

AN ORDINANCE OF THE CITY OF WILDWOOD, MISSOURI, AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH NATALIE MCAVOY FOR THE MANAGEMENT AND OVERSIGHT OF THE CITY-SPONSORED FARMERS MARKET FOR THE 2024 SEASON.

WHEREAS, the City of Wildwood's history speaks to an agrarian culture that dates back to the earlier settlers of Missouri, many of which farmed and raised livestock to meet their daily needs and for commerce; and

WHEREAS, as growth has occurred over the past century in this area, remnants of this past culture have survived and, in some locations, prospered, as property owners work to preserve the rural lifestyle of this community; and

WHEREAS, for more than a decade, one of the primary requested services from residents to the City Council was the provision of a Farmers Market, as part of that desired rural lifestyle; and

WHEREAS, the City Council did explore many options for a facility of this nature, but for a number of years not owning property, along with its limited staff, a farmers market remained elusive, until 2009; and

WHEREAS, with the development of the Wildwood Town Center Project by Koman Properties, Inc., the City received a dedication of land for a public plaza and a new network of streets, along with easements for public purposes that finally offered an appealing location for such a venue; and

WHEREAS, with areas for this venue now to operate, a proposal from an individual to manage it, and a funding amount set aside by the City to support it, a Farmers Market facility was opened in Wildwood in 2009; and

WHEREAS, each year, the contract with the Market Manager(s) is reviewed and, now, City officials believe it is appropriate to offer this position for the upcoming 2024 Season to the manager of the facility in 2023, who has significant background and enthusiasm about this type of facility and the opportunities it offers here in the City of Wildwood; and

WHEREAS, Natalie McAvoy is a long-time resident of Wildwood, has been a loyal market attendee, and has first-hand experience in presentation of large-scale events to significant groups of attendees, which, since 2018, has led to the most successful seasons to date; and

WHEREAS, Ms. McAvoy has reviewed the attached agreement and found it to be acceptable and, with her concurrence, it is now ready for final action by the City Council, all in accordance with the procedures and practices for the approval of such working relationships between private entities and the City of Wildwood.

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF WILDWOOD, MISSOURI, AS FOLLOWS:


Section One. The City Council of the City of Wildwood, Missouri hereby authorizes the Mayor of the City of Wildwood, Missouri to complete the necessary steps to authorize the Farmer Market Manager's Agreement for the 2023 Season with Natalie McAvoy for the management and oversight of the City-sponsored Farmers Market within the Town Center Area, of which said entity shall act as its Market Manger in all aspects of its scheduling, day-to-day operation, and record-keeping, along with ensuring the area of the venue is ready and available for vendors and customers alike on the agreed timeframes. This Agreement is hereto attached as Exhibit B and hereby made a part of this Ordinance.

Section Two. The total compensation to be provided to the Farmers Market Manager under this Agreement shall not exceed a total of nineteen thousand dollars (\$19,000.00), of which, one thousand dollars (\$1,000.00) of this total amount is intended to be used by this individual for dues and memberships in the appropriate organizations relating to the sale of agricultural products in this fashion.

Section Three. The provisions of this Agreement are limited to the contents contained therein and any representations made beyond this document to the otherwise will not be honored.

Section Four. This Ordinance shall be in full force and effect upon its passage and approval.

This Bill was passed and approved this 8TH day of JANUARY, 2024, by the Council of the City of Wildwood, Missouri, after having been read by title, or ~~in~~ full, two (2) times prior to its passage.



Presiding Officer



James R. Bowlin, Mayor

ATTEST:

ATTEST:



City Clerk



City Clerk



WILDWOOD®

MARKET MANAGER AGREEMENT

City of Wildwood, Missouri

2023 Season

THIS MARKET MANAGER AGREEMENT (hereinafter, "Agreement"), dated as of this 8th day of January, ~~2023~~²⁰²⁴, is made by and between the CITY OF WILDWOOD, Missouri, a municipal corporation of the State of Missouri (hereinafter, "City"), and NATALIE McAVOY (hereinafter, "Manager").

