



## The Common Market Texas Healthy Food Access Partnership Partner Agreement

The Common Market Texas is a mission-driven distributor of regional farm products. We strive to strengthen small and family-owned farms while simultaneously improving food security and public health.

Our Texas Department of Agriculture contract allows us to purchase healthy foods from our sustainable, family farms. The Common Market Texas is thrilled to work with our community partners to distribute Farm Fresh Boxes and bulk foods. We look forward to honoring our farms, serving your communities, and together, working to provide nourishment and comfort to those who need it most.

**For the program to run as successfully as possible, please review and sign off on the list of responsibilities and expectations for both parties outlined below.**

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*This Agreement (“Agreement”) sets forth the understanding between The Common Market Texas and Harris County, a body corporate and politic under the laws of the State of Texas, acting by and through Harris County Commissioner Precinct 1 (“Beneficiary”) to establish expectations for the distribution of local foods to food insecure people for the period of June 2024 to May 2025 with opportunities to extend this program term as mutually agreed upon by The Common Market and Beneficiary. The Common Market and Beneficiary are referred herein collectively as the “Parties” and individually as a “Party”.*

### **BOTH PARTIES TO AGREE ON THE FOLLOWING IN ADVANCE:**

- **Delivery Windows:** These represent at least a 3-hour window in which The Common Market can make a delivery to a Recipient site. The Common Market will do everything in its power to meet these preferences supplied by the Recipient.
- **Delivery Schedule:** The Common Market and Recipient will agree upon day(s) of week when deliveries will be made on a weekly or biweekly (every other week) basis. Changes to schedule or the inability to make delivery as scheduled due to extenuated circumstances, including driver team shortages due to callouts or illness, road closures due to city- wide protests, etc. will be communicated with as much advance notice as possible. If for whatever reason the Recipient cannot receive deliveries on their scheduled day, they will alert The Common Market staff with as much advance notice as possible, preferably at least 24 hours in advance.
- **Number of Boxes:** The Common Market and Recipient will agree upon number of boxes to be delivered. Recipient must be able to receive at least 70 boxes per delivery. In the event of an extenuating circumstance, such as product shortages, The Common Market may alert Recipient with as much notice as possible about the change in box numbers.



- **Independent Contractors.** It is expressly understood and agreed by the Parties that nothing contained in this Agreement shall be construed to constitute or create a joint venture, partnership, association or other affiliation or like relationship between the Parties, it being specifically agreed that their relationship is and shall remain that of independent parties to a contractual relationship as set forth in this Agreement. Beneficiary is an independent contractor and neither it, nor its employees or agents shall be considered to be an employee, agent, partner, or representative of The Common Market for any purpose. The Common Market, nor its employees, officers, or agents shall be considered to be employees, agents, partners or representatives of Beneficiary for any purposes. Neither Party has the authority to bind the other Party.
- **No Third-Party Beneficiaries.** This Agreement shall be for the sole and exclusive benefit of the Parties and their legal successors and assigns. Beneficiary is not obligated or liable to any party other than The Common Market for the performance of this Agreement. Nothing in the Agreement is intended or shall be deemed or construed to create any additional rights or remedies upon any third party. Further, nothing contained in the Agreement shall be construed to or operate in any manner whatsoever to confer or create rights or remedies upon any third party, increase the rights or remedies of any third party, or the duties or responsibilities of Beneficiary with respect to any third party.
- **Termination.** This Agreement may be terminated by either Party by providing thirty (30) days' written notice to the other Party.
- **Liability of the Parties.** To the extent allowed by law, each Party shall be responsible for all of its own acts of negligence and all claims and liability due to the activities of the Party's employees, officials, agents, or subcontractors arising out of or under this Agreement and which result from any act, error, or omission, intentional tort committed by the Party or its employees or any other entity over which it exercises control, to the extent permitted by law. Each Party to the Agreement agrees it shall have no liability whatsoever for the actions or omissions of an individual employed by another Party, regardless of where the individual's actions occurred.
- **Applicable law and venue.** This Agreement shall be construed and enforced in accordance with the laws of the State of Texas and venue for any and all claims or actions arising out of or relating to this Agreement shall be in a state or federal court of competent jurisdiction in Harris County, Texas.
- **Modification.** The terms and conditions of this Agreement may be modified upon mutual written consent of the Parties at any time.
- **Amendment.** No amendment to this Agreement shall be valid unless it is reduced to writing and signed by the authorized representatives of the Parties.
- **Assignment; Binding Effect.** Neither Party may assign any rights, duties, or obligations under this Agreement to an unaffiliated entity, in whole or in part, without the prior written consent of the other Party. This Agreement shall inure to the benefit of, and be binding upon, the Parties to this Agreement and their respective successors and permitted assigns.
- **Severability.** If any provision or part of the Agreement or its application to any person, entity, or circumstance is ever held by any court of competent jurisdiction to be invalid for any reason, the remainder of the Agreement and the application of such provision or part of the Agreement to other persons, entities, or circumstances are not affected.
- **Survival of Terms.** Any provision of this Agreement that, by its plain meaning, is intended to survive the expiration or earlier termination of this Agreement including, but not limited to the



indemnification provision, shall survive such expiration or earlier termination. If an ambiguity exists as to survival, the provision shall be deemed to survive.

