

THIS AGREEMENT made in duplicate this ____th day of ____ 20172022

For the provision of space and facilities to hold a farmers' market in downtown Lindsay

BETWEEN:

THE LINDSAY FARMERS' MARKET ASSOCIATION

(hereinafter referred to as "the Farmers' Market")

PARTY OF THE FIRST PART

-and-

THE CORPORATION OF THE TOWN OF LINDSAY

(hereinafter referred to as "the City")

PARTY OF THE SECOND PART

Whereas the Lindsay Farmers' Market has been located on Victoria Avenue in Lindsay since 1996, and

Whereas both the City and the Lindsay Farmers' Market Association (LFMA) wish to continue with a similar Agreement to allow for a Farmers' Market in Downtown Lindsay;

IT IS HEREBY confirmed and acknowledged by the Parties hereto:

1. **Saturday Market**

1.1. **Location** It is the intention of the City to provide to the Farmers' Market, for its exclusive use to hold a farmers' market during the times noted in Section 1.2, that portion of the southbound lanes of Victoria Avenue North, in the geographic area located between the north curb line of Kent Street West and the south curb line of Peel Street, and that portion of the northbound lanes of Victoria Avenue North, in the geographic area located between the north curb line of Kent Street West and the south curb line of Peel Street, the portion of the parking lot area, north and south side, adjacent to the Paramedic Services Building and the Public Library, comprised of up to sixteen (16) public parking spots and the boulevard areas including the centre island.

1.2. **Street Closure Time:** The specified period of time which the street noted in Section 1.1 is and shall remain closed, is from 5:00 o'clock a.m. until 2:00 o'clock p.m. on every Saturday between the first Saturday in May and the last Saturday in October, both inclusive, during the calendar years 2017–2022 through 20242026, both inclusive.

1.3. **Opting Out:** The Farmers' Market shall provide the City with a minimum of four) weeks advance notice of any dates and/or times specified in Subsection 1.2 on

~~which it does not wish the Street to be closed, and this Agreement shall be deemed to have been amended to exclude those dates. The Farmers' Market shall advise the City of any dates and/or times specified in Subsection 1.2 on which it does not wish the Street to be closed, and this By-law shall be deemed to have been amended to exclude those dates.~~

- 1.4. **Details:** The closure referenced in Section 1.1 and 1.2 is with respect to vehicular traffic. Pedestrian traffic is permitted on the closed Street.
- 1.5. **Exclusive Use:** During the dates and times set out in Section 1.2 (as deemed amended in accordance with Section 1.3), the City grants to the Farmers' Market exclusive use of the Street described in Section 1.1.
- 1.6. **Repairs to Damage:** The Farmers' Market shall restore, at its expense and to the City's satisfaction, any ~~damages to landscaped areas of the Street or landscaped areas~~ which are damaged during the course of the Farmers' Market events.
- 1.7. **Permitted Use:** Permission is granted to the Farmers' Market to use the Street on the dates and during the times specified in this By-law for the purposes of holding a farmers' market.
- 1.8. **Alternate Route:** ~~The standard Alternate Routes for passing traffic shall be Kent Street West to Sussex Street North to Peel Street, or Kent Street West to Cambridge Street North to Peel Street. Should these routes not be available for use, an alternate detour must be applied for by the LFMA per By-law 2020-148, as amended. The City shall provide a reasonable temporary alternate route for passing traffic. Where there are residential homes on the Street, the City shall provide a reasonable temporary alternate route for vehicular access for the owners of those residential homes.~~
- 1.9. **Barriers & Signs:** ~~While the Street is closed, the Farmers' Market shall be responsible to ensure that barriers and detour signs are erected per a City approved traffic control plan compliant with OTM Book 7, April 2022 amendments. While the Street is closed, the Farmers' Market shall ensure that barriers are erected at each end of the affected part of the Street.~~ These barriers shall contain either or both warning signals and signs indicating that the Street is closed as approved by the Director of Public Works of the City. Where an alternative route has been set out for passing vehicular traffic, the Farmers' Market shall ensure that adequate detour signs are erected, to the satisfaction of the Director of Public Works of the City, to indicate the alternate route. The Farmers' Market can work with the City to borrow signs where possible. Where the City is unable to provide signs or barriers, the Farmers' Market shall be responsible to provide and erect appropriate signage.
- 1.10. **Charges:** For the five year term of this arrangement there will be no fee charged for the use of either the designated section of Victoria St. N. or the designated area in the adjoining Library Parking Lot. Likewise, for the five year term, the City

