

RESOLUTION NO. 86 -2014

**DIRECTING THE MAYOR TO EXECUTE THE AMENDMENT TO THE
MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF READING
AND THE FOUNDATION FOR THE READING PAGODA**

WHEREAS, the City of Reading ("City") is the fee simple owner of a piece of property located in the City of Reading, Berks County, Pennsylvania, known as the Reading Pagoda; and

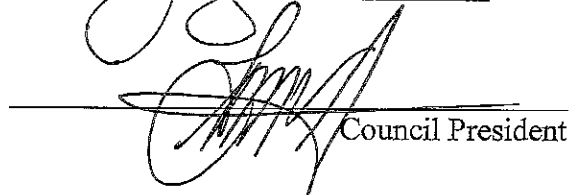
WHEREAS, the City and the Foundation for the Reading Pagoda jointly desire to find a long term solution to protect, enhance and preserve this valuable Reading landmark.

**NOW, THEREFORE THE COUNCIL OF THE CITY OF READING HEREBY
ORDAINS AS FOLLOWS:**

SECTION 1. That the Mayor is directed to execute the amendment to the Memorandum of Understanding between the City of Reading and the Foundation for the Reading Pagoda as attached in Exhibit A.

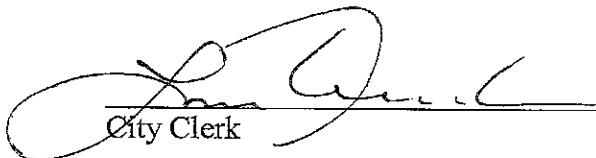
SECTION 2. This Resolution shall become effective immediately.

Adopted Jul 28, 2014



Council President

Attest:



City Clerk

EXHIBIT A

MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF READING AND THE FOUNDATION FOR THE READING PAGODA

WHEREAS, the City of Reading ("City") is the owner of a piece of property with improvements located in the City and known as the Reading Pagoda; and

WHEREAS, the Foundation for the Reading Pagoda ("Foundation") was established to assist in the preservation, enhancement, and maximum community utilization of the Reading Pagoda; and

WHEREAS, the City and the Foundation desire to set forth in writing certain understandings related to the Reading Pagoda; and

WHEREAS, this Memorandum of Understanding between the City and the Foundation will set forth the terms of these understandings:

1. The Reading Pagoda is an asset owned by the City and as such, the City is responsible for all repairs to insure the building's integrity and its safe operation. This includes, but is not limited to fuel oil, utilities, routine maintenance and capital repairs. The Foundation commits to working with the City for the Foundation to achieve the goal of being 100% self-sufficient for all operating and capital expenses within a reasonable time schedule.

2. The Foundation will operate all programming, events, and daily use at the Pagoda.

3. The Foundation will ensure appropriate staffing and supervision of all programming, events, and daily use at the Pagoda.

4. ~~In consultation with the City, The Foundation will set fees and guidelines for building rentals, and will divide all revenues from the Reading Pagoda in a manner to be mutually agreed upon by the City and the Foundation~~ as follows:

- a. The Foundation will share all rental income from events with the City: 75% to the Foundation and 25% to the City;***
- b. All other revenues generated by the Foundation via the Snack Bar, event charges for set-up, clean-up and security, and general donations shall accrue 100% to the Foundation as direct operational expenses. NOTE: The Gift Shop is operated by the Pagoda Skyline, Inc. and therefore their revenues do not contribute to the Foundation balance sheet and the Foundation's profit and loss.***

5. In consultation with the City, the Foundation will develop a long-term strategic plan for both the operation and the physical maintenance of the Reading Pagoda.

6. The Foundation will submit to the City ~~on a monthly basis both programming and financial reports~~ ***an annual report relevant to the Foundation's*** operation of the Reading Pagoda.

7. The City will continue to be responsible for the physical maintenance of all Reading Pagoda property which is owned by the City and managed by the Foundation.

