

RESOLUTION 2015 - 07

**A RESOLUTION OF THE CITY COUNCIL OF THE  
CITY OF SUNNYSIDE, WASHINGTON, AUTHORIZING  
PROFESSIONAL SERVICES AGREEMENT FOR  
TOURISM PROMOTION SERVICES WITH  
AMERICAN LEGION POST #73**

**WHEREAS**, the City of Sunnyside published a request for proposals for the use of Lodging Tax Funds on September 26, October 3 and October 10, 2014; and

**WHEREAS**, an additional RFP was submitted after the deadline date; and

**WHEREAS**, the Lodging Tax Advisory Committee reviewed said proposal on January 8, 2015 as required by RCW 67.28; and

**WHEREAS**, the City of Sunnyside and American Legion Post #73 wish to enter into an agreement to cover the costs associated with tourism promotion; and

**WHEREAS**, the City Council finds and determines that approval of such agreement is 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 Agreement, attached hereto as Exhibit "A" and incorporated herein by this reference, is hereby approved; and the City Manager is hereby authorized to execute the contract and other documents necessary to accomplish such acceptance.

**Section 2.** This Resolution shall be effective upon passage and signatures hereon in accordance with law.

**PASSED** this 26<sup>th</sup> day of January, 2015.



JAMES A. RESTUCCI, MAYOR

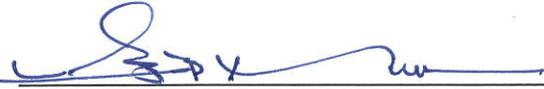
**ATTEST:**



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DELILAH SAENZ, CMC, CITY CLERK

**APPROVED AS TO FORM:**



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KERR LAW GROUP, PLLC  
Attorneys for the City of Sunnyside

**AGREEMENT FOR TOURISM SERVICES**  
**By and Between**  
**CITY OF SUNNYSIDE**  
**And**  
**AMERICAN LEGION POST 73**

THIS AGREEMENT is made and entered into this \_\_\_\_\_ day of January, 2015, by and between the CITY OF SUNNYSIDE, a municipal corporation, and AMERICAN LEGION POST 73, for the uses and purposes provided herein and below.

**I. Recitals**

A. CITY OF SUNNYSIDE, hereafter called "City," is a municipal corporation of the State of Washington, with City Hall located at 818 East Edison Avenue, Sunnyside, Washington 98944.

B. AMERICAN LEGION POST 73, hereafter called "Contractor," is a non-profit war Veterans' Organization of the State of Washington, serving the citizens of the City of Sunnyside with promotion of events held at the Jerry Taylor Veteran's Plaza.

C. The City has adopted and implemented a transient occupancy tax authorized pursuant to Chapter 67.28 RCW and City Ordinances codified at Chapter 3.28 of the Sunnyside Municipal Code as the "Transient Occupancy Tax." State statute has since been amended to allow expenditure of such transient occupancy tax revenues for advertising and tourism promotion services as well as certain costs of operation and maintenance of tourism facilities and special events and festivals subject to appropriate documentation of services rendered and received.

D. Contractor is able to provide advertising and other services allowed by statutes governing the use of proceeds from the tax to promote and encourage tourism within the City.

E. The parties desire to enter into this Agreement to state their mutual goals and obligations to accomplish such purposes.

**II. Agreement**

WHEREFORE, in consideration of the mutual covenants, conditions and promises herein, the parties agree as follows:

- A. Scope and Purpose. The purpose of this Agreement is to provide for tourism promotion and advertising services, in compliance with the uses and purposes of state statutes and City codes governing use of Transient

EXHIBIT "A"

Occupancy Tax proceeds, by the Contractor for and on behalf of the City of Sunnyside. The Contractor will use these funds for the purchase of lighting materials in order to promote tourism in the City in accordance with the proposal attached hereto as Exhibit "A" and incorporated herein by this reference.

- B. Contractor's Purpose. The Contractor will utilize the Jerry Taylor Veteran's Plaza to facilitate promotion of tourism in the City of Sunnyside. The City and Contractor recognize and agree that Veteran's Plaza enhances recognition of the City of Sunnyside and promotes tourism within the City.
- C. Restriction on Expenditures. The Contractor understands that this agreement is governed by the restrictions mandated for use of Lodger's Taxes and all expenditures are subject to full disclosure to the city in order to show compliance with said requirements. The Contractor further understands that all expenditures shall be for the purpose of promoting tourism into the City of Sunnyside. The Contractor shall provide documentation in support of its efforts. The Contractor further agrees to cooperate with and furnish any requested documents to the State Auditor upon request.
- D. Payment for Services. City agrees to pay Contractor a sum not to exceed \$10,000.00 to be used by Contractor for the purchase of a black granite wall for the Jerry Taylor Veteran's Plaza to promote tourism into the City of Sunnyside. Payment of any sum for maintenance and operation described above shall be by reimbursement of costs incurred by the Contractor for such purposes. Payment of any sum for construction shall either be by reimbursement of costs incurred by the Contractor, or by City payment upon presentation by Contractor showing a bill for construction work already completed. Any and all payments by City shall be conditioned upon the city's acceptance and/or approval of work completed. The City reserves the right to reject all or any portion of any request for reimbursement if, in the sole opinion of the City, such expenditure is not authorized by this Agreement or applicable law.
- E. Reports to City and Records. Contractor shall report on the status of Contractor projects, tourism promotion programs or campaigns, and any other information or reports deemed necessary or appropriate by the City. Contractor agrees to provide access to City, its authorized agents and regulatory agencies, to Contractor records pertaining to expenditure of funds and funded programs authorized pursuant to this Agreement. Such access shall be promptly scheduled at times convenient to the Contractor during normal work hours. Records created pursuant to this Agreement may be considered public records pursuant to Chapter 42.56 RCW and Contractor agrees to provide reasonable assistance to City in producing records to requesting parties.

EXHIBIT "A"

- F. Term of Agreement – Effective Date of Amendment. This Agreement shall commence January 27, 2015 and terminate December 31, 2015, unless sooner terminated by either party as described in section G below.
  
- G. Termination. Notwithstanding the provisions in Section D above, the City shall be under no obligation to provide payment or money to Contractor or any third party if, in the sole determination of the City Council or its designee, the purposes or programs of Contractor as stated above are changed or altered to any purpose or program not designed, intended or effective to promote the public purposes of this Agreement or the non-profit purposes of the Contractor. In the event of termination, City shall notify Contractor at least two weeks prior to the effective date of termination, unless a shorter notice is mandated by law or circumstances then existing.
  
- H. Entire Agreement. This Agreement constitutes the entire agreement of the parties, and shall not be modified or amended except in writing signed by both parties.
  
- I. Dispute Resolution. In the event of a dispute arising between the parties regarding the enforcement, breach, or interpretation of this Agreement, the parties shall first meet in a good faith effort to resolve the dispute, however, with or without agreed meditation. Any remaining dispute shall be resolved by binding arbitration pursuant to RCW 7.04A, and the Mandatory Rules of Arbitration, with venue placed in Yakima County, Washington, and the arbitrator shall award to the substantially prevailing party, judgment for its attorney fees and costs against the other. In the event of de nova review, both parties waive their rights to a jury trial.

WHEREFORE, this Agreement is deemed executed on the date first referenced above.

**CITY OF SUNNYSIDE**

**MISS SUNNYSIDE CONTRACTOR**

By: \_\_\_\_\_  
Donald D. Day, City Manager

By: \_\_\_\_\_  
Troy Monholland, Post Commander

**ATTEST:**

By: \_\_\_\_\_  
Delilah Saenz, CMC, City Clerk