

Return to **City of Spokane**
Attn Clerk
808 W Spokane Falls Blvd
Spokane, WA 99201

FIRST AMENDMENT TO INTERLOCAL AGREEMENT BETWEEN THE CITY OF SPOKANE AND THE CITY OF SPOKANE VALLEY REGARDING ACQUISITION OF PROPERTY BY EMINENT DOMAIN FOR THE HAVANA STREET BRIDGE PROJECT

THIS FIRST AMENDMENT to the Interlocal Agreement Between the City of Spokane and the City of Spokane Valley Regarding the Havana Street Bridge Project, is made and entered into by and between the **City of Spokane**, a Washington municipal corporation, and the **City of Spokane Valley**, a Washington municipal corporation, jointly hereinafter referred to as the "parties "

WITNESSETH

WHEREAS, on or about April 14, 2009, the parties previously entered into an Interlocal Agreement Between the City of Spokane and the City of Spokane Valley Regarding Acquisition of Property by Eminent Domain for the Havana Street Bridge Project (the "Agreement"), and

WHEREAS, the parties wish to amend the Agreement to address ownership of the property to be acquired according to the terms of the Agreement

NOW, THEREFORE, the parties agree as follows

1 AGREEMENT DOCUMENTS The Agreement dated April 15, 2009, is incorporated by reference into this First Amendment as though written in full and shall remain in full force and effect except as provided herein

2 AMENDMENT OF SECTION NO 2 Section No 2 of the Agreement is amended as follows

SECTION NO 2 APPLICABILITY OF THIS AGREEMENT

The parties agree that the provisions of this Agreement shall apply to the land and property described in the amended ordinance attached hereto as Exhibit "1" ("Eminent Domain Ordinance")

3 AMENDMENT OF SECTION NO 3 Section No 3 of the Agreement is amended as follows

SECTION NO 3 ACQUISITION OF PROPERTY BY EMINENT DOMAIN

Upon final action or legislative approval of the Eminent Domain Ordinance by the City of Spokane Valley, the Office of City Attorney for the City of Spokane may commence an action or actions in the Superior Court of Spokane County, State of Washington, in the name of the City of Spokane Valley, to acquire and take by eminent domain the lands and property interests described in the Eminent Domain Ordinance (the "Property"), the parties having found that the Property described therein is necessary for the Project The title to the Property described in the ordinance approved by the Spokane Valley City Council on April 14, 2009 shall vest in the City of Spokane Valley for public street purposes and all uses incidental thereto, subject to such rights as the City of Spokane determines are necessary, in its sole discretion, for constructing the Project, maintaining, repairing, and replacing the subsequently improved public right-of-way and related appurtenances, and enforcement of traffic-related laws and regulations Title to the balance of the Property described in the Eminent Domain Ordinance as amended shall vest in the City of Spokane The parties acknowledge and understand that title to said property may first vest in the City of Spokane Valley pursuant to a judgment vesting title to the same in litigation authorized by the Eminent Domain Ordinance The City of Spokane Valley shall, within ten (10) days of a written request by the City of Spokane, execute any and all documents reasonably requested by the City of Spokane (including by way of example only a quit claim deed conveying the City of Spokane Valley's entire interest in the property to the City of Spokane in substantial form and content as set forth in Exhibit 2 to this First Amendment) to perfect the City of Spokane's ownership of the Property The City of Spokane Valley shall execute and deliver said documents to the City of Spokane at no cost to the City of Spokane, provided the City of Spokane shall bear all costs associated with recording any such documents in the official records of Spokane County

IN WITNESS WHEREOF, the PARTIES have caused this Agreement to be executed on date and year opposite their respective signatures

