

THE STATE OF TEXAS §
 § KNOW ALL MEN BY THESE PRESENTS
COUNTY OF FORT BEND §

RELEASE AND SITE USE AGREEMENT

This Release and Site Use Agreement (“Agreement”) is made and entered into by and between Fort Bend County Texas, (hereinafter referred to as “County”), a body corporate and politic, acting by and through its governing body, the Commissioners Court, and Farmers Market Company, LLC, (hereinafter referred to as “Company”), a company authorized to conduct business in the State of Texas.

- Section 1: Pursuant to this Agreement, County grants Company the right to use a portion of its Sienna Annex parking lot, located at 5855 Sienna Springs Way (“Annex Lot”), indicated as “Area for Farmers Market Use” on the site sketch attached as Exhibit “A” and incorporated herein for all purposes, to operate a Farmer’s Market on Saturdays from 9:00 a.m. to 2:00 p.m. each week.
- Section 2: The term of this Agreement shall be effective upon signature of the last party hereto and extend for a period of one (1) year, which may renew for an additional one (1) year period upon written notice by Company to County of its intent to renew upon mutually acceptable terms. Either party may terminate upon written notice to other party provided thirty (30) days in advance.
- Section 3: Company shall exercise reasonable care in the conduct of its activities at such County property and further agrees to replace or reimburse County for any supplies that may be used by Company, its officials, contractors, agents, employees or invitees during its weekly use. Immediately after each use, Company, at its sole cost and expense, shall take all reasonable measures to restore the Annex Lot to the condition which existed prior to such use.
- Section 4: Company agrees to accept the Annex Lot to conduct its activities, in the condition in which it exists upon execution of this Agreement, without any representations, statements, warranties, express or implied, in respect to its condition, for the proposed use, and in no event shall County be liable for any defects therein.
- Section 5: In consideration as set forth above, the Company hereto has this day released and by this Agreement does release, acquit, and forever discharge County, its agents, servants, and employees and all persons in privity from any and all future claims or causes of action of any kind whatsoever, at common law, statutory or otherwise, which might arise hereafter, directly or indirectly attributable to the Company’s use of the Annex Lot for the operation of a Farmer’s Market.

Section 6: The Company agrees to and shall indemnify and hold harmless County, its officials, employees and agents, from and against any and all claims, losses, damage, causes of action, suits, and liability of any kind, including all expenses of litigation, court costs, attorney's fees, bodily injury, sickness, disease or death as a result of Company's use of the Annex Lot for the operation of a Farmer's Market.

Section 7: Prior to the date of the its initial use, Company shall furnish County with properly executed certificates of insurance which shall evidence all insurance required and provide that such insurance shall not be canceled, except on 30 days' prior written notice to County. Company shall provide certified copies of insurance endorsements and/or policies if requested by County. Company shall obtain such insurance written on an Occurrence form from such companies having Best's rating of A/VII or better, licensed or approved to transact business in the State of Texas, and shall obtain such insurance of the following types and minimum limits:

- A. Workers' Compensation insurance in accordance with the laws of the State of Texas. Substitutes to genuine Workers' Compensation Insurance will not be allowed.
- B. Employers' Liability insurance with limits of not less than \$1,000,000 per injury by accident, \$1,000,000 per injury by disease, and \$1,000,000 per bodily injury by disease.
- C. Commercial general liability insurance with a limit of not less than \$1,000,000 each occurrence and \$2,000,000 in the annual aggregate. Policy shall cover liability for bodily injury, personal injury, and property damage and products/completed operations arising out of the business operations of the policyholder.
- D. Business Automobile Liability insurance with a combined Bodily Injury/Property Damage limit of not less than \$1,000,000 each accident. The policy shall cover liability arising from the operation of licensed vehicles by policyholder.

County and the members of Commissioners Court shall be named as additional insured to all required coverage except for Workers' Compensation. All Liability policies including Workers' Compensation written on behalf of Company shall contain a waiver of subrogation in favor of County and members of Commissioners Court. If required coverage is written on a claims-made basis, Company warrants that any retroactive date applicable to coverage under the policy precedes the effective date of the contract; and that continuous coverage will be maintained or an extended discovery period will be exercised for a period of 2 years beginning from the date of the initial event.

Section 8: Company shall require any provider of services for the Farmer's Market who serves alcoholic beverages to have a valid license through the Texas Department of Alcohol and Beverage Control (TABC). The service providers who will be serving alcohol for sale are required to have Liquor Liability Insurance of \$1,000,000 coverage in addition to basic insurance coverage.

