

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: December 17, 2019

☒ [X] Consent
☐ [] Ordinance

☐ [] Regular
☐ [] Public Hearing

Department: Parks and Recreation

Submitted By: Parks and Recreation Department

Submitted For: Parks and Recreation Department

I. EXECUTIVE BRIEF

Motion and Title: **Staff recommends motion to approve:** A non-standard Special Event Area Rental Agreement with Delray Beach Arts, Inc., for Garlic Fest 2020 from February 1, 2020 through February 11, 2020, at John Prince Park.

Summary: The South Florida Garlic Fest is a premier food and entertainment event in South Florida. The event is dedicated to exploring the numerous health and culinary possibilities of garlic. Garlic Fest serves as a gathering festival focal point for musicians, artists of every genre, and culinary artists. Now in its 21st year, the South Florida Garlic Fest is affectionately known as “The Best Stinkin’ Party in Florida”. This is the fourth year that this event will be held at John Prince Park. The term of the agreement is from February 1, 2020 through February 11, 2020. Due to the success and increased scope of the event, a Special Event Area Rental Agreement is required. District 3 (AH)

Background and Justification: Now in its 21st year, the South Florida Garlic Fest is affectionately known as “The Best Stinkin’ Party in Florida”. In 2017, after 17 years in Delray Beach, Garlic Fest relocated to John Prince Park. With annual attendance of over 40,000, Garlic Fest continues to be a premier festival in Palm Beach County featuring national act entertainment, a food area with over 100 garlic menu items, a large children’s amusement area with rides, and numerous arts and crafts vendors. The festival has been featured on the Food Network and in countless national newspapers and magazines. This is the fourth year that this event will be held at John Prince Park. Due to the success and increased scope of the event, a Special Event Area Rental Agreement is required.

Attachment: Non-standard Special Event Area Rental Agreement

Recommended by: 
Department Director

11-13-19
Date

Approved by: 
Assistant County Administrator

11/25/2019
Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2020	2021	2022	2023	2024
Capital Expenditures					
Operating Costs	936				
External Revenues	(15,000)				
Program Income (County)					
In-Kind Match (County)					
NET FISCAL IMPACT	*(14,064)	-0-	-0-	-0-	-0-
# ADDITIONAL FTE POSITIONS (Cumulative)					
Is Item Included in Current Budget:	Yes		No		X
Does this item include use of federal funds?	Yes		No		X

Budget Account No.: Fund 0001 Department 580 Unit 5206
Revenue various / Object various Program


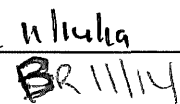
B. Recommended Sources of Funds/Summary of Fiscal Impact:

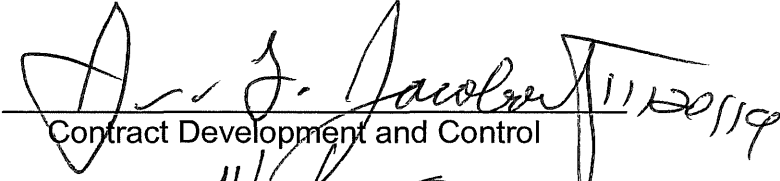
Renter	Revenue	Expense
Delray Beach Arts, Inc.	\$15,000	\$936
Totals	\$15,000	\$936

C. Departmental Fiscal Review: 

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development and Control Comments:


OFMB 


Contract Development and Control
11/20/19 TD

B. Legal Sufficiency:


Assistant County Attorney 11-22-19

C. Other Department Review:

Department Director

This summary is not to be used as a basis for payment

**SPECIAL EVENT AREA RENTAL AGREEMENT FOR
PALM BEACH COUNTY PARKS & RECREATION DEPARTMENT**

THIS SPECIAL EVENT AREA RENTAL AGREEMENT, hereinafter referred to as the “Agreement,” is made and entered into on _____ day of _____, _____, by and between Palm Beach County, a Political Subdivision of the State of Florida, by and through its Board of COUNTY Commissioners, hereinafter referred to as “COUNTY,” and Delray Beach Arts, Inc., a Not for Profit, Corporation, authorized to conduct business in the State of Florida, hereinafter referred to as “RENTER”.

W I T N E S S E T H:

WHEREAS, COUNTY, by and through its Parks and Recreation Department, hereinafter referred to as the “Department,” owns John Prince Park and the Special Event Area; and

WHEREAS, COUNTY seeks to supplement the cost to improve and maintain said Special Event Area by providing qualified entities the opportunity to conduct organized special events in exchange for the payment of rent; and

WHEREAS, such Special Event Area use is a privilege granted to RENTER and governed by COUNTY pursuant to the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, COUNTY and RENTER hereby agree to the following terms and conditions:

1. **Term:** This Agreement is effective February 1, 2020, at 7:00 am, the date and time RENTER enters the Special Event Area property, and will terminate Tuesday, February 11, 2020, at 5:00 pm, the date and time RENTER is to completely vacate the Special Event Area.

The number of days the Term of this Agreement is effective includes, without proration, any partial day’s use and occupancy of the Special Event Area.

Except as provided for herein, the Term of this Agreement is not subject to extension or renewal.

2. **Special Event Area:** The Special Event Area available for use by RENTER is John Prince Park, Special Event Area, hereinafter referred to as “Special Event Area”, together with certain equipment, improvements, and appurtenances thereto all as more particularly described on the Rental Scope and Detail, attached hereto as **Exhibit “B”**.

3. **Use:** The purpose for which RENTER is granted use of the Special Event Area is specifically limited to the production and conduct of a certain Event promoted as “Garlic Fest 2020” as hereinafter referred to as “Event”. The scope and detail of the Event is more particularly described on the Rental Scope and Detail, **EXHIBIT “A”**.