DATED July 27, 2009

CITY OF SPOKANE



By [Signature]
Its Thomas E. Daneke, Jr.
City Administrator
City of Spokane

Attest

Approved as to form

[Signature]
City Clerk

[Signature]
Assistant City Attorney

DATED 7/23/09

CITY OF SPOKANE VALLEY

By [Signature]
DAVID MERCIER
Its City Manager

Attest

Approved as to form

[Signature]
Christine Bainbridge, City Clerk

[Signature]
Office of the City Attorney

EXHIBIT 1

AMENDED EMINENT DOMAIN ORDINANCE

**CITY OF SPOKANE VALLEY
SPOKANE COUNTY, WASHINGTON
ORDINANCE NO 09-014**

AN ORDINANCE OF THE CITY OF SPOKANE VALLEY, SPOKANE COUNTY, WASHINGTON, AMENDING ORDINANCE 09-007 WHICH PROVIDED FOR THE ACQUISITION BY EMINENT DOMAIN OF CERTAIN LANDS NECESSARY TO BE ACQUIRED FOR PUBLIC PURPOSES IN CONNECTION WITH THE HAVANA STREET BRIDGE PROJECT, LOCATED IN THE CITY OF SPOKANE VALLEY, COUNTY OF SPOKANE, STATE OF WASHINGTON

RECITALS

WHEREAS, the City of Spokane Valley, Washington (the "City") is a code city duly organized and existing under and by virtue of the constitution and laws of the State of Washington, and

WHEREAS, the laws of the State of Washington (RCW 35A 21 160) provide that the City possesses all of the powers which any city of any class may have, and

WHEREAS, the laws of the State of Washington, RCW 35 22 280(7) provide that the City may establish, open, alter, widen, extend, and otherwise improve streets, alleys, avenues, sidewalks, and other public property in order to promote the best interest of the City, and

WHEREAS, the Constitution of the State of Washington, Article I Section 16 and the laws of the State of Washington RCW 35.22 280(6) allow the City to purchase or appropriate private property for public use upon making just compensation to the owners pursuant to RCW Chapter 8 12, and

WHEREAS, the City has determined that it is in the City's best interest to cooperate with and facilitate the City of Spokane's completion of the Havana Street Overpass Project, as set forth in City of Spokane Public Works file number 2004062, and

WHEREAS, the property identified in Exhibit "A" is necessary to complete the Project, and

WHEREAS, pursuant to RCW 8 25 290, notice has been mailed to each and every property owner of record, as indicated on the tax rolls of Spokane County according to such addresses shown on such rolls, at least fifteen (15) days prior to the City Council taking final action on this ordinance, including publication of notice of this ordinance in the Spokesman Review and the Spokane Valley News Herald for two (2) consecutive weeks before final action by the City Council

NOW, THEREFORE, The City of Spokane Valley does ordain

Section 1 Public use and necessity requires the City of Spokane Valley to acquire the land and property, and interests therein, as described in Exhibit "A," for public purposes in order to complete the Havana Street Bridge Project, including utilities and related improvements, all as set forth in City of Spokane Public Works file number 2004062

Section 2 Subject to the terms and conditions of the Amended Interlocal, a copy of which is attached hereto as Exhibit "B", the City Attorney and duly appointed Special Counsel are hereby authorized and directed to commence an action or actions in the Superior Court of Spokane County, State of Washington, in the name of the City of Spokane Valley, to acquire and take by eminent domain the lands and property interests necessary to be acquired for the purposes set forth herein, the lands and property interests to be so taken situate in the City of Spokane Valley, County of Spokane, all in the State of Washington, and more specifically described in Exhibit "A", attached hereto and by this reference made a part hereof

Section 3 The Office of the City Attorney for the City of Spokane is hereby for the purposes set forth herein appointed as special counsel to the City of Spokane Valley Said firm shall provide all legal services in conjunction with the Office of the City Attorney for the purpose of representing the joint interests of the City of Spokane Valley and the City of Spokane as expressed in this ordinance

Section 4 That compensation for the land and property interests described in Exhibit "A" and all associated costs, expenses, damages and attorney fees shall be solely payable by the City of Spokane from fund account number 3200-94991-95200-56102, and funds which are allocated toward the Havana Street Bridge Project by the City of Spokane Department of Construction Services, pursuant to file number 2004062

PASSED by the City of Spokane Valley City Council this 21st day of July, 2009

RICHARD MUNSON, MAYOR

Attest

Christine Bainbridge, City Clerk

Approved As To Form

Office of the City Attorney

Date of Publication July 31, 2009

Effective Date August 5, 2009

EXHIBIT 2

QUIT CLAIM DEED

WHEN RECORDED RETURN TO
City of Spokane
Attn City Clerk
808 W Spokane Falls Blvd
Spokane, WA 99201

