



RESOLUTION 2014 - 28

**A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF SUNNYSIDE, WASHINGTON, APPROVING
SETTLEMENT AGREEMENT IN
DOSCH v SUNNYSIDE and STONE**

WHEREAS, Allen Dosch filed a lawsuit in April 2010 that named the City of Sunnyside and Carol Stone as defendants; and

WHEREAS, those portions of the lawsuit relating to Carol Stone were previously settled; and

WHEREAS, the parties have proposed a Release and Settlement Agreement whereby the plaintiff has agreed to dismiss all remaining claims against the City with prejudice and without payment of costs or attorney fees in exchange for certain consideration; and

WHEREAS, the City Council, having consulted with legal counsel, finds that approving the Release and Settlement Agreement is in the best interest 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 Release and Settlement Agreement, attached hereto as Exhibit "A" and incorporated herein by this reference, by and among the City of Sunnyside and Allen Dosch, is hereby approved; and the City Manager is hereby authorized to execute and administer such agreement for and on behalf of the City of Sunnyside and take those steps reasonable necessary to complete the transaction.

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

PASSED this 24th day of March, 2014.



JAMES A. RESTUCCI, MAYOR

ATTEST:



DELILAH SAENZ, CMC, CITY CLERK

APPROVED AS TO FORM:



KERR LAW GROUP, PLLC
Attorneys for the City of Sunnyside

RELEASE AND SETTLEMENT AGREEMENT

THIS RELEASE AND SETTLEMENT AGREEMENT is entered into this ____ day of March, 2014, between the City of Sunnyside, Washington ("City"), and Allen Dosch, individually and on behalf of Elite Towing & Recovery, LLC, Sunnyside Towing, Inc., and Preccision Ag, Inc. ("Dosch").

WHEREAS, Dosch filed a lawsuit against the City in Yakima County, Washington, Cause No. 10-2-01153-5; and

WHEREAS, the parties, without admission of liability, and in recognition of the significant cost associated with litigation, have reached a mutually negotiated settlement.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, it is agreed as follows:

1. The City shall pay to Larson, Berg & Perkins, PLLC on behalf of their client Dosch the sum of Eighteen Thousand Dollars and 00/100 (\$18,000.00).

2. The parties will stipulate to the Order of Dismissal to be entered and filed in Yakima County Superior Court. A copy of the Order is attached hereto as Exhibit A. Dismissal shall be with prejudice and without cost or fees to either party.

3. Dosch, on behalf of himself, above listed entities, and any other entity with whom he is interested; and on behalf of agents, heirs, assigns and successors in interest, releases and discharges the City and the City's officers, members, employees, representatives, agents and assigns from any and all claims, liabilities, causes of action, damages, losses, demands or obligations, including but not limited to attorney fees and costs, of every kind and nature, related to, based upon, or arising out of the above-referenced legal action; and accepts as full and final satisfaction of all such claims the payment as described in this Agreement.

4. By entering into this Agreement, both parties expressly acknowledge that there is no admission of liability on behalf of either party except as specifically provided herein and that this Agreement is the result of a negotiated compromise and settlement.

5. This Agreement settles, waives, releases, and forever bars any and all claims and actions at law by either party, or their successors, heirs, or assigns arising out of the above-referenced matter, except as provided herein.

6. Each signatory hereto represents and warrants that all necessary signatures and consents to enter into this Agreement, and to assume and perform the obligations hereunder, have been properly obtained.

7. Each term and provision of this Agreement is deemed to have been explicitly negotiated at arm's length between the parties and in all cases, shall be construed and interpreted

according to the fair meaning and not strictly for or against either party, and without reference to who might have drafted the term.

8. This Agreement is entered into and shall be construed and interpreted in accordance with the laws of the State of Washington.

9. This Agreement embraces and includes the entire agreement between the parties and may not be changed except in writing signed by all parties.

10. This Agreement may be executed in counterparts. Each counterpart shall be deemed an original, all of which taken together shall be one and the same instrument. This Agreement shall become effective upon execution of the counterpart by each party and delivery to the other party.

THIS IS A RELEASE.

IN WITNESS WHEREOF, the parties have duly executed this Agreement on the date designated above:

CITY OF SUNNYSIDE, WASHINGTON

DOSCH

Donald Day, City Manager

Allen Dosch, individually and on behalf of
the above named entities.

Title(s):

EXHIBIT "A"

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR YAKIMA COUNTY

ALLEN DOSCH, in his separate capacity;)	
ELITE TOWING & RECOVERY, LLC,)	No. 10-2-01153-5
a Washington Limited Liability Company;)	
SUNNYSIDE TOWING, INC.,)	STIPULATION AND ORDER OF
a Washington Corporation; and)	DISMISSAL WITH PREJUDICE AND
PRECISION AG, INC., a Washington)	WITHOUT AWARD OF COSTS TO
Corporation,)	ANY PARTY
)	
Plaintiffs,)	(CLERK'S ACTION REQUIRED)
)	
v.)	
)	
CITY OF SUNNYSIDE, a Washington)	
municipality; and CAROL STONE,)	
)	
Defendants.)	

I. STIPULATION

COMES NOW, the Plaintiffs in the above-entitled matter and Defendant City of Sunnyside, Washington, by and through its legal counsel and stipulate that all claims of Plaintiffs in this matter against Defendant City of Sunnyside have been settled and fully resolved and should be dismissed with prejudice and without further award of costs or attorneys' fees to any party.

1 **II. ORDER**

2 **THIS MATTER** having come before the Court on the foregoing stipulation of the
3 parties, IT IS HEREBY ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

4 All claims of Plaintiffs in this matter against Defendant City of Sunnyside,
5 Washington, should be and hereby are dismissed with prejudice and without further award of
6 costs of attorneys' fees to any party.
7

8 **ENTERED THIS** ____ day of March, 2014.

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10 _____
JUDGE/COURT COMMISSIONER

11 Presented by:
12 KERR LAW GROUP

13
14 _____
Leland B. Kerr, WSBA #6059
15 Attorney for Defendant City of Sunnyside

16 Approved as to Form
17 Notice of Presentment Waived:
LARSON BERG & PERKINS PLLC

18
19 _____
D.R. (Rob) Case, WSBA #34313
20 Attorney for Plaintiffs