



## **MEMORANDUM**

Date: October 14, 2015

To: Dan Duchniak, P.E.

From: Kelly Zylstra, P.E.

Re: Amendment No. 1 to the Developers Agreement for Good Harvest Market

On October 10, 2014, the Water Utility entered into a Developer's Agreement with Good Harvest Market, LLC for the development of their new store. This original agreement called for all water system improvements to be accepted by the Waukesha Water Utility within 12 months.

Amendment No. 1 to the Developer's Agreement extends the completion date to September 30, 2016. The construction of the water main has been completed; however, the final paperwork has not been received from the developer therefore the acceptance cannot be completed.

A copy of the amendment is attached to this memo and included in the Commission signature folder.

**Recommended Motion:** Move to approve Amendment No. 1 to the Developer's Agreement For Good Harvest Market.

**AMENDMENT NO. 1 TO DEVELOPER'S AGREEMENT  
FOR  
GOOD HARVEST MARKET  
(M00476)**

THIS AGREEMENT, made this 7<sup>th</sup> day of October, 2015, between Good Harvest Market II LLC, 34209 Lost Woods Court, Oconomowoc, WI 53066 hereinafter referred to as the "DEVELOPER", and the City of Waukesha Water Utility hereinafter referred to as the "UTILITY".

WITNESSETH:

WHEREAS, the DEVELOPER is the owner of the land that is within the territory served by the UTILITY, said land being described on **EXHIBIT A of the Developer's Agreement dated 10/10/14** hereinafter referred to as the "SUBJECT LAND"; and

WHEREAS, the DEVELOPER desires to obtain water service for the SUBJECT LAND; and

WHEREAS, the DEVELOPER agrees to construct Improvements as herein described in accordance with the terms of this Agreement, the UTILITY *Specifications for Installation of Water Main and Appurtenances*, as well as the rules and regulations of the UTILITY on file with the State of Wisconsin Public Service Commission, all laws and regulations governing the Improvements on the SUBJECT LAND, and the final approved plans on file in the UTILITY'S office; and

WHEREAS, THE DEVELOPER and UTILITY desire to enter into this Agreement in order to ensure that the DEVELOPER will make and install all UTILITY water system Improvements which are deemed necessary by the UTILITY to serve the SUBJECT LAND and further that the DEVELOPER shall dedicate the UTILITY water system Improvements to the UTILITY without cost to the UTILITY; and

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein, the UTILITY and DEVELOPER agree as follows:

**SECTION I. PRELIMINARY PLAN PREPARATION & APPROVAL PROCESS** - No change to original

**SECTION II. PREQUALIFICATION, PREPAYMENT, INDEMNIFICATION, INSURANCE & PREVAILING WAGE DETERMINATION** - No change to original

**SECTION III. PRIOR TO CONSTRUCTING IMPROVEMENTS** - No change to original

**SECTION IV. DURING CONSTRUCTION OF IMPROVEMENTS** – Change original to read:  
B. All Improvement herein shall be completed by the DEVELOPER and accepted by the UTILITY by September 30, 2016.

**SECTION V. COMPLETION OF IMPROVEMENTS** - No change to original

**SECTION VI. RECONCILIATION & DEDICATION** - No change to original

**SECTION VII. ACCEPTANCE & MAINTENANCE** - No change to original

**SECTION VIII. GUARANTEE & REPAIRS TO IMPROVEMENTS** - No change to original

**SECTION IX. MISCELLANEOUS** - No change to original

**SECTION X. UTILITY RESPONSIBILITIES** - No change to original

**SECTION XI. AMENDMENTS** - No change to original

IN WITNESS WHEREOF, the DEVELOPER and the UTILITY have caused this Agreement to be signed by their appropriate officers and their corporate seals (if any) to be hereunto affixed in two original counterparts the day and year first above written.

DEVELOPER:  
By: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF Wisconsin  
COUNTY OF Waukesha

Personally came before me this 7<sup>th</sup> day of October, 2015, the above named Joe Nolan, Authorized Signatory of Good Harvest Market II LLC to me known to be the person who executed the foregoing instrument and acknowledged the same.

[Signature]  
NOTARY PUBLIC, STATE OF WI  
My commission expires: 12/18/16

WAUKESHA WATER UTILITY  
WAUKESHA COUNTY, WISCONSIN

\_\_\_\_\_  
Daniel S. Duchniak, P.E., General Manager

\_\_\_\_\_  
Joseph J. Piatt, Commission President

\_\_\_\_\_  
G. J. Zinda, Commission Secretary

STATE OF WISCONSIN  
COUNTY OF WAUKESHA

Personally came before me this \_\_\_\_\_ day of \_\_\_\_\_, 2015, the above-named \_\_\_\_\_, and \_\_\_\_\_, \_\_\_\_\_, of the above-named Waukesha Water Utility, to me known to be the persons who executed the foregoing instrument and to me known to be such UTILITY General Manager and UTILITY Commission President, and UTILITY Commission Secretary, respectively, of said entity and acknowledged that they executed the foregoing instrument as such officers as the deed of said entity by its authority and pursuant to the authorization by the UTILITY Commission from their meeting on the \_\_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
NOTARY PUBLIC, STATE OF WI  
My commission expires: \_\_\_\_\_

As Revised September 23, 2015