

WHEN RECORDED RETURN TO:

City of Sunnyside, Washington
 818 East Edison
 Sunnyside, WA 98944

**INTERLOCAL AGREEMENT BETWEEN THE CITY OF SUNNYSIDE, WASHINGTON
 AND THE CITY OF CITY/COUNTY OF, WASHINGTON, FOR THE HOUSING OF
 INMATES**

THIS INTERLOCAL AGREEMENT is made and entered into on this 6th day of July, 2023, by and between the City of Black Diamond, Washington, hereinafter referred to as "Black Diamond", and the City of Sunnyside, Washington, hereinafter referred to as "Sunnyside", each party having been duly organized and now existing under the laws of the State of Washington.

WITNESSETH:

WHEREAS, Sunnyside and Black Diamond are authorized by law to have charge and custody of the Sunnyside City Jail and Black Diamond prisoners or inmates, respectively; and

WHEREAS, Black Diamond wishes to designate Sunnyside as a place of confinement for the incarceration of one or more inmates lawfully committed to its custody; and

WHEREAS, Sunnyside is desirous of accepting and keeping in its custody such inmate(s) in the Sunnyside Jail for a rate of compensation mutually agreed upon by the parties hereto; and

WHEREAS, RCW 39.34.080 and other Washington law, as amended, authorizes any city to contract with any other city/county to perform any governmental service, activity or undertaking which each contracting city/county is authorized by law to perform; and

WHEREAS, the governing bodies of each of the parties hereto have determined to enter into this Agreement as authorized and provided for by RCW 39.34.080 and other Washington law, as amended,

NOW, THEREFORE, in consideration of the above and foregoing recitals, the payments to be made, the mutual promises and covenants herein contained, and for other good and valuable consideration, the parties hereto agree as follows:

1. GOVERNING LAW. The parties hereto agree that, except where expressed otherwise, the laws and administrative rules and regulations of the State of Washington shall govern in any matter relating to an inmate(s) confined pursuant to this Agreement.

2. DURATION. This Agreement shall enter into full force and effect from the date of execution and end December 31, 2023, subject to earlier termination as provided by Section 3 herein. This agreement shall be renewed automatically for like successive periods under such terms and conditions as the parties may determine. Nothing in this Agreement shall be construed to require Black Diamond to house inmates in Sunnyside continuously.

3. TERMINATION.

(a) By either party. This Agreement may be terminated by written notice from either party to the other party and to the State Office of Financial Management as required by RCW 70.48.090 stating the grounds for said termination and specifying plans for accommodating the affected prisoners. The notice must be delivered by regular mail to the contact person identified herein. Termination shall become effective ~~thirty (30)~~ ninety (90) working days after receipt of such notice. Within said ~~thirty (30)~~ ninety (90) working days, BLACK DIAMOND agrees to remove its inmate(s) from Sunnyside.

(b) By Black Diamond due to lack of funding. The obligation of BLACK DIAMOND to pay Sunnyside under the provision of this Agreement beyond the current fiscal year is expressly made contingent upon the appropriation, budgeting availability of sufficient funds by Black Diamond. In the event that such funds are not budgeted, appropriated or otherwise made available for the purpose of payment under this Agreement at any time after the current fiscal year, then Black Diamond shall have the option of terminating the Agreement upon written notice to Sunnyside, except that all services provided to that point shall be compensated at the agreed rate. The termination of this Agreement for this reason will not cause any penalty to be charged to Black Diamond.

(c) Termination for Breach. In the event Black Diamond breaches or fails to perform or observe any of the terms or conditions herein, and fails to cure such breach or default within seven (7) days of Sunnyside giving Black Diamond written notice thereof, or, if not reasonably capable of being cured within such seven (7) days, within such other period of time as may be reasonable in the circumstances, Sunnyside may terminate Black Diamond's rights under this Agreement in addition to and not in limitation of any other remedy of Sunnyside at law or in equity, and the failure of Sunnyside to exercise such right at any time shall not waive Sunnyside's right to terminate for any future breach or default.

