RECEIVED
Board of County Commissioners
Lewis County Washington
DEC 11 2015
EJF____ PWS____ GS____
☐ FYI ☐ Action Required ☐ Other

TOURISM SERVICE **AGREEMENT**
Lodging Tax agreement: **Fire Mountain Arts Council**

THIS AGREEMENT is made by and between the **Fire Mountain Arts Council**. ("the ORGANIZATION"), and Lewis County ("the COUNTY"), a political subdivision and municipal corporation of the state of Washington.

WHEREAS, Chapter 67.28 RCW authorizes legislative bodies of municipalities to impose excise taxes on the sale of or charge made for the furnishing of lodging that is subject to tax under Chapter 82.08 RCW; and

WHEREAS, the Lewis County Board of County Commissioners ("the BOARD"), the legislative body of and for the COUNTY, by enacting Ordinance No. 1163A – Lodging Tax, imposed the excise taxes authorized in Chapter 67.28 RCW; and

WHEREAS, RCW 67.28.1815 in part states that: "All revenue from taxes imposed under said Chapter shall be credited to a special fund in the treasury of the municipality imposing such tax and used solely for the purpose of paying all or any part of the cost of tourism promotion, acquisition of tourism-related facilities, or operation of tourism-related facilities…;" and

WHEREAS, the COUNTY Lodging Tax revenues have been credited to the Tourism Promotion Fund (No. 198) in the treasury of the COUNTY; and

WHEREAS, the ORGANIZATION applied through the Lewis County Lodging Tax Advisory Committee ("the LTAC") for financial assistance for authorized uses from COUNTY Lodging Tax proceeds ("the Proposal); and

WHEREAS, the LTAC has facilitated these efforts by (a) developing the application forms and procedures, (b) coordinating the funding availability advertising, (c) evaluating submitted application packets, (d) determining whether the proposed use is authorized, and (d) advancing the financing award recommendations to the BOARD, including the Proposal from the ORGANIZATION; and

WHEREAS, the BOARD has determined that the activity herein described promotes the general welfare, health and safety of the citizens of the COUNTY, is consistent with RCW 67.28 and is in the best interests of the COUNTY in regard to the promotion of tourism in Lewis County, the BOARD intends to disperse COUNTY Lodging Tax proceeds to the ORGANIZATION for the purposes stated in its Proposal and consistent with RCW 67.28,

NOW, THEREFORE, in consideration of the premises and mutual benefits and covenants herein contained, it is agreed by and between the parties hereto as follows:

1. FUNDING: Up to **$8,000.00** is hereby pledged on a reimbursement basis from the COUNTY Tourism Promotion Fund No. 198 in fiscal year 2016 solely for the purpose of paying all or any part of the cost of tourism promotion, acquisition of tourism-related facilities, or operation of tourism-related facilities within Lewis County. Said amount shall constitute the maximum reimbursement the ORGANIZATION is eligible to receive from the COUNTY under this Agreement. Depending on the use of funds requested to be reimbursed and the date of use, less than the maximum amount authorized under this Agreement may actually be reimbursed.

2. USE OF FUNDS: The ORGANIZATION shall use these COUNTY funds solely for the purpose of paying all or any part of the cost of tourism promotion, acquisition of tourism-related facilities, or operation of tourism-related facilities in Lewis County authorized by RCW 67.28. The specific services represented by the ORGANIZATION to be authorized by RCW 67.28 and to be provided by the ORGANIZATION to the COUNTY under this Contract are described in Attachment A: Scope of Work.

3. PAYMENT PROVISIONS: Once this Agreement is executed, the ORGANIZATION may submit claim vouchers to the Clerk of the Lewis County Board of County Commissioners at 351 NW North Street, Chehalis, WA 98532 requesting reimbursement solely for eligible expenses and/or for eligible services as identified in Section 2 of this Agreement (Use of Funds), Attachment A: Scope of Work, and Attachment B: Purchasing and Reimbursement Guidelines and solely up to the maximum amount specified in Section 1 (Funding).

   Each reimbursement claim voucher shall include the following certificate of authenticity with the dated signature of an authorized representative of the ORGANIZATION: "I, the undersigned, do hereby certify under penalty of perjury that the materials have been furnished and the services rendered as described herein, and that this claim is a just, due and unpaid obligation against the Lewis County Tourism Promotion No. 198."

   Within thirty (30) days of receiving a reimbursement claims voucher that meets the requirements of this Agreement and applicable law, the Clerk of the Board, on behalf of the COUNTY, shall remit to the ORGANIZATION a warrant for the approved reimbursement amount.

   The final claims voucher under this Agreement shall be submitted to the Clerk of the Board by the ORGANIZATION no later than Friday, January 8, 2016.

4. EVALUATION AND MONITORING: The ORGANIZATION agrees to maintain its books and records and to employ accounting procedures, systems and practices that accurately and timely record and track the expenditures for which reimbursement is sought under this Agreement and provide for full compliance with the requirements of this Agreement. The ORGANIZATION will retain these supporting records for at least three (3) calendar years following the year in which the Agreement expires.

