

**CITY OF GOLD BAR, WASHINGTON  
RESOLUTION NO. 12-11**

**A RESOLUTION FOR THE SALE OF CITY OF GOLD BAR REAL PROPERTY**

**WHEREAS**, the City of Gold Bar has encountered extensive Public Records costs, and costs associated with litigation; and

**WHEREAS**, to date, the Courts have not granted any substantive relief to the Plaintiffs and Petitioners who have filed lawsuits and recalls against the City and its officials; however these individuals continue to file appeals and additional litigation that significantly impacts the City's budget; and

**WHEREAS**, litigation is expected to continue; and

**WHEREAS**, the City's General Fund is unable to support continued future litigation costs under its current funding, which may lead to either bankruptcy or disincorporation; and

**WHEREAS**, the City owns certain surplus real property located at 501 Lewis Avenue.

**NOW THEREFORE, BE IT RESOLVED** by the City Council of the City of Gold Bar, Washington as follows:

1. The City will initiate discussions with Fire District 26 for the District's purchase of the Fire Station located at 501 Lewis Avenue;
2. The City and Fire District may negotiate a sale on such terms and conditions as may be mutually agreed upon by the Gold Bar City Council and the Fire District Commissioners in accordance with RCW 39.33.010;
3. Before disposing of the property, the City will hold a public hearing on the sale in accordance with RCW 39.33.020.

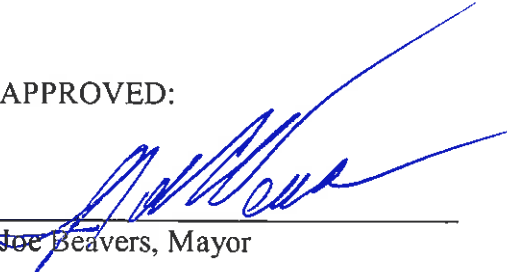
RESOLVED this 3rd day of July, 2012.

ATTEST/AUTHENTICATED:

  
\_\_\_\_\_  
Laura Kelly, City Clerk/Treasurer

*Denise Beaston, City Utility Clerk*

APPROVED:

  
\_\_\_\_\_  
Joe Beavers, Mayor

**RCW 39.33.010**

**Sale, exchange, transfer, lease of public property authorized — Section deemed alternative.**

(1) The state or any municipality or any political subdivision thereof, may sell, transfer, exchange, lease or otherwise dispose of any property, real or personal, or property rights, including but not limited to the title to real property, to the state or any municipality or any political subdivision thereof, or the federal government, or a federally recognized Indian tribe, on such terms and conditions as may be mutually agreed upon by the proper authorities of the state and/or the subdivisions concerned. In addition, the state, or any municipality or any political subdivision thereof, may sell, transfer, exchange, lease, or otherwise dispose of personal property, except weapons, to a foreign entity.

(2) This section shall be deemed to provide an alternative method for the doing of the things authorized herein, and shall not be construed as imposing any additional condition upon the exercise of any other powers vested in the state, municipalities or political subdivisions.

(3) No intergovernmental transfer, lease, or other disposition of property made pursuant to any other provision of law prior to May 23, 1972, shall be construed to be invalid solely because the parties thereto did not comply with the procedures of this section.

**RCW 39.33.020**

**Disposal of surplus property — Hearing — Notice.**

Before disposing of surplus property with an estimated value of more than fifty thousand dollars, the state or a political subdivision shall hold a public hearing in the county where the property or the greatest portion thereof is located. At least ten days but not more than twenty-five days prior to the hearing, there shall be published a public notice of reasonable size in display advertising form, setting forth the date, time, and place of the hearing at least once in a newspaper of general circulation in the area where the property is located. A news release pertaining to the hearing shall be disseminated among printed and electronic media in the area where the property is located. If real property is involved, the public notice and news release shall identify the property using a description which can easily be understood by the public. If the surplus is real property, the public notice and news release shall also describe the proposed use of the lands involved. If there is a failure to substantially comply with the procedures set forth in this section, then the sale, transfer, exchange, lease, or other disposal shall be subject to being declared invalid by a court. Any such suit must be brought within one year from the date of the disposal agreement.

**RCW 43.09.210**

**Local government accounting — Separate accounts for each fund or activity — Exemption for agency surplus personal property.**

Separate accounts shall be kept for every appropriation or fund of a taxing or legislative body showing date and manner of each payment made therefrom, the name, address, and vocation of each person, organization, corporation, or association to whom paid, and for what purpose paid.

Separate accounts shall be kept for each department, public improvement, undertaking, institution, and public service industry under the jurisdiction of every taxing body.

All service rendered by, or property transferred from, one department, public improvement, undertaking, institution, or public service industry to another, shall be paid for at its true and full value by the department, public improvement, undertaking, institution, or public service industry receiving the same, and no department, public improvement, undertaking, institution, or public service industry shall benefit in any financial manner whatever by an appropriation or fund made for the support of another.

All unexpended balances of appropriations shall be transferred to the fund from which appropriated, whenever the account with an appropriation is closed.

This section does not apply to agency surplus personal property handled under RCW 43.19.1919(5).



**Christine Gregoire** | 1993-2004 | Attorney General of Washington

**STATE - COUNTIES - CITIES AND TOWNS- MUNICIPAL CORPORATIONS - PUBLIC FUNDS - Relationship of Intergovernmental Disposition of Property Act to RCW 43.09.210**

1. When one government disposes of property to another government pursuant to chapter 39.33 RCW, RCW 43.09.210 requires that the transferring government receive "full value" for the transfer; "full value" has a flexible meaning depending on the circumstances of the transfer.
2. RCW 39.33.020, which requires public notice and a hearing before a government disposes of property having a value of more than \$50,000, applies only to intergovernmental transfers of property made pursuant to chapter 39.33 RCW.

**BRIEF ANSWERS**

When a government utilizes chapter 39.33 RCW to transfer property to another government, it is required to receive "full value" under RCW 43.09.210, unless some other specific statute applies. The concept of "full value" is a flexible one, depending on the facts of a particular case. The public hearing requirement in RCW 39.33.020 applies only to intergovernmental transfers made pursuant to chapter 39.33 RCW.

**\*\*\* EXCERPTED FROM THE FULL OPINION \*\*\***

However, it is not necessary to read "full value" in its strictest sense, or to adopt the broadest possible reading of RCW 39.33.010. If the term "full value" is applied flexibly and practically, taking into account the circumstances of a particular transaction, governments are free to negotiate the terms of an intergovernmental transfer while still honoring the "full value" requirement. Thus, the two statutes can be harmonized to give effect to the policy behind each.

For instance, if two governments conduct negotiations concerning an item of property, and arrive at a bargain by which the property will be transferred in exchange for some consideration (which could be a monetary payment, other property, services performed for the transferring government, or perhaps even relief from a burden), we think the courts would find that the transferring government received "full value" unless the actions of one or both governments were obviously irrational or arbitrary.

At the same time, RCW 43.09.210 requires governments to conduct their negotiations against the backdrop of the "full value" requirement.<sup>[2]</sup> This requires representatives of both governments to think about the "value" of the property in question and to address the issue of value in their negotiations. Thus, a transfer of property for no consideration at all, and with no documentation that the parties addressed the issue of value in their negotiations, would not satisfy RCW 43.09.210.<sup>[3]</sup>