

**TOWN OF FAIRFAX
STAFF REPORT**

To: Mayor, Members of the Town Council
From: Garrett Toy, Town Manager
Date: March 14, 2013
Subject: Selection of operator and award of contract for the management of the Fairfax Certified Farmers Market

RECOMMENDATION

1) Consider proposals and select an operator for the Fairfax Certified Farmers Market and 2) Authorize the Town Manager to negotiate, prepare, and execute an agreement with the selected operator per the parameters approved by the Town Council.

DISCUSSION

The Town has received four responses to the Request For Proposals (RFP) for the Fairfax Certified Farmers Market (Market):

- Agricultural Community Events Farmers Markets
- Marin Community Farm Stands & CSA
- Marin Community Farmers Market Association
- Next Generation Events

At the March 6th Council meeting, Council heard presentations from applicants, asked questions, and continued the item to a special March 14th Council meeting. The proposals, any supplemental materials, and staff report including a matrix comparing the proposals were part of the Council packet prepared for the March 6th meeting. Attached are the applicants' written responses to Council's additional questions submitted to the applicants subsequent to the March 6th meeting.

Fiscal Impact

The fiscal impact ranges from the Town covering any of the Market's operational shortfalls to the Town collecting some permit/fee revenues.

AGENDA ITEM # 1

Agricultural Community Events

Additional Questions For Farmers Market Operators

Please submit your written responses to the following questions by Monday, March 11th by 1:00pm. Your responses will be included in the Council packet. We realize that answers to these question may already be addressed in your proposal, but your response will assist the Council in their decision making process.

- 1 Please list the specific certifications/licenses that you currently have or will have to obtain in order to operate a certified Fairfax Farmers Market (Market). Licenses needed to run a Certified Farmers' Market include: Agriculture Permit, Health Permit and Fairfax Business License.
- 2 What will be your booth rate for nonprofits who wish to participate in the Market and how many can participate? We offer booth space for non-profits for \$10 at our other markets. For some non-profits who do not have the budget to pay \$10 we donate the space. At our Petaluma East-Side Farmers' Market we have done this for Master Gardeners, at our Marinwood Farmers' Market we have donated space for Las Gallinas Lions Club, Marin Garden Challenge and MSEL a division of Terra Linda High School and at our Glen Ellen Farmers' Market we donate space for Dunbar School. We believe it is important to support local community organizations.
- 3 What are the advantages or disadvantages, if any, of being a non-profit versus a for-profit entity when it comes to operating the Farmers Market? Would the legal status of your operation impact the level of educational activities that can happen at the Market? The law to run a Certified Farmers Market states you must be a California nonprofit, a government agency or a farmer. By being a nonprofit we can obtain the agriculture permit and not require the town of Fairfax to own the permit for us. The entity who owns the permit holds the responsibilities of the market. If a farmer is cited for noncompliance so is the owner of the certificate for the market. If we own the permit the liability falls on us, fiscal or otherwise. We are not required by law to have an educational component to our markets but we do offer educational seminars or information whenever possible. We feel it one way to build community and make a stronger market place.
- 4 Provide the salary for the market and assistant market managers and who will primarily be in attendance during the Market. Kelly Smith Market Manager will be onsite to execute layout, greet vendors and customers, maintain info booth and oversee operations. AJ Scholp Assistant Manager will be onsite to check compliance of agriculture permits and health permits, traffic control, waste management, unpack and pack equipment. We keep our overhead low to help keep vendor fees low. Kelly Smith is paid \$2310 and AJ is paid \$1848 for the

hours worked on the market day. The remainder salaries in our budget goes to accounting and office work.

- 5 Describe your plan to provide entertainment or educational events at the Market. We have a large group of great performers in our roster. We are planning on solo musicians who create ambiance to the market to create a low key shopping environment. For the educational element we have partnered in the past with individuals and groups who help teach sustainability through gardening, converting trash into functional greenhouses and making your own solar panels.

