

**FACILITIES USAGE AGREEMENT
BETWEEN THE CITY OF SANGER
AND
THE SANGER FARMER'S MARKET**

This AGREEMENT is made by and between the City of Sanger, Texas ("City") and The Farmer's Wife North Tx, LLC d/b/a Downtown Sanger Farmer's Market ("DSFM") City and DSFM may sometimes hereinafter be referred to individually as a "Party" or collectively as the "Parties "

WHEREAS, City is the owner of the area of land hereinafter called "The Sanger Downtown Park" and/or "Park"), and

WHEREAS, DSFM desires to agree so that DSFM may use a portion of the Park for a farmer's market, and

WHEREAS, City and DSFM have determined that such an agreement would benefit both parties, and

NOW, THEREFORE, in consideration of the mutual promises and covenants herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows

**Article I
Appointment, Term, Exclusivity**

- 1 01 The City hereby designates, appoints and authorizes DSFM to have the exclusive right to provide retail sales booths in the space shown in as Exhibit A and at such dates and times of operation as listed in Exhibit B This does not include the right to exclude the use of the playground facilities
- 1 02 DSFM hereby accepts such dates and times and agreed to discharge its responsibilities as provided herein during the term of this Agreement It is agreed and understood, however, that the City retains control and remains the owner of the property
- 1 03 The term of this Agreement shall be one (1) year commencing on the date of execution by the City and DSFM Prior to the expiration of the original term and before any renewal, the DSFM shall provide the City Council an update on the welfare and success of the DSFM Upon mutual consent, the parties with thirty days' notice may extend the agreement for an additional year Up to three (3) optional one-year terms may be granted

Article II

Rights and Duties of DSFM

- 2 1 DSFM will have the right to conduct the farmer's market activities in the park upon this agreement's execution beginning November 1, 2024 until October 31, 2025. Specifically, DSFM will have the exclusive right to operate retail booths comprising a Farmers Market in the park as defined by 25 TAC 25, Chapter 229 §§ 229.701 — 229.704
- 2 2 The dates and times listed for the DSFM shall be listed in Exhibit B. Coordination between DSFM and the city will ensure there are no conflicting events when a date for the market is proposed
- 2 3 DSFM acknowledges that Fourth Street will remain clear and unblocked by market operations. The City reserves the right to intervene if necessary
- 2 4 DSFM will strive to have 80% of participating vendors provide agriculture-based products and 20% producer made products
- 2 5 DSFM shall cease operation of any particular date at the request of City with at least 10 days' notice
- 2 6 DSFM acknowledges that the parking spaces located around the Park are public parking and may be occupied upon arrival for set-up but not vendor sales. In the case that vehicles are parked within spaces DSFM intends to utilize for set up, the City shall have no requirement to cause removal of any vehicles. If a vehicle is parked at the Park, DSFM shall set up the market in a way that the vehicle is not impeded from exiting
- 2 7 DSFM agrees to keep and restore the utilized area to an equal or better condition than that prior to any activities. This includes trash and debris pickup. The operator of DSFM shall collect trash in the area following market operations. Collected trash shall be transported to a dumpster or landfill. New trash bags should be placed in emptied trash receptacles before leaving the premise. DSFM shall make any and all repairs that may be necessary to repair or restore any damage caused by DSFM, its officers, agents, employees or invitees to space used under this Agreement
- 2 8 Electric and water hookups shall be provided by the City to DSFM and be available within the park as needed
- 2 9 DSFM shall provide at least two (2) porta-potties with hand-sanitizers
- 2 10 All food vendors shall hold all appropriate licenses and permits as required by the City's Planning Department. Failure to comply with any permitting requirements may result in a particular vendor being banned from participating in future markets at the City's discretion. All foods must be produced at a permitted food facility or comply with cottage food laws (ex. jams, jellies, honey, tamales, cheeses, etc.) This does not include

uncut produce vendors or vendors selling non TCS foods that are packaged and not sampled (ex jams, jellies, honey, etc that are not sampled on site)

- 2 11 DSFM shall comply with all local, state, and federal regulations This includes regulations of the Denton County Public Health office when applicable
- 2 12 DSFM and any vendors shall only engage in retail sales of agricultural products and other items customarily found in a farmer's market for sale to the general public
- 2 13 The City of Sanger shall have the right at no cost to utilize booth space at its discretion for community outreach purposes Examples include but are not limited to volunteer recruitment, animal shelter adoptions, library card enrollment, etc Requested booth space shall be coordinated with the DSFM a minimum of ten (10) days in advance

