

**NON-BINDING MEMORANDUM OF UNDERSTANDING**

This Memorandum of Understanding (hereinafter “MOU”) is entered into on the date of the last signatory noted below (hereinafter “Effective Date”) by and between the City of Columbia, Missouri (hereinafter “City”), a municipal corporation, and Friends of the Farm (hereinafter “FOF”), a partner group representing the following three nonprofit corporations organized in the State of Missouri Sustainable Farms & Communities Inc. (hereinafter “SF&C”), Columbia Center for Urban Agriculture (hereinafter “CCUA”), and Columbia Farmers Market, Inc. (hereinafter “CFM”).

**RECITALS**

- A. City owns approximately 19 acres of real estate located in and around the Activity & Recreation Center (hereinafter “ARC”) at 1701 W. Ash, Columbia, Missouri (hereinafter “Site”).
- B. SF&C is a Missouri 501C(3) not-for-profit corporation established to support a community food system that directly connects producers and consumers; to increase knowledge of sustainable food and farming issues; to nurture farmers markets; and to provide educational activities that enrich the community.
- C. CCUA is a Missouri 501C(3) not-for-profit corporation established to enhance the community’s health by connecting people to agriculture and the land through hands-on learning opportunities from seed to plate.
- D. CFM is a Missouri 501C(4) membership organization made up of area farm producers to improve the production and marketing of and stimulate public interest in local farm products. The CFM currently manages and operates a seasonal open air farmers market on the Site in cooperation with the SF&C.
- E. SF&C, CCUA, & CFM propose to raise funds for the construction of a Farmers Market Community Center (hereinafter “Facility”) and a Community Agriculture Garden (hereinafter “Garden”). The Facility is intended for use as a farmers market and community multi-purpose, year-round space and the Garden is intended to serve as an educational purpose for urban citizens unfamiliar with how their food is produced. The organizations are calling the group of partners FOF.
- F. City proposes to assume all maintenance, operating, and custodial costs associated with the Facility, and the FOF partner group is expected to pay a reasonable fee for use of the Facility and Garden area.
- G. The attached “Draft Clary-Shy Master Plan,” including the design of the Facility and Garden is provided only as a reference for fund raising goals and is subject to future revisions by partners, City staff and City Council. The determination of the final plans will follow the standard City of Columbia process for all capital improvement projects. It is

estimated that the final master plan will be presented to City Council for approval in the fall of 2018.

## UNDERSTANDING OF THE PARTIES

NOW, THEREFORE, the parties propose the following:

1. *Purpose.* The purpose of this Memorandum of Understanding is to set forth the general expectations of City and SF&C, CCUA, and CFM in order to enter into good faith negotiations with respect to the development and subsequent operation of the Facility and Garden on such terms and conditions as may be acceptable to City, SF&C, CCUA, and CFM.
2. *Non-Binding Memorandum of Understanding.*  
This MOU evidences the intention and desire of City, SF&C, CFM and CCUA to commit their time and financial resources to negotiate in good faith towards the development of the Facility and Garden to be located on the Site as generally described herein. This MOU is not a binding agreement upon City or FOF partners. The legal agreements reflecting the Project shall be set forth in definitive agreements subsequently negotiated, authorized and entered into by City and FOF. Either City or FOF shall have the ability to terminate such negotiations at any time. Each party shall bear its own expenses in connection with the negotiation of such definitive agreements.
3. *Friends of the Farm Fundraising.*  
FOF will raise funds towards the construction of the Facility and Garden. City will assist FOF where possible, including providing site schematics, facility guidance, and general knowledge. It is anticipated that the FOF will work with the City of Columbia's New Century Fund to serve as a vehicle for some of the donations for the Facility and Garden. The goal for Phase I fundraising by FOF is eight hundred thousand dollars (\$800,000.00) and will cover the cost of the garden, facility, and installation of infrastructure, such as utilities and parking. The donated funds raised for the Facility and Garden, shall be given to City for the express purpose of building these amenities. FOF and City will also be seeking grants and other funding resources that may be applied to the fundraising goal.
4. *Tax Credits.* If eligible, City will pursue the possibility of tax credits for this Facility from the Missouri Department of Economic Development and/or other sources.
5. *Fundraising Time Period.* The fundraising time period will be two (2) years from the Effective Date to raise the necessary funds to develop the Facility. If FOF does not reach its goal at the end of the two (2) year period, City and FOF may enter into discussions to:
  - a) Evaluate the amount of money pledged and raised and decide whether a scaled down Facility will meet the needs of both parties.
  - b) Extend the amount of time FOF has to reach its goal.
  - c) End the MOU between City and FOF.

