

RESOLUTION 2015 - 29

 ORIGINAL

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SUNNYSIDE, WASHINGTON, DECLARING BUILDING LOCATED AT 501 GRANT AVENUE TO BE SURPLUS, AUTHORIZING DISPOSITION THEREOF AND AUTHORIZING APPROVAL OF AGREEMENT FOR INTERGOVERNMENTAL TRANSFER OF PROPERTY

WHEREAS, the City of Sunnyside has determined that property described as the 5th and Grant Building (501 Grant Avenue; Parcel #221025-31538) is surplus to the uses and needs of the City of Sunnyside; and

WHEREAS, the Port of Sunnyside has a willingness to take ownership of Property upon inspections, assessments and feasibility studies to be conducted by the Port and its consultants; and

WHEREAS, the City Council of the City of Sunnyside finds and determines that the property is surplus to the uses and needs of the City of Sunnyside and should be disposed of in accordance with law, including but not limited to, transfer of any such property to the Port of Sunnyside; and

WHEREAS, the City Council finds and determines that such actions as authorized herein are in the best interests 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 property described above as Parcel #221025-31538, is hereby declared surplus to the uses and needs of the City of Sunnyside and the City Manager is hereby authorized to dispose of such surplus property in any manner deemed lawful, including transfer to the Port of Sunnyside

Section 2. The City Council hereby approves the Agreement for Intergovernmental Transfer of Property, attached hereto as Exhibit "A" and

incorporated herein by this reference; and the City Manager is hereby authorized to enter into said agreement for and on behalf of the City of Sunnyside, and to prepare, execute and administer all documents and reports necessary or appropriate to accomplish the purpose of this agreement.

Section 3. This Resolution shall be effective upon passage, approval and signatures hereon in accordance with law.

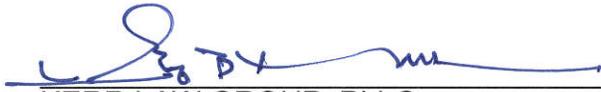
PASSED this 13th day of April, 2015.


JAMES A. RESTUCCI, MAYOR

ATTEST:


DELILAH SAENZ, CMC, CITY CLERK

APPROVED AS TO FORM:


KERR LAW GROUP, PLLC
Attorneys for the City of Sunnyside

**AGREEMENT FOR INTERGOVERNMENTAL TRANSFER OF PROPERTY
BETWEEN
THE PORT OF SUNNYSIDE
AND
THE CITY OF SUNNYSIDE**

THIS AGREEMENT FOR INTERGOVERNMENTAL TRANSFER OF PROPERTY, hereinafter referred to as the "Transfer Agreement", 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 39.33.010 and RCW 39.33.020.

RECITALS

A. The City owns commercial real property located at 501 Grant Avenue, Sunnyside, Washington, hereinafter referred to as the "Property", and legally described as follows:

Lots 13 and 14, Block 41, of TOWN OF SUNNYSIDE, WASHINGTON, according to the official plat thereof, recorded in Volume "A" of Plats, Page 59, records of Yakima County, Washington.

Assessor's Parcel No. 221025-31538

Area Code 460

B. Currently, the Property is not being used by the City, it is not leased to any tenant or occupant, and the City has no specific plans for its sale, development and/or leasing.

C. The Port wishes to develop the Property as a custom-build for a specific tenant, or generally as a wine or craft brewery to be marketed to potential tenants from within the wine or craft brewery industry, or for some other private business tenant. The Port believes the historical use of the Property and its location make it attractive to the wine or craft brewery industry, or to other businesses.

D. The Port intends to invest money from its general fund and to apply for grants and/or loans from federal, state, and/or local agencies such as the Supporting Investments in Economic Development ("SIED") Board or Community Economic Revitalization Board ("CERB"). The Port may need to own the Property in order to request such grants and/or loans.

E. The City believes that it will benefit from the development of the Property by the Port because the development is intended to support the growth and/or expansion of private businesses and improve the economic vitality of the downtown Sunnyside area.

