

**“Grower Contract Agreement
WIC/Senior Farmers Market Nutrition Program 2017”**

The purpose of the United States Department of Agriculture Food and Nutrition Service (USDA-FNS) Farmers Market Nutrition Programs is to provide resources in the form of fresh, nutritious, unprepared, locally grown fruits, vegetables and herbs from farmers markets and farm stores to women and children who are nutritionally at risk and who are participating in the Special Supplemental Nutrition Program for Women, Infants and Children (WIC FMNP), and to low income seniors through the Senior Farmers Market Nutrition Program (SFMNP); and to expand the awareness, use of and sales at farmers markets and farm stores.

This contract, which is for authorizing a Grower to participate in S/FMNP, is pursuant to Revised Code of Washington (RCW) 43.70.700, which authorizes the Department to participate in WIC FMNP in compliance with 7CFR § 248 and the general authority of the Washington Department of Social and Health Services (DSHS) to serve older adults and administer SFMNP in compliance with 7 CFR § 249.

Department administers the WIC FMNP and DSHS administers SFMNP. Under an Interagency Agreement, Contract Number N17727-3, (IAA), Department conducts the contracting, monitoring, and training activities for markets and growers for both programs. DSHS retains responsibility for distribution and reimbursement of SFMNP checks. DSHS will work through Department if DSHS discovers a SFMNP violation or requires anything from a grower or market for the purposes of the SFMNP program. Department and DSHS intend that Department is fully responsible for administration of authorized market and authorized grower contracts for both WIC FMNP and SFMNP. Department will administer all grower or market violations and appeals, regardless of whether the violation arises under WIC FMNP or SFMNP.

1. **DEFINITIONS.** Any term not defined in the following has the meaning defined by 7 CFR § 246, 12 § 248, 7 § 249 or Chapter 246-780 WAC. If not specifically defined, the term has its ordinary meaning.

“Authorized,” “authorization,” “Authorized farm store,” “Authorized farmers market,” and “Authorized grower”, is an entity that has a signed contract and identification number from the Department allowing the entity to participate in FMNP.

“CFR” means the Code of Federal Regulations.

“Contract” means this agreement upon countersignature from the Department.

“Cut herbs” means fresh herbs with no medicinal value that are not potted.

“Department” means the Department of Health.

“Disqualification” means terminating the contract of an authorized grower or farm store for noncompliance with FMNP requirements. Disqualification may be for a specific period of time.

“**DSHS**” means the Department of Social and Health Services.

“**Eligible foods**” mean locally grown, unprocessed (except for washing), fresh, nutritious fruits, vegetables, and cut herbs. “Eligible foods” has the same meaning as “eligible foods” under 7 CFR §§ 248.2 and 249.2, provided that locally produced honey is an eligible food only for SFMNP customers.

“**Employee**” means any person who operates under the direction of Grower, regardless of whether the person receives compensation.

“**Farm Store**” means a location at the site of agricultural production which is owned, leased, rented or sharecropped, and operated by a grower, where the grower sells produce directly to consumers.

“**Farmers Market**” means an assembly of five or more authorized growers at a defined location who have the purpose of selling their produce directly to consumers.

“**FMNP**” means the **Farmers Market Nutrition Program** and is a collective term meaning both the WIC FMNP and the SFMNP. This Contract will use WIC FMNP or SFMNP to indicate where a provision applies to only one of the programs.

“**FMNP customer**” is a collective term meaning any person who is eligible for and has been issued an FMNP check under either the WIC FMNP or the SFMNP. This Contract will use WIC FMNP customer or SFMNP customer to indicate where a provision applies to only one of the programs.

“**Grower**” means an individual who grows a portion of the produce that he/she sells at a farmers market or farm store that entered into this Contract.

“**Grower Application**” means the Grower Application incorporated in this Contract.

“**Locally grown**” means Washington grown or grown in an adjacent county of Idaho or Oregon.

“**Market**” means any farmers market where the Grower conducts sales.

“**Market manager**” means an individual designated by farmers market management, or board members, who is responsible for overseeing the market and authorized growers’ participation in the FMNP.

“**SFMNP**” means the Senior Farmers Market Nutrition Program administered by the Department of Social and Health Services.

“**Split Tender Transaction**” means any grower must allow the participant to pay the difference when a FMNP transaction exceeds the value of the FMNP check.

“**Validating**” means stamping FMNP Checks in the designated box with appropriate identification numbers.

“**WAC**” means the Washington Administrative Code.

“**WIC**” means the federally funded Special Supplemental Nutrition Program for Women, Infants, and Children.

“**WIC FMNP**” means the WIC Farmers Market Nutrition Program administered by the Department of Health.

“**WIC & SFMNP Check**” means a negotiable financial instrument issued by the FMNP to clients to purchase eligible foods.