- 6 Please indicate if you would be willing to operate the Market in another location during the "off season". In essence, you would be operating a year round market. What are the key issues that would need to be addressed? We currently run to year round markets and would be happy to add Fairfax into the group of year round market offered in Marin County. We would need to move the market to location with visibility, possibly Sir Francis Drake Blvd near Fairfax Market, and has concrete or asphalt to set up on. Also, since in the months of January through April you will lose a good portion of your farmers because of low yield or crop rotations.

- 7 Are you willing to operate the Market with only a one year contract? Yes, we feel it would be beneficial for the market to run with a one year contract. ACEFM and the town of Fairfax would be able to address what is working and what is not working at the time of renewal with the goal to have a stronger farmers' market for the community.



MARIN COMMUNITY FARMERS MARKET ASSOCIATION

149 IGNACIO VALLEY CIRCLE, NOVATO, CA 94949

(415) 382-7846 Cell (415) 577-2539

March 11, 2013

To: Mayor Reed and Council members

Fr: Lynn Bagley

Re: Response to Proposal Questions with Attachment

Thank you for your questions and your concern for the best possible marketplace. We have provided detailed responses and an attachment on the evolution of California's certified farmers' markets (CFM) and the rationale for the nonprofit organization requirement, for your information.

1. Licenses/certifications needed to operate Fairfax CFM should our organization be selected to operate the Fairfax Farmers Market:

Fairfax business license, Fairfax events permit/contract, Certified Farmers Market Certificate from the Marin Agricultural Commissioner, Marin County Environmental Health Farmers Market Permit . Our Mutual benefit nonprofit status with the Secretary of State is current.

2. Nonprofit booths:

Our policy is to include free space for non-profits who disseminate information in all our markets. Placement is shown on the map provided in the proposal. If they intend to sell products they produce, they are given a 50% discount. If they typically make \$100 or less, they pay 10% of sales.

2 spaces are available; more space could be available when the peak season is over, if needed. A free speech zone is designated for petition drives.

4. For profit entities have the disadvantage of not being in compliance with the law unless they find a nonprofit fiscal sponsor, government entity or farmer that can qualify to hold the Farmers Market Certificate issued by the local Agricultural Commissioner. Further they tend to be out of the loop in terms of current standards and practices of tMarket operators. Therefore they don't always know enough or have access to the educational standards available to us at the annual farm conferences or networking meetings of other market managers so that they at least can understand the spirit of the law. Other disadvantages are those listed in 3. above, since the advantages listed don't generally apply to profit making entities.

For the fiscal sponsor or government entity that holds the Farmers Market Certificate, there is a direct fiscal and legal responsibility and liability for the Markets operations. Therefore more time is generally required to ensure that standards are being met. The finances are often handled by the sponsoring agency.

5. Salaries of Market managers and assistant managers: Assistant managers are hourly at \$12 an hour. Market managers are paid \$20.00 an hour. The market manager and assistant market manager will be in attendance throughout the day/eve. The director will be in attendance most of the market, before and after.

6. As stated in the proposal and at the Council meeting, emphasis will be placed on education programs in order to attract the kind of customer that will support high quality organic and sustainable food producers. Rather than appeal primarily to the festival patron, we are looking for the best customers for our producers . We don't need alot of them and they don't tend to take up hours of parking time.

We envision monthly programs involving seasonal products with children and adult cooking, garden and food arts and crafts, local chef tours of the market and farmers talks. Comparative tastings of produce in season featuring farmers and producers in the market will take place as well.

ATTACHMENT

CALIFORNIA'S CERTIFIED FARMERS' MARKET HISTORY (Why They Began and How It Relates To Non profit Operators)

With this Certified Farmer Market (CFM) development history and the resulting legislative intent from which CFMs were created, we attempt to provide some perspective in order to respond to questions about types of operators and necessary certification.

