MEMORANDUM OF UNDERSTANDING
BETWEEN
THE CITY OF STAUNTON
and
THE STAUNTON CREATIVE COMMUNITY FUND
for
COVID-19 FUND BENEFITTING STAUNTON BUSINESSES

This **MEMORANDUM OF UNDERSTANDING** (MOU), dated this 10th day of April 2020, is made by and between the **CITY OF STAUNTON, VIRGINIA**, a municipal corporation of the Commonwealth of Virginia, (the **City**) and **STAUNTON CREATIVE COMMUNITY FUND, INC.**, a 501(c)(3) organization and a corporation organized and existing under the laws of the Commonwealth of Virginia (**SCCF**).

1. <u>Recitals.</u>

1.1 The City and SCCF have had an ongoing relationship intended to help attract and support small entrepreneurial enterprises by which SCCF provides certain services to the City;

1.2 As part of its efforts, SCCF administers micro loans to entrepreneurs in the region, including those in the City of Staunton;

1.3 To complement the ongoing services provided by SCCF to Staunton businesses, in response to the current COVID-19 crisis, the City desires to engage SCCF to establish and administer an Emergency-Disaster Relief Loan Program (Program) from existing SCCF loan funds;

1.4 Because of the effects of the COVID-19 crisis, even as they continue to evolve, the Staunton City Council declared a local emergency-disaster;

1.5 The fund, to be in the amount of $100,000.00, is for the benefit of entrepreneurs/businesses, having a principal place of business and operations within the corporate limits of the City of Staunton, Virginia (Staunton Business/es). The Program will be available for 30 days following the date that City Council may declare an end to the local emergency-disaster;

1.6 It is the intent of this MOU for the City, in consideration of what SCCF commits, to provide technical assistance funds and loan loss reserve funds to be used by SCCF to administer loans to be made to qualified small Staunton Businesses; and

1.7 These recitals are an integral part of this Agreement.

2. <u>City Funding.</u> The City will provide funding for the Program in total amount, allocated and to be used as follows: an amount of $10,000.00 to cover administration of the Fund, and an additional amount of $15,000 to cover SCCF required loan loss reserves.

3. **Program Loan Decisions.** SCCF will use its loan review committee to review Program loan applications. Loan decisions will be made by a majority vote of the loan review committee.

4. **Payment by the City.** Upon approval of this MOU by the City and full execution of it by the authorized City and SCCF signatories, SCCF will invoice the City for $25,000.00. Within 30 business days of the receipt of the invoice, the City will pay the invoice in full to SCCF to administer and manage the Program. Upon the conclusion of loan terms for all Program borrowers, if there are any remaining loan loss reserve funds from loans that did not default, the SCCF will account to the City for the balance and promptly return those funds to the City.

5. **Program Borrower Profile.** The Program loans will have the following aspects: loans only to small Staunton Businesses already in continuous existence on March 16, 2020 be eligible. This is the date that the City of Staunton declared a local emergency in response to the COVID-19 crisis; 0% interest rate; a term generally of three years or less; principal amount of $1,000 to $5,000 per Staunton Business; collateral as determined by the loan review committee; and personal guarantees as determined by the loan review committee. Program loan repayments may be deferred for up to 6 months from the initial date of the loan.

6. **Risks of Program Loans.** Both the City and SCCF acknowledge that there are risks inherent in making loans to small businesses, especially more recently formed small businesses, and those under stress. The parties intend for the Program to help address the situation of qualified small Staunton Businesses related to the COVID-19 crisis. However, despite the best efforts made by SCCF and the loan review committee, some Program loans will go into default or require a modification of the loan terms because the loan may be non-performing.

7. **Program Loan Default.** In the event of a default by a Staunton Business, which event may include non- payment of the loan, closing or moving of the enterprise or operations out of the corporate limits of the City of Staunton, or other circumstance which constitutes a default according to the loan documents, then SCCF shall send written notice of such default and require the Staunton Business 30 days to cure the default. Additional follow up will follow the current terms of the established SCCF Loan Policies and Procedures.

8. **Good-Faith Business Judgment.** In reviewing the Program loan applications, SCCF and its loan review committee shall exercise its good faith business judgment as to appropriate loans. Any loan made by SCCF shall require a first lien on collateral pledged by the Staunton Business. The Staunton Business also may be eligible for other forms of loans administered by SCCF. The Staunton Business may also be eligible for grants available to it by governmental agencies, including the City.

9. **Monthly Reporting.** SCCF shall provide a monthly accounting and report to the City by the first Monday of each month. The report shall include status of loans but shall protect the privacy of the financial condition of the Staunton Business, to the extent permitted by law.

10. **Promotion.** SCCF will be responsible for the promotion of the Program and production of the marketing materials, including, but not limited to, logo tag development,

brochure, website, inclusion in the monthly newsletter, Facebook page, presentations, and so on. The City shall have a right to review such publications and provide suggestions prior to publication of content. SCCF will make Staunton Businesses aware of the Program.

11. **Governing Law; Counterparts.** This Agreement shall be governed by and construed under the laws of the Commonwealth of Virginia, without reference to its conflicts of laws principles, and may be executed in more than one counterpart, each of which will be deemed to be an original.

12. **Term and Termination.** This MOU will expire automatically on the later of the third anniversary of the date that this MOU is last executed, the expected time during which SCCF will have made Program loans and received complete repayment, or the date when no more Program loans are outstanding. In the event that the loan program proves to be impracticable at any time, this MOU may be terminated by either party with at least 30 days prior written notice. Any termination would not affect any outstanding Program loans or the existing rights of the City and SCCF under the provisions of this MOU.

13. **Amendment.** This MOU may be amended only by the written agreement of both the City and SCCF.

14. **Spirit of Continuing Cooperation.** It is the intent of the City and SCCF to continue to build a relationship so that SCCF may further attract and support Staunton Businesses by SCCF being in a sound position to apply for additional loan funds from various outside sources in the future. In no event, however, is the City or SCCF obligated beyond the provisions of this MOU; and neither has or is in an agency, partner, joint venture or other relationship with the other.

15. **No Third-Party Beneficiary**. This MOU does not create and may not be applied, construed or interpreted to create a third-party beneficiary.

CITY OF STAUNTON, VIRGINIA

By:____________________
Its City Manager

Date: 4-10-20

STAUNTON CREATIVE COMMUNITY FUND, INC.

By:____________________
Its Executive Director

Date: 04/10/2020