

RESOLUTION 2020 - 05

**A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF SUNNYSIDE, WASHINGTON, AUTHORIZING
THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH CATHOLIC
CHARITIES HOUSING SERVICES (CCHS) TO UPSIZE UTILITIES
ASSOCIATED WITH THE NEW LIFE HOMES HOUSING DEVELOPMENT**

WHEREAS, the City of Sunnyside is responsible for the operation and maintenance of all city infrastructure, and must ensure that new infrastructure is sized to accommodate future growth; and

WHEREAS, the CCHS has purchased property on Allen Road to build sixty (60) new single family residences. This project requires that CCHS install all water, sewer, and storm drainage infrastructure per city standards. Along with the installation of new infrastructure, the existing infrastructure must be upsized to accommodate future growth. The city also has an obligation to correct any deficiencies it sees as necessary to ensure future growth and development; and

WHEREAS, the city will fund the replacement of the lift station panel and associated water and sewer infrastructure to mitigate any future issues with system capacity during the construction of these utilities in the amount of \$50,000; and

WHEREAS, the City Council finds and determines that authorizing the City Manager to execute an agreement with CCHS to upsize the utilities associated with the New Life Homes housing development, is in the best interest of the residents of the City of Sunnyside and will promote the general health, safety and welfare; and

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

SECTION 1. That the City Council of the City of Sunnyside hereby authorizes the City Manager to execute an agreement with CCHS to upsize associated utility infrastructure, attached hereto as Exhibits "A", and act on behalf of the City of Sunnyside and to take all actions reasonable and necessary to administer these funds with full contractual authority.

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

PASSED this 10th day of February, 2020.


FRANCISCO GUERRERO, MAYOR

ATTEST:

JACQUELINE RENTERIA, CITY CLERK

WATER AND SEWER UTILITY UPSIZE AGREEMENT

THIS WATER AND SEWER UTILITY UPSIZE AGREEMENT is entered into this _____ day of _____, by and between Catholic Charities Housing Services, a Washington Limited Liability Company, (hereinafter referred to as "Developer"), and the City of Sunnyside, Washington, a Washington Municipal Corporation (hereinafter referred to as "City"), for the purpose of upsizing of water and sewer system improvements consisting of upsized water line facilities, upsized sewer line facilities, and an upsized sewer lift station.

WHEREAS, City is a Municipal Corporation of the of the State of Washington, with City Hall located at 818 East Edison Avenue, Sunnyside, Washington 98944; and

WHEREAS, Developer is a 501(c)3 charitable organization existing under the laws of the State of Washington, with a principal office at 5301 Tieton Drive, Yakima, Washington 98908 ; and

WHEREAS, City owns, operates, and maintains all water and sewer infrastructure within the City of Sunnyside, Washington; and

WHEREAS, the Developer is installing a new sewer lift station to accommodate sixty (60) new homes being built. There are several water and sewer mains that need to be upsized to accommodate future growth in this area; and

WHEREAS, the City intends to contribute to Developer's project by paying the difference in material costs for an upsizing of the water and sewer lines and the sewer lift station; and

WHEREAS, the Parties desire by this Agreement to jointly participate in the costs of the water and sewer system improvement's that provides benefit to both the Developer's property and the overall water and sewer system.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the Parties agree as follows:

1. Developer's Obligations. Developer shall:

A. Be responsible for the costs of the project including but not limited to the expenses relating to engineering, design, administration, legal, materials, labor, permits, reviews, and/or approvals from all applicable jurisdictions, and any other project-related costs except for:

- (1) The reasonable difference as provided for in Section 2.A between the materials costs for upsizing the domestic water and sewer mains to

accommodate the need for future development.

(2) The reasonable difference as provided for in Section 2.A between the material costs for upsizing the sewer lift station as show on the approved construction drawings.

B. Be responsible for the costs of all inspection services during the course of construction consistent with the level of effort utilized on other capital and development projects within the City, or as may be required to ensure the required quality of the completed work.

C. Be responsible for providing the City with a cost estimate for all items included in the terms of this Upsize Agreement.

D. Transfer ownership of the water and sewer mains and sewer lift station and all appurtenances to the City in a manner that is consistent with the policies of the City.

2. **City Obligations.** City shall:

A. Be responsible for an increase in material costs only for the upsizing and additional extension of the water and sewer mains and sewer lift station as described above, in an amount not to exceed Fifty Thousand Dollars and 00/100 (\$50,000.00).