In the 1970's, a surplus in crop production caused a plunge in prices paid to farmers that was particularly hard on California's small farmers. Many reports of crops left in the field to rot (the costs of sorting and packaging exceeded the prices they were paid) and peach farmers demonstrating around the Capitol lead the first Jerry Brown administration's Secretary of Food and Agriculture Rose Bird to initiate "farmer to consumer" programs which came to be known as "direct marketing."

In the mid 70's, deregulation of costly sorting and packaging provisions helped farmers sell directly to consumers, which had previously been forbidden without buying a produce merchant license. The at risk small farmer could then by pass the middle level handlers (the "middle man") reduce costs and sell directly to the public thereby receiving a larger share of the food dollar, most of which had been going to produce merchants, processors and grocers.



MARIN COMMUNITY FARM STANDS & CSA
PO BOX 134 - SAN GERONIMO, CALIFORNIA 94963
(415) 497-9496

3/11/2013

Garrett Toy
Town Manager
Town of Fairfax
142 Bolinas Road
Fairfax, CA 94930

Dear Garrett,

This letter is in reply to the request by the Town Council of Fairfax for additional information. I have answered briefly due to the shortage of time but believe the basic information is provided.

1. Please list the specific certifications/licenses that you currently have or will have to obtain in order to operate a certified Fairfax Farmers Market (Market).

MCFS currently operates under the following licenses:

- Dealers License under the Produce Dealers Act
- Marin County Annual Device Registration Permit issued by Department of Agriculture, Weights and Measures
- Permit To Operate from Environmental Health Services as a mobile food facility for Prepack Food and Produce

MCFS will have to obtain a Certified Farmer's Market Certificate under either one of the following:

- Through one of MCFS's Certified Producers
- Through Sustainable Fairfax (Non-profit)
- Through Town Of Fairfax (Government Agency)

The Certified Farmer's Market legal structure and/or rules and regulations governing CFMs operation are somewhat incompatible with the dealer license that MCFS operates under.

I researched this issue by contacting Susan Shelton, the Program Supervisor for inspection and compliance at the California Department of Food and Agriculture 916-900-5030, email susan.shelton@cdfa.ca.gov. She has indicated to me that market rules and regulations of the CFM are to include well defined areas where certified producers sell their agricultural products. A farm stand using the aggregation model would have to operate in a clearly defined area NOT where the certified producers operate. In our case MCFS would set up an area separate from the CFM designated location. MCFS would operate the Fairfax Organic Farm Stand & CSA as an aggregator. This rule change would be adopted by our sponsor in order to allow this practice.

I further researched this issue with Stacy Carlsen, Agricultural Commissioner of Marin County. Stacy has indicated his support for what I am proposing.

Another option is for changing from a "Certified Farmer's Market" over to a "Fairfax Organic Farm Stand & CSA". This might be voted on by the Town Council. The Fairfax Organic Farm Stand & CSA would have certified organic producers and be "certified" in that regard. So the discussion then centers on a legal distinction but not one of substance because the MCFS proposal embraces all the values of the Fairfax community.

2. What will be your booth rate for nonprofits who wish to participate in the Market and how many can participate?

MCFS will offer a booth rate of \$30.00 for all non-profit organizations. (MALT, Marin Organic, AIM, Sustainable Fairfax, etc.) The number of non-profits will not be limited until such time as Bolinas Park is at or near capacity. All vendors would be subject to limits based on the Town Of Fairfax concerns about Bolinas Park and overcrowding. Should the demand be strong we can offer non-profits the option of sharing booth spaces so that no organization is prevented from meeting the public.

3. What are the advantages or disadvantages, if any, of being a non-profit versus a for-profit entity when it comes to operating the Farmers Market? Would the legal status of your operation impact the level of educational activities that can happen at the Market?

The advantage of operating as a for-profit entity is that our costs are lower. This is because revenue comes as a result of farm produce sales, not as a result of fees. The operation of the Farmers Market under a non-profit requires maximizing fees to bring in as many dues paying members as possible. This in turn calls for more management of more vendors, greater overhead, more employees, and a larger impact on the community.

