association applied for the Transforming Downtown level of the Oregon Main Street Program and was accepted in January 2012. An important component of the application process included meeting with the city council and local property and business owners and obtaining their support for the program. The Urban Renewal Agency received a report from Brian Bowers, President of the Downtown Association, in March 2012 requesting a commitment for short-term financial support for the Main Street Program. The Agency committed \$24,000 annually for three years and funding was approved for fiscal year 2012/2013. The Downtown Association has also been accepted in the Resource Assistance for Rural Environments (RARE) program. Funding commitments from the Urban Renewal Agency and the Downtown Association, and the association's acceptance into the RARE program, will fund a position, an office in the downtown area, and operational expenses for the Main Street office. It is the goal of the association to seek sustainable funding for future support of the program. The Agency's funding commitment, along with Downtown Association funds, will be used to set up an office and implement the Main Street Program.

ADVANTAGES

The Main Street Approach has been successful in many communities in Oregon and across the country. The Downtown Association believes the program will prove successful in our city. Downtown business and property owners have joined with the association in a commitment to implement the Main Street Approach in Coos Bay.

DISADVANTAGES

None identified.

BUDGET IMPLICATIONS

The Urban Renewal Agency included funding \$24,000 for the Downtown Association Main Street program in fiscal year 2012/2013 adopted budget.

ACTION REQUESTED

If it pleases the Urban Renewal Agency authorize the city manager to execute a management agreement with the Coos Bay Downtown Association funding the Main Street Program at \$24,000 annually not to exceed a three-year period.



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Management Agreement

Between City of Coos Bay Urban Renewal Agency ("Agency")
500 Central Avenue
Coos Bay OR 97420

And Coos Bay Downtown Association ("Association")
P O Box 428
Coos Bay OR 97420

Recitals

1. The City of Coos Bay Urban Renewal Agency (hereinafter "Agency") and the Coos Bay Downtown Association (hereinafter "Association") desire to maintain and enhance a healthy, vibrant downtown commercial district that functions as the economic, social and cultural center of the community; and
2. The Agency and Association are committed to implementing the Main Street Approach by working cooperatively on efforts to improve and revitalize downtown Coos Bay in accordance with the principles and accords set forth by Oregon Main Street and the National Trust for Historic Preservation programs; and
3. The Association has assumed the role and responsibilities of the Main Street Program, has committed funds for supporting the hiring of a Main Street Manager, established a Main Street office, and is seeking funding to sustain the program; and
4. The City of Coos Bay has included support and assistance of the Main Street Program in their adopted 2012 Goals.

NOW, THEREFORE, the parties agree as follows:

- Section 1. Term. The term of this agreement shall be for three years, commencing on July 5, 2012 and ending June 30, 2015.
- Section 2. Consideration; Funding Assistance for the Coos Bay Downtown Association Main Street Program
- 2.1 The Association, in consideration for the funding provided for herein, shall implement the Main Street Approach in downtown Coos Bay and become financially self-sufficient by July 1, 2015.
 - 2.2 The Agency shall pay to the Association for the latter's use in providing the services of the Main Street Program, an annual payment of \$24,000 for a period not to exceed three years.

- 2.3 The Association shall present a semi-annual report to the Agency on the progress and status of the Main Street Program.
- 2.4 The Association shall follow Financial Best Practices as outlined in Exhibit A of this agreement.
- 2.5 The Agency's obligation to make such payments is subject to the Agency's yearly appropriation during the budget process. Should this agreement terminate prior to the end of any given year, the funding provided pursuant to this section shall be apportioned on a pro rata basis and any unexpended portion shall be returned to the Agency.
- 2.6 The Agency reasonably believes at the time of entering into this agreement that sufficient funds will be available and authorized for expenditure to finance the costs of the agreement.
- 2.7 No Partnership; Independent Contractor Status. The Agency is not by virtue of this agreement a partner or joint venture with the Association in connection with the activities carried on under this agreement and shall have no obligation with respect to any of the Association's debts or liabilities. In providing services pursuant to this agreement the Association is acting as an independent contractor. The Association represents and warrants that it is not an officer, employee, or agent of the Agency and meets the specific independent contractor standards set forth under ORS 670.600.

Section 3. Insurance

- 3.1 Liability Insurance. Association shall, at Association's expense and at all times during the term of the agreement, maintain in force a comprehensive general liability insurance policy. Minimum liability coverage shall be \$1,000,000 per occurrence and \$2,000,000 per general aggregate. As the limits of liability for tort claims against public bodies under the laws of the state of Oregon are increased during the term of this agreement, Association shall increase its liability limits on such coverage in an amount proportional to such increases. Agency shall be added as an additional insured to the policy and documentation evidencing such shall be provided to the Agency.
- 3.2 Personal Property Insurance. Association, at its option, may insure Association's personal property against loss or damage from fire or other casualty. Whether or not Association insures its personal property, Association shall bear the risk of loss of its personal property on the property, and waives any claim against the City/Agency for damages to such personal property which would be covered by fire insurance with extended coverage endorsement.
- 3.3 Workers Compensation Insurance. The Association shall obtain and maintain worker's compensation insurance to cover all subject workers, if and as provided by Oregon law.