B. Provide inspection services during the course of construction consistent with the level of effort utilized on other capital and development projects within the City, or as may be required to ensure the required quality of the completed work.

C. Upon satisfactory completion of the improvements described above, accept the improvements as described above to be conveyed to the City and assume the maintenance and operations of the improvements thereafter.

3. **Term.** This Agreement shall be effective commencing on the ____ day of _____ 2020, and all improvements, conveyances and obligations of the parties shall be completed on or before _____ (___) months immediately following the commencement date of this Agreement. The Agreement shall terminate no later than one year following the commencement date of this Agreement, or with the completion and acceptance of the water system improvements, whichever is sooner.

4. **Authority to Approve Agreement.** The parties represent and warrant that all steps necessary for the approval of this Agreement have been completed by:

A. Developer.

B. City of Sunnyside

The officers signing below are authorized to do so and warrant that the execution of this Agreement is valid and binding for all purposes.

5. **Dispute Resolution.** In the event of a dispute between the parties regarding the interpretation, breach or enforcement of this Agreement, the parties shall first meet in a good faith effort to resolve the dispute by themselves or with the assistance of a mediator. The remaining dispute shall be resolved by arbitration pursuant to RCW 7.04A, as amended, with all parties waiving the right of a jury trial upon de novo, with venue placed in Yakima County, Washington. The substantially prevailing party being awarded its reasonable attorney fees and costs against the other.

6. **Indemnity.** The Developer shall assume the risk of, be liable for, and pay for damage, loss, cost and expense of any party arising out of the performance of this Agreement, except that caused by negligence and/or willful misconduct solely of the City and its employees acting within the scope of employment. The Developer shall hold harmless, defend, and indemnify the City against all claims, losses, suits, action, cost, counsel fees, litigation costs, expenses, damages, judgments, or decrees by reason of damage to any property of business, and/or any death, injury or disability to or of any person or party, including any employee, arising out of or suffered, directly or indirectly, by reason of or in connection with the performance of the Agreement or any act, error or omission of the Developer, Developer's employees, agents, contractors or subcontractors, whether by negligence or otherwise. The Developer's obligation shall include but not be limited to investigation, adjusting, and defending all claims alleging loss from action, error or omission or breach of any common law, statutory or other delegated duty of the Developer, Developer's employees, contractors, agents or subcontractors.

7. **General Provisions.**

A. This Agreement constitutes the entire agreement between the parties, and no prior oral or written agreement shall be valid, and any modifications of this Agreement must be in writing signed by all parties.

B. This Agreement shall be binding on the parties, and their heirs, successors and assigns.

C. For the purpose of this Agreement, time is of the essence.

8. **Notice.** All notices required or allowed to be given pursuant to this Agreement shall be in writing, and either (i) delivered in person to the party; or (ii) delivered by U.S. Mail or private courier, postage prepaid; or (iii) transmitted by email to the email address of the receiving party (if any) stated in this Agreement. Notices will be deemed received the earlier of: (a) when

actually delivered, if personally delivered; (b) when transmitted if sent by email; or (c) three days after placement in the U.S. Mail or delivery to private courier, property addressed to the recipient.

If to City:

City of Sunnyside
Attn: Shane Fisher
Director of Public Works/
Community Development
818 East Edison Avenue
Sunnyside WA 98944
sfisher@sunnyside-wa.gov

If to Developer:

Catholic Charities Housing Services
Attn: _____

E-mail: _____

Either party may, by like written notice, designate a new address and/or addresses to which such notices shall be directed.

9. **Mutual Cooperation and Further Agreements.** The parties agree to cooperate in good faith, with regard to each and every aspect required for the completion of the construction of the utility improvements which are the object of this Agreement, and the transfer of property, and to further sign all documents, deeds and permits in accordance with local, State, and Federal law and as reasonably necessary to accomplish the purposes of this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

CITY:

City of Sunnyside, Washington

DEVELOPER:

Catholic Charities Housing Services

By: _____

Martin Casey, City Manager

By: _____

ATTEST:

Jacqueline Renteria, City Clerk

STATE OF WASHINGTON)
) ss.
County of Yakima)

On this day personally appeared before me Martin Casey, City Manager of the City of Sunnyside, Washington, to me 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 deed for the uses and purposes therein mentioned.