WHEREAS, the City promoted the development of the Town Center Plaza to serve, in part, as a community events facility to attract residents and visitors, and

WHEREAS, the City desires to sponsor a weekly, producer-oriented farmers market (the "Farmers Market") within and around the Town Center Plaza, and

WHEREAS, the City desires to again engage Natalie McAvoy as Manager of the Farmers Market, and Natalie McAvoy desires to perform, management services with respect to the Farmers Market, as set forth herein and pursuant to the terms and conditions of this Agreement.

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

1. **Term of Agreement; Renewal.**

The term of this Agreement shall commence on January 1, 2024, and end on December 31, 2024 (the "Term"). This Agreement can be renewed annually, at the discretion of City and prior to the end of the Term, by delivering written notice to Manager of the City's intent to renew the Term. After such a renewal, the Term for the renewal (a "Renewal Term") will begin on the next January 1 that follows the notice of renewal and will end on December 31 of that same year. There is no expectation of or obligation to renew the Term of this Agreement.

2. **Farmers Market Hours of Operations.**

The Farmers Market normal hours of operation shall be between 8:00 A.M. to 12:00 P.M., every Saturday, from May 25 up to and including October 5 (2024) (the "Market Season"), as weather and produce availability permits. The Farmers Market normally operates at 221 Plaza Drive. However, either the City or the Manager may change the location of the Farmers Market to another area of the Town Center due to the occurrence of special events or inclement weather. After the end of the Market Season, the Farmers Market may remain open at the discretion of the Manager for the remainder of the Term. During any Renewal Term, the Market Season shall begin upon a mutually agreeable Saturday in May and shall end on the first Saturday in October. The Farmers Market must be open to the public for at least three and one-half (3.5) hours each Saturday during the Market Season. The City reserves the right to change or extend the Market Season and hours of operation at its sole discretion and to exclude certain hours and/or days as the City deems necessary

to provide for other events within the Town Center Plaza. Manager shall notify the City, as soon as practicable, if Manager desires to change the normal hours/days of operation. The City shall approve or deny the Manager's request in its sole discretion.

3. Duties and Obligations of Manager.

The following are the duties and obligations of the Manager:

- a. Act as the administrator of the Farmers Market, thereby exercising general supervision over the Farmers Market and all of its activities;
- b. Keep the operation of the Farmers Market functioning smoothly and effectively, while ensuring it is producer oriented;
- c. Create rules and regulations governing vendor operations, to be approved by the City, in its sole discretion;
- d. Apply and enforce the Farmers Market rules and regulations governing vendor operations;
- e. Arrive to the Farmer's Market prior to its opening each week to prepare the Town Center Plaza for the vendors, including but not limited to, insuring the availability of electrical connections for vendors, cleaning the Town Center Plaza of garbage or debris, and erecting appropriate signage for the Farmers Market;
- f. Obtain and maintain, throughout the Term and any Renewal Term, general liability insurance for the Farmers Market, in appropriate amounts and coverages, as set forth in Paragraph 10 of this Agreement;
- g. Solicit potential vendors providing local products, including but not limited to produce, plants, flowers, seafood, food for sale, arts and crafts, nuts, baked goods, breads, pastas, jams, jellies and any other products common in a producer-oriented Farmers Market;
- h. Create a venue for a kids' tent, as part of the operation of the Farmers Market, on an intermittent basis, based upon interest;
- i. Present all proposed vendors to the City for approval in the City's sole discretion;
- j. Ensure that all vendors maintain general liability insurance covering their operations and any employees working for vendors at the Farmers Market during all times that the vendors are selling goods at the Farmers Market;
- k. Require vendors to submit Certificates of Insurance for such insurance coverage;
- l. Keep all vendor Certificates of Insurance on file, and provide copies to the City;
- m. Collect vendor fees from all vendors in accordance with this Agreement, which are to be retained by the Manager;
- n. Ensure that all vendors are in compliance with City and St. Louis County health and sanitary codes;
- o. Inform vendors that they may be subject to and must consent to background checks;
- p. Organize and administer a system allowing vendors to reserve and check-out tables and tents for their booths and return the tables and tents at the conclusion of each day of operation;
- q. Manage end of market activities, including the removal of tables and tents after the Farmers Market closes on each Saturday and ensure that all tables and tents are properly stored, and that the Town Center Plaza and surrounding properties are free of litter and trash associated with the Farmers Market operation;
- r. Maintain books, records, and accounts for a period of three (3) years relating to the operation of the Farmers Market including, but not limited to, vendor fees, sales, licenses, insurance, and agreements;
- s. Advise all vendors as to their obligation to collect and remit sales tax;
- t. Maintain memberships, in good standing, with the appropriate organizations and/or associations to promote the Farmers Market and its associated activities;