F. RCW 39.33.010 permits that transfer of title to real property from any municipality to any other municipality on such terms and conditions as may be mutually agreed upon. RCW 39.33.020 requires that the City hold a public hearing with regard to the transfer of the Property, as surplus property, to the Port.

EXHIBIT "A"

F. The Port's willingness to take ownership of the Property is conditioned upon inspections, assessments and feasibility studies to be conducted by the Port and its consultants. Specifically, the Port intends to conduct one or more environmental site assessments and engineering inspections in its review of the Property, and, if not satisfied with such assessment, then the Port most likely will not take ownership of the Property.

AGREEMENT

NOW, THEREFORE, in consideration of the Recitals (which are hereby incorporated into and made part of this Transfer Agreement), 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. **Approval of this Transfer Agreement.** Once the staff of the Port and City develop a mutually acceptable form of Transfer Agreement, then the Port shall submit the same to the City for comment at a public hearing and consideration by the City Council. Within sixty (60) days from the Port's submittal of the draft of this Transfer Agreement, the City shall hold the public hearing required by RCW 39.33.020, and submit the Transfer Agreement for approval by the City Council. Provided the Transfer Agreement is approved, the City shall deliver two executed duplicate originals to the Port. The Port shall, within fourteen (14) days after receipt of the duplicate originals from the City, submit the Transfer Agreement for approval by the Port Commissioners by resolution, and, if approved, return one executed original of this Transfer Agreement to the City.

2. **Duration of this Transfer Agreement.** The Port shall have one (1) year from the date of the City's approval of this Transfer Agreement to conduct its review of the Property and to determine whether to accept the transfer of title from the City. The Port shall give written notice to the City within said one (1) year that the Port will accept title to the Property, and if affirmative notice is not so given, then the Property shall be deemed to have been rejected, and this Transfer Agreement shall be of no legal effect.

3. **The Port's Review of the Property.** The Port's acceptance of title in the Property is conditioned upon the Port being satisfied, in the Port's sole and absolute discretion, with the condition of the Property, including but not limited to the results of one or more environmental site assessments and/or engineering and feasibility studies conducted for the Property. Such environmental site assessments may include what are commonly referred to as a "phase 1" assessment and a "phase 2" assessment. The Port shall be responsible to pay all of the costs and expenses incurred with such environmental site assessments or any other review of the Property. The City shall permit the Port, and its agents, to enter the Property at reasonable times to conduct the inspections reasonably requested by the Port.

4. **Transfer of Property.** The City shall transfer title in the Property described in Recital A above to the Port within ten (10) days after the City's receipt of written notice from the Port identifying that the Port has agreed to accept title in the Property. The transfer of title to the Property shall be by a Special Warranty Deed, also known as a "bargain and sale deed". The Port shall pay the recording fee and any other costs incurred with the transfer of title to the Property.

EXHIBIT "A"

The City shall provide the original deed, an Excise Tax Affidavit, and the City resolution properly executed and sufficient for the deed to be recorded with the Yakima County Auditor's Office, and the Port shall be responsible to record such deed.

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

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

7. **Governmental Authority.** This Transfer Agreement is subject to the rules, regulations, orders and other requirements, now or hereafter in effect, of all governmental authorities having jurisdiction over this Transfer Agreement, 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 Agreement.

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

9. **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.

10. **Restriction on Assignment.** This Transfer Agreement, or any interest herein, or claim hereunder, shall not be assigned or transferred in whole or in part by either party.

11. **Non-Waiver.** The failure of either party to insist upon strict performance of any provision of this Transfer Agreement 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 this Transfer Agreement.

12. **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. No changes or additions to this Transfer Agreement shall be valid or binding upon either party unless such change or addition be in writing and executed by both parties.

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

EXHIBIT "A"

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

14. **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

Port of Sunnyside

By: _____
DONALD DAY
City Manager

By: _____
JAY HESTER
Executive Director

Date: _____

Date: _____