Below are disadvantages of operating as a non-profit:

- **Cost:** Creating a nonprofit organization takes time, effort, and money. Because a nonprofit organization is a legal entity under federal, state, and local laws, the use of an attorney, accountant, or other professional may well prove necessary. Aside from legal or other consultant fees, applying for Federal tax exemption can cost \$200-\$850 or more, in addition to state fees for incorporation.
- **Paperwork:** As an exempt corporation, a nonprofit must keep detailed records and submit annual filings to the state and IRS by stated deadlines in order to keep its active and exempt status.
- **Shared control:** Although the people who create nonprofits like to shape and control their creations, personal control is limited. A nonprofit organization is subject to laws and regulations, including its own articles of incorporation and bylaws. In some states, a nonprofit is required to have several directors, who in turn are the only people allowed to elect or appoint the officers who determine policy.
- **Scrutiny by the public:** A nonprofit is dedicated to the public interest; therefore, its finances are open to public inspection. The public may obtain copies of a nonprofit organization's state and Federal filings to learn about salaries and other expenditures.

The educational activities that would be offered through MCFS would not be limited in any way by the legal status of MCFS. This is because we are foremost in bringing the educational message of sustainable agriculture and green movements in our normal course of business. The farm stand brings this message through all its producers, their certificates, organic certifications, the CSA, (as a community supported agriculture program) as well as the educational activities of other non-profits.

We would have unprecedented opportunity show how our local producers practice sustainable agriculture and how this leads to sustainable economic markets. MCFS educational efforts focus on what we actually do rather than what all the organizations talk about doing. MCFS is sustainable because our markets make money and our producers save money, fuel and time under aggregation.

Cultural and educational events for the community are independent of my legal status.

MCFS believes the single most important benefit of being a for-profit business is economic sustainability.

4. Provide the salary for the market and assistant market managers and who will primarily be in attendance during the Market.

James J. Baum (Market Manager) will receive a modest salary of \$3,600. This is minimal because the MCFS for-profit model allows for further compensation from farm stand sales and not from fees.

Joe Elliott (Operations Manager) salary of \$9,600.

Both Joe Elliott and James J. Baum will be on site each market day for the season.

5. Describe your plan to provide entertainment or educational events at the Market.

MCFS will provide entertainment and educational events at the Market.

Education:

- CSA (community supported agriculture program) containing a newsletter with news from the farmer and recipes.
- Workshops and discussions with local farmers
- Local Food Distribution models (aggregation)
- Cooking demonstrations by renowned chefs in cooperation with local restaurants.
- Implement Marin Organic education programs that include farm tours, on the farm workshops, and organic school lunch gleaning program.

Entertainment:

- Live music repositioned to reduce sound
- Puppet Show from previous vendor

6. Please indicate if you would be willing to operate the Market in another location during the “off season”. In essence, you would be operating a year round market. What are the key issues that would need to be addressed?

Yes, MCFS would be interested in operating the Market in another location year round. However, the idea of a year round market rain or shine is not sustainable. Rather MCFS would prefer to operate year round on a weather permitting basis using a direct marketing plan based on social media (twitter, email, Facebook, etc.). MCFS would communicate with the community on educational as well as market topics, announcements, and market news. This form of marketing is already in place with other MCFS communities. People will request news by signing up for these notifications. This is the modern way to promote a sustainable market year round in a smaller town. As such, these messages are not spam or junk mail. They become the voice and part of the process of sustainability.

7. Are you willing to operate the Market with only a one year contract?

Yes, but a longer term contract would enable for better planning for MCFS and it's certified producers.

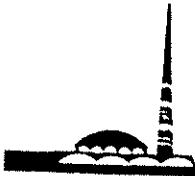
Thanks again to you, the Town Council, and the staff for considering my vision and model and bringing it to a forum for discussion.

