



P.O. Box 2451 ♦ DAYTONA BEACH, FL 32115-2451 ♦ (386) 671-8180

Michael O. Sznajstajler
Chairman
Kelly White
Commissioner
Sheryl A. Cook
Joseph H. Hopkins
Tammy M. Kozinski

AGENDA

Thursday, March 20, 2018 8:00 a.m.
Conference Room 149B

NOTICE – If any person decides to appeal any decision of the Downtown Development Authority at this meeting, they will need a record of the proceedings. Interested persons may wish to ensure that a verbatim record of the proceedings before the Board is made, including any testimony or evidence presented to the Board. The City does not prepare or provide a verbatim record of Board proceedings.

SPECIAL MEETING

1. Call to Order
2. Roll Call
3. Farmers' Market Manager Finalist Interview & Contract
4. Public Comments
5. Board Comments
6. Adjournment

**CONTRACT FOR MANAGEMENT OF
PUBLIC FARMERS' MARKET**

The Parties to this Contract are the City of Daytona Beach Downtown Development Authority (the "DDA") and Melanie John (the "MANAGER").

WITNESSETH:

WHEREAS, The City of Daytona Beach (the "City") and the DDA have entered into a written license agreement authorizing DDA to use City-owned property located on City Island within the Downtown area of Daytona Beach, each Saturday during the calendar year to hold the "Daytona Beach Downtown Farmers' Market" ("the Farmers' Market"), attached hereto and incorporated herein as Attachment 1 (hereinafter the "License Agreement"); and

WHEREAS, DDA's rules and regulations governing the selection of participating vendors, vendor conduct at the Farmers' Market, and payment of fees by participating vendors (hereinafter "Vendor Rules") are attached hereto and incorporated herein as Attachment 2; and

WHEREAS, DDA has provided MANAGER written documentation as to the precise location of the area in which the Farmers' Market is authorized to take place under the License Agreement, the current layout of the Farmers' Market including dimension and size of vendor lease spaces, and a list of currently participating vendors; and

WHEREAS, the DDA desires to contract with MANAGER to manage, and MANAGER has agreed to manage, the continued operation of the Daytona Beach Farmers' Market in accordance with the terms and conditions set forth below.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the Parties agree, effective on the date the last Party hereto has signed below, as follows:

Section 1. INCORPORATION. The recitals above are fully incorporated into these terms and conditions as if fully set forth below.

Section 2. TERM. This Contract will be for an initial Term commencing on the Effective Date and ending on September 30, 2018. The Effective Date is the date on which the last Party has signed as shown below. This Contract will automatically renew for additional one-year Terms, unless notice of termination is provided by either Party. Unless waived by the Party entitled to receive such notice, the Party providing notice of termination must do so at least 30 days prior to the end of the current Term.

Section 3. SCOPE OF SERVICES. MANAGER will manage and operate the Farmers' Market as a first-class Farmers' market which positively reflects on the image of Downtown Daytona Beach, and in a manner consistent with the License Agreement. MANAGER's services include the following:

- A. Except in case of illness or with DDA's prior approval, MANAGER will provide on-site management of the Market, including set-up, breakdown, and clean up, including performance of the following tasks:
1. Be on-site at all times during the hours of the operation for the Farmers' Market, including set-up and breakdown. Unless otherwise agreed by the DDA and MANAGER, and except when early closure is required due to weather or other unanticipated conditions beyond either Party's control, MANAGER will be on-site at a minimum from 6:30 a.m. to 2 p.m.
 2. Oversee morning set-up to block vehicular traffic through the Framer's Market area, and ensure an efficient flow of visitor pedestrian traffic in and around the Farmers' Market, including through use of safety barricades provided by DDA.
 3. Oversee vendor compliance with the Rules.
 4. Collect vendor rents as provided by the Rules, and deposit them as provided below.
 5. Work with vendors to resolve conflicts and issues.
 6. Run the Management & Information Booth that DDA is required to operate pursuant to the License Agreement. The Booth and associated table and chairs will be provided by the DDA for MANAGER's use. MANAGER will be responsible for ensuring that the Booth is open and staffed at all times while the Farmer' Market is open.
 7. If products for sale are authorized within the Booth, display and sell such products, and deposit the sales proceeds as provided below.

