

RESOLUTION NO. 2012- 218

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 THE NORTH FLORIDA VENDORS ASSOCIATION, ALSO KNOWN AS NFVA OF ST. AUGUSTINE, FLORIDA, FOR USE OF A PORTION OF ALPINE GROVES PARK FOR A WEEKLY FARMERS/ARTS MARKET, AND AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE THE AGREEMENT ON BEHALF OF ST. JOHNS COUNTY.

RECITALS

WHEREAS, The North Florida Vendor's Association, or NFVA, has requested that St. Johns County, Florida ("County") authorize the use of a portion of Alpine Groves Park for the purpose of a weekly Farmers/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 Florida Vendors Association 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 ten dollars (\$10.00) per vendor or booth space each week The North Florida Vendors Association 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 Florida Vendors Association.

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 The North Florida Vendor's Association, 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 21st day of August, 2012.

BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA

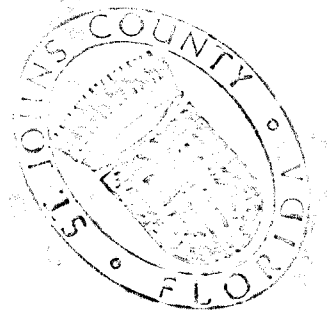
Attest:

Pam Halterman
Deputy Clerk

By:

[Signature]

RENDITION DATE 8/23/12



MASTER FARMERS MARKET AGREEMENT

THIS AGREEMENT ("Agreement") is entered into, effective as of _____, 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 **"The North Florida Vendors Association, Inc. also known as NFVA"**, a Florida sole proprietorship, with a mailing address of 171 Egret Road, St. Augustine, Florida 32086.

RECITALS

WHEREAS, the **Board of County Commissioners of St. Johns County, Florida ("Board")** has considered and examined the request by The North Florida Vendors Association, Inc.; and

WHEREAS, the **Board** has determined that it is in the overall interests of not only **St. Johns County, Florida**, but also The North Florida Vendors Association, Inc. to authorize a Farmers/Art Market on a portion of Alpine Groves Park, 2060 SR 13 North, St. Johns, Florida 32259.

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 The North Florida Vendors Association, Inc. (under the terms, conditions, provisions, and requirements, set forth in this Agreement), to use Alpine Groves 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 a Farmers/Arts Market, at Alpine Groves Park.

Section 3. Duration of this Agreement.

The duration of this Agreement runs from _____, 2012, through _____, 2015. The North Florida Vendors Association, Inc. 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.

The North Florida Vendors Association, Inc. will oversee all preparatory activities associated with the **Farmers/Arts Market** on the following days/dates: Saturdays.

Accordingly, The North Florida Vendors Association, Inc. is authorized to "set-up/take-down/clean-up approximately one hour prior to the scheduled opening time, and approximately one hour after the scheduled closing time.

Unless otherwise noted in this **Agreement**, on the days/dates noted, The North Florida Vendors Association, Inc. may operate the **Farmers/Arts Market** during the following hours: 10:00 a.m. to 2:00 p.m.

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

Section 4. Force Majeure.

"Neither party shall be held in non-compliance with the terms, conditions, provisions, and requirements of this **Agreement**, nor suffer any enforcement or penalty relating thereto (including 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 either party's ability to anticipate and/or control."

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 Florida Vendors Association, Inc. 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 Florida Vendor's Association 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 Florida Vendors Association, Inc. 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 Florida Vendors Association, Inc. 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 The North Florida Vendors Association, Inc., 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 The North Florida Vendors Association, Inc., acknowledges that this **Agreement**, together with any attached, and incorporated Exhibits, constitute the complete agreement and understanding of the **County**, and the The North Florida Vendor's Association, Inc.

Further, both the **County**, and The North Florida Vendors Association, Inc. acknowledges 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 Florida Vendors Association, Inc.

Section 11. Fee For Use of Alpine Groves Park.

As payment for the **County's** authorization to use Alpine Groves Park for a **Farmers/Art Market**, The North Florida Vendors Association, Inc. shall pay a fee of \$10.00 per vendor or booth space rented per occurrence.

On a monthly basis, The North Florida Vendors Association, Inc. shall file a report with the **County Administrator** indicating the amount of use at Alpine Groves Park for the previous month. The North Florida Vendors Association, Inc. shall pay the **County**, for such previous month's usage of Alpine Groves Park. The North Florida Vendors Association, Inc.'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 **Farmers/Arts Market**, The North Florida Vendors Association, Inc. shall furnish to the **County**, a security deposit in the amount of \$500.00 (five hundred 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 Florida Vendors Association, Inc. 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 Alpine Groves Park during, or after, the expiration of this **Agreement**.

After the termination of this **Agreement**, and in the event that the **County** determines that Alpine Groves 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 The North Florida Vendors Association, Inc.