4. **Rental, Fees and Charges:** See EXHIBIT “D”

- a. **Deposit:** In addition to the rental fees and charges referenced above, the Department reserves the right to require RENTER remit an advance deposit and security deposit. The advance deposit for the Garlic Fest 2020 Event will be Three Thousand Five Hundred dollars (\$3,500) and the security deposit will be Five Hundred dollars (\$500). RENTER will remit payment of the deposits by December 31, 2019.

In consideration of the fact that Special Event Area Rental fees, and charges are calculated as of the date of the Special Event Area Rental and that all rental, fees and charges are subject to adjustment, the amount of rental, fees, and charges assessed at the time the Pre/Post Rental Settlement balance is calculated may differ from those in effect as of the date of this Agreement. See **EXHIBIT “D”**

5. **Termination:** In addition to the cancellation rights provided in Article 8 below, COUNTY reserves the right to terminate this Agreement at anytime without cause effective upon delivery of written notice of termination to RENTER. In such event, COUNTY will not be held liable for any lost profits or damages resulting from such termination. Though such termination may be effective immediately, the Department will not unreasonably limit the time necessary for RENTER to vacate the Special Event Area premises. Additionally, in the event of such termination, RENTER's Deposit will be refunded within forty-five (45) days following the date of termination together with any other fees and charges paid by RENTER.

6. **Performance:**

a. RENTER agrees to:

1. **use** the Special Event Area solely for the purpose for which this Agreement is entered into;
2. **remain** on-site for the duration of the rental setup and Event or assign an authorized representative who will be on-site to act on RENTER's behalf;
3. **accept** the Special Event Area and it's improvements as is, related to the rental in the condition existing as of the date of this Agreement;
4. **waive** any and all claims for compensation for any and all losses or damages sustained due to failure or malfunction of the Special Event Area's amenities;
5. **adhere** to the directives of the Department's representatives including, but not limited to, use and, assignment of designated parking areas, locations for off loading and staging production equipment, and acceptable noise levels;
6. **prohibit** any activity on the Special Event Area premises that may be considered contrary to community standards of appropriateness;
7. **assure** that all persons under RENTER's control conduct themselves in a socially acceptable manner;
8. **obtain** the Department's written approval prior to operating any engine, motor or machinery or using any flammable agents, including but not limited to oils, camphene, kerosene, naphtha,

or gasoline; with the exception of generators that have been approved by the Department's representative;

9. **limit** Event attendance to the capacity as specified by the Department as specified, the final decision regarding all issues related to ticketing, attendance and capacity will be made by the Department's designated representative for the Event;
 10. **assume** full responsibility for obtaining all licenses and permits required by Copyright Regulations of Title 17 of the United States Code, and agree to indemnify COUNTY and its agents for any expenses incurred as a result of RENTER's failure to obtain such licenses or permits, including, but not limited to, fines or damages collected against COUNTY or COUNTY's agents, any attorney's fees and court costs, and for any expenses incurred as a result of RENTER's failure to otherwise satisfy such regulations;
 11. **identify** as part of Rental Scope and Detail, attached hereto as **EXHIBIT "A"**, any and all required specialty certifications, licenses and / or memberships applicable to Event;
 12. **deliver** to the Department, no later than forty-eight (48) hours prior to the Event, a copy of those certain specialty certifications, licenses and/ or memberships referenced above, all of which will be retained by the Department;
 13. **acknowledge** that failure to deliver the required documentation referenced above may result in immediate termination of this Agreement which includes forfeiture of the Deposit and a demand for payment of all administrative costs incurred by COUNTY in association with this Agreement;
 14. **remove** all equipment and materials owned by RENTER and subcontractors no later than the termination date and time specified in Article 1 above;
 15. **return** the Special Event Area and all equipment and improvements related to the rental to the condition existing as of the effective date and time specified in Article 1 above;
 16. **hold** COUNTY harmless for the sale or disposal of any equipment and materials considered to be abandoned due to RENTER's failure to remove same from the Special Event Area premises by the specified termination date and time and pay the cost of such removal and disposal upon receipt of COUNTY's invoice; and
 17. **comply** with all Special Event Area rules and regulations and adhere to all federal, state and local laws and regulations, including Palm Beach COUNTY Code, Chapter 21, as may be amended, pertaining to Parks and Recreation, and Department standard operating procedures as all such laws, regulations, ordinances, and procedures apply to RENTER's use of the Special Event Area.
- b. COUNTY agrees to:
1. **deliver** the Special Event Area and associated premises in a safe, clean, and orderly condition;
 2. **assign** staff to provide logistical support and oversee all aspects of the rental including authority to make final decisions and issue directives on behalf of COUNTY;

3. **provide** equipment and support services including, technical staff and skilled maintenance as specified on the Rental Scope and Detail, attached hereto as **EXHIBIT“A”**;
 4. **retain** control of the Special Event Area and all operations conducted on the Special Event Area premises including enforcement of all laws, rules and regulations; and
 5. **collect** and dispose of any and all items either discarded or lost by patrons or others at Event, without interference by RENTER or any person working for or on behalf of RENTER, the disposition of which may include retaining such items at a lost-and-found location.
7. **Postponement or Cancellation of Event:** In the event emergency conditions arise which may affect public safety, RENTER's use of the Special Event Area may be postponed or cancelled. Such emergency conditions include, but are not limited to, acts of God or issuance of an executive order indicating a state of general emergency. COUNTY, in its sole discretion, will determine the necessity to postpone or cancel RENTER's use of the Special Event Area and will endeavor to provide RENTER at least four (4) hours notice of such postponement or cancellation prior to Event's start time. Provided, however, COUNTY's notice of such postponement or cancellation may be given at anytime including during Event performance.
- In the event COUNTY cancels RENTER's use of the Special Event Area due to any public safety concern, the term of this Agreement will be extended upon the same terms and conditions provided that within five (5) business days following such cancellation, COUNTY and RENTER agree upon a rescheduled Event date. Such Term extension will be effective upon COUNTY's delivery to RENTER of a written notice specifying the agreed upon rescheduled Event date and detailing the circumstances leading to the Term extension.
8. **Cancellation for Cause:** The occurrence of any one or more of the following acts constitutes a material default and breach of this Agreement by RENTER and will result in cancellation of RENTER's use of the Special Event Area:
- RENTER elects to cancel Event rather than accept the delayed start time ordered by COUNTY due to a public safety concern;
 - RENTER and COUNTY fails to mutually agree upon a rescheduled Event date within five (5) business days following COUNTY's cancellation of Event due to a public safety concern;
 - RENTER cancels use of the Special Event Area;
 - RENTER misrepresents its intended use of the Special Event Area including acting as a broker or agent by attempting to re-let the Special Event Area;
 - RENTER's use of the Special Event Area expands beyond the scope and purpose for which this Agreement is entered into;
 - RENTER provided materially false information relating to this Agreement;
 - Any person under the control of RENTER, including subcontractors, is responsible for purposely damaging the Special Event Area or any COUNTY owned equipment; or

