

STATE OF TEXAS § **VENDOR AGREEMENT**
COUNTY OF DALLAS §

This Agreement (the “Agreement”) is by and between the City of Duncanville, Texas (“City”) and the undersigned Vendor (“Vendor”) (each a “Party” and collectively the “Parties”), acting by and through their authorized representatives.

RECITALS

WHEREAS, the City intends to conduct the Christmas Market 2023 (the “Event”); and

WHEREAS, the City desires to have provided quality merchandise and/or products at the Event; and

WHEREAS, Vendor desires to provide quality merchandise and/or products at the Event;

NOW THEREFORE, in consideration of good and valuable consideration the sufficiency and receipt of which are hereby acknowledged, the Parties agree to the following:

VENDOR

The City grants Vendor a non-exclusive revocable license to occupy a booth at Christmas Market 2023 (Event) to sell food, merchandise and/or products in accordance with the terms of this Agreement, commencing on the Vendor that the Booth is available for occupancy, whichever is earlier.

Cancellations & Refunds: All cancellations must be made in writing and received 30 days prior to Event start date. The City reserves the right to terminate participation in the Event. The City may, in its sole discretion, cancel the Event or any portion of the Event for any reason without prior notice to Vendor. Vendor hereby releases and forever discharges the City, its officers, employees, and agents from all liability and claims for damages which result from postponement or cancellation.

The City reserves the right to cancel the Event due to events of “Force Majeure”. For purposes of this Agreement “Force Majeure” shall mean any contingency or cause beyond the reasonable control of the City or Vendor including, without limitation, acts of God or the public enemy, fires, floods, tornado's, hurricanes, war, riot, domestic and/or international terrorism, disease, pandemics, quarantines, civil commotion, insurrection, government or de facto government action.

Termination: This Agreement shall terminate:

- (a) by mutual agreement of the Parties;
- (b) by either Party by providing the other Party with thirty (30) days prior written notice;
- (c) by City if Vendor is in breach of any of the provisions of this Agreement; or
- (d) upon expiration of the term of this Agreement.

Safety Guidelines: Vendor agrees to comply with all directives and guidelines from the CDC, as well as state, county, and local health officials, pertaining to the prohibition of the spread of contagious diseases to include but not limited to COVID-19. These directives and guidelines may include social distancing, face covering and sanitation of surfaces.

Vendor agrees that participation is at its own risk and volition. While the City will make every effort to ensure the health and well-being of attendees, vendors, staff, volunteers, and event personnel, it shall not be held responsible or liable if Vendor, its employees, or representatives contract a contagious illness to include but not limited to COVID 19.

Indemnification: VENDOR ON BEHALF OF THE VENDOR, ITS OFFICERS, EMPLOYEES, CONTRACTORS AND VOLUNTEERS AND ANY ENTITY WHICH THE VENDOR CONTROLS (COLLECTIVELY THE "VENDOR") HEREBY COVENANT AND CONTRACT TO WAIVE ANY AND ALL CLAIMS, RELEASE, DEFEND, INDEMNIFY, AND HOLD HARMLESS THE CITY, ITS OFFICERS, EMPLOYEES, AGENTS, VOLUNTEERS AND REPRESENTATIVES (COLLECTIVELY THE "CITY INDEMNITEES") FROM AND AGAINST ALL LIABILITY, CAUSES OF ACTION, CITATIONS, CLAIMS, COSTS, DAMAGES, EXPENSES, FINES, JUDGEMENTS, PENAALTIES OR SUITS, PROPERTY DAMAGES, PERSONAL INJURIES INCLUDING DEATH, TO THE EXTENT CAUSED BY OR RESULTING FROM THE NEGLIGENCE, INTENTIONAL TORT, INTELLECTUAL PROPERTY INFRINGEMENT OR THE FAILURE TO PAY A SUBCONTRACTOR OR SUPPLIER COMMITTED BY CONCESSIONAIRE, ITS AGENTS, CONSULTANTS AND CONTRACTORS UNDER CONTRACT, OR ANY OTHER ENTITY OVER WHICH THE VENDOR EXERCISES CONTROL, AND FOR THE VIOLATION OF ANY ORDINANCE, REGULATION, STATUTE, OR OTHER LEGAL REQUIREMENT BY VENDOR IN THE PERFORMANCE OF THIS AGREEMENT. INDEMNIFIED ITEMS SHALL INCLUDE REASONABLE ATTORNEYS' FEES AND COSTS, COURT COSTS, AND SETTLEMENT COSTS IN PROPORTION TO THE CONCESSIONAIRE'S LIABILITY. WITH REGARD TO CLAIMS MADE BY AN EMPLOYEE OF THE VENDOR, A CONSULTANT, A CONTRACTOR OR A SUB-CONTRACTOR OR ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY THE VENDOR OR ANYONE FOR WHOSE ACTS THE VENDOR MAY BE LIABLE, THE INDEMNIFICATION OBLIGATION SHALL NOT BE LIMITED BY A LIMITATION ON AMOUNT OR TYPE OF DAMAGES, COMPENSATION OR BENEFITS PAYABLE BY OR FOR THE VENDOR OR ANY OTHER EMPLOYER UNDER WORKER'S COMPENSATION ACTS, DISABILITY BENEFIT ACTS OR OTHER SIMILAR EMPLOYEE BENEFIT ACTS. THE VENDOR'S OBLIGATIONS UNDER THIS SECTION SHALL NOT BE LIMITED TO THE LIMITS OF COVERAGE OF ANY INSURANCE MAINTAINED OR REQUIRED TO BE MAINTAINED BY VENDOR UNDER THIS AGREEMENT. THIS PROVISION SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