8. The City will continue to assume all liability for the Reading Pagoda property and acts occurring thereon, and will maintain sufficient liability insurance for that purpose. ***The Foundation will increase and show evidence of liability insurance for events, functions, and receptions and other approved public gatherings held at the Pagoda proper. The Foundation agrees to review the liability insurance requirements with the appropriate City agency having jurisdiction.***

9. The City and the Foundation will establish an SOP for security at the Reading Pagoda.

10. ***The Foundation shall amend its bylaws by January 1, 2015 to include additional seats on its Board of Directors, 2 appointed by the Mayor and 2 appointed by the President of City Council.***

11. ***The City and Foundation recognize the fact that the intent of the Pennies for the Pagoda Campaign was, and still is, a program to support the Pagoda as a community asset and treasure. A temporary account was established with the City during the McMahon Administration to hold these funds. The funds were transferred to the Foundation for the Reading Pagoda (Pagoda Foundation/PF)***

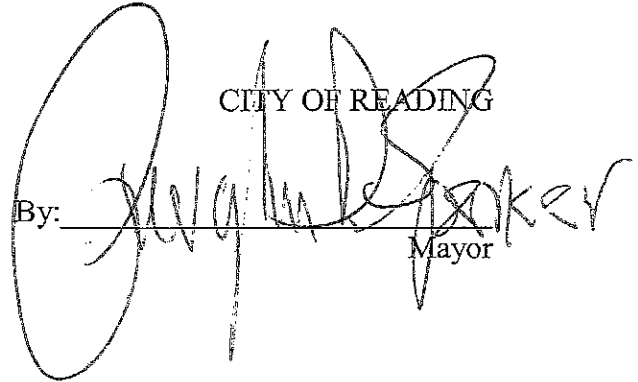
Subsequent to the transfer, the Administration, under the current Mayor, questioned the transfer. In order to clarify the transfer, an audit was performed on the Foundation's financial records by the City's external auditor, Herbein & Company and a second opinion was ordered by the Administration and issued by Maher | Duessel .

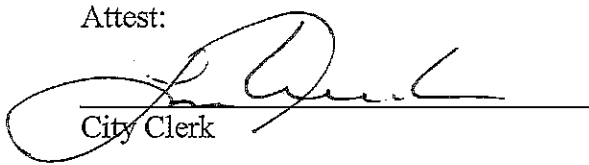
In order to remove any doubt that the funds were properly transferred from the City to the Foundation, the Foundation shall transfer the current Fund balance of \$36,153.18 to the City, with a simultaneous transfer of that same amount back to the Foundation by the City.

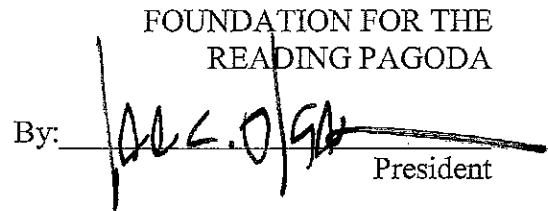
Henceforth, the Foundation will restrict the current Pennies for the Pagoda Fund balance of \$36,153.18, for legitimate capital repairs and/or renovations to the Pagoda.

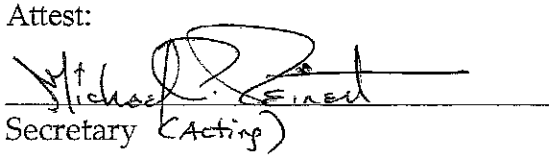
12. The City and the Foundation agree to take all action necessary to carry forth the provisions of this Memorandum of Understanding.

13. To the extent not otherwise covered by the terms of this Memorandum of Understanding, the City and the Foundation will consult with each other and mutually and jointly agree on resolution of any other issues in re the Reading Pagoda. All amendments to this Memorandum of Understanding shall be in writing and approved by the governing bodies of each party.

CITY OF READING
By:  Mayor

Attest:

City Clerk

FOUNDATION FOR THE
READING PAGODA
By:  President

Attest:

Secretary (Acting)