agrees to provide the necessary barricades and signs, if available, (to be put in place and removed, however, by Farmers' Market personnel) at no charge, unless there is an operational emergency causing the signage to be unavailable, in which case the Farmers' Market must provide the barricades and signage at their own expense, or cancel the event.

1.11. **Services:** The Farmers' Market is responsible for any costs associated with servicing and services associated provision of the ~~F~~farmers' ~~M~~market

1.12. **Electricity:** The Farmers' Market has vendors which require electricity to operate their booth. The municipality has permitted access to specific outdoor outlets on the exterior of the Paramedic Services building. Only those specified outlets are to be used. There will be no use of outlets dedicated to charging of Paramedic Vehicles. ~~Historically the municipality has permitted access to several adjacent facilities providing service. Those have included the Gazebo in Victoria Park, the Lindsay Library, and the Paramedic Services building. Safety is a concern for both attendees of the market and users accessing the park and sidewalks around the Market. Unprotected electrical cords are a trip and fall hazard. Because of the high pedestrian traffic use of the park and sidewalk on the west side of the market, the Gazebo electrical outlet will no longer be available for vendor use. Access to electrical outlets from the Paramedic Services building and the Lindsay library will continue to be available for Market vendor use during the dates and times identified in this agreement. At all times, the electrical cords must be placed with safety of the public in mind to avoid trips and falls. Where the cords are in a high traffic area, including, but not limited to, sidewalks, hazard cones must be placed with the electrical cone for identification, and the cord must be covered to prevent trips and falls.~~

1.13. **Safety:** Safety is a concern for both attendees of the farmers' market and users accessing the park and sidewalks around the farmers' market. Unprotected electrical cords are a trip and fall hazard. Access to specified electrical outlets from the Paramedic Services building will continue to be available for market vendor use during the dates and times identified in this agreement. At all times, the electrical cords must be placed with safety of the public in mind to avoid trips and falls. Where the cords are in a high traffic area, including, but not limited to, sidewalks, hazard cones must be placed with the electrical cone for identification, and the cord must be covered to prevent trips and falls.

~~1.13.~~1.14. **Use of Adjoining Lands:** The commitment to the Farmers' Market, as outlined herein, would in no way restrict, prevent or encumber the City from either using, or assigning to the use of other groups or organizations, municipally-owned lands adjoining the ~~f~~farmers' ~~M~~market site, including Victoria Park, the Armoury, and the remainder of the Parking Lot behind the Library and Lindsay Municipal Service Centre. The City agrees that it will, at all time, provide the Farmers' Market with prior notice as to any organized events or uses of these lands which

~~may be co-incident with the farmers' markets' hours of operation. not, during the term of this agreement, allow on these lands any organized uses which may be overtly incompatible with the interests of the Market (eg., a "food fair") without the explicit approval of the Farmers' Market. The City agrees that it will, at all time, provide the Farmers' Market with prior notice as to any organized events or uses of these lands which may be co-incident with the Markets' hours of operation.~~

~~4.14.~~**1.15. Washroom Facilities:** Washroom facilities must be available within 100 m of the farmers' market for use by the vendors and attendees of the farmers' market during all times that the farmers' market is open. The Farmers' Market is responsible to ensure that washroom facilities or a portable toilet with handwashing are available at all times that the farmers' market is open and if none are available the farmers' market will not open to the public. The City will provide no portable or toilet facilities on or for the site. In addition to noting the availability of commercial facilities of this sort within the vicinity of the site, the City will endeavour, for the Saturday market, to ensure the availability of toilet facilities in the Police building, the Library, and the Armoury, at such times as those buildings would normally be open to the public.

~~4.15.~~**1.16. Parking:** At the present time there is a two-hour free parking period on streets within the downtown area of Lindsay. In addition municipal parking lots permit four-hour free parking. Attendees and vendors are expected to park within legally permitted and available public parking areas and times, on streets or in municipal parking lots, should the availability change from these stated limits.