(d) In the event of termination of this agreement for any reason, Black Diamond shall compensate Sunnyside for prisoners housed by Sunnyside after notice of such

termination until Black Diamond retakes its inmates in the same manner and at the same rates as if this agreement had not been terminated.

4. MAILING ADDRESSES. All notices, reports, and correspondence to the respective parties of this Agreement shall be sent to the following:

To Sunnyside:	City of Sunnyside 818 E. Edison Avenue Sunnyside, WA 98944
Primary Contact Person:	Andrew Gutierrez, Corrections Sergeant 509-836-6200, agutierrez@sunnyside-wa.gov
Secondary Contact:	Johnnie Gusby, Support Services Commander 509-836-6216, JGusby@sunnyside-wa.gov
To Black Diamond:	City of Black Diamond PO Box 309 / 25510 Lawson St. Black Diamond, WA 98010 Billing: jsloss@blackdiamondwa.gov
Primary Contact Person:	Jamey Kiblinger, Chief of Police 253-261-0602, jkiblinger@blackdiamondwa.gov
Secondary Contact:	Brian Martinez, Commander 253-455-3433, bamartinez@blackdiamondwa.gov Communications: 253-372-1440

Notices mailed shall be deemed given on the date mailed. The Parties shall notify each other in writing of any change of address.

5. DEFINITIONS. The Parties hereby agree that the following terms shall have the specified meanings unless indicated otherwise herein:

(a) Day. A twenty-four-hour-long unit of time commencing at 00:00:00 a.m., and ending 23:59:59 p.m.

(b) Inmate Classifications shall be pursuant to the Sunnyside's Objective Jail Inmate Classification System which is modeled after the National Institute of Corrections Jail Classification System:

(i) **"Minimum"** classification shall apply to those inmates who present a low risk to staff and the community.

(ii) **"Medium"** classification shall apply to those inmates who present a moderate risk to staff and the community.

(iii) **"Maximum"** classification shall apply to those inmates who present a substantial risk to staff and the community.

6. COMPENSATION.

(a) Rates. Sunnyside agrees to accept and house Black Diamond inmates for compensation per inmate at the rate of \$60.00 per day. This includes minimum and medium classification inmates. The parties agree that Sunnyside will not charge a separate booking fee in addition to such rate. The date of booking into the Sunnyside Jail of Black Diamond inmates shall be charged a minimum of a full daily rate per inmate regardless of the time of booking within a 24-hour period. The date of release from Sunnyside Corrections and/or returned to Black Diamond, regardless of the time frame within a 24-hour day shall not constitute a charge by the City of Sunnyside against Black Diamond.

(b) Billing and Payment. Sunnyside agrees to provide Black Diamond with an itemized invoice listing all names of housed inmates, the case/citation number, the number of days housed (including the date and time of booking and date and time of release), and the payment amount due. Sunnyside agrees to provide said invoice by the 10th of each month. Black Diamond agrees to make payment to the City of Sunnyside within *thirty* (30) days of receipt of such invoice for the amount billed for the previous calendar month.

(c) Transportation of inmates is included in the cost and is provided by Sunnyside Corrections.

7. RIGHT OF INSPECTION. Black Diamond shall have the right to inspect, at all reasonable times, all Sunnyside facilities in which inmates of Black Diamond are confined in order to determine if such jail maintains standards of confinement acceptable to Black Diamond and that such inmates therein are treated equally regardless of race, religion, color, creed or national origin; provided, however, that Sunnyside shall be obligated to manage, maintain and operate its facilities consistent with all applicable federal, state and local laws and regulations.

8. FURLOUGHS, PASSES, AND WORK RELEASE. Sunnyside agrees that no early releases or alternatives to incarceration, including furloughs, passes, work crews,

electronic home detention or work release shall be granted to any inmate housed pursuant to this Agreement without written authorization by the committing court.

