

RESOLUTION NO. 2012- 125

**A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, APPROVING THE TERMS, PROVISIONS, CONDITIONS, AND REQUIREMENTS OF AN AGREEMENT BETWEEN ST. JOHNS COUNTY, FLORIDA AND LINDA ARNOLD (“NORTH BEACH ARTS MARKET”) OF ST. AUGUSTINE, FLORIDA, FOR USE OF A PORTION OF NORTH SHORES PARK FOR A WEEKLY ARTS MARKET, AND AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE THE AGREEMENT ON BEHALF OF ST. JOHNS COUNTY.**

**RECITALS**

**WHEREAS**, Linda Arnold (“North Beach Arts Market”) has requested that St. Johns County, Florida (“County”) authorize the use of a portion of North Shores Park for the purpose of a weekly Arts Market; and

**WHEREAS** the County has recognized the benefit of supporting small farms, food growers, artists and crafts persons, and has recognized the need for creative marketing strategies for their products; and

**WHEREAS**, the County has recognized that the North Beach Arts Market has created, developed and will be implementing marketing strategies through a network of artists; and

**WHEREAS**, through proceeds generated by rentals fee charged to participating vendors, the County will receive four dollars (\$4) per vendor or booth space each week the North Beach Arts Market takes place; and

**WHEREAS**, the County has determined that accepting the terms of the proposed Agreement (attached hereto and incorporated herein), and entering into said Agreement is in the overall interests of not only the County, but also the North Beach Arts Market.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, AS FOLLOWS:**

**Section 1.** The above Recitals are hereby incorporated into the body of this Resolution, and are adopted as Findings of Fact.

**Section 2.** The Board of County Commissioners hereby approves the terms, provisions, conditions, and requirements of the attached Agreement between St. Johns

County, Florida, and Linda Arnold ("North Beach Arts Market"), and authorizes the County Administrator to execute the Agreement on behalf of St. Johns County.

**Section 3.** To the extent that there are typographical and/or administrative errors and/or omissions that do not change the tone, tenor or context of this Resolution, then this Resolution may be revised without subsequent approval by the Board of County Commissioners.

**Section 4.** This Resolution shall be effective upon execution by the Chair of the Board of County Commissioners.

**PASSED AND ADOPTED** by the Board of County Commissioners of St. Johns County, Florida, this 17<sup>th</sup> day of April, 2012.

BOARD OF COUNTY COMMISSIONERS  
OF ST. JOHNS COUNTY, FLORIDA

Attest:

Ram Halterman  
Deputy Clerk

By:

Mark P. Miner  
Mark P. Miner, Chair

RENDITION DATE 4/19/12

**LEGALLY SUFFICIENT**  
[Signature]  
Name  
Date: 4/15/12



## MASTER FARMERS MARKET AGREEMENT

**THIS AGREEMENT (“Agreement”)** is entered into, effective as of April 17, 2012 by and between **St. Johns County, Florida (“County”)**, a political subdivision of the State of Florida, located at 4020 Lewis Speedway, St. Augustine, Florida 32084, and **Linda Arnold (“North Beach Arts Market”)**, a Florida sole proprietorship, with a mailing address of 98 Corunna Street, St. Augustine, Florida 32084.

### RECITALS

**WHEREAS**, the **Board of County Commissioners of St. Johns County, Florida (“Board”)** has considered and examined the request by Linda Arnold (North Beach Arts Market); and

**WHEREAS**, the **Board** has determined that it is in the overall interests of not only **St. Johns County, Florida**, but also Linda Arnold to authorize an **Art Market** on a portion of North Beach Park, 3721 Coastal Highway, St. Augustine, Florida 32084.

**NOW THEREFORE**, the parties hereto, for, and in consideration of, the mutual covenants and conditions, hereinafter expressed, so hereby agree as follows:

#### **Section 1. Findings.**

The above Recitals are incorporated by reference into the body of this **Agreement**, and such recitals are adopted as Findings of Fact.

#### **Section 2. Purpose of this Agreement.**

By this **Agreement**, the **County** permits and authorizes Linda Arnold (under the terms, conditions, provisions, and requirements, set forth in this **Agreement**), to use North Beach Park, which is located within St. Johns County, Florida (more particularly noted on **Exhibit “A”** of this **Agreement**, which is attached hereto, and incorporated herein by reference), in order to prepare for, produce, operate, maintain, and run an **Arts Market**, at North Beach Park.

