

## **COOPERATION AGREEMENT**

THIS COOPERATIVE EVENTS FUNDING AGREEMENT (this “**Agreement**”) is made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 2024, (the “**Effective Date**”) by and among MOBERLY COMMUNITY BETTERMENT, a Missouri not for profit corporation having a principal office at 211 West Reed Street, Moberly Missouri 65270 (“**MCB**”); the CITY OF MOBERLY, MISSOURI, a city of the third classification and Missouri municipal corporation having a principal office at 101 West Reed Street, Moberly, Missouri 65270 (the “**City**”); and the DOWNTOWN MOBERLY COMMUNITY IMPROVEMENT DISTRICT, a community improvement district and Missouri political subdivision established pursuant to sections [67.1401 through 67.1571](#) of the Revised Statutes of Missouri, as amended and having a principal office at 101 West Reed Street, Moberly, Missouri 65270 (the “**District**” and, collectively with each of the foregoing, the “**Parties**”).

### **RECITALS**

**A.** Sections 70.210 through 70.320 of the Revised Statutes of Missouri, as amended, authorize municipalities and other political subdivisions to contract and cooperate with other municipalities and political subdivisions and with any private person, firm, association or corporation for the planning, development, or operation of any public service, the subject and purposes of which are within the scope of the powers of such municipality or political subdivision.

**B.** The City with the support of the District has acquired a fee interest in certain real property located within the corporate limits of the District at Clark and Coates Streets consisting of the Fennel Building, the former Pro Auto Building, and portions of a building and open area formerly serving as the J. T. Cross Lumberyard, all as legally described on [Exhibit A](#), attached to and incorporated by reference in this Agreement (collectively, the “**Fennel Complex**”)

**C.** As part of a comprehensive downtown revitalization strategy, the City intends to improve and offer for rentals to public and private entities a certain portion of the Fennel Complex consisting of the open air northern half of the Fennel Complex as depicted and described on [Exhibit B](#), attached to and incorporated by reference in this Agreement (the “**Events Space**”) as a public events venue.

**D.** The Parties wish to sponsor certain public events to be held at the Events Space and promoted and organized by MCB in accordance with the schedules set forth in this Agreement and the City and the District each wish to contribute to the sponsorship of and otherwise assist MCB in the implementation of the public events, including, without limitation, the waiver of customary rentals for the Event Space, all as further provided in and subject to the terms and conditions of this Agreement.

### **AGREEMENT**

**NOW, THEREFORE**, in consideration of the above premises and mutual covenants and agreements contained in this Agreement, the Parties hereby agree as follows:

1. **Undertakings by MCB.** MCB shall provide all labor (whether by contract, employment, volunteer, or otherwise), materials, and expertise necessary to sponsor, organize, promote, and administer discrete public events consisting of a car cruise event with live music and cash bar (the “**Events**”) each to be held at the Events Space and on the dates and schedules set forth in paragraph 2 of this Agreement (collectively, the “**Event Dates**”). MCB shall at minimum:

(i) Secure the services of a licensed beverage provider, which may be a fraternal organization such as the Fraternal Order of Eagles or similar, to provide, supply, and operate the cash bar, on each Event Date and upon such terms as shall be commercially reasonable as determined by MCB;

(ii) For each Event Date secure live music by professional or semi-professional musician groups performing popular music such as jazz, rock, country, or pop;

(iii) For each Event Date secure upon such terms as shall be commercially reasonable as determined by MCB at least Three (3) motorized vehicles or trailers, properly licensed and equipped to cook, prepare, serve, and sell food at or near the Event Space; and

(iv) Provide promotion and pre-Event print and media advertising for each Event Date including, without limitation, attraction and securing of cruisers for the Car Cruise Event.

In securing the various goods and services specified in this paragraph 1, MCB may make such contractual arrangements as may be reasonably required and may retain all associated fees and charges, if any. All such contractual arrangements shall be in the name of MCB only. After conclusion of each Event on each Event Date, MCB shall be additionally responsible for waste disposal, clean-up and restoration of the Event Space to a “broom clean” finish.

2. **Event Dates and Schedule; Cancellation for Force Majeure.**

(a) Event Dates for 2023 and hours of operation shall be as follows:

|                    |                      |
|--------------------|----------------------|
| Car Cruise Events: | Friday, May 10;      |
|                    | Friday, June 14;     |
|                    | Friday, July 12; and |
|                    | Friday, August 9;    |
|                    | Homecoming 2024.     |

Hours of operation for each Event Date shall be as mutually determined by MCB and the City.

