

RESOLUTION 2012 - 50

A RESOLUTION OF THE CITY COUNCIL OF THE  
CITY OF SUNNYSIDE, WASHINGTON,  
AUTHORIZING THE INTERIM CITY MANAGER  
TO ENTER INTO A TERMINATION AGREEMENT  
WITH PACIFICORP



**WHEREAS**, the City of Sunnyside (“Lessor”) has purchased certain real property located at 409 E. Lincoln Avenue, Sunnyside, Washington; and

**WHEREAS**, such property has been leased to Pacificorp (“Lessee”); and

**WHEREAS**, the lease is scheduled to expire on July 30, 2013; and

**WHEREAS**, the Lessor and the Lessee mutually desire to terminate the Lease early and release all obligations under the Lease on the terms and conditions as described in the Termination Agreement, a copy of which is attached hereto as Exhibit “A” and incorporated herein by this reference; and

**WHEREAS**, the City Council finds and determines that approval of said agreement is in the best interest of residents of the City of Sunnyside and will promote the general health, safety and welfare.

**NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE CITY COUNCIL OF THE CITY OF SUNNYSIDE, WASHINGTON, as follows:**

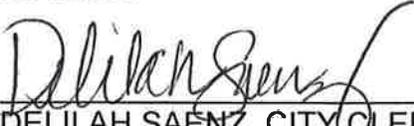
**SECTION 1.** That the Termination Agreement, a copy of which is attached hereto as Exhibit “A” and incorporated herein by this reference, is hereby approved; and the Interim City Manager is hereby authorized to execute and administer such agreement for and on behalf of the City of Sunnyside.

**SECTION 2.** That this Resolution shall be effective upon passage, approval and signatures hereon in accordance with law.

**PASSED** this 9<sup>th</sup> day of July, 2012.

  
\_\_\_\_\_  
MIKE FARMER, MAYOR

**ATTEST:**

  
\_\_\_\_\_  
DELILAH SAENZ, CITY CLERK

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
MENKE JACKSON BEYER EHLIS HARPER & PLANT, LLP  
Attorneys for the City of Sunnyside

EXHIBIT "A"

WAYA0502  
Sunnyside Service Center

**TERMINATION AGREEMENT**

This TERMINATION AGREEMENT (this "Termination"), is by and between the **CITY OF SUNNYSIDE**, a municipal corporation, successor in interest to Lila Garfield, Trustee of the Jack Garfield Irrevocable Trust and Jack Garfield, Trustee of the Lila Garfield Irrevocable Trust, successor in interest to John Hancock Mutual Life Insurance Company ("Lessor"), and **PACIFICORP**, an Oregon corporation ("Lessee"), each a Party and together the Parties.

**RECITALS**

**WHEREAS**, Lessee leases from Lessor that certain real property including a commercial office building located at 409 E Lincoln Avenue, Sunnyside, Washington (the "Premises"), pursuant to the terms of that certain Lease dated July 31, 1956 (the "Lease"), and;

**WHEREAS**, The Lease is scheduled to expire on July 30, 2013 ("Expiration Date"), and;

**WHEREAS**, Lessor and Lessee mutually desire to terminate the Lease early and release Lessor's and Lessee's obligations under the Lease on the terms and conditions hereinafter set forth;

**NOW, THEREFORE**, in consideration of the mutual promises and covenants and other consideration, the receipt and sufficiency of which is hereby acknowledged and received, Lessor and Lessee agree to the following terms and conditions:

1. Termination of Lease; Release of Liability. Effective on July 6, 2012 ("Termination Date"), the Lease shall be terminated and of no further force and effect and Lessor and Lessee shall be released from any liability or obligation under the Lease arising thereafter. The parties hereto shall execute such further assurances as may be reasonably requested by the other party to this Termination to confirm and further effectuate the termination of the Lease.

2. Termination Fee: Lessee agrees to pay Lessor the sum of Ten Thousand and 00/100 Dollars (\$10,000.00) as a termination fee ("Termination Fee"). The Termination Fee shall be paid no later than fifteen (15) days' after mutual execution of this Termination.

3. Rent: Lessor agrees that Lessee shall not be obligated to pay rent for the period starting July 1, 2012, through the Termination Date.

4. Representations. Lessor and Lessee hereby represent and warrant to each other that Lessor and Lessee each has full power and authority to execute and perform this Termination and has taken all action necessary to authorize the execution and performance of this Termination.

5. WAIVER OF TRIAL BY JURY: TO THE FULLEST EXTENT PERMITTED BY LAW, EACH OF THE PARTIES HERETO WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT. EACH PARTY FURTHER WAIVES ANY RIGHT TO CONSOLIDATE, OR TO REQUEST THE

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CONSOLIDATION OF, ANY ACTION IN WHICH A JURY TRIAL HAS BEEN WAIVED WITH ANY OTHER ACTION IN WHICH A JURY TRIAL CANNOT BE OR HAS NOT BEEN WAIVED.

6. Inurement and Counterparts. This Termination (i) shall be binding upon and inure to the benefit of the parties hereto and their respective successors, heirs, legal representatives and assigns and (ii) may be executed in two or more counterparts, and may be executed by scanned or facsimile signature, all of which together shall constitute but one and the same agreement.

**IN WITNESS WHEREOF**, the parties to this Lease have executed this Lease in triplicate on the last date indicated below.

**LESSOR**

**LESSEE**

CITY OF SUNNYSIDE,  
A municipal corporation

PACIFICORP,  
an Oregon corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
It: \_\_\_\_\_  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Jana Mejdell  
Director Real Estate Management  
Date: \_\_\_\_\_