- Any person under the control of RENTER, including subcontractors, is guilty of gross misconduct or unlawful behavior while on the Special Event Area premises.

Termination of this Agreement due to any such material default or breach requires RENTER to pay any and all COUNTY expenses associated with RENTER's use of the Special Event Area together with all fees and charges due and owed the same as if RENTER's use of the Special Event Area had not been cancelled and Event occurred as scheduled. COUNTY will not be held liable for any lost profits or damages resulting from any such cancellation. RENTER's Security Deposit will be applied to the expenses, fees and charges owed to COUNTY and any remaining balance owed is due and payable upon RENTER's receipt of COUNTY's invoice.

9. **Photography / Recording:** Except for Event performances and materials covered by copyright laws, licensing fees or other legal regulations, COUNTY may photograph and/or record audio and video during this Event. Such photos and recordings may be used by COUNTY for promotional and informational purposes only. RENTER agrees to provide assistance as needed to accommodate such photography and recording. RENTER is responsible for being aware of and advising COUNTY of any copyright infringements or other legal limitations that may apply to photographing and/or recording during Event.
10. **Relationship of the Parties:** RENTER is an independent contractor and operator responsible for its acts and omissions, for which COUNTY cannot be held liable. COUNTY desires to sponsor Event and receive sponsorship benefits in accordance with this Agreement. RENTER shall provide COUNTY with benefits as more particularly describe in EXHIBIT "A", which is attached hereto and incorporated herein by reference.
11. **Taxes:** RENTER assumes sole responsibility for the payment of any and all federal, state, and local taxes as may be applicable to RENTER's use of the Special Event Area and its business operations thereon. Additionally, RENTER is not eligible to benefit from the COUNTY's tax exempt status.
12. **Subcontracting:** Those employed by any entity performing any work or service on behalf of RENTER at the Special Event Area is considered to be a subcontractor for whom RENTER is responsible. Any agreement between RENTER and a subcontracting entity will be provided to the Department upon request.
13. **No Assignment or Brokerage:** RENTER may not assign any rights, responsibilities, or obligations under this Agreement nor act as an agent or broker for the renting of the Special Event Area. Any attempt to re-let the Special Event Area is a material breach of this Agreement and cause for immediate termination.
14. **Department Representative:** The Department's authorized representative for this Agreement is:
Name: Megan Archer Phone Number: 561-963-6702.
15. **Insurance Requirements:** It is the responsibility of RENTER to provide proof of the required insurance coverages specified on Insurance Requirements, attached hereto as **EXHIBIT "F"**.

Such proof of insurance must be provided to the Department's authorized representative prior to the execution of this Agreement or no later than ten (10) days prior to the effective date hereof, at the COUNTY's discretion.

16. **Indemnification:** RENTER agrees to protect, defend, reimburse, indemnify and hold COUNTY, its agents, employees and elected officers free and harmless at all times from and against any and all claims, liability, expenses, losses, costs, fines and damages, including attorney's fees and costs at trial and appellate levels, and causes of action of every kind and character arising out of this Agreement or RENTER's use and occupancy of the Special Event Area. Such causes of action include, without limitation, those arising by reason of; (i) any damage to property or the environment, (ii) bodily injury, including death, incurred or sustained by any party hereto, any agent or employee of any party hereto, and any third or other party whosoever, (iii) the condition of the Special Event Area existing at the effective date of this Agreement, (iv) RENTER's acts, omissions or operations hereunder, (v) the performance, non-performance or purported performance of RENTER, or (vi) any breach of the terms of this Agreement. The obligations arising under this provision will survive the expiration or termination of this Agreement.

17. **Damage or Destruction of Special Event Area:** RENTER hereby assumes full responsibility for the character, acts, and conduct of all persons admitted to the Special Event Area by or with the actual or constructive consent of any person acting for or on behalf of RENTER. If the Special Event Area, or any part thereof, during the Term of this Agreement, is damaged by the act, default, or negligence of RENTER, or of RENTER's members, agents, employees, officers, representatives, guests, invitees, contractors, or any person whomsoever, RENTER is to immediately restore the Special Event Area, at its sole cost and expense, to the condition existing prior to such damage as determined by COUNTY. If RENTER fails to restore the Special Event Area in the timely manner prescribed by COUNTY such restoration will be completed by COUNTY and RENTER assumes responsibility for payment of all such costs, plus twenty-five percent (25%) administrative overhead. Such restoration cost, plus the administrative cost, constitutes additional rent which is due and payable upon receipt of invoice.

Additionally, RENTER is prohibited from defacing the Special Event Area in any way including using nails, hooks, tacks, screws or any other faceting device. RENTER is also prohibited from painting any areas of the Special Event Area. No signs, advertisements, show-bills, lithographs, posters, placards or any other such items are to be posted or otherwise displayed anywhere on the Special Event Area premises without the express consent of the Department's authorized representative. Any such unapproved items will be immediately removed at the sole cost and expense of RENTER.

