

PLEASE ADD TO THE AGENDA:

- 4(B) Approval of the City of Hubbard Farmer's Mark Lease Agreement between Matthew Kennedy and the City of Hubbard, and authorize the Mayor to sign.**

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**City of Hubbard
Farmer's Market Lease Agreement**

THIS LEASE AGREEMENT (hereinafter referred to as the "Agreement") made and entered into this _____ day of _____, 2018, by and between the Matthew Kennedy (hereinafter referred to as "Landlord") and the City of Hubbard (hereinafter referred to as "Tenant").

RECITALS

WHEREAS, Landlord is the fee owner of certain real property located between E. Street and F. Street, just east of 3rd Street and between the 3rd Street right of way and the Union Pacific Railroad tracks in Hubbard, Marion County, Oregon (hereinafter referred to as the "Premises"); and

WHEREAS, Landlord desires to lease the Premises to Tenant upon the terms and conditions as contained herein; and

WHEREAS, Tenant desires to lease the Premises from Landlord on the terms and conditions as contained herein;

NOW, THEREFORE, for and in consideration of the covenants and obligations contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto hereby agree as follows:

TERMS

1. **TERM.** Landlord leases to Tenant and Tenant leases from Landlord the above described Premises together with any and all appurtenances thereto, for Saturdays only, from approximately 7:00 AM to 4:00 PM, for the months of June through September, 2018, commencing June 2, 2018 and expiring September 30, 2018 (hereinafter the "Season")
2. **RENT.** The total rent is \$280.00 for the Season. Tenant must pay rent to Landlord no later than May 1, 2018.
3. **PERMIT.** Landlord agrees to work with the City of Hubbard "Farmer's Market Commission (Farmer's Market Commission)" to acquire an outdoor merchandising and entertainment permit pursuant to Hubbard Municipal Code 5.10.030(2). The Farmer's Market Commission will cover any costs associated with the permit. If Landlord and the Farmer's Market Commission fail to acquire the above permit by June 2, 2018, Landlord will reimburse the Tenant the rental fee as specified in paragraph 2 by June 12, 2018 and this Agreement will subsequently terminate immediately.
4. **USE OF PREMISES.** The Premises shall be used and occupied by Tenant, Tenant's vendors, guests, agents, and employees, and members of the public for the purpose of hosting a Farmer's Market, during the days and times specified in paragraph 1 of this Agreement. Vendors, including private businesses and individuals, will be permitted to set up booths and use the Premises for the sale of food and goods during the days and

times Tenant is leasing the Premises, as specified in paragraph 1 of this Agreement. The Landlord retains the right to use and occupy the Premises during all dates and times other than those specified in paragraph 1.