~~4.16.~~**1.17. Garbage:** The Farmers' Market is wholly responsible for ensuring that, upon departing each week, the street and Parking Lot area are left in the same condition in which they were taken over that same morning. Garbage is the responsibility of ~~the Farmers' Market~~each vendor, and there will be no provision by the City of garbage bins or containers for the disposal of waste or recycling within the market location described in Section 1.1. Vendors selling ready-to-eat products or other products that produce consumer garbage within the market must provide their own garbage receptacles within their booth for use by customers. Vendors must be notified by the Farmers' Market that they are expected to take their ~~own~~ garbage with them at the end of each market. They are not to utilize nearby bins or containers within Victoria Park to deposit waste or recycling. In the event that it is deemed necessary, the City, at its sole discretion, may require the Farmers' Market to provide a "Cleaning Deposit" as a condition of the continuance of this agreement.

~~4.17.~~**1.18. Liaison:** The City will, throughout the period of this agreement, designate one of its staff members as "Liaison Officer". All dealings and co-ordination between the Farmers' Market and the City, whether in regard to co-ordination or communication, shall be through the person of the Liaison Officer. The City agrees to notify the Farmers' Market of any change, either in procedure or appointment,

in the designation of the Liaison Officer. At the inception of the agreement the City's Economic Development Officer - Agriculture-Development Officer, is designated as Liaison Officer for this purpose.

~~1.18.~~1.19. **Signage:** The Farmers' Market is advertised currently with signage provided by the Lindsay Business Improvement Association at various points throughout the City as well as by signage existing in the boulevard of Victoria Avenue. Should any of these signs require repair or replacement, the Farmers' Market agrees to ensure that the appropriate approvals and permits are secured through the municipal Building Division as per requirements of the City of Kawartha Lakes Sign By-law 2009-076.

~~1.19.~~1.20. **Promotion:** The Farmers' Market would be accorded appropriate positioning in the City's applicable general, agricultural and tourism-focused promotional vehicles throughout the period of this agreement. Public announcements of such matters as the opening of the Market season, and suchlike, would be provided through the Announcements portion of the televised Council Meetings. The City, through the person of the Liaison Officer, would also endeavour to establish co-promotion arrangements between the Market and any such organizations as the Lindsay B.I.A., the Lindsay and District Chamber of Commerce, the Kawartha Choice FarmFresh program~~farm fresh association~~, the local media, and various appropriate private concerns.

~~1.20.~~1.21. **Insurance:** The Farmers' Market shall provide and maintain during the term of this agreement and any renewal thereof, Commercial General Liability Insurance including but not limited to bodily injury including death, property damage including loss of use thereof, personal injury, products or completed operations liability, blanket contractual liability, non-owned automobile liability, cross liability and severability of interest clause subject to limits of not less than Five Million Dollars (\$5,000,000.00) per occurrence. The policy shall be endorsed to include The Corporation of the City of Kawartha Lakes an additional insured. Property Insurance shall be maintained on all property in the care, custody or control of the Farmers' Market or its vendors including all chattels, equipment, machinery, inventory and all other personal property in an amount equal to the full replacement value. The Farmers' Market shall provide the City with a Certificate of Insurance within Ten (10) days of the commencement of the Market each year and if required, a certified true copy(s) of the policy(s) certified by an authorized representative of the insurer together with copies of any amending endorsement shall be provided. All policies shall be endorsed to provide the City with not less than Thirty (30) days' written notice of cancellation, change or amendment restricting coverage. All policies shall be with insurers licensed to underwrite insurance in the Province of Ontario. All policies shall apply as primary and not as excess of any insurance available to the City. As determined by the City, the

Farmers' Market may be required to provide and maintain additional insurance coverage(s) which are related to this Agreement.