9. INMATE ACCOUNTS. Sunnyside shall establish and maintain an account for each inmate received from Black Diamond and shall credit to such account all money which is received and shall make disbursements, debiting such accounts in accurate amounts for the inmate's personal needs. Disbursements shall be made in limited amounts as are reasonably necessary for personal maintenance. Sunnyside shall be accountable to Black Diamond for such inmate funds. At either the termination of this Agreement, the inmate's death, and release from incarceration or return to either Black Diamond or indefinite release to the court, the inmate's money shall be refunded in the form of a pre-paid debit card or check issued to the inmate at the time of their release or transfer.

10. INMATE PROPERTY. Black Diamond may transfer to Sunnyside only agreed amounts of personal property of Black Diamond inmates recovered from or surrendered by inmates to Black Diamond upon booking. Only those items which fit into a 12-inch by 14-inch bag will be allowed on transports, when such transports are conducted by Sunnyside Jail Personnel. Additional legal material or personal belongings may be shipped to the Sunnyside Jail at the expense of the inmate or Black Diamond.

11. RESPONSIBILITY FOR OFFENDER'S CUSTODY. It shall be the responsibility of Sunnyside to confine the inmate or inmates; to provide treatment, including the furnishing of subsistence and all necessary medical and hospital services and supplies; to provide for the inmates' physical needs; to make available to them programs and/or treatment consistent with the individual needs; to retain them in said custody; to supervise them; to maintain proper discipline and control; to make certain that they receive no special privileges and that the sentence and orders of the committing court in the State are faithfully executed; provided that nothing herein contained shall be construed to require the City of Sunnyside, or any of its agents, to provide service, treatment, facilities or programs for any inmates confined pursuant to this Agreement, which it does not provide for similar inmates not confined pursuant to this Agreement. Nothing herein shall be construed as to require Sunnyside to provide services, treatment, facilities or programs to Black Diamond inmates above, beyond or in addition to that which is required by applicable law.

12. MEDICAL SERVICES.

(a) Inmates deemed Black Diamond inmates shall receive such medical, psychiatric and dental treatment when **emergent** and necessary to safeguard their health while housed in Sunnyside. Sunnyside shall provide or arrange for the providing of such medical, psychiatric and dental services. Except for routine minor medical services provided in the Sunnyside Jail, Black Diamond shall pay directly or reimburse Sunnyside for any and all costs associated with the delivery of any emergency and/or major medical service provided to Black Diamond inmates. Black Diamond shall be responsible for any

and all **emergent** medical, dental and psychiatric treatment provided outside of the Sunnyside Jail and shall be billed therefor.

(b) An adequate record of all such services shall be kept by Sunnyside for Black Diamond's review at its request, to the extent consistent with confidentiality regulations. Any medical or dental services requiring treatment from providers outside of the Sunnyside Jail shall be reported to Black Diamond as soon as time permits.

(c) Should medical, psychiatric or dental services require hospitalization, Black Diamond agrees to compensate Sunnyside dollar for dollar any amount expended, or cost incurred in providing the same; provided that, except in emergencies, Black Diamond will be notified by contacting the duty supervisor at Black Diamond prior to the inmate's transfer to a hospital, if and when circumstances allow, or as soon afterward as practicable.

(d) Sunnyside will make all reasonable efforts to ensure that medical care providers providing services to Black Diamond inmates adhere to payment requirements of RCW 70.48.130 when such services are not billed directly to Black Diamond by the medical care provider. Sunnyside may elect to have the medical care provider(s) bill Black Diamond directly. Black Diamond will have the responsibility for notifying medical care providers of these payment requirements when billed directly by medical care providers.

13. DISCIPLINE. Sunnyside shall have physical control over and power to execute disciplinary authority over all inmates of Black Diamond. However, nothing contained herein shall be construed to authorize or permit the imposition of a type of discipline prohibited by applicable law.

14. RECORDS AND REPORTS.

(a) Black Diamond shall forward to Sunnyside before or at the time of delivery of each inmate, a copy of all inmate records pertaining to the inmate's present incarceration. If additional information is requested regarding a particular inmate, the parties shall mutually cooperate to provide any additional information in a timely manner.