18. **Termination Upon Destruction or other Casualty:** In the event the Special Event Area or any part thereof is destroyed or damaged in whole or part by fire, water, or any other cause, or if any other casualty or unforeseen occurrence renders the fulfillment of this Agreement impossible, as determined by COUNTY in its sole discretion, this Agreement will terminate effective upon notice to RENTER and RENTER agrees to not hold COUNTY liable for any claim for damages or compensation should this Agreement be so terminated.

19. **COUNTY Not Liable:** COUNTY will not be responsible or liable to RENTER for any claims for compensation or any losses, damages or injury sustained by RENTER resulting from failure of any water supply, electrical current, sewerage or drainage facility, or caused by natural physical conditions of the Special Event Area premises, whether on the surface or underground, including displacement of materials by fire, water, windstorm,

tornado, hurricane, act of God or any cause beyond the control of COUNTY. All personal property placed on or moved onto the Special Event Area premises will be done so at the sole risk of RENTER or owner thereof and RENTER expressly acknowledges and agrees that COUNTY will not be liable for any damage to or loss of such personal property.

20. **Notices:** All notices required by this Agreement are to be hand delivered or sent by certified mail, return receipt requested to:

COUNTY:

Palm Beach COUNTY Parks and Recreation Department
Attn: Paul Connell
2700 6th Avenue South
Lake Worth, Florida 33461

RENTER:

Delray Beach Arts, Inc
Attn Nancy Stewart-Franczak
140 NE 1st Street
Delray Beach, FL 33444

21. **Remedies:** This Agreement shall be governed by the laws of the State of Florida. Any legal action necessary to enforce the Agreement will be held in a court of competent jurisdiction located in Palm Beach County, Florida. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity, by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.
22. **No Third Party Beneficiaries:** No provision of this Agreement is intended to, or shall be construed to, create any third party beneficiary or to provide any rights to any person or entity not a party to this Agreement, including but not limited to any citizen or employees of the COUNTY and/or RENTER.
23. **Annual Appropriations:** The fulfillment of this Agreement and all obligations of COUNTY hereunder are subject to and contingent upon annual budgetary appropriations by the Board of COUNTY Commissioners.
24. **Arrears:** RENTER is not to pledge or attempt to pledge COUNTY's credit or make it a guarantor of payment or surety for any contract, debt, obligation, judgment, lien, or any form of indebtedness. RENTER further warrants and represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms of this Agreement.
25. **Authorization:** This Agreement is executed by an individual legally authorized to fully bind RENTER to all terms and conditions of this Agreement.
26. **Public Entity Crimes:** As provided in F.S. 287.132-133, by entering into this Agreement or performing any work in furtherance hereof, RENTER certifies that it, its affiliates, suppliers, subcontractors and consultants who

will perform hereunder, have not been placed on the convicted vendor list maintained by the State of Florida Department of Management Services within the thirty-six (36) months immediately preceding the date hereof. This notice is required by F.S. 287.133(3) (a).

27. **Severability:** In the Event any term or provision of this Agreement is held invalid or unenforceable, the remainder of this Agreement will not be affected, and every other term and provision of this Agreement will be deemed valid and enforceable to the extent permitted by law.

28. **Access and Audits:** In the event that any part of the payment due and owed to COUNTY is calculated as a portion or percentage of ticket sales, gate admissions, vehicle parking or any other attendance information, RENTER will maintain the necessary records sufficient to adequately substantiate all such calculations for three (3) years following completion or termination of this Agreement and agrees to produce such records for audit immediately upon receipt of COUNTY's notice.

Palm Beach County has established the Office of the Inspector General in Palm Beach County Code, Section 2-421 - 2-440, as may be amended. The Inspector General's authority includes but is not limited to the power to review past, present and proposed COUNTY contracts, transactions, accounts and records, to require the production of records, and to audit, investigate, monitor, and inspect the activities of RENTER, its officers, agents, employees, and lobbyists in order to ensure compliance with contract requirements and detect corruption and fraud.

Failure to cooperate with the Inspector General or interfering with or impeding any investigation shall be in violation of Palm Beach County Code, Section 2-421 - 2-440, and punished pursuant to Section 125.69, Florida Statutes, in the same manner as a second degree misdemeanor.

29. **Waiver:** The failure of COUNTY to insist upon strict performance of any of the agreements, terms, covenants or conditions of this Agreement, does not constitute a waiver of any rights or remedies that COUNTY may have for any subsequent breach, default, or non-performance, and COUNTY's right to insist on strict performance of this Agreement will not be affected by any previous waiver of course or dealing.

30. **Nondiscrimination:** The COUNTY is committed to assuring equal opportunity in the award of contracts and complies with all laws prohibiting discrimination. Pursuant to Palm Beach County Resolution R2017-1770, as may be amended, the RENTER warrants and represents that throughout the term of the Contract, including any renewals thereof, if applicable, all of its employees are treated equally during employment without regard to race, color, national origin, religion, ancestry, sex, age, familial status, marital status, sexual orientation, gender identity or expression, disability, or genetic information. Failure to meet this requirement shall be considered default of the Contract.

31. **Regulation; Licensing Requirements:** RENTER agrees to comply with all laws, ordinances and regulations applicable to its use and rental of the Special Event Area premises. RENTER is presumed to be familiar with all applicable federal, state, and local laws, ordinances, codes and regulations.

32. **Criminal History Records Check:** The RENTER, RENTER's employees, subcontractors of the RENTER and employees of subcontractors shall comply with Palm Beach County Code, Section 2-371 – 2-377, the Palm Beach County Criminal History Records Check Ordinance ("Ordinance"), for unescorted access to critical facilities ("Critical Facilities") or criminal justice information facilities ("CJI Facilities") as identified in Resolution R2003-1274, as amended. The RENTER is solely responsible for the financial, schedule, and/or staffing implications of this Ordinance. Further, the RENTER acknowledges that its Contract price includes any and all direct or indirect costs associated with compliance with this Ordinance, except for the applicable FDLE/FBI fees that shall be paid by the COUNTY.