4.24.1.22. Indemnification: The Farmers' Market and its vendors shall at all times indemnify and save harmless the City, its employees and Members of Council from and against any and all manner of claims, demands, losses, costs, charges, actions and other proceedings whatsoever made or brought against, suffered by, or imposed on the City in respect of any loss, damage or injury to any person or property directly or indirectly arising out of, resulting from, or sustained, as a result of this Agreement or any operations connected therewith except for the negligence or wilful misconduct of the City. Furthermore, The Farmers' Market shall be directly responsible for any loss of or damage to any City owned property howsoever caused by the Farmers' Market, their vendors or any activities related to this Agreement.

4.22.1.23. Alcohol Sales or Sampling: The Farmers' Market shall advise the City if at any time any Vendor, including Wineries (VQA & Fruit Wines) and Cideries (Hard Cider), is engaged in the activity of selling their product or offering alcohol samples at the Farmers' Market.

In addition to the insurance requirements identified in Section 1.20, the Farmers' Market shall provide Liquor Liability Insurance, as a stand-alone policy or as part of the Commercial General Liability policy, subject to limits of not less than Five Million Dollars (\$5,000,000.00) per occurrence. The policy shall be endorsed to include The Corporation of the City of Kawartha Lakes an additional insured.

The Farmers' Market shall ensure that any Vendor engaged in the activity of providing alcohol samples or alcohol products for sale shall provide and maintain Commercial General Liability Insurance including but not limited to bodily injury including death, property damage including loss of use thereof, personal injury, products or completed operations liability, blanket contractual liability, cross liability and severability of interest clause and Liquor Liability subject to limits of not less than Two Million Dollars (\$2,000,000.00) per occurrence. The Vendor's policy shall be endorsed to include The Corporation of the City of Kawartha Lakes an additional insured. All policies shall be endorsed to provide not less than Thirty (30) days' written notice of cancellation, change or amendment restricting coverage. All policies shall be with insurers licensed to underwrite insurance in the Province of Ontario. All policies shall apply as primary and not as excess of any insurance available to the City. The Farmers' Market shall provide the City with a valid Certificate of Insurance from any such Vendor prior to the Vendor's participation in the Farmers' Market.

Vendors engaged in the activity of providing alcohol samples or alcohol products for sale shall obtain and maintain all required permits and certificates, and comply with any and all additional requirements or stipulations from all governing bodies having jurisdiction over such activity.

~~1.23.~~**1.24. Transient Traders Licencing:** The City has a By-Law 2016-210 to licence, regulate and govern transient trader businesses in Kawartha Lakes. Licences are not required for the following types of Transient Traders, including but not limited to:

- Growers, producers, or manufacturers (or their authorized agents or employees) who reside in Kawartha Lakes and are peddling goods, wares or merchandise which are grown, produced or manufactured in Ontario;
- a resident in Ontario peddling only goods, wares, merchandise or produce from their own farms or gardens;
- persons who lease or own realty within Kawartha Lakes upon which they operate a business selling the same wares that are proposed to be peddled.

However, should any of the Markets' vendors, or future vendors, wish to engage in the sale of products which are not exempt from this requirement, they will be required to take out a Transient Traders License and pay the corresponding fees. (This requirement would apply regardless of the location of the Market.) Any inquiries in this regard should be directed to the City's Senior Licencing Officer at 705-324-9411 extension 12381343.

1.25. **Term:** The term of the Agreement shall be between May 1, 2022 and October 31, 2026.

1.26. **Survivorability:** Sections 1.6, 1.11, 1.22, 1.23, 1.27, 1.32, 1.33, 1.36 & 1.37 survive the term of the Agreement, as well as all clauses and portions thereof necessary to implement the intent of this Agreement.

1.27. **Termination:** During the term of this Agreement, either party may terminate the Agreement with the other party having no recourse, provided that 6 months' notice is provided and, in the case of the City providing notice that would otherwise become effective in the period May – October of any given year, with notice becoming effective on October 31 of that year.

1.28. **Right to Enter:** Any authorized agent of the City shall have the right at any reasonable time to enter and inspect the lands and premises occupied under this Agreement for purpose of confirming compliance to the terms therewith.

1.29. **Found items:** The Farmers' Market shall promptly deliver all articles found at the location of the farmers' market, either articles found by the employees, volunteers or vendors of the Farmers' Market, or given to them by members of the public to the Customer Services desk at the Lindsay Municipal Service Centre.