The COUNTY and/or the State Auditor and any of their representatives shall have full, timely and complete access to all books, records and other documents and evidence of the ORGANIZATION respecting all matters related to this Agreement and the activities for which reimbursement is sought or made, and shall have the right to examine such during normal business hours as often as the COUNTY and/or the State Auditor may deem necessary. Such representatives shall be permitted to audit, examine and make excerpts or transcripts from such records, and to audit all contracts, invoices, materials, and records of matters related to this Agreement and the activities for which reimbursement is sought or made. These access and examination rights shall last for three calendar years following the year in which the Agreement expires.

The COUNTY intends without guarantee for its agents to use reasonable security procedures and protections to assure that related records and documents provided by the ORGANIZATION are not erroneously disclosed to third parties. The COUNTY will, however, disclose or make this material available to those authorized in the above paragraph or permitted under the provisions of Chapter 42.56 RCW, any other applicable public disclosure law, or order of any court or agency of competent jurisdiction, without notice to the ORGANIZATION.

The ORGANIZATION agrees to submit in writing (within 60 days of December 31, 2016) a final report demonstrating the effect the ORGANIZATION's activities funded by the COUNTY have had on tourism growth and such other reports or information as required by law.

The ORGANIZATION shall cooperate with and freely participate in any other monitoring or evaluation activities pertinent to this Agreement that the COUNTY requests.

5. RECAPTURE PROVISION: In the event the ORGANIZATION fails to expend these funds in accordance with state law and/or the provisions of this Agreement or obtains reimbursement of ineligible expenditures, the COUNTY reserves the right to recapture funds in an amount equivalent to the extent of noncompliance. Such right of recapture shall exist for a period of two (2) years following release of any report from an audit conducted by the COUNTY and/or the State Auditor's Office under the Section 4 (EVALUATION AND MONITORING) provisions or the 3-year records retention period required under Section 4 (EVALUATION AND MONITORING), whichever occurs later. Repayment by the ORGANIZATION of any funds recaptured under this provision shall occur within twenty (20) days of any demand. In the event the COUNTY is required to institute legal proceedings to enforce this recapture provision, the COUNTY shall be entitled to its costs thereof, including reasonable attorney's fees.

6. NONDISCRIMINATION: The ORGANIZATION shall comply with all federal and state nondiscrimination laws, including but not limited to chapter 49.60 RCW – Washington's Law Against Discrimination, and 42 U.S.C. 12101 et seq. – the Americans with Disabilities Act (ADA). In the event the ORGANIZATION fails or refuses to comply with any federal or state nondiscrimination law, this Agreement may be rescinded, canceled or terminated by the COUNTY in whole or in part, and the ORGANIZATION may be declared by the COUNTY ineligible for further Lewis County tourism promotion funds. The ORGANIZATION shall be given a reasonable period of time in which to cure any such noncompliance.

7. EMPLOYMENT RELATIONSHIPS: The ORGANIZATION, its employees, volunteers and agents are not employees of the COUNTY for any purpose, nor are they volunteers or agents of the COUNTY. No officer, employee, volunteer or agent of the ORGANIZATION will hold himself or herself as, or claim to be, an officer, employee, volunteer, representative or agent of the COUNTY.

   Because the ORGANIZATION, its employees, volunteers and agents are not employees of the COUNTY, the COUNTY is not responsible for the payment of any industrial insurance premiums or related claims of such persons and such persons are not entitled to benefits of any kind from the COUNTY, including but not limited to health insurance and retirement benefits.

8. HOLD HARMLESS: In accepting this Agreement, the ORGANIZATION, including its successors and assigns, does hereby covenant and agree to indemnify the COUNTY, its officers, agents, attorneys and employees (all hereinafter collectively referred to in this section as "indemnitees") and hold indemnitees harmless against all liability for damages arising out of or relating to this Agreement. If any such suit or action is brought against indemnitees, the ORGANIZATION, including its successors or assigns, shall defend the suit or action at its or their sole cost and expense and shall fully satisfy any judgment that is rendered against the COUNTY, its officers, employees, agents, attorneys or any combination thereof.

9. ENTIRE AGREEMENT/MODIFICATIONS: This Agreement represents the entire agreement of the parties with respect to the subject matter. No other understandings, oral or otherwise, exist regarding the subject matter of this Agreement or shall be deemed to exist. The COUNTY and the ORGANIZATION may, from time to time, mutually agree to amend this Agreement; however, no such change shall be effective until memorialized in writing and signed by the authorized representatives of the COUNTY and the ORGANIZATION, respectively.

10. AGREEMENT PERIOD: The term of this Agreement shall commence on the 1st day of January 2016 and terminate on the 31st day of December 2016, both dates inclusive, unless sooner terminated as provided for herein.