Representatives: If Vendor is other than an individual, Vendor certifies, warrants, and represents that the individual whose signature appears below is duly authorized to execute this Agreement on behalf of the firm, corporation, partnership, or other entity that is the Vendor. Vendor shall, prior to commencement of the Event, provide the City with satisfactory proof of such authorization, and the existence of the corporation, partnership, or other legal entity if Vendor is other than an individual.

Joint and Several Liability: If the Vendor is composed of more than one person, entity, or corporation, each of the persons, entities, and corporations composing the Vendor shall be jointly and severally liable under this Agreement.

Legal Construction: In the event any one or more of the provisions contained in the Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect other provisions, and the Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in it.

Severability: In the event any section, subsection paragraph, sentence, phrase, or word herein is held invalid, illegal, or unconstitutional, the balance of this Agreement shall stand, shall be enforceable, and shall be read as if the Parties intended at all times to delete said invalid section, subsection, paragraph, sentence, phrase, or word.

Entire Agreement: This Agreement represents the entire agreement among the Parties with respect to the subject matter covered by this Agreement. There is no other collateral, oral or written agreement between the Parties that in any manner relates to the subject matter of this Agreement.

Governing Law: The validity of this Agreement and any of its terms and provisions as well as the rights and duties of the Parties shall be governed by the laws of the State of Texas without regard to conflict of law rules; and venue for any action concerning this Agreement shall be in the State or Federal District Court of Dallas County, Texas.

Notice: Any notice required or permitted to be delivered hereunder shall be deemed received (i) three (3) days after deposit into the United States Mail, postage prepaid, certified mail, addressed to the Party at the address set forth below the signature of the Party or (ii) on the day received if sent by courier or otherwise hand delivered.

Event Rules and Procedures

EVENT DATE/TIME/LOCATION

Friday, December 01, 2023

100 James Collins Blvd. Duncanville, TX

VENDOR SELECTION

All submitted applications are reviewed and juried before acceptance is offered. Previous Event participation does not guarantee admission, and each Applicant understands that the City may reject an Applicant for any or no reason. The City reserves the right to grant exclusive rights to any product/item deemed appropriate for the Event. There will be 13 retail/non-profit vendor spaces and 13 food vendor spaces. The City reserves the right to adjust this availability.

VENDOR PAYMENT

Vendor participation will not be confirmed until full payment and all required documents are received. An additional late payment fee may be applicable. The Vendor payment to the city is not tax deductible under the federal income tax laws or otherwise. All Vendor payments will be made on **Duncanville Recreation Center** and are due no later than **November 21, 2023, 5 pm.**

INSURANCE

Vendors are responsible for proper insurance and protection of work during Event hours and setup. The City or Event is not responsible for damage to work or setup for any reason. All artists are encouraged to maintain insurance.

BOOTH ASSIGNMENTS

Booth assignments are made after receipt of payment AND paperwork. Booth spaces and location are assigned by Event Management no later than November 22 and will be released November 27 by 5 p.m. The City will try to accommodate Vendor's location requests, but not all requests are available, and last-minute requests can seldom be honored. No booth assignment changes will be honored on-site.