(b) Sunnyside shall keep all necessary and pertinent records concerning such inmates in the manner mutually agreed upon by the parties hereto. During an inmate's confinement in Sunnyside, Black Diamond shall upon request be entitled to receive and be furnished with copies of any report or record associated with said inmate(s) incarceration.

15. REMOVAL FROM THE JAIL. An inmate of Black Diamond legally confined in Sunnyside shall not be removed from the jail by any person without written authorization from Black Diamond by order of any court having jurisdiction. Black Diamond hereby designates the Corrections Sergeant as the official authorized to direct Sunnyside to

remove Black Diamond inmates from the Sunnyside Jail. Sunnyside agrees that no early releases or alternatives to incarceration, including furloughs, passes, work release, work crews or electronic home detention shall be granted to any inmate without written authorization from the committing court. This paragraph shall not apply to an emergency necessitating the immediate removal of the inmate for medical, dental, psychiatric treatment or other catastrophic condition presenting an eminent danger to the safety of the inmate or to the inmates or personnel of the Sunnyside Jail. In the event of any such emergency removal, Sunnyside shall inform Black Diamond the whereabouts of the inmate or inmates so removed, at the earliest practicable time, and shall exercise all reasonable care for the safe keeping and custody of such inmate or inmates.

16. ESCAPES. In the event any Black Diamond inmate escapes from Sunnyside's custody, Sunnyside will use all reasonable means to recapture the inmate. The escape shall be reported immediately to Black Diamond. Sunnyside shall have the primary responsibility for and authority to direct the pursuit and retaking of the inmate or inmates within its own territory. Any cost in connection therewith shall be chargeable to and borne by Sunnyside; however, Sunnyside shall not be required to expend unreasonable amounts to pursue and return inmates from other counties, states or other countries.

17. DEATH OF AN INMATE.

(a) In the event of the death of a Black Diamond inmate, the Yakima County Coroner shall be notified. Black Diamond shall receive copies of any records made at or in connection with such notification.

(b) Sunnyside shall immediately notify Black Diamond of the death of a Black Diamond inmate, furnish information as requested and follow the instructions of Black Diamond regarding the disposition of the body. Black Diamond hereby designates the Chief of Police as the official authorized to request information from and provide instructions to Sunnyside regarding deceased inmates. The body shall not be released except on written order of said appropriate official(s) of Black Diamond. Written notice shall be provided within three weekdays of receipt by Black Diamond of notice of such death. All expenses relative to any necessary preparation of the body and shipment charges shall be paid by Black Diamond. With Black Diamond's consent, to be obtained on an individual basis, Sunnyside may arrange for burial and all matters related or incidental thereto, and all such expenses shall be paid by Black Diamond. The provisions of this paragraph shall govern only the relations between or among the parties hereto and shall not affect the liability of any relative or other person for the disposition of the deceased or for any expenses connected therewith.

(c) Black Diamond shall receive a certified copy of the death certificate for any of its inmates who have died while in the City of Sunnyside's custody.

18. RETAKING OF INMATES. Upon request from Sunnyside, Black Diamond shall, at its expense, retake any Black Diamond inmate within *thirty-six* (36) hours after receipt of such request. In the event the confinement of any Black Diamond inmate is terminated for any reason, Black Diamond shall, at its expense, retake such inmate at the Sunnyside Facility.

19. HOLD HARMLESS AND INDEMNIFICATION.

(a) Nothing contained in this Section or this Agreement shall be construed to create a right of indemnification in any third party.

(b) The terms of section 19 shall survive the termination or expiration of this Agreement.