This Contract may include sites and/or buildings which have been designated as either "critical facilities" or "criminal justice information facilities" pursuant to the Ordinance and Resolution R2003-1274, as amended. COUNTY staff representing the COUNTY department will contact the RENTER(S) and provide specific instructions for meeting the requirements of this Ordinance. Individuals passing the background check will be issued a badge. The RENTER shall make every effort to collect the badges of its employees and its subcontractors' employees upon conclusion of the contract and return them to the COUNTY. If the RENTER or its subcontractor(s) terminates an employee who has been issued a badge, the RENTER must notify the COUNTY within two (2) hours. At the time of termination, the RENTER shall retrieve the badge and shall return it to the COUNTY in a timely manner.

The COUNTY reserves the right to suspend and terminate this Agreement if the RENTER 1) does not comply with the requirements of County Code Section 2-371 – 2-377, as amended; 2) does not contact the COUNTY regarding a terminated RENTER employee or subcontractor employee within the stated time; or 3) fails to make a good faith effort in attempting to comply with the badge retrieval policy.

33. **Entirety of Agreement:** COUNTY and RENTER agree that this Agreement sets forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Agreement may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto.

(Reminder of this Page Intentionally Left Blank)

IN WITNESS WHEREOF, the PARTIES have hereunto set their hands and seals in the date first above written.

PALM BEACH COUNTY WITNESS

Palm Beach County
Board of County Commissioners

SIGNATURE

NAME (TYPE OR PRINT)

ATTEST:
Clerk & Comptroller

Deputy Clerk –

BY: _____
Mayor

RENTER WITNESS

RENTER – Delray Beach Arts, Inc.

Cheryl Smith 10/29/19
SIGNATURE DATE

Cheryl Smith
NAME (TYPE OR PRINT)

N Stewart-Hanahan 10/29/19
SIGNATURE DATE

N STEWART-STEWART
NAME (TYPE OR PRINT)
PRES / EXEC DIR
TITLE (TYPE OR PRINT)

APPROVED AS TO
FORM AND LEGAL SUFFICIENCY:

By: _____
Assistant County Attorney

APPROVED AS TO
TERMS & CONDITIONS:

By: Eric Call
Eric Call, Director
Parks and Recreation Department

Garlic Fest 2020

Rental Scope and Detail

1. Event Activities:

- a. **Approved Activities:** COUNTY grants RENTER exclusive right to use the Special Event Area for the purpose of conducting the Event including, but not limited to, pre approved activities such as: food booths, alcohol beverage booths, fifteen (15) mechanical rides, parking revenue from Center Drive, use of Parking #10 and the overflow parking area, music and other forms of entertainment. RENTER shall have sole responsibility for arranging and providing all contractors, persons, organizations, businesses and employees necessary to properly conduct Event activities. RENTER may use Golf Carts during the Event area as needed and may place campaign type signs throughout the south section of park with Garlic Fest logo on each sign.
- b. **Prohibited:** Fireworks, helicopter rides, ferris wheels, and music or speech that call, incite or provoke an immediate breach of the peace. COUNTY reserves the right to immediately stop and terminate any such activity. Music volume shall not exceed 85 decibels at any time at any property line of the Special Event Area. If COUNTY staff determines that the Event noise level is disturbing the peace of the surrounding community, RENTER will lower the noise volume of the offending source(s) as directed by COUNTY.
- c. **Entertainment:** RENTER shall notify the COUNTY at least thirty (30) days in advance of the Event the name of each music group, type of music and type of amplification system which will be used by each group providing music. RENTER shall provide to the COUNTY identification of the locations of the Special Event Area where the performances will occur and the seating arrangements provided for each performance.
- d. **Admission Entrance:** COUNTY understands that RENTER intends to sell admission tickets in advance and/or at the booths by entrance gates. RENTER understands that ticket sales must be monitored in order for the COUNTY to verify sales and attendance numbers. RENTER shall cooperate with the COUNTY monitoring activities. The amount of tickets sold and/or comped cannot exceed the COUNTY's Fire Marshal's capacity for the areas used.
- e. **Parking for over night vehicles:** RENTER shall use the overflow parking area for overnight RV's, Box Trucks and RV's. Overnight Security must be provided by the RENTER.

2. Use of John Prince Park:

- a. **Campground Entrance:** RENTER will be responsible for rerouting the Campground entrance to the JFK employee entrance. RENTER, will secure one (1) message board, three (3) light towers and two (2) Private Security Guards for this area. Equipment and Security must be in place: Saturday, February 8, 2020 8:00am-11:30pm and Sunday, February 9, 2020 8:00am – 7:00pm See **EXHIBIT "C"**
- b. **Event Closing Responsibilities:** RENTER shall be responsible for closing the Event areas each night. RENTER will provide a security guard for the four way stop immediately after PBSO shift ends each day until all patrons have left the premises. It will be RENTER'S, responsibility to lock the north and east internal gates at the four way stop, once the Event lots are vacated.
- c. **Event Schedule:** The Event shall operate in accordance with the following schedule:

Saturday: February 8, 2020 11:00 am to 11:00 pm
Completely closed no later than 11:30 pm
Sunday: February 9, 2020 11:00 am to 6:00 pm

Completely closed no later than 6:30 pm

“Completely closed” shall mean the cessation of all Event related activities, including music, VIP visits and other entertainment, amusement rides and food operations and all other Event activities, and the vacating of the Special Event Area by patrons.

