

COOPERATIVE AGREEMENT FOR EASEMENT ACQUISITION

THIS COOPERATIVE AGREEMENT FOR EASEMENT ACQUISITION (this “**Agreement**”) is made and entered into as of the ____ day of _____ 2024 by and between the **CITY OF MOBERLY, MISSOURI** a third-class city and a Missouri municipal corporation having a principal office at 101 West Reed Street, Moberly, Missouri 65270 (the “**City**”) and **JACOB STRAIN AND KAITLYN STRAIN**, husband and wife residing at 3154 Highway JJ, Moberly, MO 65270 (“**Strain**” together with the “**City**” the “**Parties**”).

RECITALS

A. Sections 70.210 through 70.320 of the Revised Statutes of Missouri, as amended, authorize Missouri municipalities to contract with any private person, firm, association or corporation for the planning, development, construction, acquisition, or operation of any public improvement or facility, or for a common service, provided, that the subject and purposes of any such contract or cooperative action are within the scope of the powers of such municipality.

B. City is in the process of locating a sewer main along and through residences which abut Highway JJ west of Moberly and Strain owns real property through which the City desires to obtain a permanent sewer easement

C. Strains are willing to provide the easement and City is willing to compensate the Strains for said easement as provided herein.

AGREEMENT

NOW, THEREFORE, in consideration of the premises and mutual covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto do hereby covenant and agree as follows:

1. The Project. The City received a Clean Water State Revolving Fund Regionalization Incentive Grant to replace wastewater treatment facilities along Highway JJ between Moberly and the City of Huntsville. The City is acquiring easements along the path of the new sewer line and must acquire an easement from the Strains.

2. Compensation. In exchange for the easement, a copy of which is attached hereto, the City agrees to cut and remove a tree which lies in the path of the sewer line on the Strain property and to pay the Strains One Thousand Five Hundred Dollars (\$1,500.00).

3. Easement Acquisition. Upon approval of this Agreement by the Moberly City Council, the Strains agree to execute the attached easement. Upon signature by the Strains the City will pay the agreed upon amount of \$1,500.00 to the Strains and record the easement in the land records of

Randolph County, Missouri. Thereafter the City will begin the installation of sewer infrastructure and remove the tree at that time.

4. No Waiver of Sovereign Immunity; Limited Public Liability; No Personal Liability.

Nothing in this Agreement shall be construed or deemed to constitute a waiver of the City's sovereign immunity. The parties hereto agree that in no event shall the City or any of its officials, agents, attorneys, employees, or representatives have any liability in damages or any other monetary liability to Strains or any successor, assign, heir or personal representative of the Strains in respect of any suit, claim, or cause of action arising out of this Agreement and Strains hereby waive any such claim. No official, officer, agent, attorney, employee, or representative of the City shall be personally liable to the Strains or the successors, assigns, heirs or personal representatives of the Strains in the event of any default or breach by any party under this Agreement.

5. Notices. Any Notice required by this Agreement shall be deemed given if deposited in the United States Mail, first class, postage prepaid and addressed as hereinafter specified.

If to the City: City of Moberly
 101 West Reed Street – City Hall
 Moberly, Missouri 65270
 Attn: City Manager

If to Strains: Jacob Strain
 3154 Highway JJ
 Moberly, MO 65270

Each party shall have the right to specify that notice is to be addressed to another address by giving to the other party Ten (10) days written notice thereof.

6. Entire Agreement; Amendment. The parties agree that this Agreement constitutes the entire agreement between them and that no other agreements or representations other than those contained in this Agreement have been made by the parties. This Agreement shall be amended only in writing and effective when signed by the authorized agents of the parties and when authorized and approved by the Moberly City Council.

