

# RESOLUTION NO. 1490

## DECLARATION OF PROPERTY AS SURPLUS AND AUTHORIZATION OF SALE OF LANDS

1. Teton Gold, LLC desires to acquire certain real property from the Port of Pasco. The real property is described on the attached Exhibit A.

Teton Gold, LLC proposes to purchase said property for the sum of One Hundred Ninety-One Thousand One Hundred Eighty-Seven and no/100 Dollars (\$191,187.00) subject to the provisions of the attached Agreement to Purchase and Sell Real Estate between Teton Gold, LLC and the Port of Pasco.

2. THE PORT COMMISSION HEREBY FINDS THAT the sale is in accordance with Resolution No. 1422 pertaining to the comprehensive scheme, and that the use of said property is in the best interests of the constituents of the Port of Pasco, and therefore deem it advisable to sell said lands pursuant to the terms of the attached Agreement to Purchase and Sell Real Estate between Teton Gold, LLC and the Port of Pasco.

NOW, THEREFORE, BE IT RESOLVED THAT SAID LAND BE DECLARED SURPLUS TO THE NEEDS OF THE PORT OF PASCO, AND

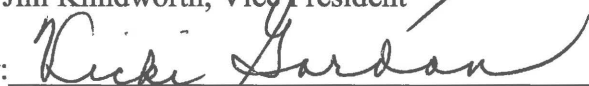
BE IT FURTHER RESOLVED AND DETERMINED THAT the sale is advisable and is hereby approved in accordance with the attached Agreement to Purchase and Sell Real Estate between Teton Gold, LLC and the Port of Pasco. Randy Hayden, Executive Director of the Port of Pasco, is hereby authorized and directed to execute all documents associated with the implementation of the resolution upon behalf of the Port of Pasco.

ADOPTED this 9 day of August 2018.

PORT OF PASCO

By:   
Jean Ryckman, President

By:   
Jim Klindworth, Vice President

By:   
Vicki Gordon, Secretary

**PARCEL 4:**

THAT PORTION OF LOT 5 OF THE BINDING SITE PLAN RECORDED IN VOLUME 1 OF BINDING SITE PLANS AT PAGE 74, LYING IN THE NORTHEAST QUARTER OF SECTION 7, TOWNSHIP 9 NORTH, RANGE 30 EAST, W.M, FRANKLIN COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

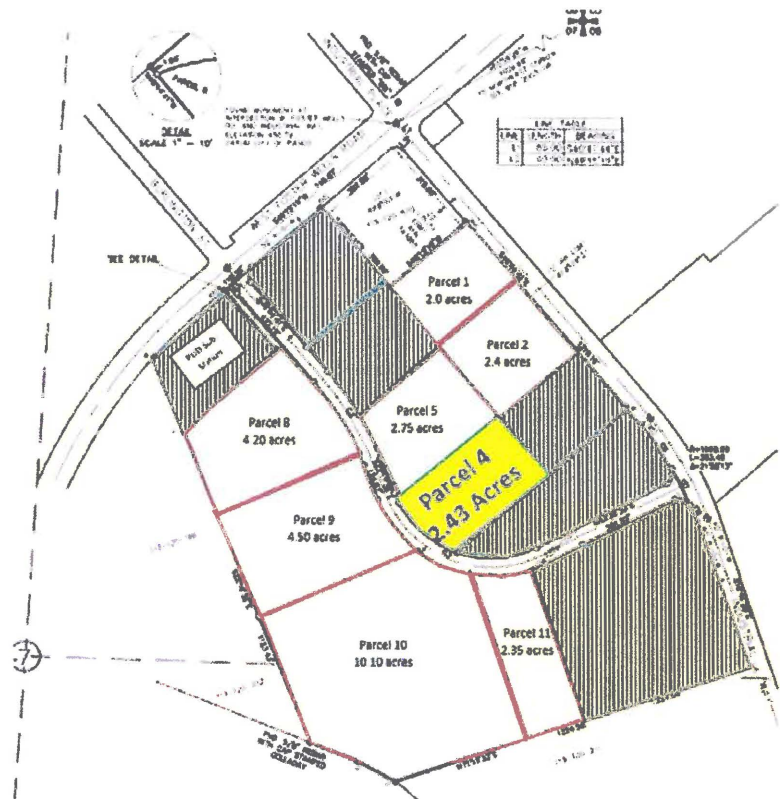
COMMENCING AT THE MOST EASTERLY CORNER OF LOT 3 OF SAID BINDING SITE PLAN THENCE SOUTH 49°15'19" WEST ALONG THE SOUTHERLY LINE OF SAID LOT 353.92 FEET TO THE TRUE POINT OF BEGINNING;

THENCE NORTH 38°46'09" WEST 249.33 FEET; THENCE SOUTH 49°15'20" WEST 434.00 TO THE BEGINNING OF A NON- TANGENT CURVE TO THE LEFT THE RADIUS POINT WHICH BEARS NORTH 61°43'23" EAST 345.00 FEET; THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 42°53'28" AN ARC LENGTH OF 258.26 FEET; THENCE NORTH 49°15'19" EAST 386.04 FEET TO THE SAID TRUE POINT OF BEGINNING.