(b) Any Event on any Event Date may be cancelled by MCB for *force majeure*, including, without limitation, damage or destruction by fire or other casualty; strike; lockout; civil disorder; war; shortage or delay in shipment of material or fuel; acts of God including, without limitation, extreme weather events; or other causes beyond the parties’ reasonable control. An event constituting *force majeure* may be considered a basis for cancellation if occurring or reasonably expected to occur within 24 hours prior to any Event Date and in any such case no Party shall be considered in breach or default of its obligations under this Agreement. In the event of any such cancellation, MCB shall notify the

City and the District promptly upon a determination to cancel. In any such event, the City and the District reserve the right to reoccupy and reuse the Event Space including, without limitation, rental to a third-party user.

**3. Public Support; Sources and Uses of Funds.** The City shall waive all customary rental fees and costs for the Event Space for each Event Date. The District shall provide the following amounts to MCB in support of the Events which shall be used by MCB for the activities set forth opposite the respective amount:

\$250 per Event Date (total \$1,000) for advertising and promotion expenses; and  
\$7,950 single allowance for securing live music (for a grand total of \$8,950).

The foregoing amounts shall be sourced only from legally available monies. The Parties hereby acknowledge that the foregoing amounts may not represent the entire amount of costs and expenses for the associated activities or necessary to realize the Events and further acknowledge and agree that nothing in this Agreement shall require the City or the District to make available or to contribute additional funds or value over and above that specified in this paragraph 3.

**4. Insurance; Mutual Waiver and Release.** The City and MCB shall each obtain and maintain at all times during the term of this Agreement “all risk” fire and extended coverage insurance, commercial general liability insurance for the Events Space, which is commercially reasonable and in amounts and terms customary for similar activities elsewhere in Randolph County; *provided that* MCB and the City may each supply such insurance coverage under and through existing “blanket” policies. Each such insurance coverage shall name the District as an additional insured. In addition, the Parties each hereby waives and releases the other Parties and their respective officers, agents, employees, and attorneys acting under this Agreement from and against any and all claims, demands, actions, causes of action or other liabilities and/or damages, whether known or unknown, whether existing at law, by statute or in equity asserted or capable of being asserted by such Party or any officer, agent, or employee of such Party arising in any way from the Events or any of them as contemplated under this Agreement, or of the condition of the Events Space; *provided that* the foregoing waiver and release shall not apply in any case of gross negligence or willful misconduct by any officer, agent, or employee of such Party.

**5. Mutual Cooperation.** Each Party to this Agreement hereby agrees and covenants: **(i)** to cooperate in good faith with one another in each of the undertakings authorized by this Agreement; **(ii)** to promptly make and deliver such timely decisions as may be required to permit the other Parties to perform their obligations under this Agreement; **(iii)** to take such actions and execute and deliver such further documents and instruments as may be reasonably necessary to facilitate the undertakings authorized by this Agreement and which do not impair the rights of the acting or signing Party as they exist under this Agreement; and **(iv)** to otherwise aid and assist each other in carrying out the terms, provisions and intent of this Agreement.

**6. Further Representations.** Each of the Parties to this Agreement hereby represents and warrants to the other Parties as follows: **(i)** that such Party has full power and authority to execute and deliver and perform the terms and obligations of this Agreement applicable to such Party; and **(ii)** that such Party and the signatory below has been authorized by all necessary action to execute and deliver this Agreement, which shall constitute the legal, valid and binding obligation of such

Party, enforceable in accordance with its terms, subject to bankruptcy and other laws affecting creditors' rights generally and to general principles of equity.

7. **Notices.** All notices between or among the Parties hereto shall be in writing and shall be sent by certified or registered mail, return receipt requested, by personal delivery against receipt or by overnight courier, shall be deemed to have been validly served, given or delivered immediately when delivered against receipt or Three (3) business days after deposit in the mail, postage prepaid, or One (1) business day after deposit with an overnight courier, and shall be addressed as follows:

|                     |   |
|---------------------|---|
| If to MCB:          | Moberly Community Betterment<br>101 West Reed Street<br>Moberly, Missouri 65270<br>Attention: President and Board of Directors                |
| If to the City      | City of Moberly<br>101 West Reed Street – City Hall<br>Moberly, Missouri 65270<br>Attention: City Manager                                     |
| If to the District: | Downtown Moberly Community Improvement District<br>101 West Reed Street<br>Moberly, Missouri 65270<br>Attention: Chair and Board of Directors |
| with a copy to:     | Cunningham, Vogel & Rost, P.C.<br>333 South Kirkwood Road, Suite 300<br>St. Louis, Missouri 63122<br>Attention: Lyndee J. Rodamaker, Esq.     |

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.

