

## AMENDMENT NO. 1

### CITY OF OLYMPIA AND OLYMPIA FARMERS MARKET OPERATION AND MAINTENANCE AGREEMENT

THIS AMENDMENT NO. 1 (hereafter this "Amendment"), to the City of Olympia and Olympia Farmers Market Operation and Maintenance Agreement dated March 3, 2010, is made by and between the **CITY OF OLYMPIA**, a Washington municipal corporation (hereinafter referred to as "Olympia") and **THE OLYMPIA FARMERS MARKET**, a Washington state private nonprofit corporation (hereinafter referred to as the "Market").

#### W I T N E S S E T H:

**WHEREAS**, Olympia and the Market are parties to the City of Olympia and Olympia Farmers Market Operation and Maintenance Agreement dated March 3, 2010 between Olympia, and the Market, (the "Agreement"); and

**WHEREAS**, Olympia and the Market now desire to amend the terms of this Agreement for the purposes of restructuring the monthly rent, the major repair and replacement account and providing for a best practices assessment;

**NOW THEREFORE, IT IS HEREBY MUTUALLY AGREED** that the Agreement between the parties is hereby amended as follows:

1. **SECTION A.7 – PORT OF OLYMPIA LEASE.** The first Paragraph of Section A.7 is deleted in its entirety and is hereby replaced with the following: The Market acknowledges the Lease Amendment No. 1, Port of Olympia Ground Lease entered into on April 16, 2013, by and between the Port of Olympia and the City of Olympia and the terms therein that adjust the annual rent, rent cap and appraisal and further acknowledges that the Lease Amendment No. 1 shall be effective as of January 1, 2013, and shall apply to the annual rent due on January 30, 2014, and thereafter for gross receipts received in 2013 and thereafter. A copy of the Lease Amendment No. 1 is attached to this Amendment as Exhibit A.

2. **SECTION A. 10 – FACILITY MAINTENANCE.** The second Paragraph of Section A.10, titled Major Repair and Replacement is deleted in its entirety and replaced with the following:

**MAJOR REPAIR AND REPLACEMENT.** No later than January 31<sup>st</sup> of each year beginning with January 31, 2013, the Market shall pay to the City an amount for major repair and replacement items expended in the prior year so that an account balance for this fund will equal \$75,000.00. The account balance shall be defined by subtracting encumbered expenses and unexpended appropriations from that asset as of January 1 each year. Should the year end balance exceed the \$75,000.00 cap limitation, no further payments will be made until the balance is lower than \$75,000.00. If the Washington State Department of Revenue requires Leasehold Tax to be paid by the City prior to


January 30, the Market will pay such amount to the City. Upon expiration or termination of this Agreement, all funds in the account shall be retained by Olympia. The Market acknowledges and agrees that the \$75,000.00 cap may be eliminated and/or reduced in future amendments of this contract.

3. **BEST PRACTICES ASSESSMENT.** The Market is aware of the best practices assessment as outlined in Lease Amendment No. 1, the Port of Olympia Ground Lease and the City and Market agree with such terms and will comply with same. The Market is under no obligation to implement any of the recommendations forthcoming.
4. **EFFECTIVE DATE.** This Amendment No. 1 shall be effective as of January 1, 2013, and, as indicated above, shall apply to Annual Rent due on January 30, 2014 and thereafter for Gross Receipts received in 2013 and thereafter.
5. Except as expressly modified by the provisions of this Amendment No. 1, the rest and remainder of the Agreement shall remain in full force and effect and is affirmed and ratified by the signature of the parties hereto.


**CITY OF OLYMPIA**

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Its: \_\_\_\_\_  
Date: \_\_\_\_\_


**APPROVED AS TO FORM:**

  
City Attorney (ACA)

**THE OLYMPIA FARMERS MARKET**

By:   
Printed name: David McDorman  
Its: president  
Date: 9-18-14

**APPROVED AS TO FORM:**

  
Market Attorney  
CHARLES H. HOUSEKES  
WSBA 12155

STATE OF WASHINGTON )  
 ) ss  
COUNTY OF THURSTON )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, personally appeared before me \_\_\_\_\_, to me known to be the City Manager of the City of Olympia, the municipal corporation named in the within and foregoing **Amendment No. 1**, and acknowledged to me that he signed the same on its behalf, as he is so authorized to do, as his free and voluntary act and deed for the uses and purposes therein mentioned.

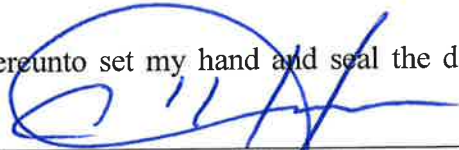
IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year first above written.

\_\_\_\_\_  
NOTARY PUBLIC in and for the State of  
Washington, residing at \_\_\_\_\_  
My commission expires: \_\_\_\_\_, 20\_\_\_\_

STATE OF WASHINGTON )  
 ) ss  
COUNTY OF THURSTON )

On this 18<sup>th</sup> day of September, 2014, personally appeared before me DAVID McDERMAN, to me known to be the President of The Olympia Farmers Market named in the within and foregoing **Amendment No. 1**, and acknowledged to me that he signed the same on its behalf, as he is so authorized to do, as his free and voluntary act and deed for the uses and purposes therein mentioned.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year first above written.

  
\_\_\_\_\_  
NOTARY PUBLIC in and for the State of  
Washington, residing at OLYMPIA  
My commission expires: January, 2018  
19

