

DONATION AGREEMENT

This **DONATION AGREEMENT** ("Agreement") is entered into as of this _____ day of _____, 2024, by and between Wamsley Properties, LLC (mailing address of 605 Concannon, PO Box 958, Moberly, MO 65270 and a registered address of 1070 County Road 2607, Moberly, MO 65270) (hereinafter referred to as "Wamsley" or "Donor") and the City of Moberly, Missouri, a Missouri municipal corporation, having an address of 101 West Reed Street, Moberly, Missouri 65270 ("Donee" together with the Donor hereinafter referred to collectively as the "Parties").

RECITALS

WHEREAS Donee is a municipality of the State of Missouri and a gift to the Donee will constitute a "charitable contribution" within the meaning of Section 170(c)(1) of the Internal Revenue Code of 1986, as amended.

WHEREAS Wamsley owns certain real property described as Tract 1 on the attached Exhibit 1 all of which is located in Moberly, Randolph County, Missouri.

WHEREAS Donor desires to donate Tract 1 to Donee upon the completion of certain conditions contained herein and Donee wishes to accept such donation.

WITNESSETH

I. DONATION AND ACCEPTANCE.

Donor agrees to donate, convey and transfer to Donee, and Donee agrees to receive and accept from the Donor, all of the Donors' right, title and interest in and to Tract 1 subject to the terms, conditions and provisions stated herein.

II. DONATIVE INTENT.

Tracts 1 is being donated by the Donors to the Donee as a charitable gift. Tract 1 may be referred to herein as "the Property." Tract 1 is described on the attached Exhibit 1.

III. METHOD OF CONVEYANCE.

The conveyance by the Donor of Tract 1 shall be by quit-claim deed in the form of deed attached hereto and incorporated herein by reference as Exhibit 1.

IV. LEGAL STATUS OF DONORS.

Wamsley Properties is an active Missouri Limited Liability Company, and its members now consist of Patricia E. Wamsley and Jessica Wamsley. Pursuant to its Articles of Organization and

Operating Agreement the management of Wamsley is vested in the Manager. The Manager of Wamsley is Jessica Wamsley.

V. DONOR WARRANTIES AND REPRESENTATIONS.

Wamsley is conveying Tract 1 on an "AS IS" "WHERE IS" basis in its present state and condition and disclaims all warranties and representations of any kind or nature, whether oral or written, express or implied, concerning Tract 1 except the following:

- a. Wamsley is a duly organized and validly existing Limited Liability Company under the laws of the State of Missouri and has all necessary power and authority to enter into this Agreement and to perform and carry out the terms and conditions required of it hereunder.
- b. Wamsley is not a "nonresident alien," "foreign corporation," "foreign partnership," foreign limited liability donor," foreign trust" or foreign estate" within the meaning of Code Section 1445 and any related Treasury Regulations.

VI. DONEE WARRANTIES, REPRESENTATIONS AND ACKNOWLEDGEMENTS.

Donee hereby warrants and represents to Donor that it is a duly organized and validly existing municipal corporation under the laws of the State of Missouri and a political subdivision of the State of Missouri and has all necessary power and authority to enter into this Agreement and to perform and carry out the terms and conditions required of it hereunder.

Donee acknowledges that (i) it has inspected the Property to its full and complete satisfaction with the cooperation of the Donor, (ii) such inspection was undertaken by one or more persons of Donee's choosing, and (iii) it had reasonable and full access to the Property for the purposes of its inspection. Donee acknowledges that it has not relied, and does not rely, upon any warranties, representations, or statements concerning the Property other than those that are specifically included in this Agreement. Donee acknowledges the present state and condition of the Property and agrees to accept the Property, notwithstanding any known or unknown deficiencies or defects of or with respect to the Property except as provided in Section VII herein.

VII. TITLE AND SURVEY.

Donor agrees to provide Donee a copy (if any) of any title search/commitment/policy completed with respect to the Property, and a copy (if any) of any survey(s) of the Property. An Ownership and Encumbrance Report obtained by Donee states that the legal description for Tract 1 does not close. There appears to be missing calls and incorrect directions. Donor agrees to cooperate with Donee in the preparation of a boundary survey of Tract 1. The survey shall be at Donee's sole cost and expense.

a. Legal Description.

The legal description contained in the attached Exhibit 1 includes changes to the legal description used in the Warranty Deed vesting title in Wamsley and recorded April 28, 2008 highlighted in bold print the in the following description:

Beginning at the Northeast corner of Lot 14 of said Block 17 of the Original Town of Moberly; thence South 00 degrees 13' 25" East, a distance of 75.00 feet to the Northeast corner of Lot 17 of said Block 17; thence South 50 degrees 06' 25" West, a distance of 155.90 feet to the Northwest corner of Lot

21 of Lot 21 of said Block 17; thence South 00 degrees 13' 25" East, a distance of 100.00 feet to the Southwest corner of Lot 24 of said Block 17, said point also being on the Northerly right of way line of Rollins Street; thence along said Northerly right of way line, North 90 degrees 00' 00" West a distance of 140.00 feet to the Southeast corner of Lot 1 of said Block 17; thence North 00 degrees **13' 25" West**, a distance of 150.0 feet; **thence North 90 degrees 00' 00" East 130 feet to Center of Alley**; thence North 00 degrees 13' 25" West, a distance of 125.0 feet; thence North 90 degrees 00' 00" East, a distance of 130.0 feet to the Point of Beginning.

