

**AGREEMENT FOR THE STATE ADMINISTRATION OF
THE CITY OF PROSSER TOURISM PROMOTION AREA**

THIS AGREEMENT (“Agreement”) is entered into by and between the City of Prosser, a political subdivision of the State of Washington (herein referred to as “City”) and the State of Washington Department of Revenue (“Department”) for the administration of the tourism promotion lodging charge imposed by the City. This Agreement is effective January 1, 2017.

RECITALS

WHEREAS, the Legislature of the State of Washington by RCW 35.101 authorizes a City to establish a Tourism Promotion Area to permit the levy of lodging charges to be expended exclusively for tourism promotion, and;

WHEREAS, RCW 35.101 provides that a City imposing a lodging charge by resolution or ordinance shall contract with the Department for the administration and collection of the levy of lodging charges, and;

WHEREAS, The City has by ordinance, copy attached hereto, indicated its intention to fix and impose a lodging charge of \$1.00 per night/per room with a room rate of \$70.00 or less, or \$2.00 per night/per room if the room rate is \$70.01 or greater in addition to all other sales and use taxes and any special assessments that may be levied (Prosser City Ordinance No. 16-2973);

NOW, THEREFORE, to provide for the administration of lodging charges, the parties agree as follows:

AGREEMENT

1. **Incorporation of Recitals.** The above recitals are true and correct and are incorporated herein by this reference as if fully set forth.
2. **Functions of the Department.** The Department shall exclusively perform all functions incident to the administration and collection for the lodging charges imposed by the Ordinance. The Department shall collect the charges from lodging businesses that furnish lodging taxable by the state under Chapter 82.08 RCW.
3. **Collection Not Authorized.** Pursuant to RCW 35.101.050, the Department is not authorized or required to administer and collect on behalf of the City any charge for which there are more than six classifications.
4. **New or Additional Legislation.** In addition to the Ordinance attached hereto, the City shall provide the Department with copies of any new and/or additional ordinances imposing any new charges or changing the rate of any charge. Such copies shall be

provided to the Department no later than 75 days prior to the effective date of the resolution. Subject to the limitations under RCW 35.101.050, the Department shall administer and collect those charges that are identified in the new and/or additional ordinance pursuant to this Agreement under the same terms and conditions as for the charges imposed under the Ordinance.

5. **Collection of Lodging Charges.** The Department shall collect the lodging charges by the end of the following month after the due date of the taxable period for which lodging charges are imposed pursuant to the ordinance. In accordance with RCW 35.101.090, the charges so collected shall be deposited by the Department in the local tourism promotion account in the custody of the state treasurer. The Department shall provide the state treasurer with instructions on the proper monthly distribution of the deposited funds in accordance with RCW 35.101.100.

6. **Rules and Regulations Adopted by the Department.** Any specific rules and regulations adopted by the Department to facilitate the administration and distribution of the lodging charges shall be in accordance with the State Administrative Procedure Act and RCW 35.101. Until specific rules and regulations are adopted, the Department shall apply the provisions contained in chapters 82.03, 82.08, 82.12, 82.14, and 82.32 RCW, as the same exist or may hereafter be amended and insofar as the same are relevant to lodging charges. Such provisions shall have full force and effect of Department rules when applied to lodging charges.

7. **Uniform Collection.** The Department performs its duties hereunder so that as far as possible the lodging charges shall be administered and collected uniformly with the state's sales and use taxes.

8. **Refunds or Credits.** Any refunds or credits the Department finds are owed relating to the lodging charges shall be refunded to the taxpayer from the City's portion of the local tourism promotion account.

9. **Notification of Error of Fund Distribution.** Either party shall have six months from the date funds are distributed by the state treasurer to notify the other party in writing of any error in the amount of distributed funds. The party receiving such notice shall have sixty (60) days to review the claim. Upon agreement of the parties, the Department shall deposit any necessary additional funds with the state treasurer for distribution to the City; or in the event of an over-distribution to the City, the City shall return such over-distribution to the Department. If the City and the Department cannot reach an agreement, the parties agree to attempt mediation or other dispute resolution process prior to instigating litigation in Superior Court.

10. **Disclosure of Taxpayer Information, Documentation and Reports.** The Department shall provide taxpayer information, documentation and reports to the City in accordance with the disclosure limitations of RCW 82.32.330. The City shall require its authorized representatives that have access to confidential taxpayer information to sign a

Department Secrecy Clause and shall ensure such representatives comply with RCW 82.32.330.

11. **Parties' Communication and Cooperation.** The parties agree to establish and maintain open lines of communication and to work cooperatively in order to improve administration and public understanding of the City lodging charges (special assessments). Either party may initiate a meeting, to be held at a mutually convenient time and place, to share information and to discuss matters related to administration and collection of the City lodging charges.

12. **Disputes.** In the event a dispute arises under this Agreement that cannot be resolved by mutual agreement of the parties, either party may elect arbitration in which the Department and City shall each individually appoint one member to a Dispute Board and those members shall select a third member. The Dispute Board shall evaluate the dispute and make a written determination after considering the relevant facts and legal authorities. The Dispute Board's determination shall be given significant weight by both parties who will meet after the determination is issued to resolve the dispute. If a resolution is not reached, the determination of the Dispute Board shall be admissible in any future legal proceeding between the parties concerning the dispute. Each party shall be responsible for a proportionate share of the costs of the member of the Dispute Board. This remedy is not intended to be exclusive of other remedies existing in law, by statute, or otherwise.

13. **Indemnification.** To the extent permitted by law, the City agrees to indemnify, defend, and hold harmless the Department for the State of Washington from claims that challenge the authority of the City to impose lodging charges pursuant to the Ordinance. The City agrees that in the event there shall be a legal challenge to the Ordinance or resolutions, the Department shall not be obligated to represent the City or otherwise defend its position in any proceeding relating to such challenge.

14. **Effective Date.** This Agreement shall take effect at 12:01, January 1, 2017 and shall thereafter be automatically renewed on December 31, of each year unless one of the parties gives written notice of termination on or before November 1, or each year. The parties to this Agreement will notify each other in a timely manner when they find it necessary to request an amendment to this Agreement.

15. **Waiver.** Any failure by any party to insist upon strict performance of any provision of this Agreement shall not be deemed a waiver of the right to require future strict performance of such provision; No failure or delay in exercising any right or remedy hereunder shall be deemed a waiver of such right or remedy. No term or condition of this Agreement shall be waived, modified or deleted except by an instrument, in writing, signed by personnel authorized to bind each of the parties.

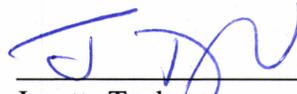
16. **Modification.** This Agreement may be amended by mutual agreement of the parties. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.

17. **Entire Agreement.** This Agreement contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto.

18. **Counterparts.** This agreement may be executed in two or more counterparts, each of which shall be deemed an original and which together constitute one and the same.

IN WITNESS WHEREOF, the State of Washington, Department of Revenue and City of Prosser have executed this contract as of the day and year written below.

1/9/17
Date



Janetta Taylor
Department of Revenue

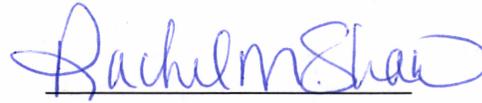
12/13/2017
Date



Randy Taylor
Mayor

Attest:

12/13/2017
Date



Rachel M. Shaw
City Clerk

Approved as to Form only:



Joshua Weissman
Assistant Attorney General



Howard Saxton
City Attorney