6. *Friends of the Farm Naming Opportunities.* The Columbia City Council shall name the Facility. City shall consider naming recommendations suggested by FOF. FOF may name specific areas of the Facility after principal donors, subject to approval of the City.
7. *Facility and Garden Design Considerations and Requirements.* The Facility and Garden shall follow the general intent of the final master plan for the Site. The Facility will have an exterior look that will be complimentary to the Site, and other facilities surrounding the area and will be subject to the approval of City. The Facility will be designed to contain space for approximately 100 vendor stalls in the primary market area. The Facility may also include space for restrooms, a concession area, office/offices, and meeting area. The final design of the Facility may be a partially or completely enclosed pavilion-type structure and may include a separate restroom/meeting facility. The Facility and Garden design will be coordinated with all City and FOF partners. The Facility and Garden shall be fully ADA accessible. All signage shall comply with City code and will be subject to review and approval of City. The final design shall provide adequate infrastructure, such as utilities, parking, roads, landscaping and a storm water detention pond or comparable storm water facilities approved by City.
8. *Construction of the Facility and Garden.* Contingent upon the City Council's authorization for the construction of the facility following the public improvement process set forth in the City of Columbia Code of Ordinances and upon the appropriation of funds for the project, the City of Columbia will be responsible for the construction phase of the Facility, landscape, and all related hardscape and infrastructure needs, such as walkways, parking lots, lights, playgrounds, etc. City may work with FOF on projects where volunteer or donated labor and materials are viable options.
9. *Operation of the Facility.* The Facility shall be owned, maintained, and scheduled by City. City shall be responsible for establishing the hours of operation, scheduling, maintenance, and upkeep of the Facility.
10. *Shared Use of the Facility.* City and FOF partners will develop an annual calendar of use for the Facility each year, which shall be in writing and signed by the Parties no later than ninety (90) days prior to the start of the year. FOF's use of the Facility and Garden shall not interfere with City's use of the Facility and Gardens, and/or City property when not scheduled by FOF. FOF understands and agrees that City owns, maintains, and uses, the property as part of a public park system, recreational programming related thereto, and for other governmental purposes as needed. FOF agrees that the use of the Facility, Garden and Site is done as an accommodation to the FOF and is not an agreement by City to create a transferable business interest in City's property for the benefit of the FOF or to subordinate City's use of the property to FOF. The Facility shall be available for use by City, and FOF partners as follows:
  - a) *SF&C/CFM: SF&C/CFM shall have priority for use of the Facility as follows:*
    - i) Two days per week, tentatively Mondays & Wednesdays from 2:00 p.m. to 8:00 p.m. (to include set-up and take-down).