#### **Section 3. Duration of this Agreement.**

The duration of this **Agreement** runs from **April 20, 2012**, through **April 19, 2015**. North Beach Arts Market may request a **2-year** extension to this **Agreement** by submitting a written request to the County Administrator, no later than **December 31**,

**2014.** Should the County Administrator wish to extend this **Agreement**, then the County Administrator may do so, by approving, and executing a written extension to this **Agreement**.

Linda Arnold will oversee all preparatory activities associated with the **Arts Market** on the following days/dates: Saturdays. Accordingly, North Beach Arts Market is authorized to "set-up/take-down/clean-up one half hour prior to the scheduled opening time, and one half after the scheduled closing time.

Unless otherwise noted in this **Agreement**, on the days/dates noted, North Beach Arts Market may operate the **Arts Market** during the following hours: 3:00 p.m. to 7:00 p.m.

In the event that North Beach Arts Market wishes to operate the **Arts Market** on days/dates, or hours, other than those noted above, North Beach Arts Market must first secure the written approval of the County Administrator.

#### **Section 4. Force Majeure.**

Neither the **County**, nor the North Beach Arts Market shall be held in non-compliance with terms, conditions, provisions, and requirements of this **Agreement**, nor suffer any enforcement or penalty relating thereto (including suspension, termination, cancellation, or revocation of this **Agreement**) where such non-compliance or alleged default occurred and/or was caused by a strike, riot, war, earthquake, flood, tsunami, severe rainstorm, hurricane, or other act of nature, or other event that is reasonably beyond

#### **Section 5. Severability.**

If any word, phrase, sentence, part, subsection, section, or other portion of this **Agreement**, or any application thereof, to any person, or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, subsection, other portion, or the proscribed application thereof, shall be severable, and the remaining portions of this **Agreement**, and all applications thereof, not having been declared void, unconstitutional, or invalid shall remain in full force, and effect.

#### **Section 6. Governing Law and Venue.**

This **Agreement** shall be construed according to the laws of the State of Florida. Venue for any administrative and/or legal action arising under this **Agreement** shall be in St. Johns County, Florida.

#### **Section 7. Compliance with Laws.**

For the duration of this **Agreement**, the North Beach Arts Market is expected to abide by, and comply with, any, and all, applicable local, State, and/or Federal laws, codes, rules, regulations, and/or requirements, including, but not limited to: 1) the Americans

with Disabilities Act (“ADA”); 2) prohibiting discrimination; 3) Occupational Safety; 4) environmental safety and hazards; and 5) employment, including verification of status/citizenship, compensation, and/or benefits.

**Section 8. Use of County Logo.**

Pursuant to, and consistent with **County Ordinance 92-2, and County Administrative Policy 101.3**, the North Beach Arts Market may not manufacture, use, display, or otherwise use any facsimile or reproduction of the **County** seal without the express written approval of the **Board**.

**Section 9. Procedure for Achieving Assignment; Effect of Not Following Procedure.**

In light of the scope and rationale for this **Agreement**, neither the **County**, nor the North Beach Arts Market may assign, transfer, and/or sell any of the rights noted in this **Agreement**, or associated with this **Agreement**, without the express written approval of the other party. Should either the **County**, or the North Beach Arts Market, assign, transfer, and/or sell any of the rights of this **Agreement**, without such prior written approval of the other party, then such action on the part of either the **County**, or the North Beach Arts Market, shall result in the automatic termination of this **Agreement**, without further notice or required on the part of the other party.

**Section 10. Amendments to this Agreement.**

Both the **County**, and the North Beach Arts Market, acknowledge that this **Agreement**, together with any attached, and incorporated Exhibits, constitute the complete agreement and understanding of the **County**, and the North Beach Arts Market.

Further, both the **County**, and the North Beach Arts Market acknowledge that any change, amendment, modification, revision, or extension of this **Agreement**, other than termination as noted elsewhere in this **Agreement**, shall be in writing, and shall be executed by duly authorized representatives of both the **County**, and the North Beach Arts Market.

**Section 11. Fee For Use of North Beach Park.**

As payment for the **County’s** authorization to use the North Beach Park for an **Art Market**, the North Beach Arts Market shall pay a fee of \$4.00 per vendor or booth space rented.

On a monthly basis, North Beach Arts Market shall file a report with the **County Administrator** indicating the amount of use at North Beach Park for the previous month. North Beach Arts Market shall pay the **County**, for such previous month’s usage of North Beach Park. North Beach Arts Market’s monthly payment to the **County** shall be submitted to the **County** no later than fifteenth of each month.