- d. **John Prince Golf Learning Center:** RENTER will be responsible for providing one (1) security personal at the John Prince Golf Learning Center one hour before Event opens, until the Golf Learning Center closes for the day.
- e. **Event Setup and Tear Down:** RENTER may enter the Special Event Area no earlier than seven (7) days before Event and shall have the park restored to its original condition two (2) days after the conclusion of the Event. During the set up and tear down period all safety precautions must be followed by RENTER to ensure the safety and the welfare of all park participants. Ten (10) working days before the Event, a final detail Event set up and move out time line is due to COUNTY.
- f. **Sole Contact:** RENTER sole contact with COUNTY will be Megan Archer, Recreation Specialist III. During the set up, tear down and Event time frames, RENTER will designate one liaison with the COUNTY. Regarding safety issues communication response time between RENTER and COUNTY will be fifteen (15) minutes. Regarding a logistical concern the response time will be thirty (30) minutes.
- g. **Walk Through:** Post event walk through by COUNTY will be scheduled on Tuesday after the Event ends.
- h. **Drop Off Area:** Provide a pickup/drop off area for commercial drivers to be able to safely drop off and pick up at the Event. Area must appear on all maps and must be well marked.

3. Park Usage Conditions:

- a. **Alcohol Beverage Sales:** Alcoholic beverages may be sold in the Special Event Area pursuant to, and in compliance with, a valid license or licenses issued by the Florida Department of Business and Professional Regulations, Division of Alcoholic Beverages and Tobacco, and all conditions imposed by the PBSO. All alcohol sales and service shall end thirty (30) minutes prior to the end of the Event.
- b. **Equipment:** RENTER shall provide plans and calculations to the COUNTY for approval no later than thirty (30) days before the Event for proposed stages, platforms, tent structures and electrical systems. RENTER shall obtain the inspections of and approvals by all COUNTY building and fire departments of all structures and electrical systems prior to the first day of the Event. Structures, including sanitary facilities shall comply with the Florida Building Code.
- c. **Fencing:** RENTER shall install temporary fencing satisfactory to the COUNTY and compliant with ADA regulations. In addition, RENTER, shall ensure that the fencing contractor provides the necessary traffic control during the installation and removal of the fencing. Fencing will be removed within 24 hours of the Event by RENTER.
- d. **Parking:** RENTER shall be responsible for securing off site parking and shuttle stops for Event Patrons. RENTER shall provide a parking plan and evidence of arrangement for all necessary off site parking to the COUNTY no later than thirty (30) days prior to the Event.
- e. **Restrooms:** ADA accessible restrooms will be provided based on Industry standard number of toilets for expected attendance. All portable restrooms will be dumped each day and will be cleaned during the day by RENTER.
- f. **Trash:** RENTER shall be responsible for the continual clearing of trash/debris from the Special Event Area during the Event and shall further be responsible to provide proper clean up of the

areas associated with the Event and surrounding areas, 'Proper clean up' shall mean that the open visible ground is free of litter, lumber, construction materials and other materials resulting from Event operations and that these materials are removed from the grounds and disposed of properly. RENTER shall reimburse the COUNTY of any cost incurred for site clean-up. RENTER will provide adequate trash containers and dumpsters that are serviced each day during the Event.

4. Safety:

- a. **Fire Regulations:** No later than sixty (60) days before the Event, RENTER will provide an occupancy plan, exit plan, and a general plot plan to COUNTY Fire Department. RENTER shall comply with all applicable current Florida Fire Code provisions. Permits may be required for, but not limited to generators, tags, booths, emergency light, cooking booths, tents, egress and amusement rides. In addition, RENTER shall obtain the approval of the Fire Marshall of all cooking appliances and fuels before use at the Event.
- b. **Permits:** RENTER and its representatives, shall comply with all applicable laws. It shall be the responsibility of the RENTER to obtain, or cause to be obtained, all required permits, provided.
- c. **Security Plan:** RENTER shall prepare an operation and security plan for the Event that will be submitted to PBSO for review and approval sixty (60) days prior to the Event. PBSO will decide how many officers are required for the Event. RENTER will secure the required number of officers and provide confirmation to the COUNTY. PBSO reserves the right to revoke the Event Permit at any time without prior notice to or permission from RENTER if in the opinion of PBSO, the public health and/or safety is in jeopardy.

5. Sponsorship:

- a. COUNTY desires to Sponsor this Event in accordance with this Agreement based on COUNTY receiving the following Sponsorship benefits: Recognizing the Parks and Recreation Department as a Partner benefiting from full recognition and display of logo on all advertising and marketing tools. The Parks and Recreation Department will have a vendor tent in a prominent area for the purpose of marketing Department programs and services and can place a 4 X 8 Banner on entrance way fence
- b. **Advertising Standards and Criteria:** COUNTY prohibits logos, advertisements, or a manner of presentation which negatively impacts the COUNTY, promotes a product, service, or activity offensive to the general public, or which negatively impacts, disrupts, intrudes upon or interferes in any manner, with the efficient and cost effective operation and administration of the COUNTY, or any other advertising the COUNTY determines to be inappropriate or likely to hinder or interfere with the goal of earning revenue from long term commercial advertisements. COUNTY prohibits logos or advertisements that are false, misleading or deceptive statements or material; relates to an illegal activity; include explicit sexual material, obscene material, or material harmful to minors; advertises tobacco products or electronic cigarettes; includes language that is obscene, vulgar, profane or scatological; relates to instruments, devises, items, projects, or paraphernalia that are designed for use in connection with specific sexual activities; depicts violence and/or anti-social behavior. COUNTY has sole discretion to approve or deny the RENTERS use or display of any logos or advertisements. COUNTY's approval of RENTERS logos or advertisements shall not be construed as promotion or endorsement of RENTERS business, products, or services.

- c. For COUNTY's sponsorship of this event, RENTER will receive a percentage discount on total costs to be determined by Department Director.
- d. RENTER will provide one hundred (100) complimentary tickets to the Parks and Recreation Department.