- u. Be on site, or have an authorized representative at the Farmers Market, during all hours of operations;
- v. Obtain the appropriate license(s) and authorizations from applicable governmental authorities if beer and wine will be sold at the Farmers Market in connection with special events; and
- w. At the end of the Market Season, remove vendor-owned property from the Town Center Plaza, notify the City of any damage to the Town Center Plaza that is caused by a vendor, and submit to the City a Financial Report for the Market Season.

4. Duties and Obligations of the City.

The City shall contribute the following to the Farmers Market:

- a. Provide space within the Town Center Plaza, and surrounding locations, to accommodate the Farmers Market;
- b. Allow the use of on-street parking, as well as the public parking garage located south of the Plaza Drive, for vendors and customers of the Farmers Market;
- c. Authorize the use of City-funded electricity at the Farmers Market site to provide power for vendor activities;
- d. Provide marketing and advertising of the Farmers Market in City publications including *The Gazette*, the City's e-mail newsletters, portable reader board, and the City's website;
- e. Procure all tables and tents for vendor use, as well as storage space for tables and tents, along with providing portable toilets, washing stations, trash receptacles, and at least one (1) trash dumpster for each day of operation of the Farmers Market;
- f. Provide police services, when requested or needed by the Manager;
- g. Provide the use of a City-owned vehicle for use between the parking garage and 221 Plaza Drive. Manager shall provide verification of insurance for said use of vehicle;
- h. Coordinate communications between the Farmers Market and surrounding businesses;
- i. Provide business cards to the Manager for promotional purposes relating to the Farmers Market; and
- j. To the extent required by the Code of Ordinances of the City of Wildwood, the City shall issue any necessary business licenses to the Manager upon application for the same by the Manager.

5. Rights Reserved by the City.

In addition to other rights reserved herein, the City reserves the following rights:

- a. To establish, in association with the Manager, the amount of fees that vendors must pay to reserve space at the Farmers Market, with all vendor fees to be retained by the Manager;
 - i. The reservation fee shall be no less than twenty dollars (\$20.00) per week for one space, with limited additional spaces available for an extra ten dollars (\$10.00) per week.
- b. To authorize the participation of a vendor or vendors at the Farmers Market, regardless of type, in the City's sole discretion;
- c. To terminate vendors' rights to participate in the Farmers Market at any time for any reason, in the City's sole discretion;
- d. To terminate this Agreement at any time and for any reason, in compliance with Paragraph 7 of this Agreement;
- e. To discontinue the Farmers Market operations at any time;
 - i. If the Farmers Market closes permanently, the Manager reimburse vendors for vendor fees on a prorated basis.

- ii. However, the City will not reimburse vendors for costs associated with obtaining a City of Wildwood business license.
- f. To review the books and accounts of the Manager relating to the operation of the Farmers Market including, but not limited to, those records pertaining to vendor fees, insurance, vendor licenses, agreements, and sales; and
- g. To maintain and operate a vendor booth at the Farmers Market facility each week during the Market Season, at no charge, to support the City's community garden effort in the Town Center.

6. Compensation.

In addition to its retention of the vendor fees, the City shall pay Manager the total sum of Eighteen Thousand Dollars (\$18,000.00) for the services the Manager renders to the City hereunder, payable as follows: Two Thousand Five Hundred Dollars (\$2,500.00) shall be paid to the Manager within fifteen (15) days of the date of this Agreement, with the remaining Fifteen Thousand Dollars (\$15,500.00) to be paid in equal monthly installments of One Thousand Four Hundred Nine and 09/100 Dollars (\$1,409.09) on or before the 15th day of each month (beginning in February and up to and including December) during the Term. The City shall reimburse the Manager for membership costs, dues to organizations, payment of conference fees, and compensation for advertising activities, up to a maximum of One Thousand Dollars (\$1,000.00) for the total of all such costs, so long as the Manager provides the City's with receipts for such costs. The City, in its sole discretion, shall determine whether such costs qualify for reimbursement under this Paragraph.