Article III Terms

- 3 1 The City and DSFM agree that the DSFM will pay the City TWENTY-FIVE HUNDRED DOLLARS (\$2500 00) for the initial term of market operations This shall be paid in quarterly (4) payments of \$625 00 The initial payment shall be due to the City within seven (7) days of the execution of this agreement All payments shall be made every 90 days after the initial payment
- 3 2 The City and DSFM agree that the DSFM will pay the City FIVE THOUSAND DOLLARS (\$5000 00) for any subsequent option term of market operations This shall be paid in quarterly (4) payments of \$1250 The initial payment for the option term shall be due to the City within seven (7) days of the execution of the option to extend this agreement All payments shall be made every 90 days after the initial payment for the option
- 3 3 DSFM shall be required to pay Two Hundred Dollars (\$200 00) as a clean-up fee in the case that the property is not restored to the condition prior to activities The fee shall be assessed at the City's discretion
- 3 4 DSFM shall ensure the compliance and abidance of vendors with the DSFM handbook See Exhibit C

Article IV Insurance and Hold Harmless

- 4 1 DSFM agrees to provide the City with a certificate of insurance as proof that it has secured and paid for a policy providing general liability insurance covering all risks related to the use, maintenance, existence, or location of the areas used under this Agreement The amounts of such insurance shall not be less than \$1,000,000 00 for personal injury or death for each occurrence

42 City shall be named as an additional insured under the above-described policies, and each such policy shall contain endorsements waiving subrogation rights against City and providing that such policies may not be canceled unless City is provided with written notice of such intent to cancel at least thirty (30) days before any such cancellation. Each such insurance policy shall be procured from a company authorized to do business in the State of Texas and shall be satisfactory to the City. DSFM shall provide evidence satisfactory to the City that such coverage has been procured and is being maintained at all times during the term of this Agreement.

43 **DSFM SHALL, AT ITS SOLE COST AND EXPENSE, INDEMNIFY AND HOLD HARMLESS CITY AND ALL ITS OFFICERS, DIRECTORS, EMPLOYEES, AND AGENTS, AND ANY OFFICER, EMPLOYEE, OR OFFICIAL OF THE City of Sanger, TEXAS (HEREINAFTER REFERRED TO AS "INDEMNITEES"), FROM AND AGAINST ANY AND ALL LIABILITY, OBLIGATIONS, DAMAGES, PENALTIES, CLAIMS, LIENS, COSTS, CHARGES, LOSSES AND EXPENSES (INCLUDING, WITHOUT LIMITATION, REASONABLE FEES AND EXPENSES OF ATTORNEYS, EXPERT WITNESSES AND CONSULTANTS), WHICH MAY BE IMPOSED UPON, INCURRED BY OR BE ASSERTED AGAINST THE INDEMNITEES BY REASON OF ANY ACT OR OMISSION OF DSFM, ITS PERSONNEL, EMPLOYEES, AGENTS, CONTRACTORS OR SUBCONTRACTORS, RESULTING IN PERSONAL INJURY, BODILY INJURY, SICKNESS, DISEASE OR DEATH TO ANY PERSON OR DAMAGE TO, LOSS OF OR DESTRUCTION OF TANGIBLE OR INTANGIBLE PROPERTY, LIBEL, SLANDER, INVASION OR PRIVACY AND UNAUTHORIZED USE OF ANY TRADEMARK, TRADE NAME, COPYRIGHT, PATENT, SERVICE MARK OR ANY OTHER RIGHT OF ANY PERSON, FIRM OR CORPORATION WHICH MAY ARISE OUT OF OR BE IN ANY WAY CONNECTED WITH DSFM'S OPERATION, MAINTENANCE, USE OR CONDITION OF THE AREAS DESIGNATED FOR DSFM'S USE UNDER THIS AGREEMENT**

Article V Severability

51 If any provision of this Agreement is held to be invalid, illegal or unenforceable by a final order entered by a court of competent jurisdiction, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired. For purposes of this Agreement, a court order shall be final only to the extent that all available legal rights and remedies pertaining to such order, including without limitation all available appeals, have been exhausted.

**Article VI
Termination**

- 6 1 The City and DSFM retain right to terminate this Agreement at any time, provided Thirty (30) days' notice is given in advance of said Termination. Should DSFM violate any term of this Agreement, the Thirty-day notice is waived and the Agreement may be terminated upon notification to DSFM by City.

