

**AMENDMENT TO INTERLOCAL AGREEMENT
BETWEEN
THE PORT OF SUNNYSIDE
AND
THE CITY OF SUNNYSIDE**

THIS AMENDMENT TO INTERLOCAL AGREEMENT BETWEEN THE PORT OF SUNNYSIDE AND THE CITY OF SUNNYSIDE, hereinafter referred to as the "Amendment", is made and entered into by and between the PORT OF SUNNYSIDE, a Washington municipal corporation, hereinafter referred to as the "Port," and the CITY OF SUNNYSIDE, a Washington municipal corporation, hereinafter referred to as the "City," pursuant to the provisions of RCW Chapter 39.34.

RECITALS

A. On or about August 28, 2006, the City and the Port entered into an Interlocal Agreement for the construction and maintenance of landscaping within the southwest quadrant of Exit 67 on Interstate 82. This Interlocal Agreement is hereinafter referred to as the "Agreement", and the area subject to the Agreement is hereinafter referred to as the "Landscaping Project". This Amendment replaces the Agreement in its entirety.

B. Generally, the City's obligations under the Agreement are to provide water to the irrigation system developed and installed by the Port sufficient to provide adequate irrigation of the grass and landscaped areas within the Landscaping Project, all without charge to the Port and without water meter fees, equity fee or permit fee.

C. Generally, the Port's obligations under the Agreement are to design, fund, construct and maintain the irrigation lines, sprinklers and fixtures for irrigation of the Landscaping Project, and to maintain the irrigated grass and landscaping, including but not limited to mowing, lawn care, and maintenance of any other planted landscaping.

D. The Port has designed, funded, constructed, and maintained the irrigation system, and has maintained the irrigated grass and landscaping for the Landscaping Project. The term of the Agreement expires on December 31, 2016, provided that the Agreement may be renewed for an additional term of ten (10) years upon the agreement of the City and the Port.

E. The City and the Port wish to change the property which is subject to the Agreement, and to continue their respective obligations as to the newly identified property for ten (10) years after the current expiration of the Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the Recitals (which are hereby incorporated into and made part of this Amendment), and of the agreements and covenants herein contained, and of other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **Maintenance of Exit 67 SW Quadrant – City’s Responsibility.** As of the effective date, the City shall take over all maintenance obligations for the southwest quadrant of Exit 67 on Interstate 82. The southwest quadrant of Exit 67 on Interstate 82 is shown on Exhibit “A” attached hereto and incorporated herein by reference. This includes, but is not limited to, maintenance of the irrigation lines, sprinklers and other irrigation fixtures, and the maintenance of the irrigated grass and landscaping, including but not limited to mowing, lawn care, and the maintenance of other planted landscaping. As of the effective date, the Port shall not have any further obligations with regard to the southwest quadrant of Exit 67 on Interstate 82. Provided, however, that if the City does not maintain this area, then, upon five (5) calendar days’ notice to the City, the Port may once again take over maintenance of this area and charge the City for the costs of such maintenance, including labor.

2. **Identification of 5th Street Corridor.** For purposes of this Amendment, the 5th Street Corridor shall mean the strip of land located along the immediate west of 5th Street in Sunnyside, Washington, between Edison Avenue and Grant Avenue, as shown by the shaded regions on Exhibit “B” attached hereto and incorporated herein by reference. The 5th Street Corridor is currently identified as Yakima County Assessor’s parcel numbers 221025-32549 and 221025-32550. The 5th Street Corridor contains a sidewalk, trees, grass, bushes, and other shrubs, and a railing. Although the Yakima County Assessor’s Office identifies the owner of the 5th Street Corridor as the Oregon-Washington Railroad & Navigation Company, the City represents that it is authorized to enter into this Amendment.

3. **Identification of Snipes’ Cabin Landscaping.** For the purposes of this Amendment, the Snipes’ Cabin Landscaping shall mean the grass, lawn, trees, and other planted landscaping surrounding Snipes’ Cabin, also as shown by the shaded regions on Exhibit “B” attached hereto and incorporated herein by reference. The Snipes’ Cabin Landscaping is located on the real property which is currently identified as Yakima County Assessor’s parcel number 221025-32448, and commonly known as 321 Grant Avenue, Sunnyside, Washington. The Port’s responsibility to maintain the landscaping surrounding Snipes’ Cabin shall *not* include any responsibility to maintain the cabin, its metal frame canopy cover, or any other improvements located on said real property. The City shall continue to maintain the cabin, its metal frame canopy cover, and all other improvements located on said real property.