8. **Term of Agreement; Limited Assignment.** This Agreement shall terminate upon the date which is One (1) Year from the Effective Date or earlier upon Thirty (30) days prior written notice from the terminating Party to the other Parties. This Agreement shall not be assignable by any Party without prior written consent of the other Parties.

9. **No Personal Liability.** No present or future official, agent, employee, or representative of any Party shall be personally liable to any other for any default, breach of duty or other claim arising from this Agreement or actions hereunder.

10. **No Waiver of Sovereign or Official Immunity.** Nothing in this Agreement shall be deemed or give rise to a waiver of the sovereign or official immunity of the City or the District.

11. **Relationship of the Parties; No Third-Party Beneficiaries.** Nothing contained in this Agreement nor any act of any Party shall be deemed or construed to create a partnership or

agency relationship among the Parties or between any Party and any other Party or their agents or representatives unless otherwise expressly provided in this Agreement and this Agreement is and shall be limited to the specific purposes set out herein. This Agreement is not intended to and shall not create any rights enforceable by any third-party beneficiary.

**12. Entire Agreement; Amendment.** The Parties agree that this Agreement constitutes the entire agreement among the Parties and that no other agreements or representations other than those contained in this Agreement have been made by the Parties with respect to the subject matter hereof. This Agreement shall be amended only in writing and effective when signed by the duly authorized agents of each of the Parties.

**13. 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.

**14. Choice of Law; Venue.** This Agreement and every question arising hereunder shall be construed or determined according to the laws of the State of Missouri. The Parties hereto each agree that any action at law, suit 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 federal court of the Eastern District of Missouri and waive any objection based upon venue or *forum non conveniens* or otherwise.

**IN WITNESS WHEREOF**, the Parties have each caused this Agreement to be executed in their respective names and caused their respective seals to be affixed thereto and attested to as of the date first above written.

**MOBERLY COMMUNITY BETTERMENT**

By: \_\_\_\_\_  
Printed name:  
Title:

ATTEST:

By: \_\_\_\_\_  
Title:

**CITY OF MOBERLY, MISSOURI,**

By: \_\_\_\_\_  
Mayor

ATTEST:

By: \_\_\_\_\_  
Shannon Hance, City Clerk

**DOWNTOWN MOBERLY COMMUNITY  
IMPROVEMENT DISTRICT**

By: \_\_\_\_\_  
Chair

ATTEST:

By: \_\_\_\_\_  
Secretary

EXHIBIT A

FENNEL COMPLEX – LEGAL DESCRIPTION

All of Lots One (1), Two (2), Three (3), Four (4), and Five (5) in Block Five of the Original Town Of Moberly, Missouri in Randolph County or more commonly known as 209 W. Coates Street.

All of Lots 6,7,8,9,10,11,12,13,14,15, 16, and 17 of Block 5 of the Original Town of Moberly, Missouri, Randolph County, Missouri, more particularly described as follows: Beginning at the center of a party wall and the SE corner of Lot 6 of the Original Town Of Moberly (a ½” iron rod, found N 87° 35’ 32” E, 0.10 feet); thence along the center of said party wall, S 87°35’52” W, 112.70 feet to a ½” iron pipe, (set) and the SW corner of said Lot 6; thence leaving the center of said party wall and along the West line of Lots, 6,7,8,9,10,11,12,13,14,15,16, and 17, N 02° 24’08” W, 378.70 feet to the intersection with the Southerly line of Sturgeon Street; thence leaving said West line and along said Southerly line along a curve to the right having a radius of 1042.28 feet, 138.62 feet a (long chord bears, S 56°51’03” E, 135.52 feet) to a ½” iron pipe (set) at the intersection with the East line of said Lots; thence said Southerly line and along said East line, S 02° 24’08” E, 298.16 feet to the Point of Beginning. The above-described tract of land contains 0.88 acres, more or less or more commonly known as 311 N. Clark and 315 N. Clark Street.

EXHIBIT B

EVENT SPACE