(Reminder of this Page Intentionally Left Blank)

EXHIBIT “A”
Rental Scope and Detail

Rental Area to include:

Full Special Event Area	Y	Parking: at Restroom #10, Overflow Parking, Smythe, Granowitz, and Center Drive Pavilion	Y
___% of the Special Event Area	N		
Water	Y		

Amenities, Services & Equipment:

Item	Procured By	Paid By	N/A
Dumpster	Renter	Renter	
EMS	Renter	Renter	
Event Parking Crew	Renter	Renter	
Event Security	Renter	Renter	
Fencing	Renter	Renter	
Golf Center Parking Control	Renter	Renter	
Light Towers	Renter	Renter	
Local Law Enforcement	Renter	Renter	
Message Boards	COUNTY	Renter	
MOT	COUNTY	Renter	
PBSO	Renter	Renter	
Portlets	Renter	Renter	
RV Entrance Reroute	COUNTY	Renter	
Sound and Light System	Renter	Renter	
Tents	Renter	Renter	

EXHIBIT "B"

Site Map

RENTER will use: Special Event Area, Overflow Parking, Parking at #10, and Center Drive Parking lot.



EXHIBIT "C"

Rerouting of John Prince Campground Entrance

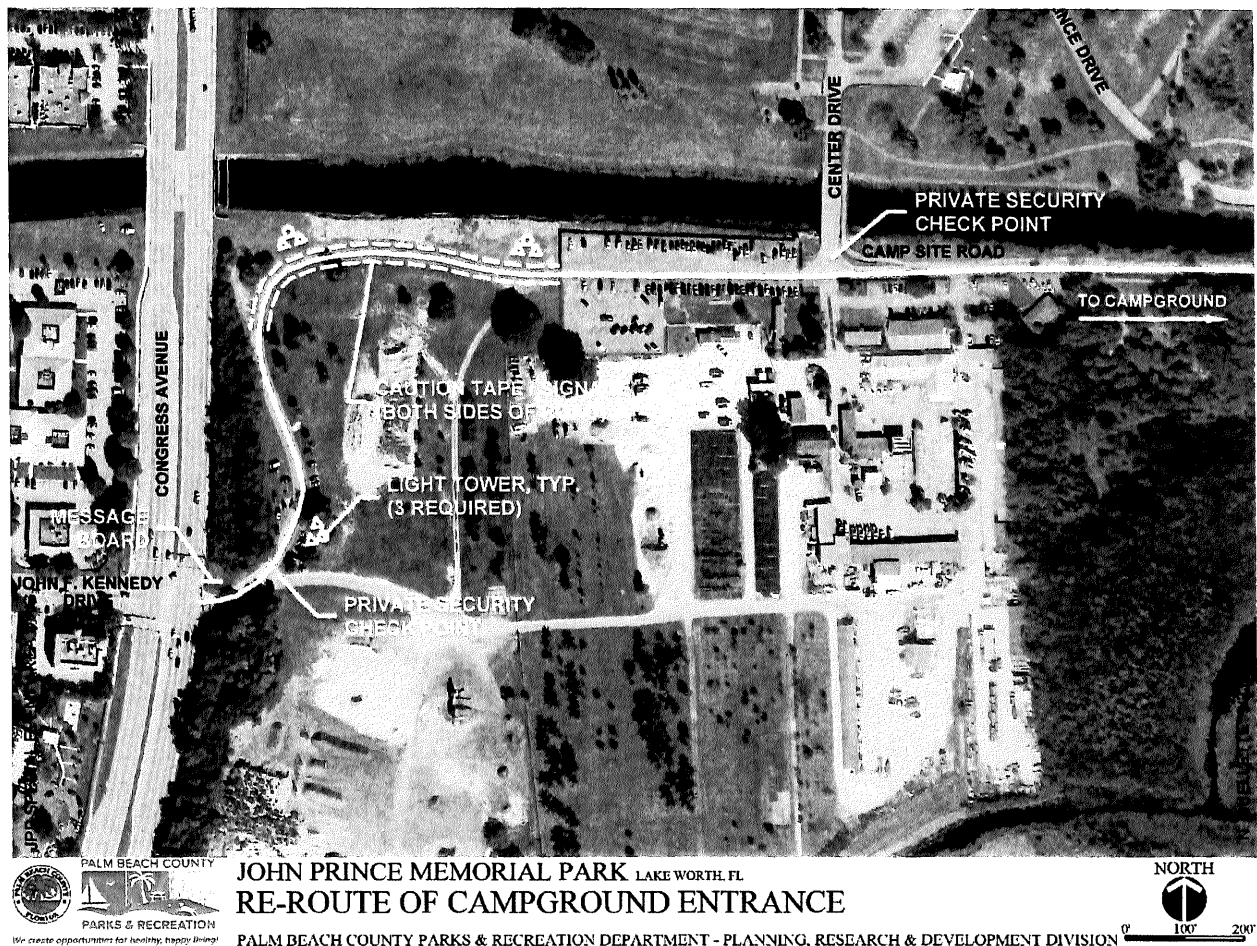


EXHIBIT “D”

A. Reimbursement: Renter shall pay the following to COUNTY:

Fee Type	Fee Amount	Due by
Flat Rate - Negotiated	\$15,000.00	
Deposit Paid	\$3,500.00	December 31, 2019
Security Deposit Paid (Refundable)	\$500.00	December 31, 2019
Total Due	\$11,500.00	February 10, 2020

B. Event deposit will be due on December 31, 2019 \$4,000.

C. The estimate of COUNTY cost does not include potential damage caused as a result of the Event. Renter shall be responsible for and agrees to pay the full cost of any repair of damages to the Special Event Area.