**Article VII
Independent Contractor**

- 7 1 In executing this Agreement and in performing their respective obligations, the City and DSFM are acting independently and not in any form of partnership or joint venture. The City assumes no responsibilities or liabilities to any third parties in connection with this Agreement.

**Article VIII
Miscellaneous**

- 8 1 City may be excused from performance under this Agreement when performance is prevented as the result of an act of God, strike, war, civil disturbance, epidemic, or court order, provided that City has prudently and promptly acted to take any and all steps that are within City's control to ensure performance and to shorten the duration of the event of Force Majeure. If City suffers an event of Force Majeure, it shall provide notice of the event to the DSFM immediately. Subject to this provision, such nonperformance shall not be deemed an event of default.
- 8 2 All notices required or permitted by this Agreement will be delivered either (a) by certified mail, postage prepaid, effective five days after mailing, or (b) by hand delivery, effective upon delivery, in either case addressed as follows (or to such other address as a party may specify to the other party by notice delivered in accordance with the terms hereof):

To DSFM.

Sanger Farmer's Market
Amber Whitworth-Spigner
info@dsfarmersmarket.com
307 Bolivar St
Sanger, Tx 76266

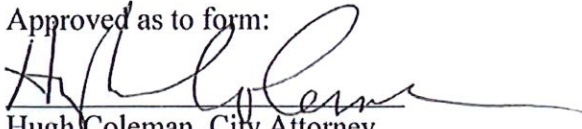
To the City

City of Sanger
John Noblitt
JNoblitt@sangertexas.org
c/o City Manager
502 Elm Street
Sanger, Tx 76266

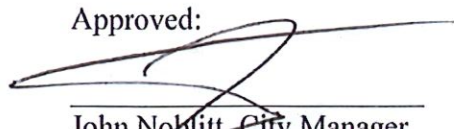
- 83 This written Agreement constitutes the entire Agreement between the Parties, and any prior oral agreement which purports to vary from the terms hereof shall be void
- 84 This Agreement shall not be amended or modified other than in a written agreement signed by both Parties. Any amendment, modification, addition or change to this Agreement shall be in writing and shall be approved and executed in the same manner as this Agreement
- 85 Neither Party may assign or transfer this Agreement or any interest in this Agreement without prior written consent of the other Party
- 86 Regardless of the actual drafter of this Agreement, this Agreement shall, in the event of any dispute over its meaning or application, be interpreted fairly and reasonably and neither more strongly for or against either Party
- 87 This Agreement is made and shall be construed in accordance with the laws of the State of Texas and venue for any dispute arising out of this Agreement shall lie in Denton County, Texas
- 88 Nothing contained in this Agreement shall be construed as a waiver of the city's governmental immunity, or of any damage caps or limitations imposed by law, or any other legal protections granted to the city by law, except to the extent expressly provided or necessarily implied herein
- 89 Nothing contained in this Agreement shall be construed as the granting of any permit or permission required by any city ordinance or regulation, or the waiver of any requirement of any city ordinance or regulation

(Signature pages to follow)

Approved as to form:


Hugh Coleman, City Attorney
City of Sanger

Approved:


John Noblitt, City Manager
City of Sanger

EXECUTED this 6 day of December, 2024.

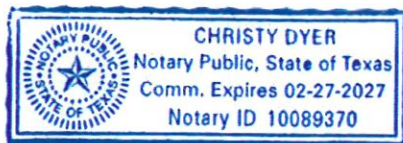
BY: Thomas E. Muir
Thomas Muir, Mayor City of Sanger

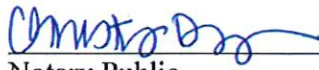
STATE OF TEXAS §

COUNTY OF
DENTON §

This instrument was acknowledged before me on 6 day, December, 2024 by
Thomas E. Muir, Mayor of the City of Sanger, on behalf of said municipality.

Given under my hand and seal of office this 6 day of December, 2024.




Notary Public

EXECUTED this 11th day of December, 2024.

By: 
Amber Whitworth-Spigner


President - The Farmer's Wife North Tx, LLC d/b/a Downtown Sanger Farmer's Market

STATE OF TEXAS §

COUNTY OF
DENTON §

This instrument was acknowledged before me on 11 day, December, 2024 by Amber Whitworth-Spigner, President - The Farmer's Wife North Tx, LLC d/b/a Downtown Sanger Farmer's Market, on behalf of said Company.

Given under my hand and seal of office this 11 day of December, 2024.


Notary Public