1.30. **Notices:** All notices and orders given to the Farmers' Market may be served by mailing or emailing the same to the Farmers' Market at the address herein before set out or by delivery of a copy to the Farmers' Market personally.

1.31. **Address:**

1.31.1. For the City:
Kelly Maloney

Economic Development Officer – Agriculture
180 Kent Street West
Lindsay, ON K0L 1V0
kmaloney@kawarthalakes.ca

1.31.2. For the Farmers' Market:

Jason Kennedy
Lindsay Farmers' Market Association
470 Sturgeon Road
Omeme, ON K0L 2W0
kennedyfarmsjason@yahoo.ca

1.32. **Liability:** The City shall not be liable to the Farmers' Market for any loss or damage occasioned by fire to, or burglary of, any of the stock or equipment of the Farmers' Market, its vendors or its attendees upon the premises covered herein.

1.33. **No Rights Invested:** This Agreement is not intended to and shall not be construed to vest in the Farmers' Market any title or property rights in the real estate, fixtures or personal property belonging to the City now located or which may be located hereafter in or around the lands and premises occupied by the Farmers' Market or anyone employed by the Farmers' Market under this Agreement.

1.34. **Safety and sanitary condition:** The Farmers' Market shall at all times keep the lands and premises occupied under the agreement in a clean and sanitary condition and shall oversee all laws of the Province of Ontario respecting public health, safety, sanitation and keeping of parkland.

1.35. **COVID-19 and other Communicable Diseases:** There is risk of exposure to COVID-19 and other communicable diseases in any public place where people are present, including City facilities and property. The Farmers' Market agrees to follow all safety precautions, Orders and best practice guidelines that are promoted in an official capacity by the Chief Public Health Officer of Canada, Public Health Ontario including local Public Health Units and are applicable and effective at the time while using the City' facilities. The Farmers' Market is responsible to ensure that all their vendors, participants, staff, volunteers or guests understand and agree to follow all applicable safety precautions, Orders and best practice guidelines. The City may, at its sole discretion, withdraw the Farmers' Market's access to all or a portion of the City property as required due to the COVID-19 Pandemic Emergency or other urgent situations.

1.36. **Assumption of Risk:** The Farmers' Market acknowledges and understands that the activities taking place during the farmers' market may be dangerous and could cause personal injury including the possible exposure to COVID-19 or other communicable diseases which may result in illness, permanent disability and even death. The risk of becoming exposed to or infected by COVID-19 may result from the actions, omissions or negligence of the Farmers' Market, its vendors, participants, staff, volunteers, guests or City employees. The Farmers' Market understands and freely assumes all such risks on behalf of it and its participants.

The Farmers' Market further acknowledges and agrees that medical care or related transportation costs deemed necessary by the City and incurred as a result of the activities within the farmers' market location during the farmers' market operations will be the responsibility of the Farmers' Market.

1.37. Release: The Farmers' Market hereby agrees to RELEASE, WAIVE and FOREVER DISCHARGE the Corporation of the City of Kawartha Lakes, employees and members of Council from and against any and all manner of claims, demands, losses, costs (including legal), charges, actions and other proceedings, in respect of any damage or injury sustained by the Farmers' Market, its vendors, participants, staff, volunteers or guests as a result of the granting of the By-Law and Agreement, the activities and use of the street and property by the Farmers' Market including, but is not limited to, exposure to or contracting COVID-19 or other communicable diseases.

1.24.1.38. Electronic Execution: This Agreement may be executed electronically, which execution will be treated as an original. Copies of original signatures may be sent by electronic mail or facsimile, which copies will be treated as originals.

IN WITNESS WHEREOF the parties have hereunto affixed their corporate seals attested by the proper officers in that behalf.

DATED THIS _____ DAY OF _____ 20172022.

THE CORPORATION OF THE CITY OF KAWARTHA LAKES

PER _____

Andy Letham, Mayor

Cathie Ritchie, Clerk

"We have authority to bind the City pursuant to Council Resolution _____"

THE LINDSAY FARMERS' MARKET ASSOCIATION

PER _____

Jason Kennedy, President

Angie Cameron, Director

"We have authority to bind the Association"