The parties believe this to be the correct legal description which is used in the deed attached hereto as Exhibit 1. In the event a boundary survey of the property differs from the description used herein, the Donor agrees to provide a corrected Quit Claim Deed to the Donee.

VIII. DOCUMENTATION AND DELIVERY OF INSTRUMENTS.

Prior to closing or otherwise as may be agreed to by the Parties, Donor shall deliver to the escrow agent, or such other person as may be designated by the Parties the executed Deed conveying all of Donor's right, title and interest in and to the Property along with such other documents as may be reasonably necessary to effectuate the terms and conditions of this Agreement.

IX. CLOSING.

Closing shall take place at the escrow agent's office, or such other place as may be agreed to by the parties. Closing shall take place within fourteen (14) days of the date the Moberly City Council approves and authorizes this Agreement by Resolution, or the completion of the boundary survey described herein, whichever date is later.

Donee will be responsible for the payment of the cost of recording the Deed and the Parties shall equally share all other costs or charges that may be associated with the closing.

X. COMMISSIONS OR FEES.

The Donor and Donee each represent to the other that they have not dealt with or contracted with any real estate agent or broker in connection with the transactions contemplated by this Agreement and are not aware of any real estate commissions that are or will become due to any person in connection with these transactions.

XI. ADDITIONAL TERMS AND CONDITIONS.

- a. Relationship of the Parties. Notwithstanding any provisions to the contrary in this Agreement, the Parties agree that their relationship with respect to the gift contemplated herein is one of donor and donee only, and no provision of this Agreement shall be construed to create any other type of status or relationship between the Parties with respect to such gift.

- b. Severability. If any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement, but this Agreement shall be construed as if such invalid, illegal or unenforceable provision had not been contained herein.
- c. No Waiver of Sovereign Immunity; Public Liability Strictly Limited. Nothing in this Agreement shall be construed or deemed to constitute a waiver of the Donee's Sovereign Immunity. The Parties agree that in no event shall the Donee, or any of its officials, officers, agents, attorneys, employees, or representatives have any liability in damages or any other monetary liability to the Donors or any successor, agent, assignee or representative of the Donor in respect of any suit, claim, or cause of action arising out of this Agreement.
- d. Waiver. The failure of either party to insist, in any one or more instances, upon a strict performance of any of the terms and conditions of this Agreement, or to exercise or fail to exercise any right contained herein, shall not be construed as a waiver or relinquishment for the future of such right, but the same shall continue and remain in full force and effect. The continued performance by either party of this Agreement with knowledge of the breach of any term or condition hereof shall not be deemed a waiver of such breach, and no waiver by either party or any provision hereof, shall be deemed to have been made, or operate as estoppel, unless expressed in writing and signed by such party.
- e. Entire Agreement. This Agreement contains the complete understanding and agreement of the parties with respect to the Property and the transactions that are the subjects of this Agreement. No oral statements, representations or agreements other than this Agreement shall have any force or effect and Donors and Donee agree that they will not rely on any representations or agreements other than those contained herein.
- f. Further Assurances. Any party, upon the request of another party, shall execute and deliver such further documents and instruments as such other party may reasonably request to carry out the terms and conditions of this Agreement, provided that such further documents and instruments are consistent with the terms and conditions of this Agreement.
- g. Survival. All agreements, representations and warranties hereunder shall be considered to have been relied upon and shall survive the execution and delivery of this Agreement and the conveyance of the Property being conveyed hereunder.
- h. Exhibits. The Exhibits attached hereto are a part of this Agreement.

XII. APPLICABLE LAW AND BINDING EFFECT.

This Agreement shall be construed and interpreted in accordance with the laws of the State of Missouri. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

XIII. COUNTERPARTS.

This Agreement may be signed by multiple identical counterparts with the same effect as if the signatures thereof and hereto were upon the same instrument.

EXECUTED AS OF THE DAY AND YEAR FIRST ABOVE WRITTEN.

DONOR
WAMSLEY PROPERTIES, LLC

By: Jessica Wamsley, Manager

ATTEST:

By: Patricia E. Wamsley, Member

DONEE
CITY OF MOBERLY, MISSOURI

By: Michael Buglaski, City Manager

ATTEST:

Shannon Hance, MRCC, City Clerk

EXHIBIT 1

TRACT 1: Beginning at the Northeast corner of Lot 14 of said Block 17 of the Original Town of Moberly; thence South $00^{\circ} 13' 25''$ East, a distance of 75.0 feet to the Northeast corner of Lot 17 of said Block 17; thence South $50^{\circ} 06' 10''$ West, a distance of 155.90 feet to the Northwest corner of Lot 21 of said Block 17; thence South $00^{\circ} 13' 25''$ East, a distance of 100.00 feet to the Southwest corner of Lot 24 of said Block 17, said point also being on the Northerly right of way line of Rollins Street; thence along said Northerly right of way line, North $90^{\circ} 00' 00''$ West, a distance of 140.0 feet to the Southeast corner of Lot 1 of said Block 17; thence North $00^{\circ} 00'$ East, a distance of 130.0 feet; thence North $00^{\circ} 13' 25''$ West, a distance of 125.0 feet; thence North $90^{\circ} 13' 25''$ West, a distance of 150.0 feet; thence North $90^{\circ} 00' 00''$ East 130 feet to center of alley; thence North $00^{\circ} 13' 25''$ West, a distance of 125.0 feet; thence North $90^{\circ} 00' 00''$ East, a distance of 130.0 feet to the Point of Beginning.