

**RESOLUTION**

BE IT RESOLVED BY THE BOARD OF ALDERMEN OF THE CITY OF NEW BERN:

That the Lease Agreement dated May 9, 2017 by and between the City of New Bern and New Bern/Craven County Area Farmers' Market, Inc., a copy of which is attached hereto and incorporated herein by reference, be and the same is hereby approved, and the Mayor and City Clerk are hereby authorized and directed to execute the same, in duplicate originals, for and on behalf of the City.

ADOPTED THIS 9<sup>TH</sup> DAY OF MAY, 2017.

  
DANA E. OUTLAW, MAYOR

  
BRENDA E. BLANCO, CITY CLERK

STATE OF NORTH CAROLINA

COUNTY OF CRAVEN

LEASE AGREEMENT

THIS LEASE AGREEMENT is made and entered into as of the 9<sup>th</sup> day of May, 2017, effective as of July 1, 2017, by and between the CITY OF NEW BERN (“Lessor”), a North Carolina municipal corporation, and NEW BERN/CRAVEN COUNTY AREA FARMERS’ MARKET, INC. (“Lessee”), a North Carolina non-profit corporation, collectively referred to as the “Parties.”

**WITNESSETH:**

THAT WHEREAS, the Lessor owns the real property located at 421 South Front Street in the City of New Bern, said parcel being identified by Craven County Tax Parcel Number 8-001-D-031 and more specifically described in Exhibit A (“Premises”); and

WHEREAS, the Lessor has agreed that the Lessee may lease the Premises for use as a farmers’ market and other activities more specifically described herein, subject to the terms and conditions established herein; and

WHEREAS, the Lessor has determined that the Premises will not be needed by the Lessor for the term of the Lease, and if a need arises, the Lessor may terminate the Lease pursuant to the provisions contained herein; and

WHEREAS, the Parties have agreed upon the terms of a Lease and wish to reduce their agreement to writing.

NOW, THEREFORE, subject to the terms and conditions hereinafter set forth, said Lessor does hereby let and lease unto said Lessee, and said Lessee does hereby accept as tenant of said Lessor, the Premises.

TO HAVE AND TO HOLD said Premises, together with all privileges and appurtenances thereunto belonging to it, the said Lessee, its successors and assigns, for the term and upon the conditions hereinafter set forth:

1. The term of this Lease shall be for a period of five (5) years commencing at 12:01 a.m. on July 1, 2017, and terminating at midnight on June 30, 2022.
2. Lessor shall have the right to terminate this Lease effective as of June 30, 2021 by giving written notice to the Lessee no later than June 30, 2020.
3. During the term of this Lease, the Lessee shall be responsible for maintaining and repairing both the interior and exterior of the Premises so that the Lessor will have no obligation

whatsoever with respect to the maintenance or repair of the leased Premises during the term of this Lease.

4. The Lessee shall maintain hazard insurance, wind and hail insurance, and public liability insurance in such amounts as shall be approved from time to time by its governing board, with the advice and consent of the Board of Aldermen of the City of New Bern. The Lessor shall be named as an additional insured in each policy carried by the Lessee and shall be provided with a copy of the Certificate of Insurance.

5. If, during the term of this Lease, the Premises are damaged or destroyed by fire or other casualty, the Lessee shall repair such damage as quickly as is reasonably possible. The Lessor specifically agrees that proceeds of any insurance policy then in force may be used by the Lessee for that purpose. Should the Lessee fail or neglect to cause said repairs to be made, or in the case of total destruction, the improvements to be rebuilt, within a period of twelve (12) months of the date of the casualty, this lease shall be terminated, and Lessee shall provide Lessor with all remaining insurance proceeds, if any. Lessor shall make all insurance proceeds, if any, available to Lessee to use for the replacement or repair of the Premises.

6. As rental for the said Premises, the Lessee agrees to maintain the Premises, as hereinabove set forth, and to pay to Lessor the sum of FIVE HUNDRED DOLLARS (\$500.00) per month during the term of this Lease, with each monthly payment being due on or before the first day of each month,

7. The Lessee agrees to utilize the Premises as a farmers' market be open to all producers of farm products, seafood, crafts, and other items typical to a farmers market in Craven County and adjoining counties, and to all consumers, subject to such rules as may established by the governing board of the said Lessee from time to time, which said rules shall be subject to approval by the Board of Aldermen of the City. The Lessee agrees to make available for rent the facility and Premises for other activities such as, but not limited to, art and craft shows, group meetings, business functions, private parties and receptions, political rallies, concerts, governmental functions, educational events, etc. at such times as will not interfere with the operation of the facility as a farmers' market.

