

PRELIMINARY WORKING DRAFT

201920 BLOOMINGTON COMMUNITY FARMERS' MARKET FARM VENDOR CONTRACT

In consideration for the privilege to participate in the 2019 Bloomington Community Farmers' Market ("Market"), the City of Bloomington ("City"), and the undersigned Vendor(s) ("Vendor") agree to the following:

1. ADMINISTRATION

The Market is administered by the Parks and Recreation Department of the City ~~following in accordance with~~ this contract ~~(the "Contract") and the Bloomington Community Farmers' Market Farm Vendor Handbook.~~ The City selects and approves of Vendors, sets fees and determines Market policies and criteria for eligibility. The criteria ~~of~~ eligibility it considers while reviewing applications are: that the Vendor produces goods in compliance with the Farm Vendor Handbook guidelines for the categories of goods the Vendor offers for sale; that the Vendor has had a positive history with the Market without prior contract violations; that the Vendor's products complement the product balance at the Market, that the Vendor is committed to the general mission of the Market; and that it is ~~generally~~ in the best interest of the Market, the public and the City to select the Vendor for the Market. The Market Manager and Master review applications and have the discretion to select Vendors who meet the criteria ~~of~~ eligibility and whose products most closely matches the City's mission for the Farmers' Market ~~closest~~. Both also oversee the Market and have authority to assign vending space, settle disputes and disqualify or terminate vendors for violations of this Contract or Market regulations.

2. ELIGIBILITY OF VENDORS

Following are definitions used, in part, to determine an individual's eligibility to vend at the Market:

"Producer" is a person who is consistently involved with and participates substantially in the production, including aspects like planting, cultivating, harvesting, and raising, of permitted goods sold pursuant to this contract.

"Primary Vendor" is a person who is a producer, is the person who owns, leases, rents or otherwise controls the land on which goods sold pursuant to this contract are raised and is the person who controls points for the Vendors on this eContract. The designation of "Primary Vendor" is determined by the vendor name listed first on this eContract.

"Vendor" is a person who is a producer or immediate family member of the Primary Vendor, as defined in this eContract, and has signed this eContract.

"Immediate Family" is defined ~~in this contract to be as~~ a parent, child, spouse or domestic partner of the Primary Vendor.

"Stand Assistant" is a person who assists the Vendor at Market, but does not fulfill the definition of Vendor set forth in this eContract. Stand Assistants must be accompanied by a Vendor ~~under this contract~~ in each and every distinct stand rented by the Vendor at a given Market. Stand Assistants cannot earn points for selling at Market.

Only individuals who are named as Vendors or Stand Assistants in this eContract may sell at the Market. A Vendor and a Stand Assistant working with that Vendor may sell only goods produced on land controlled by the Primary Vendor or on land on which the Primary Vendor's immediate family is a producer. A Vendor may be a party to only one Market contract and may have only limited financial interest in any other Market contract.

Stand Assistants must be listed by full legal name on the vendor application, and must sign this Contract as the Vendors do. If a Vendor wants any individual not listed on this Contract to serve as a Stand Assistant, the Vendor must let Market Staff know the name of the Stand Assistant by no later than 5 PM on the Thursday before the Market day, except in the case of a documented emergency. Failure to do so will result in the newly identified Vendor or Stand Assistant not being permitted to work at the following Saturday or Tuesday Markets.

"Innovative Farm Arrangement" is a farm arrangement that does not fit within the above established definitions of producer, primary vendor and/or vendor, but is determined to be within the scope and mission of the Market at the discretion of the Market Manager and Master based, in part, on information provided in the Innovative Farm Arrangement application.

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The Vendor agrees to abide by all applicable federal, state and local laws and ordinances, and agrees that the violation by the Vendor of such a law or ordinance may be deemed by the City to be a material breach of this contract.