MANAGER will be responsible for transporting the Market and Information Booth and safety barricades to and from the site of the Farmers' Market from the location where they are stored by the DDA, and for securing these items at such storage location when not in use.

Nothing herein will prohibit MANAGER from recruiting and securing volunteers to assist MANAGER in setting up or managing the Farmers' Market.

- B. Select vendors to participate in the Farmers' Market in accordance with the criteria set forth in the Rules.
1. Develop and implement strategies, for approval by DDA, to recruit new vendors consistent with the License Agreement.
 2. Meet and recruit new vendors.
 3. Oversee the application process of new vendors, including the approval of new vendors for the Farmers' Market consistent with Rules. This includes distributing vendor application forms, reviewing, and communicating with all vendor applicants.

- D. Run activities, such as entertainment and special holiday promotions, at the Farmers' Market.
 - 1. Develop a monthly activity schedule, for approval by DDA, that creates an inviting market atmosphere consistent with the License Agreement for the Farmers' Market.
 - 2. Manage the activities approved by DDA, including securing services for the activities.
- E. Develop strategies to attract new customers to the Farmers' Market and coordinate advertising with DDA marketing staff and agency for the Farmers' Market marketing.
 - 1. Provide content about promotions and vendors to promote on DDA social media pages.
 - 2. Coordinate with Volusia County health food interest groups and Farmers' Market Coalition to promote the Farmers' Market
- F. Upon program approval by DDA, work with appropriate City staff to implement SNAP acceptance at the Farmers' Market.
- G. Obtain police, fire, and traffic services from the CITY as required under the License Agreement.
- H. Maintain detailed supporting documentation, including receipts, invoices, bills, ledgers, or other documentation for all financial transactions authorized by this Agreement.
- I. Deposit all receipts from Vendor rents and product sales (collectively, "Farmers' Market revenues), in the manner provided below.
- J. Maintain books and records in the manner provided below.
- K. Provide to the DDA not later than the 10th day of each month, a written MANAGER's report for the previous month to include a list of current vendors, a ledger of monthly revenues and expenses, status of vendor recruitment efforts, and status of Saturday Market events, summary of any customer surveys and proposed advertising content for the upcoming month.
- L. Provide any additional reporting to the DDA, including at DDA public meetings, that the DDA may require.
- M. Coordinate issues with the City's Redevelopment staff.
- N. Otherwise ensuring the DDA's compliance with applicable provisions of the License Agreement.
- O. MANAGER will have a working, charged cell phone with her during the conduct of the Farmers' Market, including setup and breakdown, and during normal weekdays normal

business hours, in order to be available to address vendor concerns and coordinate with DDA.

- P. At all times while performing the services required herein, MANAGER will act in a professional and courteous manner. At all times while MANAGER is on-site at the Farmers' Market, MANAGER will be well groomed and properly attired, with due consideration being given to the outdoor and casual nature of the event. MANAGER will monitor any volunteers working on-site to make sure they also comply with this provision.

Section 4. ANNUAL FARMERS' MARKET BUDGET. The Farmers' Market budget fiscal year for the 2017-2018 fiscal year that expires on September 30, 2018, is attached hereto and incorporated herein as Attachment 3. Beginning for the 2018-2019 fiscal year, MANAGER will annually prepare and provide the DDA a proposed Farmers' Market fiscal year budget for the upcoming fiscal year. The proposed budget will be submitted no later than June 1st of the current fiscal year.

DDA will have the sole right and discretion to approve the final Farmers' Market fiscal year budget. MANAGER will be solely responsible for any costs or expenses MANAGER incurs that are not provided for in the approved fiscal year budget, or that are incurred without complying with the provisions of this Agreement.