8. Lessor and Lessee agree that the parking area located on the Premises may be used for public parking Sunday through Friday except during such times that the Premises may be leased

to a third party during these hours, or during times when the Premises is open for farmers' market operations.

9. Lessee understands that this Lease will be subject to a license agreement between Lessor and the owner of properties located at 415 South Front Street (Parcel #8-001-D-033) and 417 South Front Street (Parcel #8-001-D-033-A) ("Licensees") allowing Licensees access for ingress and egress over that portion of the Premises described in Exhibit A.

10. Lessor and Lessee agree that the restrooms located on the Premises may be used for public restroom facilities provided that Lessor gives Lessee no less than thirty (30) days prior written notice of Lessor's intent to make such restrooms available to the public. Should the restroom facilities be made available to the public, Lessor shall assume all costs and expenses associated with cleaning and maintaining the restrooms, and shall also provide, after consultation with Lessee, a means to secure the interior space of the market from public access when the market is not open for business.

11. The Lessee shall make no substantial modification of the improvements located on said Premises without the prior written consent of the Lessor.

12. It is expressly agreed that all alterations and additions that are made by Lessee to the Premises during the term of this Lease shall be and become a permanent part of the real estate and, as such, the property of the Lessor. It is agreed, however, that all personal property placed in and about the Premises by the Lessee shall be and remain the property of the Lessee and may be removed by it upon the termination of this Lease. All other improvements shall be considered a part of the real estate.

13. Lessee shall make timely payment of all utility bills presented to Lessee by the City of New Bern.

14. The Lessor specifically reserves the right to install overhead or underground electric lines, and underground water and sewer mains on the demised premises, should this be required to serve the Premises, or other properties in the area. In the event such installation shall disturb the improvements or the landscaping on the Premises, the Lessor shall restore the same to as near its original condition as is reasonably possible.

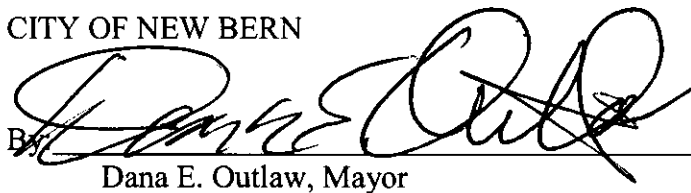
15. Lessee shall not assign this Lease nor sublet any part of the demised property without written consent of the Lessor, other than subleases entered into in the normal course of Lessee's business that do not exceed forty-eight (48) hours in duration.

16. It is expressly agreed that, if the Lessee shall neglect to make any payment of rent when due or neglect to do and perform any matter or thing herein agreed to be done and performed by it and shall remain in default thereof for a period of thirty (30) days after written notice from the Lessor calling attention to such default, the Lessor may declare this Lease terminated and cancelled and take possession of said Premises without prejudice to any other legal remedy it may have on account of such default. Said notice may be given to the person at such time in charge of said Premises or sent by certified mail to the Lessee at the following address:

President  
New Bern-Craven County Farmers Market, Inc.  
P.O. Box 14846  
New Bern, NC 28561


IN TESTIMONY WHEREOF, Lessor has caused this instrument to be executed in its corporate name by its Mayor and its corporate seal to be affixed and attested by its City Clerk, and Lessee has caused this instrument to be executed in its corporate name by its President, all as of the day and year first above written; this Agreement being executed in duplicate originals, one of which is retained by each of the parties.

CITY OF NEW BERN

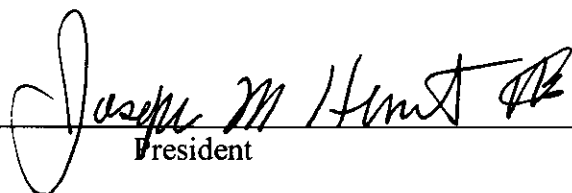
By:   
Dana E. Outlaw, Mayor



ATTEST:

  
Brenda E. Blanco, City Clerk

NEW BERN/CRAVEN COUNTY AREA FARMERS' MARKET, INC.  
*A North Carolina Nonprofit Corporation*