3. OBLIGATION TO COMPLY WITH MARKET HANDBOOK AND APPLICATION

The 2019 Farm Vendor Handbook is hereby incorporated into this Contract herein by reference and is a part of this contract as fully as if it had been set forth herein. The 2019 Application completed by the selected and approved Vendor and the Exhibits for Value Added Foods (Exhibit A), Pet Foods (Exhibit B), Home Based Vendor Foods (Exhibit C), Aquaculture Foods (Exhibit D) and/or Shell Egg (Exhibit E) if applicable, are hereby incorporated herein into this Contract by reference and are made a part of this eContract as fully as if they had been set forth herein. The Any 2019 Innovative Farm Arrangement Application completed by the selected and approved Vendor is hereby incorporated herein into this Contract by reference and is made a part of this eContract as fully as if it had been set forth herein.

4. APPLICATION/AGREEMENT TO SELL

The Vendor must have completed in full and signed this eContract or be named in this eContract and have authorized another person to sign on his/her behalf and have paid all applicable rental fees by the deadline below before Vendor is allowed to sell any goods. Contracts must be signed and returned to the Parks and Recreation office at 401 North Morton Street, Suite 250 along with the Application by Monday, March 18, 2019, 20 or if the Vendor is reserving a space, at the time of the space reservation meeting on Monday, February 25, 2019 20. Innovative Farm Arrangement applications are due to the same office by Monday, February 4, 2019, 20. In the event a Vendor does not have a signed eContract on file by date set forth, it is in the discretion of the Market Master and/or Market Manager to determine the Vendor's eligibility to sell. Points will not be awarded until the Vendor has submitted a signed eContract and a complete and approved application.

5. GIFT CERTIFICATE PROGRAM/SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM PARTICIPATION

Vendors are encouraged to participate in the Farmers' Market Gift Certificate Program/Supplemental Nutrition Assistance Program (GCP/SNAP) organized by the City. Basic information on the GCP/SNAP is included on pages 15 and 16 of the Farm Vendor Handbook with more detailed information in the GCP/SNAP Farmer/Prepared Food Vendor Training Guide available from Market staff.

The primary vendor must indicate on the last page of this eContract whether or not he/she is participating in the (GCP/SNAP).

If the Vendor chooses to participate in the GCP/SNAP and is participating for the first time, Market staff will contact the Vendor to provide him/her with a GCP/SNAP Farmer/Prepared Food Vendor Training Guide and the City Vendor and EFT form to complete. If the Vendor has participated in the GCP/SNAP in previous years and accepted EFT payment, no further paperwork is necessary. If the Vendor chooses to participate in the GCP/SNAP, the Vendor agrees to attend a training or read the GCP/SNAP Farmer/Prepared Food Vendor Training Guide and abide by the rules established in the Training Guide. The Vendor understands he/she is responsible for Gift Certificates/Market Bucks from the time the Vendor receives them as payment until the time they are turned in for redemption.

6. CITY'S REMEDIES FOR BREACH; APPEAL

a) Violation of any material provision of this Contract ~~or the Farm Vendor Handbook~~ is a material breach and considered a default by the Vendor. Upon notice by the City to the Vendor of the occurrence of a breach or default ~~during Market hours~~, and the Vendor's failure to correct the breach within a reasonable period of time ~~at the Market~~, if the Vendor is in the Market at the time, the Vendor agrees to remove personal equipment, clean the area, and vacate the Market premises. Failure to vacate may not only subject the Vendor to immediate termination of this Contract, but may also subject the Vendor to civil and criminal remedies, including, but not limited to, remedies for civil and criminal trespass. If a breach or default is deemed not correctible and/or serious enough to merit immediate action, the Vendor may be subject to immediate termination of this Contract.

b) If the City has reason to believe that a Vendor did not produce the goods he/she is selling at the Market, or that other conditions exist that may constitute a violation of this Contract or adversely impact the health or safety of Market patrons or City employees, the City reserves the right to conduct an investigation which may include an unannounced inspection at the Vendor's property. The