Section 5. PURCHASE OF GOODS AND SUPPLIES. MANAGER will be authorized or required to order certain good or services for the operation of the Farmers' Market, using procedures provided by the DDA or the DDA's authorized representative, subject to the availability of funds for such goods or services within the approved fiscal year budget. These goods and services may include for example, products to be sold within the Management and Information Booth and payment for entertainment acts performing at the Farmers' Market, as referenced in Section 3. They may also include other items recommended by MANAGER and approved and approved by DDA. MANAGER will not be responsible for purchasing these items. Instead, DDA will purchase such items when ordered by MANAGER in compliance with this Paragraph.

In addition, the approved fiscal year budget will include a "petty cash" line item for MANAGER's Supplies. MANAGER may from time to time purchase supplies and materials that are needed for the conduct of the Farmers' Market at her own expense without receiving prior authorization from DDA, where the need for such supplies and materials was not reasonably anticipated in advance, or where approved by DDA or DDA's authorized representative. Subject to availability of funds within this line item, DDA will fully reimburse MANAGER for such purchase so long as MANAGER makes the purchase in a commercially reasonable manner. DDA will provide such reimbursement within 30 days after MANAGER presents the receipt to DDA's authorized representative; provided that unless waived by DDA or its authorized representative, such presentation occurs within 60 days of the purchase.

Section 6. ACCOUNTING.

- A. MANAGER will deposit all Farmers' Market revenues she receives with the City's Central Cashier's Office, Room 176, 301 S. Ridgewood Avenue, Daytona Beach, FL within 48 hours of receipt of such funds. When depositing such revenues MANAGER will also provide a written cash report containing such information as DDA may require and using such forms as DDA may require or provide.
- B. MANAGER will keep and maintain books and records, using forms required or provided by the DDA, showing all Farmers' Market revenues collected and reimbursable costs incurred by MANAGER in the performance of her duties. DDA, or DDA's authorized representative, may review MANAGER's receipt books and records and/or conduct audits of MANAGER's books and financial records upon 24 hours prior written notice.
- C. If MANAGER sells products from the DDA Farmers' Market booth, such products will be (1) approved and supplied by, or at the direction of, the DDA, and at DDA's cost; and (2) MANAGER will offered such products for sale only at prices approved by the DDA. MANAGER will account for all revenues from the sale of products at the DDA Farmers' Market booth in the books and records referenced above. All deposits will be made in the same manner herein provided for vendor revenues. MANAGER will keep a detailed, up-to-date, inventory indicating the number and type of goods on hand, and sold, during the previous month. MANAGER will maintain receipts for all sales. Such records will be available for inspection as provided herein. MANAGER will receive no additional compensation for the sale of products described herein.

Section 7. MANAGEMENT FEE. The DDA will pay MANAGER a Management Fee of a monthly Base Fee and an annual Performance Bonus.

- A. The Base Fee is \$1,100 per month, and will be paid no later than the first day of each month; provided that if the Effective Date of this Agreement is a day other than the first calendar day of the month, the initial month's Base Fee will be prorated and will be paid within 10 day after the Effective Date.
- B. The Performance Bonus will equal 50% of total Farmers' Market revenue collected by the DDA from vendor rental fees during the previous fiscal year in excess of \$18,000, less any amounts owed by MANAGER (such as for Farmer's Market revenues received by MANAGER but not deposited when due). The Performance Bonus will be paid annually after the close of the fiscal year, but not later than November 30th.

The Management Fee will be MANAGER's sole compensation for services performed under this Contract. MANAGER will be solely responsible for all of her costs in performing the services herein, except where this Contract expressly provides otherwise/

Section 8. INDEPENDENT CONTRACTOR. This Contract does not create an employee-employer relationship between the DDA and MANAGER. MANAGER is an independent contractor of the DDA and will be in control of the means and the methods in which the requested

services are performed. As an independent contractor, MANAGER will be solely responsible for payment of all federal, state and local income tax, and self-employment taxes, arising from this Contract; and MANAGER agrees to indemnify and hold harmless the DDA, and The City, from any obligations relating to such taxes. DDA will not make deductions from payments due, for such taxes, or for social security, unemployment insurance, worker's compensation, or other employment or payroll taxes.

MANAGER has no authority to execute contracts on DDA's behalf, and will not hold herself out as an official or employee of DDA or the City.

