

## LICENSE AGREEMENT

THIS LICENSE AGREEMENT is made between the City of Othello, Washington, a municipal corporation of the State of Washington (Grantor), and McCain Foods USA, Inc., a corporation (Grantee).

### RECITALS

1. Grantor is a municipal corporation organized as a non-charter code city and as such is the entity in possession and control of public rights of way within the corporate limits of the City of Othello.
2. Grantee wishes to locate a security fence related to the Grantee's operation of a processing plant within a public right of way controlled by Grantor.
3. Grantee's use of Grantor's property shall be limited to use of the portions and specific areas designated in writing by the Grantor for definite periods of time.

### AGREEMENT

The parties therefore agree as follows:

#### 1. Grant of License to Use Grantor's Property and Consideration Therefor.

Grantor grants to Grantee a limited License to use those portions and specific areas of the public right of way controlled by Grantor adjacent to Grantee's processing plant, for use in its business described as the eastern ten (10) feet of the North Broadway Avenue right-of-way located from 206 feet north of to 200 feet south of Soda Street right-of-way located from 206 feet north of to 200 feet south of Soda Street right-of-way being six hundred eighty-eight (688) feet in length, located adjacent to Grantee's facility



**2. Scope of License.** The license shall be solely for the purpose of installing and maintaining a security fence within the right of way described which is adjacent to Grantee's processing plant, for use in its business. Such fence to prevent access by unauthorized persons. Such fence be placed in a manner that does not interfere with the safe operation of motor vehicles along North Broadway.

Grantee shall pay to the Grantor fifty dollars at the time of execution of this License and fifty dollars (\$50) on or before each January 15<sup>th</sup> after the effective date of this License so long

as this License remains in effect. This license fee shall be subject to review every five years. Failure to pay this fee within ten days of notice it is past due shall terminate this License.

Grantee shall comply with all applicable regulations, ordinances, resolutions, and laws regarding the use of Grantor's property, including any regulations, ordinances, required permits or other laws regarding installation and maintenance of a fence.

The license premises shall be returned to its condition as it existed prior to this use by Grantee at the termination of this License unless Grantor consents in writing otherwise.

**3. Term of License.** The License shall continue from August 1, 2005, until revoked as provided herein.

Either party may terminate this License Agreement by giving the other party thirty (30) days written notice of termination. Such notice shall be delivered or mailed with postage prepaid to the local office of Grantee to the attention of the plant manager and to city hall to the attention of the city administrator.

**4. Extent of Grantee's Interest.** This License is a grant to use Grantor's property for a specific use only, and does not constitute an interest in land. This License is not inheritable, assignable, or transferable, and is personal to the Grantee.

**5. Insurance and Indemnification.** The Grantee shall maintain throughout the term of this License Agreement liability insurance coverage for operations liability, environmental liability, premises liability, commercial general liability including bodily injury, property damage, personal injury, medical payments, defense costs, and contractual liability, with a reputable insurance company or companies satisfactory to Grantor in the minimum amounts of \$2,000,000.00 for bodily injury, death and for property damage to indemnify the Grantor against any such liability or expense. The Grantor shall be named as an additional insured on such policies as respects the uses and responsibilities described herein. All insurance policies shall provide for coverage not only of the property, but also to the use of the property by Grantee, its invitees, licensees, guests, customers, clients and any other person associated with Grantee or Grantee's business operations. The Grantee shall file with Grantor certificates of insurance which stipulate that the Grantor shall be notified thirty (30) days in advance, in writing, prior to cancellation of said policies.

The Grantee shall defend, indemnify and hold harmless Grantor, its officers, employees, officials, and successors and assigns, from and against any and all liability, loss, damage, expense, injury, action and claims asserted or arising directly or indirectly on account of or out of acts or omissions of Grantee, its agents, contractors, employees, licensees or invitees in the exercise of the rights granted in this License.

**6. Governing Law and Venue.** This License Agreement shall be governed by and construed in accordance with the laws of the State of Washington, and any litigation arising out of this License Agreement shall be in Adams County, Washington.

**7. Entire Agreement.** This License Agreement is the complete and exclusive agreement between the parties, which supersedes all proposals or prior oral agreements, and all other communications between them relating to the Grantor's property. Amendments or modifications

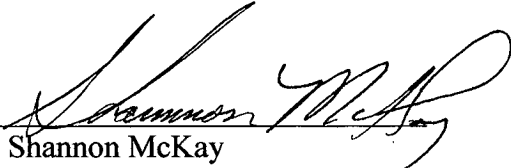
to this Agreement shall only be effective if they are in writing and signed by both parties.

**8. Attorney's Fees and Costs.** In the event of any action by Grantor or Grantee brought to interpret this Agreement or to enforce any of the provisions herein, each party shall pay its own attorney's fees and costs.

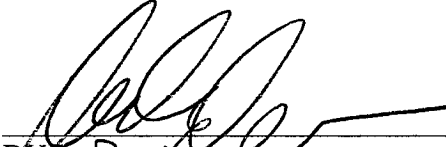
DATED this 5<sup>th</sup> day of April, 2008.

City of Othello, Grantor

McCain Foods<sup>USA,</sup> Inc, Grantee



BY: Shannon McKay  
Mayor

  
BY: Randy Miles  
Its: CFO