The **County** shall return any unexpended portion of the security deposit to The North Florida Vendors Association, Inc. no later than _____, 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 Florida Vendors Association, Inc. 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 Florida Vendors Association, Inc. 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 Florida Vendors Association, Inc. may not permit and/or authorize the sale of alcoholic beverages or the sale or consumption of illegal narcotic substances on, or within that portion of Alpine Groves Park used as a Farmers/Arts Market. The North Florida Vendors Association, Inc. 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. The sale and consumption of alcoholic beverages on County

property is regulated by **County Ordinance 99-50**. Permission to sell and/or consume alcoholic beverages on County property must be granted by the County Administrator or designee by way of a permit or by the Board by way of an approved concession agreement. Approval to sell or consume alcoholic beverages on County property is also subject to the requestor providing adequate liquor liability coverage. Absent approval by the Board or the County Administrator and/or designee along with adequate liability coverage, the prohibition on the sale and/or consumption of alcoholic beverages on County property stands.

Section 14. Indemnification.

To the extent permitted by law, The North Florida Vendors Association, Inc. 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 Florida Vendor's Association 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 **Farmers/Arts Market**, during set-up/operating/clean-up hours for said **Farmers/Arts Market**. In consideration of the execution of this **Agreement** by the **County**, The North Florida Vendor's Association 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 Alpine Groves Park, designated for use as the **Farmers/Arts Market**, regardless of the cause. Nevertheless, The North Florida Vendors Association 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 Alpine Groves Park

For the duration of this **Agreement**, The North Florida Vendor's Association shall be responsible for maintaining Alpine Groves 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**. **The North Florida Vendor's Association must remove their trash from premises at the conclusion of each session.**

Failure by The North Florida Vendors Association, Inc. to maintain Alpine Groves Park in a clean and safe condition may result in the **County** having to expend funds for cleanup and/or repair of the Alpine Groves Park after any **Farmers/Arts Market** session. In such case, all, or a portion, of The North Florida Vendors Association, Inc.'s security deposit (as noted elsewhere in this **Agreement**), may be expended. If, due to the failure of The North Florida Vendors Association, Inc. to maintain Alpine Groves 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 The North Florida

Vendors Association, Inc. shall be required to pay any amount that is not covered by the security deposit. If there is no security deposit, then The North Florida Vendors Association, Inc. is required to reimburse the **County**, for any, and all, funds expended, in order to cleanup and/or repair Alpine Groves Park after any **Farmers/Arts Market** session.

Section 17. The North Florida Vendors Association, Inc.'s Responsibilities/Obligations.

Under this **Agreement**, The North Florida Vendors Association, Inc. shall have the following responsibilities/obligations:

- a) to inspect that portion of The North Florida Vendors Association, Inc. being used for the **Farmers/Arts Market**, prior to every scheduled use, in order to determine the overall condition of Alpine Groves Park being used for the **Farmers/Arts Market**, and notify the **County** prior to such scheduled use, if that portion of the Alpine Groves Park being used for the **Farmers/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 Florida Vendors Association, Inc. 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 Florida Vendors Association, Inc. to allow the following activities to occur within Alpine Groves Park that is designated as the **Farmers/Arts Market**:

- a) Sale 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 Alpine Groves Park used as the **Farmers/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 **Farmers/Arts Market**.

Section 21. Permits and Licenses.

To the extent that The North Florida Vendor's Association needs to obtain/acquire and/or maintain permits and/or licenses, in order to manage and/or operate The North Florida Vendor's Association, or facilitate **County-approved** activities at Alpine Groves Park then The North Florida Vendor's Association shall be responsible for obtaining/acquiring, and maintaining at The North Florida Vendor's Association's sole expense, any, and all, permits, licenses, and/or approvals required by Federal, State, and/or **County** law, rule, regulation, or ordinance. Specifically, The North Florida Vendor's Association 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, **Farmers/Arts Markets, Flea Markets, or functionally similar activities.**

Section 22. Termination of Agreement.

"This Agreement may be terminated by either the County, or The North Florida Vendors Association, Inc. giving at least 30 days advance written notice to the other party of such notice of termination. Such written notification shall indicate that either the County or the The North Florida Vendors Association, Inc. intends to terminate this Agreement thirty (30 days from the date of notification (unless a date greater than thirty (30) days is specified)."

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 Florida Vendor's Association 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 Florida Vendor's Association 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 Alpine Groves 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 Florida Vendor's Association cannot demand that the **County** budget and/or provide such funds in any given **County Fiscal Year**.

Section 26. Relationship of the County and The North Florida Vendors Association, Inc.

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 Florida Vendors Association, Inc.

Section 27. No Third Party Beneficiaries.

Both the **County**, and The North Florida Vendors Association, Inc., explicitly agrees, 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 The North Florida Vendors Association, Inc.

Neither The North Florida Vendors Association, Inc. nor the Alpine Groves Farmers Market is endorsed or sponsored by, or in any way affiliated, associated or officially connected with St. Johns County.

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:

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

All notices and other correspondence to The North Florida Vendors Association, Inc. shall be delivered, either by hand (receipt of delivery is necessary), or by U.S. Mail to:

The North Florida Vendors Association, Inc.
Arthur Glaser
171 Egret Road
St. Augustine, Florida 32086

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

ST. JOHNS COUNTY, FLORIDA

The North Florida Vendors Association, Inc.

BY: _____

BY: _____

DATE: _____

DATE: _____

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

WITNESS:

WITNESS:

BY: _____
Deputy Clerk