2. **PROGRAM REQUIREMENTS.** The Grower shall comply fully, and ensure the farm store, if any, complies fully, throughout the one year contract period, with the following program requirements:

- a. All contract provisions contained in this document and future amendments to it;
- b. The Department’s Grower Handbook explaining Program Requirements; Materials include, but are not limited to:
 - i. List of foods that are authorized for purchase with FMNP Checks
 - ii. FMNP Check redemption and validating procedures
 - iii. Civil rights requirements
 - iv. Complaint process instructions
- c. 7 CFR § 248 (WIC FMNP federal regulations);
- d. 7 CFR § 249 (SFMNP federal regulations);
- e. Washington Administrative Code (WAC) 246-780; and
- f. All federal and state laws, policies and procedures.

3. **THE GROWER SHALL:**

- a. Grow a portion of the FMNP eligible foods sold to FMNP customers.
- b. Assure that Grower’s operations and Farm Store, if any, meets the expectation of an authorized Grower or an authorized Farm Store described in WAC 246-780-028.
- c. Assure that Grower’s operations and farm store, if any, meets the requirements of 7 CFR §§ 248.10, 249.10 and 246.12 including but not limited to:
 - i. Displaying the sign required under WAC 246-780-028(1) and distributed by Department in a place where FMNP customers can see it whenever selling at a Market or the Farm Store, if any.
 - ii. Upon request, providing information the Department requires for its periodic reports to the USDA-FNS (U.S. Department of Agriculture – Food and Nutrition Services).
 - iii. Accepting WIC FMNP checks only for FMNP eligible foods; accept SFMNP checks for same eligible food plus honey.
 - iv. Providing eligible foods to the FMNP customers at the current price or less than the current price charged to other customers.
 - v. Accepting FMNP checks only from June 1st through October 31st.
 - vi. Properly depositing or cashing FMNP checks by November 15th.
 - vii. Validating FMNP checks using number stampers or cooperate with the Market Manager in validating FMNP checks; use the identification number assigned by the Department. FMNP checks must be stamped in the

- appropriate box on the face of the check with assigned identification numbers.
- viii. Participating in training or technical assistance on FMNP procedures when offered by a Market Manager or Department staff.
 - ix. Providing training on FMNP procedures to all employees with FMNP responsibilities.
 - x. Agreeing to be monitored for compliance with FMNP requirements and cooperate with Department during monitoring.
 - xi. Being accountable for the actions of employees providing FMNP food, services, and related activities.
 - xii. Paying back the Department for any FMNP checks transacted in violation of this contract.
 - xiii. Giving FMNP customers the same courtesies as other customers.
 - xiv. Assuring civil rights compliance as set forth by 7 CFR §§ 248.7 and 249.7 and state law. Do not discriminate against anyone on the basis of race, color, national origin, sex, age, creed, honorably discharged veteran or military status, sexual orientation, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability.
 - xv. Notifying the Department if going out of business before November 15th.
 - xvi. Not attempting to collect money from FMNP customers for FMNP checks not paid by the Department or DSHS.
 - xvii. Not giving cash as change back to FMNP customers when an FMNP transaction is for less than the value of the check. Growers should encourage customers to take more produce if the transaction is for less than the value of the check.
 - xviii. Allow the participant to pay the difference when the FMNP transaction exceeds the value of the FMNP check (also known as a split tender transaction).
 - xix. Ensuring no sales tax is collected on FMNP purchases
- d. Cooperate with the Market Manager at authorized Farmers Market; share FMNP identification number and provide evidence of FMNP authorization when requested by the Market Manager.
 - e. Not use FMNP checks to buy foods from others or pay market fees or other business costs.

By signing the WIC Farmers Market Nutrition Program (WIC FMNP) & Senior Farmers Market Nutrition Program (SFMNP) Grower Application:

- 1) I understand, if I'm authorized, I must accept FMNP checks from both WIC and Senior FMNP customers.
- 2) I understand that I cannot accept FMNP checks before I have received a signed contract from the WIC Farmers Market Nutrition Program.
- 3) I understand, if I am authorized, I will only accept WIC and Senior FMNP checks at authorized farmers markets, or Farm Store, if any, and within the current season dates. Check "First and Last Use Dates".
- 4) I understand that it is my responsibility to contact the Farmers Market Nutrition Program if I accept WIC checks at other authorized markets that were not listed on my original application. If I do not contact the program, my FMNP checks may be rejected.

- 5) I understand this contract is for one year and it is my responsibility to reapply when it expires.
- 6) If funds for the FMNP from any source are withdrawn, reduced, or limited in any way during the term of this contract, Department may suspend performance of the contract as an alternative to termination by giving notice of suspension and its effective date to contractor. During the period of suspension, contractor shall not accept FMNP checks. If Department determines funding is sufficient to resume the contract, Department shall provide notice to contractor that the suspension has ended. The contractor shall resume FMNP transactions in conformance with the contract. The period of suspension does not change the expiration date of the contract.