19.1 SUNNYSIDE – HOLD HARMLESS AND INDEMNIFICATION. Sunnyside agrees to hold harmless, indemnify and defend THE CITY/COUNTY OF, its officers, agents and employees, from and against any and all claims, losses, or liability, for injuries, sickness or death of persons, or damage to property, arising out of any willful misconduct, negligent act, error, or omission of Sunnyside, its officials, officers, agents, volunteers or employees, in connection with the services required by this agreement, provided, however, that:

(a) Sunnyside's obligations to indemnify, defend and hold harmless shall not extend to injuries, sickness, death or damage caused by or resulting from the sole willful misconduct or negligence of Black Diamond, its officials, agents, officers, employees or volunteers; and

(b) In the event that the officials, agents, officers, and/or employees of both Black Diamond and Sunnyside are negligent, each party shall be liable for its contributory share of negligence for any resulting suits, actions, claims, liability, damages, judgments, costs and expenses (including reasonable attorney's fees).

19.2 BLACK DIAMOND– HOLD HARMLESS AND INDEMNIFICATION. Black Diamond agrees to hold harmless, indemnify and defend Sunnyside, its officers, agents and employees, from and against any and all claims, losses, or liability, for injuries, sickness or death of persons, or damage to property, arising out of any willful misconduct or negligent act, error, or omission of Black Diamond, its officials, officers, agents, volunteers or employees, in connection with the services required by this agreement, provided, however, that:

(a) Black Diamond's obligations to indemnify, defend and hold harmless shall not extend to injuries, sickness, death or damage caused by or resulting from the sole willful misconduct or negligence of Sunnyside, its agents, officers, employees or volunteers; and

(b) In the event that the officials, agents, officers, and/or employees of both Black Diamond and Sunnyside are negligent, each party shall be liable for its contributory share of negligence for any resulting suits, actions, claims, liability, damages, judgments, costs and expenses (including reasonable attorney's fees).

20. RIGHT OF REFUSAL AND TRANSPORTATION.

(a) Sunnyside shall have the right to refuse to accept any inmate from Black Diamond when, in the opinion of Sunnyside, its inmate census is at capacity such that there is a substantial risk that, through usual operation of the jail, the reasonable operational capacity limits of the jail might be reached or exceeded.

(b) Sunnyside shall further have the right to refuse to accept any inmate from Black Diamond who, in the judgment of Sunnyside, has a current illness or injury which may adversely affect the operations of the Sunnyside Jail, has a history of serious medical problems, presents a substantial risk of escape, or presents a substantial risk of injury to other persons or property, or is classified as a maximum-security inmate pursuant to Sunnyside's Objective Jail Classification System.

(c) Black Diamond prisoners incarcerated in Sunnyside pursuant to this Agreement shall be transported to Sunnyside by and at the expense of Sunnyside and shall be returned, if necessary, to Black Diamond's custody by Sunnyside personnel and at Sunnyside's expense provided that notice of the necessity of transport is received by Sunnyside *three* (3) days prior to time of expected transport.

21. INDEPENDENT CONTRACTOR. In providing services under this contract, Sunnyside is an independent contractor and neither it nor its officers, agents or employees are employees of Black Diamond for any purpose, including responsibility for any federal or state tax, industrial insurance or Social Security liability. Neither shall the provision of services under this Agreement give rise to any claim of career service or civil service rights, which may accrue to an employee of Black Diamond under any applicable law, rule or regulation.

22. GENERAL PROVISIONS.

(a) Severability. In the event any provisions of this Agreement shall be determined to be unenforceable or otherwise invalid for any reason, such provisions shall be enforced and valid to the extent permitted by law. All provisions of this Agreement are severable, and the unenforceability or invalidity of a single provision herein shall not affect the remaining provisions.

(b) Dispute Resolution. In the event of a dispute regarding the enforcement, breach, default, or interpretation of this Agreement, the parties shall first meet in a good faith effort to resolve such dispute. In the event the dispute cannot be resolved by

agreement of the parties, said dispute shall be resolved by arbitration pursuant to RCW 7.04A, as amended, with both parties waiving the right of a jury trial upon trial de novo, with venue placed in Sunnyside, Yakima County, Washington. Each party shall bear its own attorney fees and costs.

(c) Waiver of Breach. The waiver by either party of the breach of any provision of this Agreement by the other party must be in writing and shall not operate nor be construed as a waiver of any subsequent breach by such other party.