**Section 12. Security Deposit Required.**

Prior to operating the **Arts Market**, North Beach Arts Market shall furnish to the **County**, a security deposit in the amount of \$250.00 (two hundred fifty dollars).

Based on changed conditions/circumstances, the **County** may increase or decrease the amount of the security deposit. In the event of an increase in the security deposit, the **County** shall give at least 30 days advance written notice, prior to the effective date of such security deposit increase.

In the event that all, or a portion, of the security deposit is used by the **County** to recoup costs expended by the **County**, the North Shore Arts Market has 5 days in which to replenish the security deposit to its original dollar amount.

The security deposit may be used by the **County**, to reimburse, or refund the **County** for any expenses undertaken by the **County**, which are associated with clean-up, repairs, restoration, or required maintenance of North Beach Park during, or after, the expiration of this **Agreement**.

After the termination of this **Agreement**, and in the event that the **County** determines that North Beach Park has been left in a condition that does not require the **County** to expend all, or part, of the security deposit, then the **County** shall return the unexpended portion of the security deposit to North Beach Arts Market.

The **County** shall return any unexpended portion of the security deposit to North Beach Arts Market no later than May 30, 2015 unless 2 year extension has been requested.

Notwithstanding any other provision in this Section, or in this **Agreement**, the **County** may, upon written request by the North Beach Arts Market, eliminate and refund the security deposit, in the event that the **County** has not had to use, or draw down on the security deposit in the preceding twelve-month period.

**Section 13. Insurance.**

Except as noted in this Section, the North Beach Arts Market shall comply with, and adhere to, all applicable provisions contained in the *Insurance Requirements Policy for use on County Facilities*, which is attached and incorporated as an Exhibit to this **Agreement**. Notwithstanding the *Insurance Requirements Policy for use on County Facilities*, the North Beach Arts Market may not permit and/or authorize the sale or consumption of alcoholic beverages or illegal narcotic substances on, or within that portion of North Beach Park used as an **Arts Market**. The North Beach Arts Market shall comply with, and adhere to, all applicable provisions contained in the *Insurance Requirements Policy on County Facilities* for duration of this **Agreement**, including any extensions of this **Agreement**. Failure to maintain any, and/or all required insurance shall

result in the automatic termination of this **Agreement**, without the necessity of providing further notification of termination.

**Section 14. Indemnification.**

To the extent permitted by law, the North Beach Arts Market shall indemnify, defend and hold harmless the **County**, its officials, agents, servants, and employees from, and against, any, and all, claims, liabilities, losses, and/or causes of action that may arise from any negligent act or omission on the part of the North Beach Arts Market to the extent that such negligent act or omission is connected with the services provided under, or associated with, this **Agreement**.

**Section 15. Risk of Loss.**

It is specifically understood that the **County** does not accept and/or assume any responsibility whatsoever for any person or property that enters that portion of North Beach Park designated for use as the **Arts Market**, during set-up/operating/clean-up hours for said **Arts Market**. In consideration of the execution of this **Agreement** by the **County**, the North Beach Arts Market releases the **County** from any, and all, liability for any loss, injury, death, theft, damage, or destruction to any persons or property which may occur in, or about, that portion of the North Beach Park, designated for use as the **Arts Market**, regardless of the cause. Nevertheless, the North Beach Arts Market shall not be liable for any, and all, liability which is determined to be caused solely due to the intentional or willful misconduct of the **County**.

**Section 16. Maintenance of North Beach Park**

For the duration of this **Agreement**, North Beach Arts Market shall be responsible for maintaining North Beach Park in a clean and safe condition. All solid waste, animal waste, yard/trash/waste, construction and demolition debris shall be removed and/or disposed of in receptacles approved by the **County**, or in a manner that is approved by the **County**. **North Beach Arts Market must remove their trash from premises at the conclusion of each session.**

Failure by North Beach Arts Market to maintain North Beach Park in a clean and safe condition may result in the **County** having to expend funds for cleanup and/or repair of the North Beach Park after any **Arts Market** session. In such case, all, or a portion, of North Beach Arts Market's security deposit (as noted elsewhere in this **Agreement**), may be expended. If, due to the failure of North Beach Arts Market to maintain North Beach Park in a clean and safe condition, the **County** expends more than the amount of the security deposit (if a security deposit is required and/or maintained), then North Beach Arts Market shall be required to pay any amount that is not covered by the security deposit. If there is no security deposit, then North Beach Arts Market is required to reimburse the **County**, for any, and all, funds expended, in order to cleanup and/or repair North Beach Park after any **Arts Market** session.