4. **Maintenance of 5th Street Corridor and Snipes’ Cabin Landscaping – Port’s Responsibility.** As of the effective date, the Port shall (i) maintain the irrigation lines, sprinklers and fixtures for the irrigation of the 5th Street Corridor and Snipes’ Cabin Landscaping; (ii) be solely responsible for any and all repairs of the irrigation system for the 5th Street Corridor and Snipes’ Cabin Landscaping as such are necessary and appropriate; (iii) notify the City in advance of any maintenance or repairs which require shut-off of the water; (iv) maintain the irrigated grass and other landscaping of the 5th Street Corridor and Snipes’ Cabin Landscaping, including but not limited to mowing, lawn care, and maintenance of any other planted landscaping, and maintain the railing located on the 5th Street Corridor.

5. **Provision of Irrigation Water – City’s Responsibility.** The City shall provide water to the irrigation system serving the 5th Street Corridor and Snipes’ Cabin Landscaping sufficient to provide adequate irrigation of the grass and landscaped areas, all without charge to

the Port and without water meter fees, equity fee or permit fee. The City's obligation to provide water as described herein is conditioned upon the City's determination, from time to time, that sufficient water is available for such purposes. The City reserves the right to modify, alter or limit water for the irrigation of the 5th Street Corridor and Snipes' Cabin Landscaping in its sole discretion, and to determine the quality or type of water provided for such purposes.

6. **Effective Date.** The effective date of this Amendment, and the responsibilities of the City and the Port hereunder, shall be June 1, 2016.

7. **Term and Termination.** The term of this Amendment shall commence on the effective date and terminate on December 31, 2026, provided, however, that this Amendment may be renewed for an additional term of ten (10) years upon the agreement of the City and the Port. This Amendment may be sooner terminated by either party upon 60 days written notice delivered or mailed to the other party at such party's address given in this Amendment.

8. **Organization.** No separate legal or administrative entity shall be created as a result of the Agreement or this Amendment. Each of the parties is acting independently of the other in entering into this Amendment and in exercising its rights and in carrying out its responsibilities pursuant to the Agreement and this Agreement. In no event shall the parties be deemed to be partners or the agent for the other party.

9. **Compliance with Laws.** Each of the parties shall comply with all local, state and federal laws relating to the respective responsibilities of the parties.

10. **Governmental Authority.** This Amendment is subject to the rules, regulations, orders and other requirements, now or hereafter in effect, of all governmental authorities having jurisdiction over this Amendment, the parties, or either of them. All laws, ordinances, rules, regulations, orders and other requirements, now or hereafter in effect, of governmental authorities, that are required to be incorporated into agreements of this character, are by this reference incorporated into this Amendment.

11. **Modifications.** No change, amendment or modification of any provision of this Amendment shall be valid unless set forth in a written amendment to the Agreement and this Amendment, approved by the legislative bodies of both parties and signed by both parties.

12. **Equal Opportunity.** Neither party shall discriminate against any person on the grounds of race, creed, color, religion, national origin, sex, sexual orientation, age, marital status, political affiliation or belief, or the presence of any sensory, mental or physical disability in violation of applicable state and federal laws.

13. **Restriction on Assignment.** The Agreement and this Amendment, or any interest herein, or claim hereunder, shall not be assigned or transferred in whole or in part by either party.

14. **Non-Waiver.** The failure of either party to insist upon strict performance of any provision of the Agreement or this Amendment or to exercise any right based upon a breach thereof

or the acceptance of any performance during such breach shall not constitute a waiver of any right under the Agreement or this Amendment.

15. **Entire Agreement.** This written document constitutes the entire agreement between the Port and the City. There are no other oral or written agreements between the parties as to the subjects covered herein.

16. **Notices.** All notices and demands shall be in writing and sent or hand-delivered to the parties at their addresses as below:

To the City: City of Sunnyside
Attn: Donald Day, City Manager
818 E. Edison Avenue
Sunnyside WA 98944

To the Port: Port of Sunnyside
Attn: Jay Hester, Executive Director
2640 E. Edison Avenue
Sunnyside WA 98944

17. **Governing Law.** This Transfer Agreement shall be governed by and construed in accordance with the laws of the State of Washington. Any action concerning this contract shall be brought in the Superior Courts of Yakima County.

City of Sunnyside

By:



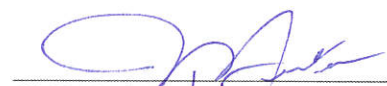
DONALD DAY
City Manager

Date:

5/4/16

Port of Sunnyside

By:



JAY HESTER
Executive Director

Date:

5-3-2016