Section 9: This Agreement shall become effective upon signature of the last party.

AGREED:

FORT BEND COUNTY, TEXAS

AGREED:

FARMERS MARKET PARTNERS, LLC

KP George, County Judge

Thomasine Johnson, Authorized Representative

Date

Date

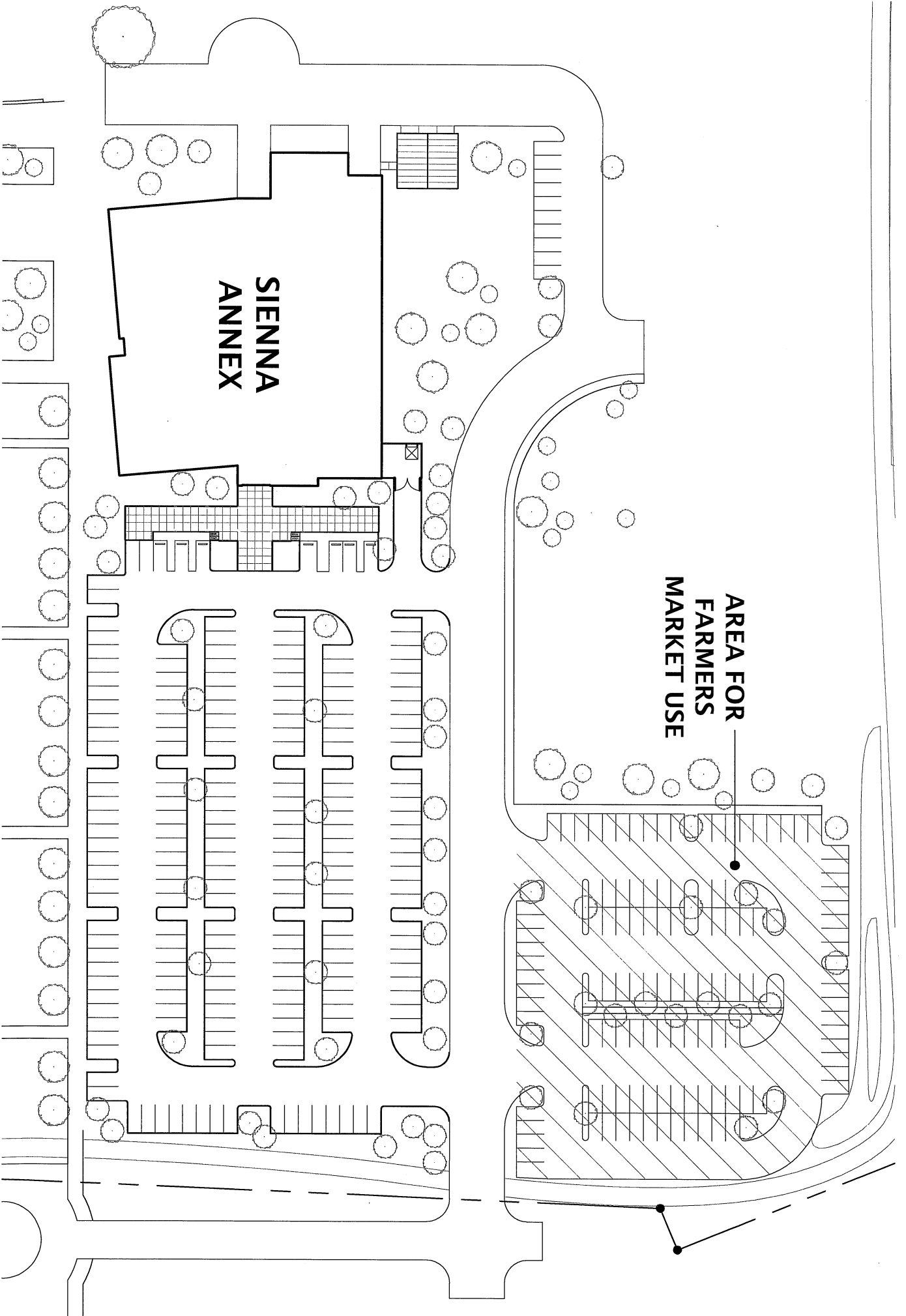
ATTEST:

Laura Richard, County Clerk

APPROVED:

James Knight, Director
Facilities Management and Planning

EXHIBIT A



**SIENNA
ANNEX**

**AREA FOR
FARMERS
MARKET USE**