**Section 17. North Beach Arts Market's Responsibilities/Obligations.**

Under this **Agreement**, the North Beach Arts Market shall have the following responsibilities/obligations:

- a) to inspect that portion of North Beach Park being used for the **Arts Market**, prior to every scheduled use, in order to determine the overall condition of North Beach Park being used for the **Arts Market**, and notify the **County** prior to such scheduled use, if that portion of the North Beach Park being used for the **Arts Market** requires attention and/or repair;
- b) Maintain insurance as noted elsewhere in this **Agreement**;
- c) Abide by, and comply with, all applicable laws, rules, and regulations, as noted elsewhere in this **Agreement**;
- d) To the extent that water, sewer, or electricity are supplied to any booth by the **County**, then the North Beach Arts Market shall be responsible to reimburse and/or pay the **County** the cost to supply any booth with water, sewer, or electricity to any booth, together with any actual use charges that might be initially borne by the **County**.

**Section 18. Prohibited Activities.**

It is explicitly understood that the **County** prohibits the North Beach Arts Market to allow the following activities to occur within North Beach Park that is designated as the **Arts Market**:

- a) Sale or consumption of beer, wine, or other alcoholic beverages;
- b) sale of prescription drugs;
- c) sale or consumption of federally-controlled substances, or illegal narcotic substances;
- d) sale of any federally-recalled product, device, food, and/or liquid/juice/drink;
- e) sale or consumption of any federally-banned product, device, weapon, drug, food, and/or liquid/juice/drink;
- f) sale of any product, device, or substance classified as, or regulated as, a hazardous substance under either federal or state law, rule, or regulation;
- g) sale of any animal that is classified as federally-protected, or federally-endangered;
- h) sale of any animal whose ownership by an individual is not permitted under either federal or state law, rule, or regulation; and
- i) sale of any animal that is known to carry a contagious or communicable disease that may be passed onto another animal or a human

**Section 19. Reserved Rights of County.**

It is explicitly understood that the **County** reserves the following rights:

- a) require security and/or medical personnel, in those instances where there is a documented safety and/or health risk and/or need;
- b) authorize unannounced inspections of that portion of North Beach Park used as the **Arts Market** during set-up/operating/close-down hours; and
- c) impose additional requirements in those instances where there are documented health, safety, and/or welfare concerns.

**Section 20. Sign Placement.**

The **County** reserves the right to inspect and monitor the placement of all signs (directional or otherwise), to ensure compliance with the applicable provisions of the **County's** Sign Ordinance, and in order to ensure the safety of persons walking/traveling around the **Arts Market**.

**Section 21. Permits and Licenses.**

To the extent that the North Beach Arts Market needs to obtain/acquire and/or maintain permits and/or licenses, in order to manage and/or operate the North Beach Arts Market, or facilitate **County-approved** activities at North Beach Park then North Beach Arts Market shall be responsible for obtaining/acquiring, and maintaining at North Beach Arts Market's sole expense, any, and all, permits, licenses, and/or approvals required by Federal, State, and/or **County** law, rule, regulation, or ordinance. Specifically, North Beach Arts Market shall be required to secure, obtain/acquire, and maintain for the duration of this **Agreement**, any and all, State permits, licenses that are required for, or associated with, **Arts Markets, Flea Markets,** or functionally similar activities.

**Section 22. Termination of Agreement.**

This **Agreement** may be terminated with cause upon either the **County**, or the North Beach Arts Market giving at least 30 days advance written notice to the other party of such notice of termination. Such written notification shall indicate the exact cause(s) for termination of this **Agreement**, the exact date of termination, and shall result in termination of the cause(s) for termination cannot be satisfactorily cured, or resolved within the timeframe, set forth in the notice of termination. Consistent with other provisions of this **Agreement**, the **County** will compensate the North Beach Arts Market for any services and/or expenses that are authorized under this **Agreement**, and that are performed and/or accrued up to the date of the notice of termination. Thereafter, the **County** will only compensate the North Beach Arts Market for services and/or expenses that are pre-approved by the **County Administrator**, or his/her designee.