Sincerely,

James J. Baum

President MCFS

james@communityfarmstands.com



COUNTY of MARIN

ENVIRONMENTAL HEALTH SERVICES

3501 Civic Center Drive, Room 236
San Rafael, CA 94903
Phone: (415) 499-6907
Fax: (415) 507-4120

PERMIT to OPERATE

FACILITY I.D. #:
16F-164002-1

FACILITY:

MARIN COMMUNITY FARMSTAND
AT LARGE
ROSS CA 94957

MAILING ADDRESS:

JAMES BAUM
P O BOX 134
SAN GERONIMO CA 94963

MFF OR CARTS - Prepack Food/Produce

THIS PERMIT IS VALID FOR THE PERIOD SHOWN BELOW

09/01/2012 to 08/31/2013

**AND REMAINS VALID UNLESS SUSPENDED OR REVOKED
BY THE COUNTY OF MARIN, ENVIRONMENTAL HEALTH SERVICES**

Rebecca Ng, REHS, Deputy Director, Environmental Health Services

**THIS PERMIT IS NON-TRANSFERABLE AND MUST BE
DISPLAYED IN A CONSPICUOUS LOCATION**

The Marin County / EHS web page may be accessed at: www.co.marin.ca.us/ehs

FACILITY:

MARIN COMMUNITY FARMSTAND
AT LARGE
ROSS CA 94957

FACILITY I.D. #: 16F-164002-1

INVOICE #: 16029159

MAILING ADDRESS:

JAMES BAUM
P O BOX 134
SAN GERONIMO CA 94963

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STATE OF CALIFORNIA
DEPARTMENT OF FOOD AND AGRICULTURE
MARKET ENFORCEMENT BRANCH

1220 N Street
Sacramento, California 95814
(916) 900-5016

James Baum
PO Box 134
San Geronimo CA 94963

License Number: C17679
Expiration Date: 2/28/2013
Revision Date: 4/6/2012

DBA: *Marin County Organic Farm*

You are licensed under the *Produce Dealers Act*
As a *Dealer* since *3/1/2008*

THIS CERTIFIES THAT THE ABOVE NAMED ENTITY IS LICENSED TO
PURCHASE CALIFORNIA FARM PRODUCTS AND AGREES TO ABIDE BY
ALL PROVISIONS OF DIVISION 20, CHAPTERS 6 AND 7 OF THE
CALIFORNIA FOOD AND AGRICULTURAL CODE.

BUSINESS STRUCTURE

Baum, James (OWNER)

◆◆◆◆ POST THIS LICENSE PROMINENTLY IN PUBLIC VIEW ◆◆◆◆
THIS LICENSE IS NOT TRANSFERABLE - ANY CHANGE IN OWNERSHIP REQUIRES A NEW LICENSE
SEE BACK FOR IMPORTANT RENEWAL INFORMATION

Next Generation Events Response
March 11, 2013

Additional Questions For Farmers Market Operators

Please submit your written responses to the following questions by Monday, March 11th by 1:00pm. Your responses will be included in the Council packet. We realize that answers to these question may already be addressed in your proposal, but your response will assist the Council in their decision making process.

Answers are in green below☺

- 1) Please list the specific certifications/licenses that you currently have or will have to obtain in order to operate a certified Fairfax Farmers Market (Market).
 - We currently have certification from the County of Marin Agricultural Department which allows us to operate a Certified Farmers Market in Downtown San Rafael. We will obtain and pay for the same certification for Fairfax.
 - We have a Marin County Health Department permit that allows us to have food booths at the San Rafael Farmers Market. We will obtain and pay for the same permit for Fairfax.
 - We are registered and pay quarterly to the CDFA (California Department of Food and Agriculture). We pay .60 cents per farmer per week to CDFA. These quarterly fees will be accounted for and paid by Next Generation.
 - We are permitted from the Marin County Department of Weights and Measures to allow farmers to weigh their products on site in San Rafael and will obtain this permit for Fairfax.
 - We are permitted to accept EBT from the State of California.

- 2) What will be your booth rate for nonprofits who wish to participate in the Market and how many can participate?