5. **CONDITION OF PREMISES.** Tenant stipulates, represents and warrants that Tenant has examined the Premises, and that it is, at the time of this Agreement, in good order, repair, and in a safe, clean, and tenantable condition. Landlord shall continue to maintain the Premises in good order, repair, and in a safe, clean, and tenantable condition so that Tenant may freely use and enjoy the Premises for the reasons outlined in paragraph 4 and for the days and times specified in paragraph 1 of this Agreement.
6. **ASSIGNMENT AND SUB-LETTING.** Landlord shall not assign this Agreement, or sub-let or grant any license to use the Premises or any part thereof which conflicts with Tenant's use of the Premises without the prior written consent of Tenant which consent is in the Tenant's sole and absolute discretion.
7. **TAXES.** Landlord shall be responsible for paying all real property and personal property taxes levied on the Premises.
8. **DAMAGE TO PREMISES.** In the event the Premises are destroyed or rendered uninhabitable by fire, storm, earthquake, or other casualty, or are otherwise rendered unusable by Tenant for the purposes outlined in paragraph 4 of this Agreement, this Agreement shall terminate from such time except for the purpose of enforcing rights that may have then accrued hereunder. In such a case, Landlord will refund a prorated amount to Tenant for all dates in which the Premises cannot be used by Tenant.
9. **SURRENDER OF PREMISES.** Upon the expiration of the term hereof, Tenant shall surrender the Premises in as good a state and condition as they were at the commencement of this Agreement, reasonable use and wear and tear thereof and damages by the elements excepted.
10. **INDEMNIFICATION.** Landlord shall not be liable for any damage or injury of or to the Tenant, Tenant's vendors, guests, agents, or employees or to any person entering the Premises, during the times in which Tenant is leasing the Premises, as specified in paragraph 1 of this Agreement. Tenant hereby agrees to indemnify, defend and hold Landlord harmless from any and all claims related to or arising during the times in which Tenant is leasing the Premises, as specified in paragraph 1 of this Agreement, unless the damage or injury was the result of the activities of the Landlord or some other event which occurred during the time Tenant was not using the Premises, in which case Tenant does not have a duty to indemnify Landlord. Tenant shall not be liable to any person, including Landlord, for any damage or injury which occurs outside of the times in which Tenant is leasing the Premises, as specified in paragraph 1 of this Agreement, and Landlord hereby agrees to indemnify, defend and hold Tenant harmless from any and all such claims.
11. **INSURANCE.** Tenant shall maintain adequate insurance coverage during the term of the lease and name Landlord as an additional insured on its policy. Tenant shall provide proof that Landlord has been named as an additional insured on Tenant's policy prior to Tenant using the Premises.
12. **DEFAULT.** If Landlord fails to comply with any of the material provisions of this Agreement, or materially fails to comply with any duties imposed on Tenant by statute, within seven (7) days after delivery of written notice by Tenant specifying the non-

compliance and indicating the intention of Tenant to terminate the lease by reason thereof, Tenant may terminate this Agreement. If Landlord fails to maintain the Premises as specified in paragraph 5 of this Agreement, Tenant may, at Tenant's option, exercise any and all rights and remedies available to Tenant at law or in equity or may immediately terminate this Agreement and receive a refund of the prorated amount for all remaining dates in which Tenant was going to use the Premises.

13. **GOVERNING LAW.** This Agreement shall be governed, construed and interpreted by, through and under the Laws of the State of Oregon.
14. **SEVERABILITY.** If any provision of this Agreement or the application thereof shall, for any reason and to any extent, be invalid or unenforceable, neither the remainder of this Agreement nor the application of the provision to other persons, entities or circumstances shall be affected thereby, but instead shall be enforced to the maximum extent permitted by law.
15. **BINDING EFFECT.** The covenants, obligations and conditions herein contained shall be binding on and inure to the benefit of the heirs, legal representatives, and assigns of the parties hereto.
16. **CONSTRUCTION.** The pronouns used herein shall include, where appropriate, either gender or both, singular and plural.
17. **WAIVER.** The waiver of one breach of any term, condition, covenant, obligation or agreement of this Lease shall not be considered to be a waiver of that or any other term, condition, covenant, obligation or agreement or of any subsequent breach thereof.
18. **MODIFICATION.** The parties hereby agree that this document contains the entire agreement between the parties and this Agreement shall not be modified, changed, altered or amended in any way except through a written amendment signed by all of the parties hereto.
19. **MUTUAL NEGOTIATION/AUTHORITY.** The parties hereto confirm that they have mutually negotiated this Lease and that none of the terms or provisions of this Lease shall be construed by presumption against either party. Each individual who executes this Lease on behalf of a party warrants his or her authority to do so.
20. **NOTICE.** Any notice required or permitted under this Lease or under state law shall be deemed sufficiently given or served if sent by United States certified mail, return receipt requested, addressed as follows:

If to Landlord to:

Matthew Kennedy

[Landlord's Address]

If to Tenant to:

City of Hubbard
3720 Second Street
Hubbard, Oregon 97032

18. ADDITIONAL PROVISIONS; DISCLOSURES.

[Landlord should note above any disclosures about the premises that may be required under Federal or Oregon law, such as known lead-based paint hazards in the Premises. The Landlord should also disclose any flood hazards.]

As to Landlord this _____ day of _____, 20____.

LANDLORD:

Sign: _____

Print: _____ Date: _____

As to Tenant, this _____ day of _____, 20____.

TENANT ("Tenant"):

Sign: _____

Print: _____ Date: _____