SUBSCRIBED and sworn to before me this ____ day of _____, 2019.

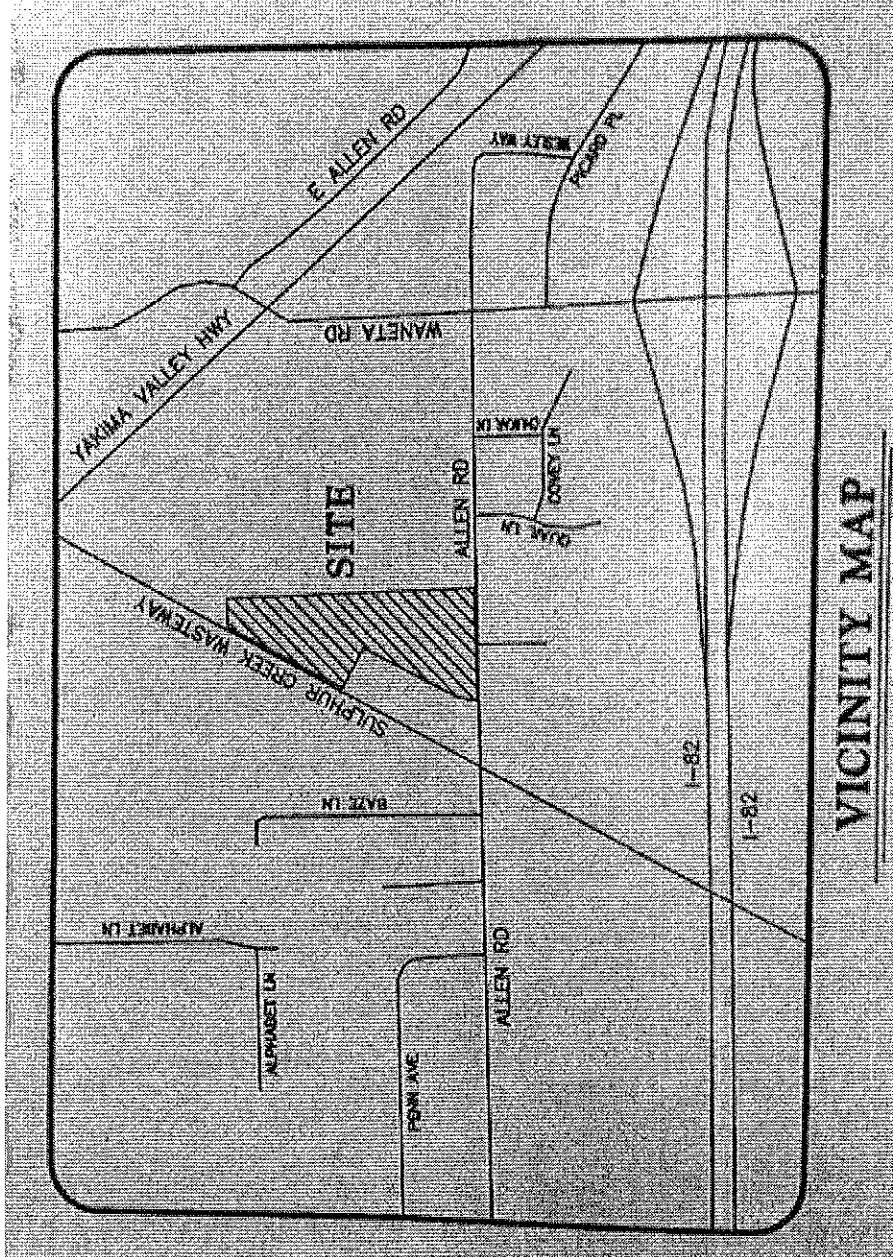
Notary Public in and for the State of Washington,
Residing at _____.
My Commission Expires: _____.

STATE OF WASHINGTON)
) ss.
County of Yakima)

On this day personally appeared before me _____, to me known to be the _____ of Weets Properties, LLC, a Washington Limited Liability Company that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act of and deed of said limited liability company, for the uses and purposes therein mentioned, and on oath stated that he/she is authorized to execute the said instrument..

SUBSCRIBED and sworn to before me this ____ day of _____, 2019.

Notary Public in and for the State of Washington,
Residing at _____.
My Commission Expires: _____.



VICINITY MAP