(d) Savings Clause. Nothing in this Agreement shall be construed so as to require the commission of any act contrary to law, and wherever there is any conflict between any provisions of this Agreement and any statute, law, public regulation or ordinance, the latter shall prevail, but in such event, the provisions of this Agreement affected shall be severed only to the extent necessary to bring it within legal requirements.

(e) Filing. This Agreement shall be filed with the Yakima County Auditor's Office or, alternatively, listed by subject on each or either party's web site or other electronically retrievable public source pursuant to RCW 39.34.040.

23. INTERPRETATION. This Agreement has been submitted to the scrutiny of all parties and their counsel, if desired, and it shall be given a fair and reasonable interpretation in accordance with its words, without consideration or weight given to its being drafted by any party or its counsel. All words used in the singular shall include the plural; the present tense shall include the future tense; and the masculine gender shall include the feminine and gender neutral.

24. ACCESS TO RECORDS CLAUSE. The parties hereby agree that authorized representatives of the parties shall access to any books, documents, paper and record of the other party which are pertinent to this Agreement for the purposes of making audits, examinations, excerpts and transcriptions. All such records and all other records pertinent to this Agreement and work undertaken pursuant to this Agreement shall be retained by the parties for a period of *three* (3) years after the final expiration date of this Agreement or any amendments hereto, unless a longer period is required to resolve audit, findings or litigation. In such cases, the parties may expressly agree by an amendment or separate agreement for such longer period for record retention.

25. INTERLOCAL COOPERATIVE ACT PROVISIONS Each party shall be solely responsible for all costs, materials, supplies and services necessary for their performance under the terms of this Agreement. All property and materials secured by each party in the performance of this Agreement shall remain the sole property of that party. All funding incident to the fulfillment of this Interlocal Agreement, shall be borne by each party necessary for the fulfillment of their responsibilities under the terms of this Agreement. No special budgets or funds are anticipated, nor shall be created incident to this Interlocal Cooperation Agreement. It is not the intention that a separate legal entity be established to conduct the cooperative undertakings, nor is the acquisition, holding, or

disposing of any real or personal property anticipated under the terms of this Agreement. The City Manager of the City of Sunnyside, Washington, shall be designated as the Administrator of this Interlocal Cooperative Agreement.

A copy of this Interlocal Agreement shall be filed or placed on the City's and Black Diamond's website as provided by RCW 39.34.

26. ENTIRE AGREEMENT. This Agreement represents the entire integrated Agreement between Black Diamond and Sunnyside and supersedes all prior negotiations, representations or agreements, either written or oral.

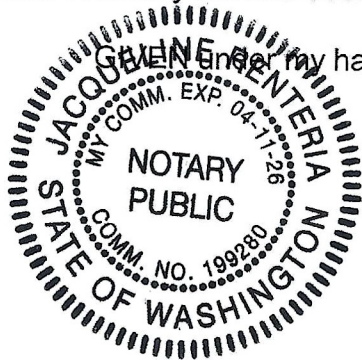
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STATE OF WASHINGTON)

: ss.

CITY OF BLACK DIAMOND)

On this day personally appeared before me Elizabeth Alba, City Manager, of the City of Sunnyside, to be known to be the individual described in and who executed the within and foregoing instrument, and acknowledged that he signed the same as his free and voluntary act and deed for the uses and purposes therein mentioned.



GIVEN under my hand and official seal this 20th day of September, 2023.

NOTARY PUBLIC in and for the State of Washington

Residing at: Orannew, WA

My Commission Expires: 04/11/2026

STATE OF WASHINGTON)

: ss.

CITY OF BLACK DIAMOND)

On this day personally appeared before me _____, Title, of the CITY OF CITY/COUNTY OF, to be known to be the individual described in and who executed the within and foregoing instrument, and acknowledged that he signed the same as his free and voluntary act and deed for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this _____ day of _____, 20____.

NOTARY PUBLIC in and for the State of Washington

Residing at: _____

My Commission Expires: _____