EXHIBIT “F”

(1 of 2)

SPECIAL EVENTS RENTAL AREA RENTAL AGREEMENT
Insurance Requirements

RENTER will maintain in full force and effect, on a primary basis and at its sole expense, at all times during the life of this Agreement, insurance coverages and limits (including endorsements) as described herein. Failure to maintain the required insurance will be considered default of this Agreement. The requirements contained herein, as well as COUNTY’s review or acceptance of insurance maintained by RENTER, are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by RENTER under the Agreement. RENTER agrees to provide the COUNTY with at least ten (10) days prior notice of any cancellation, non-renewal or material change to the insurance coverages.

Palm Beach COUNTY Parks & Recreation Department Representative to Initial as applicable:

☐ **No Insurance Required:** Based on scope of services, RENTER shall not be required to provide insurance.

☒ **Commercial General Liability:** RENTER shall maintain Commercial General Liability at a limit of liability not less than **\$1,000,000** Each Occurrence. Coverage shall not contain any endorsement(s) excluding Contractual Liability or Cross Liability.

☒ **Liquor Liability:** if alcoholic beverages (including beer, wine, and spirits) are for sale at the Event, the RENTER AND VENDOR shall maintain Liquor Liability coverage and the Certificate of Insurance must state that Liquor Liability coverage is included with a minimum limit of liability of **\$1,000,000** Each Occurrence. The policy **must not exclude** either Personal Injury/Advertising Injury, Damage to Rented Premises, or Products/Completed Operations.

If no admission or similar fee is charged at any type of Event and alcoholic beverages are served at no charge, the Certificate of Insurance must state that Host Liquor Liability Coverage has been secured with a minimum limit of liability of **\$1,000,000** Each Occurrence.

☐ **Participant Liability:** RENTER shall maintain Participant Liability at a limit of liability not less than **\$25,000** Each Occurrence.

☐ **Auto Liability:** RENTER shall maintain Business Auto Liability at a limit of liability not less than **\$500,000** Each Occurrence for all owned, non-owned, and hired automobiles. In the Event RENTER owns no automobiles, the Business Auto Liability requirement shall be amended allowing RENTER to maintain only Hired & Non-Owned Auto Liability. This amended requirement may be satisfied by way of endorsement to the Commercial General Liability, or separate Business Auto coverage form.

☐ **Professional Liability:** RENTER shall maintain Professional Liability or equivalent Errors & Omissions Liability at a limit of liability not less than **\$1,000,000** Each Claim. When a self-insured retention (SIR) or deductible exceeds **\$10,000**, COUNTY reserves the right, but not the obligation, to review and request a copy of RENTER’s most recent annual report or audited financial statement. For policies written on a “Claims-Made” basis, RENTER shall maintain a Retroactive Date prior to or equal to the effective date of this Agreement. The Certificate of Insurance providing evidence of the purchase of this coverage shall clearly indicate whether coverage is provided on an “occurrence” or “claims – made” form. If coverage is provided on a “claims-made” form the Certificate of Insurance must also clearly indicate the “retroactive date” of coverage. In the Event the policy is canceled, not renewed, switched to an Occurrence Form, retroactive date advanced, or any other Event triggering the right to purchase a Supplement Extended

EXHIBIT “F”
(2 of 2)

Reporting Period (SERP) during the life of this Agreement, RENTER shall purchase a SERP with a minimum reporting period not less than three (3) years.

- ☐ **Additional Insured Clause:** Except as to Business Auto, Workers’ Compensation and Employer’s Liability (and Professional Liability, when applicable) the Certificate(s) of Insurance shall clearly confirm that coverage required by this Agreement has been endorsed to include COUNTY as Additional Insured. As such, said Certificate(s) shall specifically include: “Palm Beach COUNTY, a Political Subdivision of the State of Florida, its Officers, Employees, and Agents.”
- ☐ **Waiver of Subrogation:** RENTER hereby waives any and all rights of Subrogation against the COUNTY, its officers, employees and agents for each required policy. When required by the insurer, or should a policy condition not permit an insured to enter into a pre-loss agreement to waive subrogation without an endorsement, then RENTER shall notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy which includes a condition to the policy specifically prohibiting such an endorsement or voids coverage should RENTER enter into such an agreement on a pre-loss basis.
- ☐ **Certificates of Insurance:** Prior to execution of the Agreement, the RENTER shall deliver to the COUNTY Certificate(s) of Insurance evidencing that all types and amounts of insurance coverage required by this Agreement have been obtained and are in full force and effect. In addition, the RENTER shall provide this evidence to the COUNTY prior to the expiration date of any such insurance required herein. Such Certificate(s) of Insurance shall include a minimum ten (10) day endeavor to notify due to cancellation of coverage. Certificates of Insurance are to be sent to:
Palm Beach COUNTY Board of COUNTY Commissioners
C/O Parks and Recreation Department
Attn: Click or tap here to enter text.
2700 Sixth Avenue South
Lake Worth, Florida 33461
- ☐ **Umbrella or Excess Liability:** If necessary, RENTER may satisfy the minimum limits required above for Commercial General Liability, Business Auto Liability, and Employer’s Liability coverage under Umbrella or Excess Liability. The Umbrella or Excess Liability shall have an Aggregate limit not less than the highest “Each Occurrence” limit for Commercial General Liability, Business Auto Liability, or Employer’s Liability. The COUNTY shall be specifically endorsed as an “Additional Insured” on the Umbrella or Excess Liability, unless the Certificate of Insurance notes the Umbrella or Excess Liability provides coverage on a “Follow-Form” basis.
- ☐ **Right to Revise or Reject:** COUNTY, by and through its Risk Management Department, in cooperation with the contracting/monitoring department, reserves the right to review, modify, reject, or accept any required policies of insurance, including limits, coverage, or endorsements, herein from time to time throughout the term of this Agreement. COUNTY reserves the right, but not the obligation, to review and reject any insurer providing coverage because of its poor financial condition or failure to operate legally.