7. Termination.

This Agreement may be terminated at any time by the City, with or without cause, upon the giving at least thirty (30) days prior written notice to the Manager of such termination.

8. Nature of Relationship.

The parties intend that an independent contractor relationship be created by this Agreement. Neither Manager, nor her representative(s) or principal(s), are to be considered employees or agents of the City for any purposes, except as to carry out the duties contemplated hereby, nor shall they represent themselves as such. The Manager is not entitled to any benefits provided by the City to its employees.

9. Indemnification.

The Manager shall and does hereby indemnify, defend and hold harmless the City, and the City's appointed and elected officers, agents, and employees from and against any and all actions, proceedings, investigations, claims, demands, losses, costs, expenses, obligations, liabilities, damages, recoveries, and deficiencies, including interest, penalties, and reasonable attorneys' fees and costs (collectively, "Claims"), that City may incur or suffer as a result of or relating to any willful or negligent act of the Manager or a vendor, or the failure of the Manager to perform any of the representations, covenants, and agreements contained in this Agreement, and for such Claims relating to the injury or death of any person or damage to any property arising from the operation of the Farmers Market.

10. Insurance.

The Manager shall procure and maintain for the duration of the Term, and any Renewal Term, insurance against claims for injuries to persons or damages to property, which may arise from or in

connection with the performance of the services under this Agreement by the Manager. All such insurance policies shall name the City as an ADDITIONAL INSURED with a subrogation waiver. Each insurance policy required by this Paragraph shall be endorsed to state that coverage shall not be suspended, voided, cancelled by either party, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, or by such other method approved by the City, has been given to the City. The Manager shall maintain Comprehensive General Liability or Broad Form Comprehensive General Liability to cover claims, which may arise from operations under this Agreement. The policy shall include, but not be limited to, protection for the following hazards:

- a. Premises and Operations – Bodily Injury & Property Damage Liability
- b. Independent Contractors Coverage
- c. Products & Completed Operations Liability coverage
- d. Personal Injury Liability and Advertising Injury Liability
- e. Broad Form Property Damage
- f. Contractual Liability

The above policy shall be written with limits of at least \$1,000,000 each occurrence and \$2,000,000 aggregate. The Manager's insurance coverage SHALL BE PRIMARY INSURANCE with respect to the City, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees or volunteers shall be excess of the Manager's insurance and shall not contribute with it. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the City, its officers, officials, employees or volunteers. The Manager's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability. Insurance is to be placed with insurers with a Bests' rating of no less than A:VI. Manager shall furnish the City with certificates of insurance. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf, and are to be received and approved by the City before work commences. The City reserves the right to require complete, certified copies of all required insurance policies, at any time.

11. Entire Agreement.

This Agreement constitutes the entire agreement between the parties, superseding any and all other agreements, either oral or written, between the parties hereto. Each party to this Agreement acknowledges that no representations, inducements, promises, or agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any parties, which are not embodied herein, and that no other agreement, statement, or promise not contained in this Agreement shall be valid or binding. Any modification of this Agreement will be effective only if it is in writing signed by the party to be charged.

12. Partial Invalidity.

If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

13. Choice of Law.

The rights and obligations of the parties shall be governed by, and this Agreement shall be construed and be enforced in accordance with, the internal laws of the State of Missouri, notwithstanding that state's choice of law rules.

14. Counterpart Facsimile Execution.

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. A document (or signature page therein) signed and transmitted by facsimile or telecopier is to be treated as an original document (or signature). No party may raise the use of a facsimile machine or telecopier as a defense to the enforcement of any document sent by such means.

15. City Council Approval.

This Agreement shall not be valid or binding on the City until approved by the City Council.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first written above.

"CITY"

CITY OF WILDWOOD

By: _____



Name: _____

Jim Bawlin

Title: _____

Mayor

"MANAGER"

NATALIE McAVOY