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undersigned Vendor hereby authorizes the City to conduct such investigation and inspection. The Vendor also agrees to provide the City such opportunities as ~~it~~the City deems necessary to view and obtain copies of the Vendor's records related to the goods sold at Market. If the City determines, after investigation, that there is a reasonable likelihood that the Vendor did not produce the goods he/she offered for sale at the Market or has otherwise violated this Contract, the City may, in its sole discretion, declare a material breach.

c) Upon occurrence of a material breach of this Contract, the City reserves the right to declare this Contract terminated, by so stating in a written notice to the Vendor, and to retain, as liquidated damages and not as a penalty, any rental fees prepaid by the Vendor.

d) The City has the right to make ~~regulations~~rules regarding the Market and determine whether Vendors are in compliance with its ~~regulations~~rules. Vendors who are dissatisfied with a City decision to terminate a contract may appeal it in writing to the Advisory Council within ten days of receipt of notice of the decision, and may appeal the Advisory Council's decision in writing to the Board of Park Commissioners within ten days of receipt of the Advisory Council decision. The decision of the Board of Park Commissioners is final.

7. LAW AND VENUE

This Agreement shall be interpreted and construed according to the laws of the State of Indiana and venue of any dispute shall be Monroe County Circuit Court, Indiana.

8. COVENANT NOT TO SUE

The Vendor will not institute any action or suit at law or in equity against the City or City's agents or employees as a result of operations under this Agreement. The Vendor will not aid in the institution or prosecution of any claim for damages, costs, loss of services, expenses, or compensation for or on account of any damages, loss or injury to person or property as a result of operation under this Agreement.

9. SEVERABILITY AND WAIVER

In the event that any clause or provision of this Agreement is held to be invalid by any court of competent jurisdiction, the invalidity of such clause or provision shall not affect any other provision of this Agreement. Failure of either party to insist on strict compliance with any provision of this Agreement shall not constitute waiver of that party's right to demand later compliance with the same or other provisions of this Agreement.

10. LIABILITY AND INDEMNIFICATION

The Vendor is solely responsible for damages resulting from the sale of unsafe or unsound goods. The Vendor is solely responsible for damages or personal injury resulting from the use of umbrellas and other weather protection devices. The Vendor hereby agrees to indemnify, defend and hold harmless, ~~release, waive and forever discharge~~ the City of Bloomington, Indiana, its employees, agents and officers, including and the members of the Farmers' Market Advisory Council and the Board of Parks Commissioners, from and against any and all actions, costs, claims, suits, losses, expenses or damages ("Claims") for all bodily and personal injuries, including injuries resulting in death, and property damage, claims actions, damages, liabilities and expenses, including but not limited to reasonable attorney fees and court costs, which may ~~occur~~arise as a result of the Vendor's participation in the Market, whether or not sounding in tort or contract, and whether or not caused by a negligent act or omission of the City of Bloomington, its employees, agents or officers, or the members of the Farmers' Market Advisory Council or Board of Parks Commissioners.

11. NOTICES

Any notice required by this Agreement shall be made in writing to the addresses specified below:

Parks: Parks and Recreation Department
ATTN: Marcia Veldman.
City of Bloomington, P.O. Box 100
Bloomington, IN 47402,

Primary Vendor - Initial one:

Vendor chooses to participate in the GCP/SNAP and agrees to abide by the rules set forth in the Training Guide _____

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[DOCUMENT TITLE]

Vendor chooses NOT to participate in the GCP/SNAP _____

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[DOCUMENT TITLE]

This Contract is effective upon signature by Vendors and the Corporation Counsel and is valid only for the 2019 Market Season, terminating at the close of the Market on November 30, 2019.

Primary Vendor's Printed Name	Primary Vendor's Signature Market Registrant	Date
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Vendor's Printed Name	Vendor's Signature Market Registrant	Date
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Vendor's Printed Name	Vendor's Signature Market Registrant	Date
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Signature of parent or guardian if Vendor is age 18 or younger	Date
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Philippa M. Guthrie, Corporation Counsel	Date
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Kathleen Mills Les Coyne, President Board of Park Commissioners	Date
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Paula McDevitt, Parks Administrator	Date
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