BOOTH OPERATIONS

Vendor must wear Event credentials and must arrive at Booth 30 minutes prior to Event opening each day. Vendor may bring a cooler into Event but will only be permitted to do so before Event opening each day. No alcohol will be permitted to be brought into Event. Vendor can only restock supplies before (2 hours before gates open) or after Event hours (gates will be locked up at 2:00 AM). Vendor is required to be on-site at the Booth and must remain open during Event hours; however, Vendor has the option to close at 9:30 p.m.

Age and Conduct: Vendor and/or employees must be at least sixteen (16) years to work at the Event. Any individual working under the age of eighteen (18) years must be under the direct supervision of an adult. All

Vendors and/or staff must conduct themselves in a manner acceptable to Event Management. Event Management reserves the right to remove any Vendor and/or employee from the Event if operating Booth in a manner that detracts from the purpose/objective of the Event.

Presentation/Cleanliness: Event Management strives to create a polished, professional appearance throughout the Event. The Vendor will be assigned a space appropriate to their classification. Retail/Non-Profit Vendors will receive a 10x10 space. Food vendor's space will vary based on safety needs. Vendor may decorate the Booth accordingly. Vendor will make every effort to keep the Booth clean and professional looking which includes, but is not limited to, the front entrance area, storage of supplies, appearance of Vendor and/or employees and the back of the booth, if visible, to the public. Event Management can require the modification or removal of items in a Booth in order to comply with Event standards.

TENT

Booth space will not include a constructed commercial, fire-retardant tent, electricity (400 watt maximum) and 1 light source. Personal tents are not permitted. Vendor is responsible for providing tables, chairs, and display equipment.

SALES AND SALES TAX

Vendor must accept cash and/or major credit cards. Vendor is responsible for collecting and safekeeping its money and property and the City assumes no responsibility for lost or stolen money. The City will not provide change for Vendor. Vendor is responsible for collecting and reporting all taxes for sales made during the Event and reporting them as being sold in Duncanville, TX. The state sales tax rate is 8.25%. For more information on filing call 1-800-252-5555 or visit www.window.state.tx.us.

SECURITY

The Event site will be secured continuously throughout the duration of the Event. The City will not provide after-hours security for the Event area.

CHECK-IN

Vendor check-in is located on the 102 Main St. corner of Main Street and E. Cherry St. Check-in will be Friday, December 1 at 3 PM. The vendor must present a Driver's License in order to check-in. A Vendor packet, which includes Booth assignment, Event credentials (two per 10x10 space), Event contact, maps, and other Event information, will be given at check-in. Any Vendor who has not checked in by 3:30 PM on Friday without prior arrangements will be considered absent and forfeit the Booth space with no refund.

LOAD-IN

Staging begins at 3 pm. on Friday, December 1. All vendors must be in their assigned positions by 4 PM for safety inspections.

Vendors: Vendors will enter the parking area from the WEST from N. Main St onto James Collins Blvd. From there a staff member will direct them to the appropriate check-in locations. Retail vendors will be on the west side of the parking lot and food vendors on the east side of the parking lot. Vendors will unload their items at their spot. Vendors will head to the second check in point to exit and park in the recreation parking directly across.

LOAD OUT

The Event officially closes on Friday, December 1, 2023 at 10 PM. No use of motor vehicles will be permitted before Event closure. The City does not provide staff/personnel to assist Vendor to load merchandise or displays. Police officers and City staff will assist Vendors to the correct location.

By signing below the Vendor acknowledges and agrees that they shall abide by all the

terms and conditions of this Agreement.

EXECUTED this _____ day of _____, 2023.

VENDOR

Signature: _____

Printed Name: _____

Email Address: _____

Texas Sales Tax & Use Permit Number:

Company Name:

On-Site Contact Phone Number:

Emergency Contact:

Check-In Time Options: _____

Preferred 1st Choice Check-In Time: _____

Preferred 1st Choice Check-In Time: _____

The City of Duncanville is committed to keeping the Event safe for everyone. To do this, vendors and all employees coming on-site must provide the requested information for a simple background check. Add a page if necessary.

Name: _____ DL# _____ State: _____ Date of Birth: _____

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Name: _____ DL# _____ State: _____ Date of Birth: _____

Name: _____ DL# _____ State: _____ Date of Birth: _____

EXECUTED this ___ day of ___, 2023.

CITY OF DUNCANVILLE, TEXAS

Signature:

Director Parks and Recreation
City of Duncanville