CONTAINS 2.43 ACRES.

TOGETHER WITH AND SUBJECT TO EASEMENTS, COVENANTS, RESERVATIONS AND RESTRICTIONS IN RECORD AND IN VIEW.

**FOSTER WELLS BUSINESS PARK – PORT OF PASCO**



## AGREEMENT TO PURCHASE

## AND SELL REAL ESTATE

THIS AGREEMENT TO PURCHASE AND SELL REAL PROPERTY is made and entered into as of this \_\_\_\_ day of August 2018, by and between the PORT OF PASCO, a Washington municipal corporation (hereinafter referred to as "Seller"), and TETON GOLD, LLC, a Washington limited liability company, (hereinafter referred to as "Buyer").

IN CONSIDERATION OF the mutual covenants set forth in this Agreement, the parties hereto do hereby agree as follows:

1. Agreement to Sell and to Purchase. Seller agrees to sell, convey and assign to Buyer, and Buyer agrees to purchase from Seller, on the terms and conditions herein set forth, all of Seller's right, title and interest in and to the following real property located in Franklin County, Washington, legally described as follows: (hereinafter referred to as the "Property").

PARCEL 4:

THAT PORTION OF LOT 5 OF THE BINDING SITE PLAN RECORDED IN VOLUME 1 OF BINDING SITE PLANS AT PAGE 74, LYING IN THE NORTHEAST QUARTER OF SECTION 7, TOWNSHIP 9 NORTH, RANGE 30 EAST, W.M, FRANKLIN COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

COMMENCING AT THE MOST EASTERLY CORNER OF LOT 3 OF SAID BINDING SITE PLAN THENCE SOUTH 49°15'19" WEST ALONG THE SOUTHERLY LINE OF SAID LOT 353.92 FEET TO THE TRUE POINT OF BEGINNING;

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CONTAINS 2.43 ACRES.

TOGETHER WITH AND SUBJECT TO EASEMENTS, COVENANTS, RESERVATIONS AND RESTRICTIONS IN RECORD AND IN VIEW.

2. Purchase Price. The purchase price for the Property is ONE HUNDRED NINETY-ONE THOUSAND ONE HUNDRED EIGHTY-SEVEN AND NO/100 DOLLARS (\$191,187.00) payable in cash at closing.

3. Escrow Agent. Contemporaneously with the execution and delivery of this Agreement, or as soon thereafter as is practicable, the parties shall establish an escrow (hereinafter referred to as the "escrow") with Kuffel, Hultgrenn, Klashke, Shea & Ellerd of Pasco, Washington, as Escrow Agent (hereinafter referred to as "Escrow Agent") on terms and conditions consistent with the provisions of this Agreement.

4. Close of Escrow. Close of escrow shall be on or before \_\_\_\_\_, 2018, unless extended in writing by the parties, at the office of Escrow Agent, or at such other place as the parties may agree in writing.

5. Conditions to Closing. As conditions to Buyer's obligation to purchase:

A. Seller shall deliver to Buyer at close of escrow good, marketable and insurable title to the Property, free and clear of all liens and encumbrances, as described in paragraph 8Aii hereinafter.

B. Buyer shall be entitled, at Buyer's sole cost and expense, to inspect the Property, and Buyer shall be satisfied with the condition thereof and the suitability for Buyer's use. If Buyer is not satisfied with the Property's condition or otherwise finds it unsuitable for Buyer's use, Buyer will notify the Seller within thirty (30) days of the date of this Agreement.

C. Buyer shall be entitled to obtain at Buyer's expense an environmental assessment of the Property within thirty (30) days of the date of this agreement, which will show it is free of all Hazardous Materials as hereinafter defined. If said environmental assessment shows the presence of hazardous materials on the Property, Buyer may cancel this Agreement. Buyer's representatives shall have the right of entry on the Property in order to conduct this environmental assessment. The term "Hazardous Material" means any hazardous or toxic substance, material or waste, including, but not limited to, those substances, materials and wastes listed in the United States Department of Transportation Hazardous Materials Table (49 C.F.R § 172.101) or by the United States Environmental Protection Agency as hazardous substances (40 C.F.R. Pt. 302 and amendments thereto) or in the Washington Hazardous Waste Management Act (Ch. 70.105D RCW) or the Model Toxics Control Act (Chs. 70.105D RCW, 82.21 RCW), petroleum products and their derivatives, and such other substances, materials and wastes as become regulated or subject to cleanup authority under any Environmental Laws.