This **Agreement** may be terminated without cause upon either the **County**, or the North Beach Arts Market giving at least 30 days advance written notice to the other party of such notice of termination. Such written notice need not specify any cause for termination, but shall indicate the date on which termination is effective. Consistent with other provisions of this **Agreement**, the **County** will compensate the North Beach Art

Market for any services and/or expenses that are authorized under this **Agreement**, and that are performed and/or accrued up to the date of the notice of termination. Thereafter, the **County** will only compensate the North Beach Arts Market for services and/or expenses that are pre-approved by the **County Administrator**, or his/her designee.

**Section 23. Access to Records.**

The access to, disclosure, non-disclosure, and/or exemption of records, data, documents, and/or materials associated with this **Agreement** shall be subject to the applicable provisions of the Florida Public Records Law (Chapter 119, Florida Statutes).

**Section 24. Review of Records.**

As a condition of entering into this **Agreement**, and to ensure compliance, especially as it relates to any applicable employment law provision, the North Beach Arts Market authorizes the **County** to examine, review, inspect, and/or audit the books and records, in order to determine whether compliance has been achieved with respect to the terms, conditions, provisions, rights, and responsibilities noted in this **Agreement**. It is specifically note that the North Beach Arts Market is under no duty to provide access to documentation, not related to this **Agreement**, and this is otherwise protected by **County**, State, or Federal law.

**Section 25. No Commitment of County Funds.**

While the **County** will make all reasonable efforts, in order to budget and/or provide funds needed to maintain, repair, and/or improve North Beach Park, the **County** makes no express commitment to provide such funds in any given **County Fiscal Year** (which runs from October 1 of one calendar year through September 30 of the next calendar year). Moreover, it is expressly noted that the North Beach Arts Market cannot demand that the **County** budget and/or provide such funds in any given **County Fiscal Year**.

**Section 26. Relationship of the County and North Beach Arts Market.**

This **Agreement** shall not be deemed or construed to create any agency relationship, partnership (limited or otherwise), association, or joint venture between the **County**, and the North Beach Arts Market.

**Section 27. No Third Party Beneficiaries.**

Both the **County**, and the North Beach Arts Market, explicitly agree, and this **Agreement** explicitly states that no third party beneficiary status or interest is conferred to, or inferred to, any other person or entity.

**Section 28. Required Disclaimer.**

It is expressly understood that this **Agreement** does not in any way or form, create an affiliate relationship between the **County** and North Beach Arts Market.

It is expressly understood that in all advertising, of any sort, and by any means, North Beach Arts Market must:

- 1) specifically disclaim any endorsement by the **County**, on behalf of the **Arts Market**;
- 2) specifically disclaim any sponsorship by the **County**, on behalf of the **Arts Market**; and
- 3) specifically disclaim any affiliate relationship by the **County**, with respect to production, and/or presentation of the **Arts Market**.

The advertising referenced in this Section, includes, but is not limited to newspaper/magazine advertisements and/or inserts/stuffers/flyers; television/cable television advertisements, classified advertisements, or infomercials; Internet/web advertisements (including, but not limited to, banner ads, banner ads, classified ads); classified advertisements through any other media delivery source, individual flyers, door-hangers, handouts, signs, and/or billboards.

**Section 29. Notices.**

All notices, and other correspondence to the **County** shall be delivered, either by hand (receipt of delivery is necessary), or by U.S. Mail to:

**County Administrator**  
4020 Lewis Speedway  
St. Augustine, Florida 32084

With a Copy To:

**Interim Director, St. Johns County Recreation and Parks Department**  
2175 Mizell Road  
St. Augustine, Florida 32080

All notices, and other correspondence to the North Beach Arts Market shall be delivered, either by hand (receipt of delivery is necessary), or by U.S. Mail to:

Linda Arnold  
98 Corunna Street  
St. Augustine, Florida 32084

**IN WITNESS WHEREOF**, the parties have hereunto executed this **Agreement** on the day and year below written.

**ST. JOHNS COUNTY, FLORIDA**

**North Beach Arts Market**

**BY:** \_\_\_\_\_

**BY:** \_\_\_\_\_

**DATE:** \_\_\_\_\_

**DATE:** \_\_\_\_\_

**ATTEST: CHERYL  
STRICKLAND, CLERK OF  
COURTS**

**WITNESS:**

**BY:** \_\_\_\_\_  
**Deputy Clerk**

\_\_\_\_\_

**WITNESS:**

\_\_\_\_\_

**NORTH BEACH PARK • 3721 COASTAL HWY.**