4. THE DEPARTMENT SHALL:

- a. Operate the FMNP in accordance with the requirements and procedures in federal regulations 7 CFR § 248, and 7 CFR § 249, WAC 246-780 and this contract.
- b. Cooperate with DSHS in the administration of the SFMNP.
- c. Provide Market Managers with access to training and resources on FMNP procedures and requirements.
- d. Provide in-person training on FMNP procedures and requirements during market monitoring visits.
- e. Provide toll free technical assistance as needed to Growers at 1-800-841-1410.
- f. Contract with local agencies to distribute WIC FMNP checks to WIC customers. DSHS retains responsibility for distribution of SFMNP checks.
- g. Ensure prompt payment of valid FMNP Checks that are properly stamped and redeemed.
- h. Monitor authorized Growers to make sure they follow FMNP program rules.
- i. Sanction and/or disqualify Growers for violating FMNP requirements, at the Department's discretion or as otherwise required by law.

5. NONCOMPLIANCE, ENFORCEMENT AND SANCTIONS

Grower's failure to comply with the Program Requirements: Authorized Farmers' Markets, authorized Growers or authorized Farm Stores who do not comply with FMNP requirements are subject to sanctions, such as monetary penalties, or disqualification. Prior to disqualification, the department must consider whether the disqualification would create undue hardships for clients.

Sanctions and/or contract termination for any FMNP abuse or violation of FMNP Program Requirements is at the Department's discretion.

Where there are violations, the Department will consider a single transaction of multiple FMNP Checks as a single violation. The Department will consider multiple transactions of FMNP Checks to be multiple violations with each transaction counting as a separate violation, regardless of the time elapsed between transactions.

The Department has no obligation to reinstate Grower's authorization after disqualification. The Grower must reapply to participate in the FMNP.

The Department shall notify Grower in writing of any adverse action in conformance with WAC 246-780-040(5). A Grower who commits fraud or abuse of the FMNP is additionally liable for prosecution under applicable Federal, State and local laws.

Sanction Table	
Class 1 Violation	Actions
1. Failure to properly display the authorized grower identification sign.	The Department shall give a verbal warning and provide technical assistance.
2. Failure to clearly post produce prices during market hours.	The Department shall give a verbal warning and provide technical assistance.
3. Conducting FMNP transaction in a market where the Grower is not authorized to transact FMNP Checks.	The Department shall give a verbal warning and provide technical assistance.
4. Failure to contact the FMNP office before accepts FMNP checks at other authorized markets that were not listed on the original application.	The Department shall give a verbal warning and provide technical assistance.
Class 2 Violation	Sanction
1. Charging an FMNP customer an amount greater than the Grower charges other customers.	The Department shall issue a written notice of noncompliance for Class 2 violations and provide technical assistance.
2. Charging an FMNP customer for items the FMNP customer does not receive.	The Department shall issue a written notice of noncompliance for Class 2 violations and provide technical assistance.
3. Refusal to accept a valid FMNP Check for eligible products.	The Department shall issue a written notice of noncompliance for Class 2 violations and provide technical assistance.
4. Failure to correct or a second incidence of a Class 1 violation.	The Department shall issue a written notice of noncompliance for Class 2 violations and provide technical assistance.
5. Operating the authorized farm store, if any, on the self-service or honor system, i.e., not staffing the farm store.	The Department shall issue a written notice of noncompliance for Class 2 violations and provide technical assistance.
6. Accepting FMNP Checks outside valid dates.	The Department shall issue a written notice of noncompliance for Class 2 violations and provide technical assistance.
7. Not operating as represented on the Grower Application.	The Department shall issue a written notice of noncompliance for Class 2 violations and provide technical assistance.
8. Any noncompliance with the Program Requirements not specifically identified as a Class 1 or 3 violations.	The Department shall issue a written notice of noncompliance for Class 2 violations and provide technical assistance.
Class 3 Violation	Sanction
1. A second failure to correct or a third incidence of a Class 1 violation.	The Department may suspend or terminate this Contract and may additionally disqualify the Grower from participation in FMNP.
2. Failure to correct or a second incidence of a Class 2 violation.	The Department may suspend or terminate this Contract and may additionally disqualify the Grower from participation in FMNP.
3. Accepting FMNP Checks for anything other than eligible foods.	The Department may suspend or terminate this Contract and may additionally disqualify the Grower from participation in FMNP.