Buyer shall have access to the Property during its inspection as hereinabove described. If Buyer fails to close this purchase and sale, any disturbance to the Property shall be repaired by Buyer to its initial condition.

D. In the event any of the foregoing conditions are not satisfied at the time of closing, Buyer shall have the right to terminate this Agreement.

6. Title. Within ten (10) days of the execution of this Agreement, Seller shall furnish to Buyer a title commitment for a standard owner's policy of title insurance (the "Title Commitment") prepared by Benton Franklin Title Insurance Company, or other title company selected by Buyer, (the "Title Company"), showing the condition of the title to the Property, together with copies of all exceptions listed in the Title Commitment. Buyer shall have seven (7) days after receiving a copy of the Title Commitment and all exceptions noted in it to review the Title Commitment and to notify Seller of any objections Buyer has to the Title Commitment. Any exceptions to title which Buyer does not object are referred to herein as the "Permitted Exceptions". It shall be a condition to closing, which may be waived only by Buyer, that Seller shall cause any exceptions to which Buyer objects to be removed and any adverse condition of title to be remedied. If Seller fails to do so within sixty (60) days, Buyer may terminate this Agreement by written notice to Seller, and this Agreement shall be null and void.

7. Taxes. Real estate and personal property taxes and assessments shall be prorated as of the close of escrow. Seller agrees to pay all State and local excise transfer taxes, if any, payable in connection with the sale and transfer of the Property to Buyer.

8. Provisions With Respect to Close of Escrow.

A. At the close of escrow, the following documents, instruments and other materials ("Seller's closing documents") will be furnished and delivered by Seller to Buyer, at Seller's sole cost and expense (unless otherwise provided). Seller shall pay one-half (1/2) of the escrow fees and charges.

(i) A commitment for a standard owner's title policy, covering the real property issued by Title Company in the face amount of the total purchase price insuring good and marketable title to the real property in Buyer, subject only to the exceptions described in Section 8(ii);

(ii) A Statutory Warranty Deed conveying Seller's right, title and interest in and to the real property to Buyer, subject to taxes and assessments for the current year and thereafter, setbacks and zoning regulations, rules,

regulations and laws affecting and governing the real property, utility easements, covenants, conditions, restrictions and the Permitted Exceptions;

(iii) Such other instruments consistent with the terms of this Agreement which may be necessary to the consummation of the sale.

B. At the close of escrow, Buyer will deliver to Seller, through the escrow, the funds required to be paid at the close of escrow as provided in this Agreement, together with the declaration required under section 13. Buyer will pay one-half (1/2) of the escrow fees and charges.

9. Port's Representations. The Port represents and warrants as follows: (a) to the best of Port's knowledge no underground storage tanks are located on the Property, (b) to the best of the Port's knowledge, no part of the Property has ever been used for a landfill, dump, toxic or other waste disposal site, (c) to the best of the Port's knowledge, no hazardous or other toxic substances have been released or discharged on the Property to an extent sufficient to contaminate the surface, subsoils or groundwater, (d) during the Port's ownership, the Port has received no notices that the Property has been operated contrary to or been in violation of any federal, state or local law regulation, including environmental laws, and (e) no claims or demands have been received by the Port, no litigation or other proceeding instituted against the Port, and no judgments, decrees or orders entered against the Port relating to the Property. These representations shall survive the closing of this transaction.

10. Possession. Possession of the Property will be delivered to Buyer at the close of escrow.

11. Commissions and Finders' Fees. No commission or fee will be paid by Buyer. Seller will hold Buyer harmless from and against any claims for broker's commissions or finder's fees made by any person or entity based upon a claimed contract, obligation or agreement between any such person or entity and Seller.

No commission or fee will be paid by Seller. Buyer will hold Seller harmless from and against any claims for broker's commissions or finder's fees made by any person or entity based upon a claimed contract, obligation or agreement between any such person or entity and Buyer.

12. Severability. If any provision of this Agreement is declared void or unenforceable, such provision shall be deemed severed from this Agreement, which shall otherwise remain in full force and effect.

13. Covenants and Restrictions. Buyer shall comply with the recorded Covenants and Restrictions in effect at the time of closing, and execute at closing a recordable declaration evidencing its consent to the application of the Covenants,

Conditions, and Restrictions recorded under Franklin County Auditor's No. 1628602, as amended to the real property previously purchased from the Seller by Buyer adjacent to the Property.

