

MCCULLYSC OPEN MARKET VENDOR AGREEMENT AND INDEMNIFICATION

This Vendor Agreement and Indemnification (this “Agreement”) is made as of the date set forth herein below, by and between the undersigned vendor (“Vendor”) and McCully Shopping Center (“MSC”).

In consideration for the limited right to use of allocated space (the “Space”) in the Designated Parking Area and Retail Space for the sale of approved local goods at the McCullySC Open Market (“Market”) the receipt and sufficiency of which is hereby acknowledged, Vendor agrees as follows:

1. **Rules of Operation.** Vendor has received a copy of the McCullySC Open Market Rules of Operation (the “Rules”) and hereby agrees to comply with the Rules.
2. **“As Is” Condition.** Vendor has inspected the Space and agrees to use the Space in its “as is” condition; tents, tables and chairs are allowed with in a 12 x 12 space with in 2 lined parking stalls.
3. **Allowed Goods.** Vendor will use the space solely for the purposes of the Market to sell local fresh fruits, local coffee, local vegetables, local flowers, locally made sauces, meats, cheeses, other food products and/or ancillary items. We will also allow locally made products from jewelry, linens, artwork, crafts, and specialty items. If it is not listed here, please state what is being requested and we will let you know if it is appropriate to sell on property. The space shall not be used for any other purposes without the MSC prior written permission. Alcohol samples and sales shall be allowed with proper permits.
4. **Market Day / Commitment.** The Market will operate on Saturdays between the Hours of 7:30 a.m. to 10:30 a.m. Each vendor is required to show up each Saturday, penalty of not showing-up will be to lose your spot and not asked to come back. We need a commitment from our vendors to ensure the success of the Market.
5. **Set-Up and Teardown.** By 7:30 a.m. on each Market Day, Vendor shall cause its stands to be erected in the Space. Vendor shall only erect stands for the purpose of selling goods to be erected on paved portions of the Space (Timeline open to public 7:30-10:30am). By 11:30 a.m. on each Market Day, Vendor shall cause its stands to be disassembled and its Space to be cleaned of all debris. Vendor shall cause its Space to be restored to the condition it was in before the Market Day.
6. **Refuse.** MSC Maintenance will supply barricades and garbage cans for use in the market area of the Lot by 7:00 a.m. on each Market Day and will remove the barricades and garbage cans after 11:30 a.m. on each Market Day.

7. **Insurance.** Prior to the first Market Day, Vendor shall provide a general liability insurance policy in an amount not less than \$1,000,000 naming M Pocket Corporation as additional insured and "Sofos Realty Corporation" as Managing Agent.

Vendor shall maintain and provide all necessary proof of insurance required by MSC. Vendors are also solely responsible to ensure all health permits, food handling permits, taxes and licensing are obtained to run your business.

8. **Indemnification.** Vendor shall indemnify, defend, and hold and save the McCully

Shopping Center, M Pocket Corporation and Sofos Realty Corporation and their respective officers, directors, agents, and employees (together, the "Indemnified Parties"), harmless from any and all claims, suits, demands, debts, undertakings or proceedings of any kind or nature, whether meritorious or frivolous, in any way arising out of the Vendor's use of the Space, including liability caused in whole or in part by the Indemnified Parties. Vendor shall, at its own expense, appear, defend, and pay all attorneys' fees and all costs and other expenses arising therefrom or incurred in connection therewith; and, if any judgment shall be rendered against the Indemnified Parties in any such action, Vendor shall, at its own expense, satisfy and discharge same.

In Witness Whereof, the parties have executed this Agreement as of this _____ day of _____, 2022.

VENDOR:

Vendor's
Name

By: _____

Name: _____

Title: _____

MSC:

McCully Shopping Center

By: _____

Name: _____ Title: _____

McCullySC Saturday Open Market Rules of Operation

The McCullySC Open Market is a public market where Vendors sell their products directly to consumers. McCully Shopping Center manages the Market.

Location of the Market:

The McCullySC Open Market is located in McCully Shopping Center's parking Lot which is at the corner of McCully Street and Kapiolani Blvd.