7. Relationship of the Parties; No Third Party Right. Nothing contained in this Agreement nor any act of the Strains or the City shall be deemed or construed to create a partnership or agency relationship between the parties, or their agents or representatives and this Agreement is and shall be limited to the specific purposes set out in this Agreement. Other than as expressly provided in this Agreement, no party shall be the agent of, or have any rights to create any obligations or liabilities binding on, the other party. The parties do not intend to confer any benefit under this Agreement on any person or entity other than the named parties hereto.

8. Severability. In the event any term or provision of this Agreement is held to be unenforceable by a court of competent jurisdiction, the remainder shall continue in full force and effect, to the extent the remainder can be given effect without the invalid provision.

9. Binding Effect. Except as otherwise expressly provided in this Agreement, the covenants, conditions and agreements contained in this Agreement shall bind and inure to the benefit of Strains and the City and their respective successors and permitted assigns.

10. Choice of Law; Venue. This Agreement and its performance shall be governed by and construed by the laws of the State of Missouri applicable to contracts made and to be performed wholly within such state, without regard to choice or conflict of laws provisions. The parties hereto agree that any action at law, suite in equity, or other judicial proceeding arising out of this Agreement shall be instituted only in the Circuit Court of Randolph County, Missouri or in the Federal District Court for the Eastern District of Missouri and waive any objections based upon venue or *forum non conveniens* or otherwise.

11. Execution; Counterparts. Each person executing this Agreement in a representative capacity warrants and represents that he or she has authority to do so, and upon request by the other party, proof of such authority will be furnished to the requesting party. This Agreement may be executed at different times and in two or more counterparts, and all counterparts so executed shall for all purposes constitute one and the same instrument, binding on the parties hereto, notwithstanding that both parties may not have executed the same counterpart. In proving this Agreement, it shall not be necessary to produce or account for more than one such counterpart executed by the party against whom enforcement is sought.

IN WITNESS WHEREOF, the City and Strains have each caused this Agreement to be executed in multiple original counterparts in their respective names and attested to as of the date first above written.

CITY OF MOBERLY, MISSOURI
(the "City")

By: _____
Brandon L. Lucas, Mayor

ATTEST:

By: _____
Shannon Hance, City Clerk

JACOB STRAIN

KAITLYN STRAIN

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1. **Title:** PERMANENT SEWER EASEMENT
 2. **Date:** _____
 3. **Grantor:** Jacob Strain and Kaitlyn Strain, Husband and Wife
 4. **Grantee:** City of Moberly, Missouri
 5. **Mailing Address of Grantee:** 101 West Reed Street, Moberly, MO 65270
 6. **Legal Description:**

A TRACT OF LAND LOCATED IN THE SOUTHEAST QUARTER OF SECTION 33, TOWNSHIP 54 NORTH, RANGE 14 WEST, RANDOLPH COUNTY, MISSOURI AND BEING PART OF THE LAND DESCRIBED IN THE WARRANTY DEED RECORDED IN BOOK 881, PAGE 671 AND BEING PART OF THE SURVEY RECORDED IN BOOK B VOLUME 1, PAGE 38 AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF TRACT 2 OF SAID SURVEY AT THE SOUTH RIGHT OF WAY LINE OF STATE ROUTE JJ AND WITH THE WEST LINE OF SAID TRACT 2,

S 0°05'20"E, 20.00 FEET; THENCE LEAVING SAID WEST LINE, S 77°06'30"W, 68.11 FEET; THENCE N 88°03'55"W, 33.73 FEET TO THE WEST LINE OF THE TRACT OF LAND DESCRIBED IN SAID DEED RECORDED IN BOOK 881, PAGE 671; THENCE WITH SAID WEST LINE, N 0°07'35"E, 32.21 FEET TO THE SOUTHERLY RIGHT OF WAY LINE OF STATE ROUTE JJ; THENCE WITH SAID SOUTHERN RIGHT OF WAY LINE, N 88°56'25"E, 100.02 FEET TO THE POINT OF BEGINNING AND CONTAINING 2905 SQUARE FEET.