Section 9. NON-COMPETE. MANAGER agrees that she will not manage or be employed by any other farmers' market within Volusia County, have an ownership interest in a farmers' market within Volusia County, or take part in any other activity that is intended to divert or has the effect of substantially diverting business away from the Farmers' Market while this Contract is in effect and for a period of one year after this Contract expires or terminates for any reason, without the consent of the DDA.

Section 10. TERMINATION: This Contract will terminate automatically if the License Agreement terminates for any reason.

In addition, the DDA has the right to terminate this Contract immediately without prior notice if MANAGER materially breaches her obligations under this Contract or has been convicted of a felony or for violation of a state, federal, or local law involving moral turpitude, dishonesty, or violence.

In addition, either Party has the right to terminate this Contract without cause by providing the other Party hereto written notice. As to DDA's termination under this paragraph, such termination will be effective 60 days after DDA has provided MANAGER such notice. As to MANAGER's termination under this Paragraph, such termination will be effective 90 days after MANAGER has provided DDA notice.

Section 11. NOTICES: Unless otherwise expressly agreed herein, all notices, requests, and demands to or upon the Parties will be delivered by hand, delivered by a courier service, provided to a nationally recognized delivery service for overnight delivery, or by U.S. mail, postage prepaid by registered or certified mail, return receipt requested, to the addresses set forth herein:

To the DDA:	Jason Jeffries Project Manager The City of Daytona Beach 301 S. Ridgewood Avenue Daytona Beach, FL 32114	To MANAGER:	Melanie John <i>[insert address]</i> Palm Coast, FL 32____
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w/copy to: Michael O. Sznajstajler, Chair
The City of Daytona Beach
Downtown Development Authority
301 S. Ridgewood Avenue
Daytona Beach, FL 32114

Either Party may designate a change of address by providing the other Party notice in the manner described above.

Section 12. JURISDICTION AND VENUE. The validity, interpretation, and performance of this Contract will be controlled and construed under the Laws of the State of Florida. The exclusive venue for any litigation arising out of this Contract will be Volusia County, Florida if in state court, or the U.S. District Court, Middle District of Florida if in federal court.

Section 13. NON WAIVER FOR BREACH. Failure to object to a breach or violation of the above terms of this Contract will not be construed as a waiver thereof or a waiver of any future breach or subsequent wrongful conduct.

Section 14. MODIFICATION. Except as otherwise provided herein, no change or modification of this Contract will be valid unless the same is in writing and signed by both Parties.

Section 15. ASSIGNMENT. No assignment or subcontracting of MANAGER's rights or obligations herein will be permitted without the DDA's prior written approval.

Section 16. INTEGRATION. This Contract, including referenced Attachments, represents the entire agreement of the parties with respect to the subject matter hereof. No representations, warranties, inducements or oral agreements have been made by either party except as expressly set forth herein, or in other contemporaneous written agreements.

IN WITNESS WHEREOF, the Parties through their undersigned representatives have caused this Contract to be executed in duplicate original.

THE DDA

MELANIE JOHN

By: _____
Micheal O. Sznajstajler, Chair

Date: _____

By: _____
Sheryl A. Cook, Vice Chair

By: _____
Kelly White, Commissioner

Date: _____

ATTACHMENT 1
CITY – DDA LICENSE AGREEMENT

ATTACHMENT 2
VENDOR RULES

ATTACHMENT 3

CURRENT FY FARMERS' MARKET BUDGET

	Adopted 2017/18 Budget
FARMERS' MARKET OPERATIONS	
MARKET REVENUE	
Vendor Revenue	27,500
SNAP Program Sponsor	10,000
Grant (EBT Equipment)	-
Market Booth Sales	1,200
Total Revenue	\$ 38,700
MARKET EXPENDITURES	
Market Manager	-
Personnel (Market Coordinator)	5,500
Personnel (Booth Cashier)	4,000
Personnel (Downtown Media)	2,100
Manager Supplies	1,000
EBT Program Equipment	1,750
Marketing	19,100
Market Events	1,500
Insurance	1,250
Booth Merchandise	1,000
City Fees	1,500
Total Expenditures	\$ 38,700