

AGREEMENT

This is a Lease/Operation Agreement (“Agreement”) made and entered into this ____ day of August, 2016, by and between the TOWN OF ASHLAND, VIRGINIA (the “Town”), a municipal corporation whose address is whose address is 101 Thompson Street, P.O. Box 1600, Ashland, Virginia 23005, and _____ (the “Lessee”), _____ whose address is _____.

RECITALS:

The Town and the Lessee agree as follows:

1. **Consideration.** Consideration consists of the mutual promises and covenants contained in this Agreement, receipt of which is hereby acknowledged.
2. **Premises to be Leased.** The Lessee seeks to lease from the Town the use of the property known as the Ashland Theatre (the “Theatre”) located at 205 England Street, Ashland, Virginia 23005.
3. **Lease Term.** This Agreement shall take effect on _____ at 12:01AM and shall last for a period of ten (10) years, expiring on _____ at midnight. This Lease Agreement may be extended by mutual agreement of the Town and the Lessee for up to an additional ten years.
4. **Rental Amount.** The Lessee shall pay to the Town the sum of one dollar per month, due and payable on the first day of every month.
5. **Default.** In the event that the Lessee defaults under this Agreement, for any reason, the Town shall notify the Lessee, in writing, of the default. Within sixty days of having received notice of the default from the Town, if the Lessee has not corrected the default, the Town shall have the right to reenter and take possession of the Theatre and recover any and all resulting damages, including all costs and attorney’s fees.
6. **Improvements/Performance Agreement.** The Lessee agrees to timely perform such improvements to the Theatre and to operate the Theatre in accordance with the grant application (the “Application”) submitted to the Virginia Department of Housing and Community Development (“DHCD”) on _____, which is hereby incorporated by reference and included as Appendix A to this Lease Agreement along with the Theatre Design dated _____ and prepared by _____, which is hereby incorporated by reference and included

as Appendix B, and the Timeline, which is hereby incorporated by reference and included as Appendix C.

- A. **Payment of Invoices.** The Lessee shall promptly submit all invoices for reimbursement to the Town in accordance with the invoicing requirements of DHCD. All invoices submitted to the Town shall be in the format as prescribed by DHCD.
- B. **Fundraising Requirement.** The Lessee shall provide proof to the Town by October 1, 2016 that funding in the amount of \$75,000.00 has been raised through donations.
- C. **Job Creation.** The Lessee shall provide such documentation as may be required by the Town to demonstrate that the Lessee's use of the Theatre has created seven full-time jobs or the equivalent thereof. A full-time job shall be defined as an employee of the Lessee who is paid for working 35 hours per week. Therefore, the Lessee shall provide documentation that it has paid employees for working 12,740 hours, or more, annually.
- D. **Lien.** In the event that the Lessee shall receive notice of any lien related to the Theatre, the Lessee shall immediately notify the Town. The Town shall have no liability for or obligation as result of any material, materialmen's, or similar lien, which arises in connection with any work contracted for or arranged by the Lessee.
- E. **Virginia Public Procurement Act.** The Lessee agrees to adhere to the Virginia Public Procurement Act if required to by DHCD. The Lessee must submit to the Town, prior to execution, any contracts that potentially involve funds arising out of the Industrial Revitalization Fund.
- F. **Documentation/Financial Review.** The Lessee agrees to promptly allow the Town access to review any and all documents related to the operation of the Theatre and/or the improvements to the Theatre as may be requested by the Town. In addition, the Lessee shall provide such financial summaries, reviews and/or audits as may be requested by the Town.

- G. **Courtesy to Neighbors.** The Lessee agrees to notify all neighbors who could potentially be affected by the renovation work/improvements being performed on the Theatre. The Lessee agrees to minimize inconvenience to neighbors as much as possible, and to utilize options for work on the Theatre that least disrupts neighboring businesses.

Any other improvements that the Lessee should wish to make must be approved in writing by the Ashland Town Manager in advance.

7. **Improvements Property of Town.** Any and all improvements made to the Theatre shall become the property of the Town. Any items not affixed to the Theatre shall remain the property of the Lessee provided that the items are not purchased by the Lessee with any funding that comes from DHCD directly or indirectly.
8. **Rules.** The Lessee agrees to abide by the Theatre Rules and Regulations as approved and as may be amended in the future, by the Ashland Town Council, a copy of which is hereby incorporated by reference and attached as Appendix D.
9. **Amendment.** No amendment to this Agreement shall be effective unless it is in writing and signed by both parties.
10. **Ex-Officio Member.** One member of the Ashland Town Council shall serve as an ex-officio member of the Lessee board.

11. **Miscellaneous Provisions.**

- A. The Lessee shall keep all utilities in operation at all times, shall be responsible for the payment of all utilities in a timely manner, and shall ensure that the utilities are maintained in such a manner so as to prevent any damage to the Theatre.
- B. The Lessee shall maintain in full force and effect such casualty and liability insurance on or with respect to the Property, any personal property of the Lessee located in the Theatre, and with respect to the operation of the Property and shall name the Town as an additional insured.

- C. The Lessee agrees to abide by all federal, state and local laws and to use the Theatre in accordance with all federal, state and local laws.
- D. The Town will make necessary repairs to the Theatre with reasonable promptness after receipt of written notice from the Lessee for major repairs; major repairs shall include electrical, plumbing, heating, cooling, built-in appliances, and/or structural defects. The Lessee shall make, or cause to be made, all incidental repairs.
- E. The Town, or its agent, may enter the Theatre during reasonable hours to make inspections, repairs, additions, or alterations as may be deemed reasonably necessary. The Town, or its agent, may enter the Theatre at any time for emergency repairs that may be necessary.
- F. If any provision of this Agreement shall be declared invalid or unenforceable by a court of competent jurisdiction, then the remainder of this Agreement shall remain in full force and effect.
- G. The Lessee agrees to maintain the Theatre marquis and the poster box outside of the Theatre with current information as to upcoming events.
- H. The Town shall be permitted to use the Theatre for public meetings on a space available, or reservation, basis. The Lessee agrees to use best efforts to accommodate requests by the Town to use the Theatre for public meetings.

TOWN OF ASHLAND

By: _____(SEAL)
Charles Hartgrove, Town Manager

By: _____(SEAL)