- **Entire Agreement.** This Agreement supersedes all previous contracts or agreements between the Parties and constitutes the entire understanding and agreement among the Parties hereto with respect to the subject matter hereof. No waiver of any provision of this Agreement shall be valid unless such waiver is in writing and signed by the Parties hereto. Any oral or written representations or modifications concerning this instrument shall not be effective excepting a subsequent written modification signed by both Parties.
- **Execution, Multiple Counterparts.** This Agreement may be executed in several counterparts. Each counterpart is deemed an original. All counterparts together constitute one and the same instrument. Each Party warrants that the undersigned is a duly authorized representative with the power to execute this Agreement.

**THE COMMON MARKET** – *Manage procurement and packing of food; coordination with Recipient, including delivery times, locations, etc.*

- Source, procure and pack both bulk and individualized boxes of fresh fruits, vegetables, and other healthy food items from sustainable, family farms with an emphasis on sourcing from socially disadvantaged producers in Texas.
- Ensure food safety across the entire sourcing, handling and distribution chain.
- Facilitate weekly deliveries of food boxes in a safe “Drop & Go” style, unless extenuated circumstances prevent it.
- Drivers to ensure proper temperature control within their trucks. Drivers to ensure access to any needed equipment (liftgates, pallet jacks, etc.)
- Deliveries to be made within designated delivery windows, unless extenuating circumstances inhibit driver’s routes, in which case timely communications will be passed along to Recipient.
- Available to send Recipient a list of “What to Expect” in the box each week, alongside farm name, city, and state of origin. Available to provide marketing support in the form of “Farmer Profiles” and other promotional and educational materials.
- The Common Market will deliver agreed upon number of boxes, unless extenuating circumstances prevent it.
- The Common Market has the right to cease deliveries if Recipient demonstrates any sign of incompatibility relating to logistics. In this event, The Common Market will give at least 24 hours advance notice to Recipient.

**BENEFICIARY** – Receive and facilitate weekly food box delivery, distribution, and logistics. Market and communicate food distribution to your community.

- Receive and sign off on weekly deliveries made by The Common Market
- Establish distribution schedule in line with The Common Market capacity, including site identification, participation and demand assessment.
- Arrange for proper staffing for scheduled distributions (including training and PPE).



- Ensure safe distribution protocols are established and followed by all parties involved.
- Facilitate communication and coordination of distribution logistics with participating organizations and end-recipients.
- Market/communicate distributions to ensure consumer demand in line with planning.
- Identify risks and mitigation plans.
- Contact The Common Market in the event that Recipient cannot receive a delivery with as much advance notice as possible by emailing [FarmFreshBoxCMTX@thecommonmarket.org](mailto:FarmFreshBoxCMTX@thecommonmarket.org).



This program is funded by Texas Department of Agriculture through The Common Market Texas' awarded contract titled "Connecting Texas Agriculture to Texas Communities"

**The Common Market Representative:**

Harold V. Dutton III, Chief Financial Officer

Full Name, Title

Signature

April 22, 2024

Date

**HARRIS COUNTY**

**HARRIS COUNTY  
COMMISSIONER PRECINCT 1**

\_\_\_\_\_  
Lina Hidalgo  
County Judge

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

APPROVED AS TO FORM:

CHRISTIAN D. MENEFE  
County Attorney

By: \_\_\_\_\_

Manasi Tahiliani  
Assistant County Attorney  
C.A.O. File No. 24GEN0914

ORDER OF COMMISSIONERS COURT  
Authorizing execution of an Agreement

The Commissioners Court of Harris County, Texas, convened at a meeting of said Court at the Harris County Administration Building in the City of Houston, Texas, on \_\_\_\_\_, 2024, with all members present except \_\_\_\_\_.

A quorum was present. Among other business, the following was transacted:

**ORDER AUTHORIZING EXECUTION OF AN AGREEMENT BETWEEN HARRIS COUNTY AND THE COMMON MARKET TEXAS**

Commissioner \_\_\_\_\_ introduced an order and moved that Commissioners Court adopt the order. Commissioner \_\_\_\_\_ seconded the motion for adoption of the order. The motion, carrying with it the adoption of the order, prevailed by the following vote:

Vote of the Court	<u>Yes</u>	<u>No</u>	<u>Abstain</u>
Judge Hidalgo	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Ellis	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Garcia	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Ramsey, P.E.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Briones	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The County Judge thereupon announced that the motion had duly and lawfully carried and that the order had been duly and lawfully adopted. The order adopted follows:

**IT IS ORDERED** that County Judge is hereby authorized to execute for and on behalf of Harris County an Agreement with The Common Market Texas funded by Texas Department of Agriculture. The Agreement is incorporated herein as though fully set forth word for word.

All Harris County officials and employees are authorized to do any and all things necessary or convenient to accomplish the purposes of this order.