PERMANENT SEWER LINE EASEMENT

KNOW ALL MEN BY THESE PRESENTS:

THAT, Jacob Strain and Kaitlyn Strain, husband and wife, hereinafter called the Grantor, for and in consideration of one dollar and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby grant, sell and convey unto the City of Moberly, Missouri, a municipal corporation of the State of Missouri, hereafter called Grantee, a permanent easement or right of way for the location, construction, reconstruction, maintenance, removal, operation and repair of a sewer line or forcemain extension, and any and all appurtenances incidental thereto on, over, under and through the following described tract of land lying, being and situated in the City of Moberly, Randolph County, Missouri, to-wit:

A TRACT OF LAND LOCATED IN THE SOUTHEAST QUARTER OF SECTION 33, TOWNSHIP 54 NORTH, RANGE 14 WEST, RANDOLPH COUNTY, MISSOURI AND BEING PART OF THE LAND DESCRIBED IN THE WARRANTY DEED RECORDED IN BOOK 881, PAGE 671 AND BEING PART OF THE SURVEY RECORDED IN BOOK B VOLUME 1, PAGE 38 AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF TRACT 2 OF SAID SURVEY AT THE SOUTH RIGHT OF WAY LINE OF STATE ROUTE JJ AND WITH THE WEST LINE OF SAID TRACT 2, S 0°05'20"E, 20.00 FEET; THENCE LEAVING SAID WEST LINE, S 77°06'30"W, 68.11 FEET; THENCE N 88°03'55"W, 33.73 FEET TO THE WEST LINE OF THE TRACT OF LAND DESCRIBED IN SAID DEED RECORDED IN BOOK 881, PAGE 671; THENCE WITH SAID WEST LINE, N 0°07'35"E, 32.21 FEET TO THE SOUTHERLY RIGHT OF WAY LINE OF STATE ROUTE JJ; THENCE WITH SAID SOUTHERN RIGHT OF WAY LINE, N 88°56'25"E, 100.02 FEET TO THE POINT OF BEGINNING AND CONTAINING 2905 SQUARE FEET

TO HAVE AND TO HOLD the same for the aforesaid use with all rights, privileges, appurtenances, and immunities thereto belonging unto the Grantee, its successors and assigns for so long as said use shall continue, the Grantor hereby covenanting for its heirs and successors and assigns unto the Grantee, its successors and assigns the following:

1. Said easement will be kept free from buildings and any other structures or obstructions which will interfere with the Grantee in using said land for the purpose of erecting, constructing,

reconstructing, operating, repairing, and maintaining said sewer line or forcemain extension and appurtenances.

2. The right of Grantee, its agents, servants, employees, or independent contractor to go upon said land, and so much of the Grantor's adjoining land as may be reasonably necessary, at any time for the purpose of erecting, constructing, reconstructing, operating, removing, replacing, repairing, or maintaining said sewer line or forcemain extension and all appurtenances incidental thereto.

3. That Grantor is lawfully seized and possessed of the real estate above described, that they have a good and lawful right to convey the same; that it is free from all encumbrances done or suffered by them which would interfere with the rights granted hereunder; and that they will forever warrant and defend the title thereto against the lawful claims of all affecting the right and easement granted hereunder.

4. Grantee may exercise the rights granted under this instrument so long as Grantee utilizes the real estate above described for the purpose of erecting, constructing, reconstructing, operating, removing, replacing, repairing or maintaining said sewer line and once Grantee ceases such use this Easement shall terminate.

IN WITNESS WHEREOF, said Grantor does hereunder set his hand and subscribe his name to the foregoing, this ____ day of _____, 2024.

CITY OF MOBERLY, MISSOURI, Grantee

Grantors

By: _____
Brandon L. Lucas, Mayor

By: _____
Jacob Strain, Grantor

ATTEST: _____
Shannon Hance, City Clerk

By: _____
Kaitlyn Strain, Grantor

