

COOPERATIVE AGREEMENT FOR COMMUNITY GARDEN

THIS COOPERATIVE AGREEMENT FOR COMMUNITY GARDEN (this “**Agreement**”) is made and entered into as of the ____ day of _____ 2023 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 the **CENTRAL CHRISTIAN CHURCH, INC** (“**CENTRAL**”), a Missouri nonprofit corporation, (“**CENTRAL**” and 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. Central owns real property with a street address of 126 South 6th Street located in Moberly, Missouri which it desires to donate for use as a community garden. In order to use the property as a garden certain work must be completed including removal of a concrete pad measuring approximately 40’ X 20’ and locating utilities.

C. With Central’s permission, the City is willing to donate the labor and materials necessary to perform the concrete removal and the City will arrange for the location of utilities on the real estate.

D. In order to make the property ready for a community garden the parties desire to enter into this Agreement and to cooperate for the community betterment.

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 agrees to undertake the removal of the concrete pad located at 126 South 6th Street and to arrange for the location of all utilities on the property. Central agrees to allow the City to access its property for this purpose without any compensation.

2. 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 Central or any successor, assign, heir or personal representative of Central in respect of any suit, claim, or cause of action arising out of this Agreement and Central hereby waives any such claim. No official,

officer, agent, attorney, employee, or representative of the City shall be personally liable to Central or the successors, assigns, heirs or personal representatives of MCF in the event of any default or breach by any party under this Agreement.

3. 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 Central:

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.

4. 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.

5. Relationship of the Parties; No Third Party Right. Nothing contained in this Agreement nor any act of Central 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.

6. 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.

7. 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 Central, the City, and their respective successors and permitted assigns.

8. 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.

9. 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 Central 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: _____
City Manager

ATTEST:

By: _____
Shannon Hance, City Clerk

Central Christian Church, Inc.

By: _____
, President

ATTEST:

By: _____
, Secretary