We are open to granting non-profits a free space in exchange for outreach and education. For example, we would love to partner with Sustainable Fairfax and Conservation Corps North Bay to educate on green waste, compostables, and the "bring your own bag" program. These non-profits would be able to set up for free because they are valuable partners in education. We would review all non-profit applications to assure that they are consistent with the needs and demands of the Fairfax Farmers Market. The non-profit section will be limited based on space availability. Non-profits that wish to sell products might be charged the non-profit rate.

Suggested Rates:

Non-Profits/Community Information = Free

Non-Profit (*selling products*) =\$40

Fairfax businesses = \$40
 Farmers = \$40
 Food Purveyors = \$45-\$55

- 3) What are the advantages or disadvantages, if any, of being a non-profit versus a for-profit entity when it comes to operating the Farmers Market? Would the legal status of your operation impact the level of educational activities that can happen at the Market?

As far as we are aware all of the applicants that have submitted proposals to run the Fairfax Farmers Market are for-profit entities per the IRS. The only two IRS recognized non-profits in Marin (that run Certified Farmers Markets) are AIM and Marin Organic, these organizations can be found on Guidestar. The legal status of our operation would not impact the level of education because we intend to spend time and money on educational activities. We have budgeted for education through staffing, being a for-profit we are not able to receive grant money. To supplement our own efforts we plan to partner with the local non-profits. We can provide the non-profits with a free market space to reach out to the community. Organizations like AIM and MO do have educational program outside of their markets, we not have that capacity at this time. We do educated at ALL our markets and with all our non-profit friends of the market. Education around sustainable foods systems would continue at the markets. Sometimes the best teachers are the farmers at the market, telling the story of the food they grow and how they grow it.

- 4) Provide the salary for the market and assistant market managers and who will primarily be in attendance during the Market.

Weekly Payroll	Weekly
<ul style="list-style-type: none"> • (2) Market Manager On Site for the first year <i>(@ \$18.00 an hour/10 hours each/total 20 hours a week)</i> • (2) Staff Market Prep and Post hours <i>(@\$18.00 an hour /10 hours each/total 20 hours a week)</i> • Payroll costs/Workers Compensation <i>13% of payroll/Workers Comp rates are very high for Farmers Markets because they fall into the "Carnival" category.</i> 	<p>\$360</p> <p>\$360</p> <p>\$94</p>
Total Weekly	\$814
Total for 22 Weeks	\$17,908

We have budgeted enough time and money in the manager and assistant managers salaries to develop and maintain a new website, to design and produce new merchandise specific to Fairfax, work on educational activities and outreach, to maintain

constant relationships with our vendors and local businesses, to do all necessary bookkeeping and accounting, and for market upkeep. We pay fair wages and payroll taxes on all our employees. We never send volunteers to run our markets. We have a market manager and assistant market manager present at every market. We are the first ones at the market and the last ones to leave every week.

5) Describe your plan to provide entertainment or educational events at the Market.

We will provide weekly entertainment and currently have a database of over 200 musicians. The musicians we hire will fit the need of the market and its space. We are aware of noise constraints as the market is near many residential areas, and that will always be taken into consideration when we book entertainment. We have access to children's entertainment such as clowns, face painters and bounce houses.

We are brainstorming educational ideas to provide at the Fairfax Farmers Market. Some concepts are:

- Distribution of GMO free seedling packets
- Partnering with a local 4H/FFA
- Demonstrations from the Marin Master Gardeners

6) Please indicate if you would be willing to operate the Market in another location during the "off season". In essence, you would be operating a year round market. What are the key issues that would need to be addressed?

We are definitely open to continuing the market during the "off season". Some concerns would be the weather and hours of operation. After daylight savings, a night time market becomes difficult. It gets dark and cold and is not ideal for vendors or customers. If the council would consider a daytime market in the off-season in a different location, we feel it would have a greater chance of success.

7) Are you willing to operate the Market with only a one year contract?

Yes, we would be willing to operate with a one year contract. We would hope that if Next Generation Events is selected and we produce a market that you are happy with, that Council would consider a longer contract for the following year.