Hours of Operation:

The 2022 McCullySC Open Market will operate every Saturday from _____ through _____. McCullySC Open Market hours are 7:30 a.m. to 10:30 a.m.

Definition of "Vendor"

A Vendor is a producer/grower who is offering for sale, local products that have been raised or prepared by the Vendor, members of his family or employees:

- Products for human consumption, such as local fruits, local vegetables, edible grains, nuts, berries, apiary products, maple sugars, syrups, poultry, fish, meat, eggs and products for pet consumption.
- Non-edible products such as cut or potted flowers or plants, garden or kitchen items, food related products, or natural beauty items.

McCullySC Open Market Rules

Vendors and their employees must conform to the Market rules or will forfeit their space. The Market manager has full authority to enforce the rules:

- **Vehicles must be in place by 7:00 a.m..** After 7:00 a.m., barricades are put in place and the lot will be open to pedestrian traffic only. Failure to arrive by 7:00 will forfeit the space for the day.
- Vendors must only sell products produced by them, their family, or their employees.
- Vendors and their employees must, always, conduct themselves in a pleasant, courteous, and respectful manner and must avoid unduly loud or vulgar language, drinking alcohol, being intoxicated, or engaging in any behavior that is argumentative or belligerent. Attracting attention by hawking or calling out is prohibited.
- Vendors must obtain a current year Hawaii State Sales Tax License and prominently display the number of such license.
- Sale of any type of meat, poultry, fish, refrigerated dairy product/baked goods must be approved by the Department of Health and must be kept refrigerated/frozen at all times. Sale of spoiled or unwholesome products is prohibited.
- All apiary products, maple sugars, syrups or any processed product must be labeled in accordance with Hawaii State label standards.
- All items must be clearly marked showing prices in full view of customers. Signage should be limited to the allotted space.
- Goods may not be sold directly from the trucks. Vendors must furnish their own tables, chairs, refrigeration, display equipment and tents or shelter (in case of rain).
- Vendors are responsible for transporting and displaying food with adequate protection against contamination. All trucks, equipment and displays must be kept clean at all times.
- Vendors are responsible for and must remove all waste, garbage or refuse from their space after the market closes.
- Vendors shall not bring any pets or animals into the Market.

Liability:

McCully Shopping center, the Merchants of McCully Shopping Center, McCullySC Open Market, and the M Pocket Corporation are not responsible for the theft or damage of property or equipment on Market premises

Space Rental:

- **Two lined parking stalls will fit a 12 x 12 permitted space (two lined parking spots) for the entire 6-month season is based on \$50 a month and you can reserve up to 12 months at a time. \$50.00/single, \$100.00/double (4 lined parking stalls = two 12 x 12 permitted space.) Display may not extend beyond the allotted space. Season permits are not transferable, and no refunds will be given. Payment is due with your application to guarantee your space.**

**MCCULLYSC OPEN MARKET
APPLICATION TO SELL AND CONTACT
INFORMATION.**

Office Use Only:
____ Application
____ Certificate of Insurance
____ Agreement and Indemnification
____ Payment in Full

Date _____ Hawaii Sales Tax License No. _____
[If license has not been received, give date of application for license:]

Business name _____ Contact _____

Address _____

City _____ State _____ Zip _____

County _____ Email _____

Phone No. _____ Fax No. _____

Cell Phone _____ Website: _____

List products to be sold:

_ Must provide your own electrical source!

_____ spaces for the 6mo. or 12mo. Commitment __ x \$50mo. each = \$ _____ owed

Payment: Check # _____ made payable to **M Pocket Corporation**

AFFIDAVIT

I, _____, hereby agree to sell or offer for sale on the McCullySC Open Market, only such items as listed above, as are my own production. Further, I acknowledge full responsibility for all activities conducted throughout the term of this permit and agree to hold the McCullySC Open Market, McCully Shopping Center & it's Merchants, and M Pocket Corporation harmless and to indemnify the McCullySC Open Market, McCully Shopping Center & it's Merchants, and M Pocket Corporation from any and all claims arising under this permit.

_____ Vendor's Name Date

By: _____

Name: _____

Title: _____