By:   
President

STATE OF NORTH CAROLINA

COUNTY OF CRAVEN

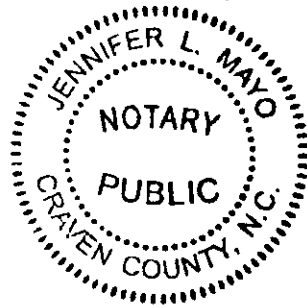
I, Jennifer L. Mayo, a notary public in and for said county and state, do hereby certify that on the 9<sup>th</sup> day of May, 2017, before me personally appeared DANA E. OUTLAW, with whom I am personally acquainted, who, being by me duly sworn, says that he is the Mayor and that BRENDA BLANCO is the City Clerk of the City of New Bern, the municipal corporation described in and which executed the foregoing instrument; that he knows the common seal of said municipal corporation; that the seal affixed to the foregoing instrument is said common seal; that the name of the municipal corporation was subscribed thereto by the said Mayor; that the said common seal was affixed, all by order of the Board of Aldermen of said municipal corporation; and that the said instrument is the act and deed of said municipal corporation.

WITNESS my hand and notarial seal, this 9<sup>th</sup> day of May, 2017.

Jennifer L. Mayo  
Notary Public

My commission expires:

August 16, 2021



STATE OF NORTH CAROLINA

COUNTY OF CRAVEN

I, Jennifer L. Mayo, Notary Public in and for said County and State, do hereby certify that Joseph M. Hunt III personally appeared before me this day and acknowledged that (s)he is President of NEW BERN/CRAVEN COUNTY AREA FARMERS' MARKET, INC., a North Carolina nonprofit corporation, and that (s)he, as President, being duly authorized to do so, voluntarily executed the foregoing instrument on behalf of said corporation for the purposes stated therein.

WITNESS my hand and notarial seal, this 11<sup>th</sup> day of May, 2017.

Jennifer L. Mayo  
Notary Public

My commission expires:

August 16, 2021

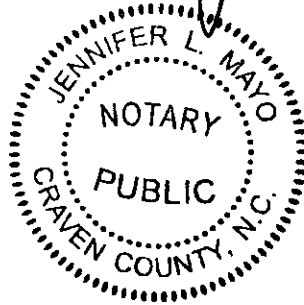


EXHIBIT A

BEGINNING at a point in the southerly right-of-way line of Tryon Palace Drive, which said point of beginning is the northwest corner of the property now or formerly owned by Earl Finch, and is marked by a concrete monument; thence from said point of beginning North 82° 07' 20" West, 142.90 feet along and with the southerly right-of-way line of Tryon Palace Drive to a concrete monument, the northwesterly corner of the property conveyed to the City of New Bern by the Redevelopment Commission of the City of New Bern; thence South 07° 44' 55" West, 300.86 feet to a point which lies North 07° 44' 55" East, 10.49 feet from a Concrete monument; thence South 82° 19' 20" East, 221.30 feet; thence North 07° 32' 55" East, 144.20 feet to an iron pipe; thence North 80° 45' 49" West, 76.85 feet to a concrete monument; thence North 07° 18' 26" East, 154.90 feet to a concrete monument in the southerly right-of-way line of Tryon Palace Drive, the point of beginning.

SUBJECT TO that certain License Agreement to be entered into between the City of New Bern and 415 South Front Street, LLC, the owner of properties located at 415 South Front Street (Parcel #8-001-D-033) and 417 South Front Street (Parcel #8-001-D-033-A) which provides access for ingress and egress over that portion of the above-described parcel more specifically described as follows:

COMMENCING at a point in the southerly right-of-way line of South Front Street, which said point is the northwest corner of property now or formerly owned by Earl Finch, which is marked by a concrete monument; thence North 82° 07' 20" West 20 feet to the POINT OF BEGINNING. Thence from said point of beginning South 07° 18' 26" West 115 feet; thence South 82° 07' 20" East 20 feet to a point in the westernmost line of the Finch property; thence along and with the westernmost line of the Finch property South 07° 18' 26" West 20 feet; thence North 82° 07' 20" West 40 feet; thence North 07° 18' 26" East 135 feet to a point in the southerly right-of-way line of South Front Street; thence along and with the southerly right-of-way line of South Front Street South 82° 07' 20" East 20 feet to the point of beginning,

Subject property consists of 1.25 acres, more or less.