QUIT CLAIM DEED

THE GRANTOR, CITY OF SPOKANE VALLEY, a Washington municipal corporation, for and in consideration of good and valuable consideration, the receipt of which is hereby acknowledged, conveys and quit claims to the CITY OF SPOKANE, a Washington municipal corporation, the following described real estate, situated in the City of Spokane Valley, County of Spokane, State of Washington

That portion of the Southwest quarter of the Northwest quarter of Section 14, Township 25 North, Range 43 East, W M , in the City of Spokane Valley, Spokane County, Washington, described as follows

BEGINNING at the intersection of the North line of Broadway Avenue and the East line of Havana Street,
Thence North 360 feet along the East line of Havana Street,
Thence East 300 feet,
Thence South 360 feet to the North line of Broadway Avenue,
Thence West 300 feet to the POINT OF BEGINNING (the "Property")

Except those portions of the Property reserved for public right-of-way purposes described as follows ("ROW Area")

All that portion of the Property lying within the hereinafter described Parcel "A" described as follow

Beginning at the intersection of the north right of way line of Broadway Avenue and the east right of way of Havana Street, said point of beginning bears N 88°12'37"E , 30 00 feet from the west section line of said Section 14 and

N 01°59'41"W , 30 00 feet from the West ¼ corner of said Section 14, thence N 01°59'41" W , along the east right of way line of Havana Street, 300 00 feet, thence N 88°12'37"E , 50 00 feet, thence S 01°59'41"E , 70 00 feet, thence S 43°06'28"W , 63 53 feet, thence S 01°59'41"E , parallel to and 5 00 feet east of the east right of way line of Havana Street, 175 00 feet, thence S 46°53'32"E , 14 17 feet, to the north right of way line of Broadway Avenue, thence S 88°12'37"W , along said north right of way line, 15 00 feet to the point of beginning

Parcel "A"

That portion of the Southwest quarter of the Northwest quarter of Section 14, Township 25 North, Range 43 East, W M , in the City of Spokane Valley, Spokane County, Washington, described as follows

BEGINNING at the intersection of the North line of Broadway Avenue and the East line of Havana Street,
Thence North 300 feet along the East line of Havana Street,
Thence East 300 feet,
Thence South 300 feet to the North line of Broadway Avenue,
Thence West 300 feet to the POINT OF BEGINNING,

(Contains 5,712 sq ft)

And further excepting all that portion of the Property lying within the hereinafter described Parcel "B" described as follow

Beginning on the east right of way line of Havana Street, said point of beginning bears N 88°12'37"E , 30 00 feet, thence N 01°59'41"W , 330 00 feet, from the West ¼ corner of said Section 14, thence N 01°59'41"W , along said east right of way line, 60 00 feet to the northwest corner of said parcel, thence N 88°12'37"E , along the north line of said parcel 50 00 feet, thence S 01°59'41"E , 60 00 feet, to the south line of said parcel, thence S 88°12'37"W , along said south line, 50 00 feet, to the point of beginning

Parcel "B"

That portion of the Southwest quarter of the Northwest quarter of Section 14, Township 25 North, Range 43 East, W M , in the City of Spokane Valley, Spokane County, Washington, described as follows

BEGINNING at the intersection of the North line of Broadway Avenue and the East line of Havana Street,
Thence North 300 feet along said East line to the TRUE POINT OF BEGINNING,
Thence continuing North 60 feet along said East line,
Thence East 300 feet,
Thence South 60 feet,
Thence West 300 feet to the TRUE POINT OF BEGINNING

(Contains 3,000 sq ft)

Grantor hereby grants and conveys to the City of Spokane an easement for public street purposes and all uses incidental thereto, including without limitation the right to construct,
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maintain, repair, and replace the Havana Street Bridge and related right-of way improvements and appurtenances

DATED this ____ day of _____, 2009

CITY OF SPOKANE VALLEY

By _____
Its _____

STATE OF WASHINGTON)
)ss
County of Spokane)

I certify that I know or have satisfactory evidence that _____ and _____ are the persons who appeared before me and said persons acknowledged that they signed this documents, on oath stated that they were authorized to sign it and acknowledged it as the _____, and the City Clerk, respectively of the CITY OF SPOKANE VALLEY, a municipal corporation, to be the free and voluntary act of such party for the uses and purposes therein mentioned

Dated _____

Notary Public in and for
State, residing at _____
My appointment expires _____