4. Exchanging FMNP Checks for cash; also known as trafficking.	The Department may suspend or terminate this Contract and may additionally disqualify the Grower from participation in FMNP.
5. Discriminating against an FMNP customer on the basis of race, color, national origin, age, gender, or disability.	The Department may suspend or terminate this Contract and may additionally disqualify the Grower from participation in FMNP.
6. Abusive or hostile treatment of an FMNP customer.	The Department may suspend or terminate this Contract and may additionally disqualify the Grower from participation in FMNP.
7. Cashing a FMNP Check for a grower who is not authorized; or otherwise bartering for any FMNP Checks the non-authorized grower has accepted.	The Department may suspend or terminate this Contract and may additionally disqualify the Grower from participation in FMNP.
8. Failing to allow, comply with, or cooperate in the Department's inspections and monitoring.	The Department may suspend or terminate this Contract and may additionally disqualify the Grower from participation in FMNP.
9. Failing to provide documentation requested by the Department.	The Department may suspend or terminate this Contract and may additionally disqualify the Grower from participation in FMNP.
10. Failure to sell any produce grown by the Grower during the Contract year.	The Department may suspend or terminate this Contract and may additionally disqualify the Grower from participation in FMNP.
11. Providing false information on the Grower Application about the location and operation of the Grower's farm store.	The Department may suspend or terminate this Contract and may additionally disqualify the Grower from participation in FMNP.
12. Reporting sales from a market where Grower was never a vendor.	The Department may suspend or terminate this Contract and may additionally disqualify the Grower from participation in FMNP.
13. Continuing to participate in FMNP during a period of suspension or disqualification, which participation may include, but is not limited to, accepting FMNP Checks, continuing to display the FMNP signs, or other evidence of intent to accept FMNP Checks.	The Department may suspend or terminate this Contract and may additionally disqualify the Grower from participation in FMNP.
14. Selling unauthorized food, nonfood items, drugs, alcohol or other items to FMNP customers in lieu of or in addition to eligible foods.	The Department may suspend or terminate this Contract and may additionally disqualify the Grower from participation in FMNP.
15. Seeking restitution from FMNP customers for FMNP checks not paid by the Department.	The Department may suspend or terminate this Contract and may additionally disqualify the Grower from participation in FMNP.

6. APPEALS

- a. Grower may administratively appeal any Department actions that are subject to appeal in conformance with WAC 246-780-060. A request for appeal must conform to WAC 246-780-060(5) and be signed by the protesting party or authorizing agent.

- b. The request must be made mailed in conformance with WAC 246-780-060(6) and be postmarked within twenty-eight (28) days of the date the grower received the department's notice.
 - c. The following actions are not subject to administrative appeal:
 - i. Validity or appropriateness of selection criteria;
 - ii. Validity or appropriateness of FMNP customer access determinations;
 - iii. Duration or expiration of the Contract,
 - d. The Adjudicative Service Unit will give the Grower adequate notice of the scheduled time and location for the hearing.
 - e. When the action being appealed is suspension or disqualification, the Grower and Farm Store, if any, shall stop validating FMNP checks in accordance with WAC 246-780-040(3). The Department is not liable for payment of any FMNP checks submitted by a grower for payment during a period of suspension or disqualification.
7. **TERMINATION.** Either Party may terminate the Contract for cause or at will upon thirty (30) days notice. Grower shall send termination notice made by the Grower to the FMNP Coordinator.
8. **ORDER OF PRECEDENCE.** In the event of an inconsistency in this contract, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order:
- a. Applicable federal and state statutes and regulations
 - b. This Contract
 - c. Any other provisions of the Contract whether incorporated by reference or otherwise.
9. **ALL WRITINGS CONTAINED IN THIS AGREEMENT.** This contract contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this agreement shall be deemed to exist or to bind any of the parties hereto.
10. **CONFLICT OF INTEREST.** If the Department determines a violation of Chapter 42.52 RCW, the Ethics in Public Service Act, or any similar statute, concerning this Contract, the Department may terminate this Contract and pursue any other remedies available to it at law or under this Contract.

After reading the document "Grower Contract Agreement WIC/Senior Farmers Market Nutrition Program 2017", please go back to your Grower application and sign that you already read the document

WIC Nutrition Program doesn't discriminate.

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, sex, disability, age, or reprisal or retaliation for prior civil rights activity in any program or activity conducted or funded by USDA.

Persons with disabilities who require alternative means of communication for program information (e.g. Braille, large print, audiotape, American Sign Language, etc.), should contact the Agency (State or local) where they applied for benefits. Individuals who are deaf, hard of hearing or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program complaint of discrimination, complete the [USDA Program Discrimination Complaint Form](#), (AD-3027) found online at:

http://www.ascr.usda.gov/complaint_filing_cust.html, and at any USDA office, or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by:

Mail: U.S. Department of Agriculture
Office of the Assistant Secretary for Civil Rights
1400 Independence Avenue, SW
Washington, D.C. 20250-9410;
Email: program.intake@usda.gov
Fax: (202) 690-7442

This institution is an equal opportunity provider.

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