14. Compliance with Covenants. Buyer shall complete the landscaping, fencing and screening provided by the Covenants on Buyer's adjacent lands within 90 days of the closing of this transaction.

15. Future Street Improvements. Buyer is exempt from future cost-share assessment for the construction of the future extension of Burlington Loop.

16. Additional Acts and Documents. Each party hereto agrees to do all such things and take all such action, and to make, execute and deliver such other documents and instruments, as shall be reasonably requested to carry out the provisions, intent and purposes of this agreement, either before, at, or after closing.

17. Authority. Each of the parties hereto represents and warrants to the other that this Agreement has been duly authorized by all necessary action and that this Agreement constitutes and will constitute a binding obligation of each such party. Each party hereto shall provide reasonably satisfactory evidence of such authority at closing.

18. Attorney Fees. In the event suit is brought or an attorney is retained by any party to this Agreement to enforce the terms of this Agreement, or to collect any moneys due hereunder, the prevailing party shall be entitled to recover reimbursement for reasonable attorney's fees, court costs, costs of investigation and other related expenses incurred in connection therewith, in addition to any other available remedies.

19. Notices. All notices, requests and other communications hereunder shall be deemed to have been given four (4) days after deposit in the United States mail in a sealed envelope, postage prepaid, registered or certified mail (or if personal delivery, at the time of delivery), and addressed as follows:

Seller: PORT OF PASCO  
P. O. Box 769  
Pasco, WA 99301-0769

Buyer: TETON GOLD, LLC.  
723 E Karcher  
Nampa, ID 83687

It is agreed that either party may hereafter change the address to which notice may be sent, upon written notice sent to the other at the address above designated, or subsequently designated in accordance herewith.

20. Complete Agreement. No oral statements or conversations between the parties hereto or their representatives, whether the same shall have been implied or direct, occurring either before or after the execution of this Agreement, shall be construed as having any bearing or effect upon this Agreement or any portion thereof, it being understood that this written Agreement evidences the complete agreement between the parties hereto. Specifically, the parties agree that this Agreement shall supersede all prior contracts, agreements and arrangements between the parties concerning the sale of the Property. This Agreement may not be changed, modified or rescinded except in writing, signed by all parties hereto, and any attempt at oral modification of this Agreement shall be void and of no effect.

21. Captions. Captions and paragraph headings used herein are for convenience only and are not a part of this Agreement and shall not be deemed to limit or alter any provision hereof, and shall not be deemed relevant in construing this Agreement.

22. Amendment and Waiver. The parties may, by mutual agreement in writing, signed by each party, amend this Agreement in any respect. Each party hereto may:

A. Extend the time for the performance of any of the obligations of the other.

B. Waive any representations by the other contained in this Agreement and performance of any obligations by the other.

C. Waive compliance by the other with any of the covenants contained in this Agreement.

D. Waive the fulfillment of any condition that is precedent to the performance, by the party so waiving, of any of its obligations under this Agreement.

Such extension or waiver shall in no way otherwise affect either party's right to enforcement of the provisions contained in this Agreement nor shall any extension or waiver be held to be an extension of time or a waiver of any prior or subsequent breach of any obligation under this Agreement.

23. Time of the Essence. Time is of the essence of each and every term, provision, covenant and obligation of the parties under this Agreement.



24. Governing Law. This Agreement shall be deemed to be made under, and shall be construed in accordance with and shall be governed by, the laws of the State of Washington.

25. Survivorship. All warranties, covenants, and representations of the parties herein shall survive the closing and be fully enforceable thereafter. IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

TETON GOLD, LLC.

By: \_\_\_\_\_

ATTEST:

\_\_\_\_\_

PORT OF PASCO

By: \_\_\_\_\_

Executive Director

ATTEST:

\_\_\_\_\_

STATE OF WASHINGTON )

) ss.

County of Franklin )

On this \_\_\_\_ day of June, 2018, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared RANDY HAYDEN to me known to be the Executive Director of PORT OF PASCO, the corporation that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute the said instrument and that the seal affixed is the corporate seal of said corporation.

Witness my hand and official seal hereto affixed the day and year first above written.

\_\_\_\_\_  
Notary Public in and for the  
State of Washington, residing  
at \_\_\_\_\_

STATE OF WASHINGTON )  
 ) ss.  
County of Franklin )

On this \_\_\_\_ day of \_\_\_\_\_, 2018, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared \_\_\_\_\_ to me known to be the \_\_\_\_\_ of TETON GOLD, LLC the corporation that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that \_\_\_\_\_ was authorized to execute the said instrument and that the seal affixed is the corporate seal of said corporation.

Witness my hand and official seal hereto affixed the day and year first above written.

\_\_\_\_\_  
Notary Public in and for the  
State of Washington, residing  
at \_\_\_\_\_