- ii) Saturdays: 6:00 a.m. to 3:00 p.m. This includes time needed for market set-up and removal of everything at the end of the market.
  - iii) The above days and times may be subject to change upon mutual agreement of City and SF&C/CFM provided the total number of hours of use remains substantially the same.
  - iv) SF&C/CFM may be granted additional use of the Facility at other times the Facility is available and has not been scheduled for use by City for other groups or activities. Additional use shall be subject to payment of a use rate to be established by Council ordinance as outlined in item b below.
- b) Facility Use Fees.
- i) To assist in meeting the operating and maintenance expenses of the Facility, SF&C/CFM shall pay to City an annual lease of one thousand dollars (\$1,000.00) per month for a total of twelve thousand dollars (\$12,000.00) per year for the initial term of the lease.
    - (1) This fee includes all utilities, electric, water, and sewer.
    - (2) Payment schedule shall be outlined in the final lease agreement.
  - ii) Additional Uses as Outlined in Items 9. a) iv).
    - (1) Standard user and/or rental fees shall be established by City ordinance for the additional use of the Facility as outlined in items 9. a) iv).
  - iii) City and SF&C/CFM will equally share in the costs for portable toilets until a permanent restroom facility is constructed.
  - iv) City's fiscal budget begins on October 1 and ends on September 30. On or before July 30 of each year, City shall notify all FOF partners of any changes to the fee ordinance that may become effective October 1.
  - v) It is intended that these fees shall only become payable once the Facility is constructed and is in use by the FOF partners.
- c) City of Columbia Programming:
- i) City retains the right to program the Facility as it deems appropriate during all hours of operation other than those assigned to SF&C/CFM.
  - ii) It is anticipated that the public reservation of the market structure will be made available on Saturdays starting at 4:00 p.m.
  - iii) City shall have the right to establish and charge appropriate facility use fees to all other groups and individuals using the Facility throughout the year.
11. *Community Agriculture Garden (Garden).*
- a) CCUA shall have access to the Site during established park hours to conduct needed maintenance and programming activities. Current park hours are 7:00 a.m. to 11:00 p.m. Emergency access shall be allowed if needed.
  - b) CCUA shall maintain the Garden area, including all orchards, compost, greenhouse, chicken coop areas, and other areas to be determined. CCUA shall keep Garden areas in tidy, aesthetically pleasing, and safe conditions.
  - c) Turf areas outside of the Garden shall be maintained by the Parks and Recreation Department.

- d) CCUA may make specific areas within the Garden area available for special event rentals. Each rental shall have approval from the Columbia Parks and Recreation Department.
  - e) Special events organized by CCUA or the FOF partners, like the Harvest Hootenanny, Member dinners, or Farm-to-Table Events, are anticipated to occur on Site. FOF shall consult with the City's Parks and Recreation Director regarding the special event. The Director, pursuant to Section 24-73 of the City Code of Ordinances, may refer the special event to the City event committee. If the Director does refer the special event to the committee, a special event permit shall be required for the special event. To obtain the special event permit for the special event, FOF shall comply with all requirements specified by the special event committee and the City of Columbia Code of Ordinances. The partners shall schedule these with Parks and Recreation staff in advance and rental fees established by ordinance shall be paid.. Money collected at these events shall be fully retained by the partner organization who organizes the event.
  - f) Pending final Clary-Shy Master Plan, other areas not included in this MOU will be addressed in the final agreement.
  - g) The utility and operating costs of the Garden shall be the responsibility of the CCUA. These utilities and operating expenses may include, but are not limited to: water, electricity, gas, program/maintenance supplies, program/maintenance staff time, and insurance. If possible, the utilities shall be registered in the name of CCUA. If that is not possible, an agreement shall be developed to reimburse City or other entity that pays for the utility service(s) directly.
12. *Concession Operations.*
- a) FOF partners shall have all concessions rights during their hours of operation as outlined in this MOU at locations agreed to by the parties and designated in writing in an agreement.
  - b) City shall have concession rights at all times and all locations not granted to FOF.
  - c) All parties involved with the selling of food and beverages shall adhere to all applicable Columbia/Boone County Health Department Regulations and City ordinances, federal and state laws, rules, and regulations in the operation of any concessions.
13. *Advertising Opportunities.* City and FOF partners may develop an advertising policy and an advertising revenue sharing program for the Facility for the term of the agreement. Both City and FOF shall have a right of refusal for potential advertisers.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have set their hands and seals as of the day and year written below to this non-binding MOU.

CITY OF COLUMBIA, MISSOURI

By: \_\_\_\_\_  
Mike Matthes, City Manager

Date: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Sheela Amin, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Nancy Thompson, City Counselor

FRIENDS OF THE FARM PARTNERS

By: Ken Pigg  
Ken Pigg, President Sustainable Farms &  
Communities

Date: 9/27/16

John Corn  
John Corn, President Columbia Farmers  
Market

Date: 9/27/16

Ellen Thomas  
Ellen Thomas, President Columbia Center  
for Urban Agriculture

Date: 9/28/16