3.4 General Requirements for Insurance. All insurance policies that Association is required to obtain and maintain under this agreement shall provide that the insurer waives the right of subrogation against the City/Agency, its officers, employees, and agents, and than any loss shall be payable, notwithstanding any negligence of City/Agency, its officers, employees, or agents; and be issued by a responsible insurance company which is licensed to do business in the state of Oregon. Association shall provide to Agency a current certificate for each insurance policy. Each certificate shall provide that coverage under the policy cannot be canceled and restrictive modifications cannot be made until at least 30 days prior written notice has been given to City/Agency.

Section 4. Indemnification. Association shall indemnify, defend and hold harmless City/Agency, its officers, agents, and employees from any and all claims, actions, costs, damages, judgments, and other expenses resulting from any and all injuries to any person or damage to any property caused by the negligence or other tortuous acts of the Association or the Association's officers, agents, or employees. Association shall not be responsible for claims, actions, costs, damages, judgments, and other expenses resulting from injury to persons or property that is directly, solely and proximately caused by the negligence or other tortuous acts of the City/Agency, or the City/Agency officers, agents, or employees.

Section 5. Default. The failure of the Association to comply with any term or condition of this Agreement within 20 days after written notice is received from the City specifying the nature of the default with reasonable particularity. If the default is of such a nature that it cannot be completely remedied within the 20-day period, this provision shall be complied with if Association begins correction of the default within the 20-day period and thereafter proceeds with reasonable diligence and in good faith to effect the remedy as soon as practicable.

Section 6. Remedies on Default

6.1 Termination. In the event of a default, the agreement may be terminated at the option of Agency by providing written notice to Association.

6.2 Agency's Right to Cure Defaults. If Association fails to perform any obligation under this agreement, the Agency shall have the right, but not the obligation, to perform that obligation after 30 days' written notice to Association. Any expenditure of Agency to cure any such default on the part of the Association shall be reimbursed by Association on demand with interest at the rate of 7 percent per annum from the date of expenditure by Agency. Such action by Agency shall not waive any other remedies available to Agency because of the default.

6.3 Remedies Cumulative. The foregoing remedies shall be in addition to and shall not exclude any other remedy available to City/Agency under applicable law.

Section 7. Termination. Mutual Options to Terminate and Requirement of Notice of Termination. This agreement may be terminated by either party on giving written notice of the intent to terminate to the other party not less than three months prior to the date of the intended termination, by sending the required notice to the other party. The giving of notice shall not release either Agency or Association from full and faithful performance of all terms and conditions of this agreement after the notice of termination but before the Association actually halts operations at the premises.

Section 8. Miscellaneous

8.1 Nonwaiver. Waiver by either party of strict performance of any provision of this agreement shall not be a waiver of or prejudice the party's right to require strict performance of the same provision in the future or of any other provision.

8.2 Attorney Fees. If suit or action is instituted in connection with any controversy arising out of this agreement, the prevailing party shall be entitled to recover in addition to costs such sum as the court may adjudge reasonable as attorney fees at trial, on petition for review, and on appeal.

8.4 Notices. Any notice required or permitted under this agreement shall be given when actually delivered or 48 hours after deposited in United States mail as certified mail addressed to the address first given in this agreement or to such other address as may be specified from time to time by either of the parties in writing.

8.5 Succession. Subject to the above-stated limitations on transfer of Association's interest, this agreement shall be binding on and inure to the benefit of the parties and their respective successors and assigns.

8.7 Severability. If any provision of this agreement is held to be invalid by a court, such holding shall not affect any other provision of this agreement.

8.8 Entire Agreement. This agreement constitutes the final and complete agreement between the parties concerning the operation and management of the premises and supersedes all prior and existing written or oral understandings.

8.9 Amendments. This agreement may only be changed or modified by mutual agreement of the parties, in writing, and signed by both parties. Any attempted oral modification shall be invalid.

City of Coos Bay Urban Renewal Agency

Rodger Craddock, City Manager

Date

Coos Bay Downtown Association

Brian Bowers, President

Date

Exhibit A

Financial Best Practices

- All financial accounts shall be balanced and subsequently reviewed by the Board on a monthly 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.
- When events are held, 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 the event and turn it into the bookkeeper, along with any paper documentation of number of items sold and at how much.
- 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 Executive Director, but not if the check is issued to the Executive Director.
- 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.