11. TERMINATION OF AGREEMENT:

a. If the ORGANIZATION breaches or violates any provision of this Agreement, the COUNTY may, in addition to any other rights provided by law, terminate this Agreement and withhold any further reimbursement; provided, the violation or breach is not fully corrected within ten (10) days of the COUNTY providing written notice to the ORGANIZATION of the breach or violation.

b. Either party may terminate this Agreement at any time by providing written notice of such termination and specifying the effective date thereof to the other party at least twenty (20) days prior to the effective date.

c. The COUNTY may unilaterally terminate all or part of this Agreement, or reduce the Scope of Work and/or Funding, without liability, for the convenience of the County, including but not limited to the unavailability of Lewis County Tourism Promotion funds.

12. SPECIAL PROVISION: The failure of the COUNTY to insist upon the strict performance of any provision of this Agreement or to exercise any right based upon breach thereof or the acceptance of any performance during such breach shall not constitute a waiver of any right under this Agreement.

13. SEVERABILITY: In the event any provision or any portion thereof contained in this Agreement is held to be unconstitutional, invalid or unenforceable, then said provision(s) or portion(s) thereof shall be deemed severed and the remainder of this Agreement shall not be affected and shall remain in full force and effect. Furthermore, if such an event occurs, the parties agree to negotiate a modification to replace the unacceptable provision(s) as soon as possible.

14. SURVIVAL OF CERTAIN PROVISIONS: Sections 4, 5, and 8 shall survive termination of this agreement.

15. GOVERNING LAW AND VENUE: This Agreement shall be construed and enforced in accordance with, and its validity and performance governed by, the laws of the state of Washington. The Superior Court of and for Lewis County, Washington shall be the venue for any suit between the parties arising out of this Agreement.

16. NOTIFICATION: Should the need arise during the term of this Agreement for either party to notify the other of a change in address or otherwise, the following contacts shall be used:

For the COUNTY:
Lewis County Commissioners
351 NW North St.
Chehalis, WA 98532
Telephone: 360/740-1419

For the ORGANIZATION:
Fire Mountain Arts Council
April Doolittle
262 Butts Rd.
Morton WA 98356
360-496-5599

IN WITNESS WHEREOF legal representatives of both the ORGANIZATION and the COUNTY have executed this Agreement on the date(s) so noted below.

The parties have caused this Agreement to be executed in duplicate originals this 9 day of December, 2016.

ORGANIZATION
Fire Mountain Arts Council

Authorized Representative
Fred Schwindt

President
(Title)

April Doolittle
262 Butts Rd.
Morton WA 98356

APPROVED AS TO FORM:
JONATHON MEYER
PROSECUTING ATTORNEY

By: _____
Deputy Prosecuting Attorney

BOARD OF COUNTY COMMISSIONERS
LEWIS COUNTY, WASHINGTON

_____
Edna J. Fund, Chair

_____
P.W. Schulte, Vice-Chair

_____
Gary Stamper, Commissioner

ATTEST:

_____
Karri Muir, CMC, Clerk of the Board

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Fire Mountain Arts Council

Lewis County – 2016 Lodging Tax- Project Scope

Due to funding changes from the original request to the awarded funds the following project information will need to be updated as changes in funding may have impacted the original projects scope. **Please do not change the format and be brief in your explanations to fit the space provided**.

2016 LTAC Recommendations:

Advocate for US Hwy 12 and in town signage
Work with other Lewis County visitor centers to promote tourism
Review how FMAC can put heads in beds in unincorporated Lewis County
Update visitor center with training of volunteers on DLC, unincorporated Lewis County lodging options and stocking county brochures
Coordinate with Morton Visitor Center

Incorporation of LTAC recommendations will be reviewed during the 2017 LTAC Application Process.

Project Submission Form	
1. Project Name: Fire Mountain Arts Council	**2. Date Submitted:** 12/9/2015
3. Contact Person / Title: Jess Martin, development director	
4. Mailing Address: PO Box 781 Morton, WA 98356	
5. Telephone No.: 360-496-0541	
6. E-mail: FMAC.director@gmail.com	
7. Signature of Representative: J K Martin	
8. Project Location (city/town) Morton, WA	
a. Name of Event or Activity: Integrated Visitor Information & Tourism Marketing for the Arts	
9. Statement of Project Goals and Objectives: Increase Facebook reach via ads (up to 3,000 people/week), Serve 1000 people from out of the area with visitor information at the BCJ Gallery (via increased coordination of hours), have our Seasonal Events brochure & post card distributed to lodging establishments throughout Lewis County, and maintain a basic web presence with lodging establishment referral links.	
10. Project Description: $8,000 will help fund basic marketing goals, including partial staffing of the BCJ Gallery for tourism activities & visitor information with the hope of enhancing experiences & extending stays. Funds will be used to partially coordinate and market lodging, ~~eing~~ dining, and event itinerary packages with local businesses and regional tourism groups. Some funds will be used to mitigate the costs of keeping an online presence up to date.	
11. How does proposed project meet purposes of the Legislation? RCW 67.28.1816	

Tourism Marketing-promoting events that enhance visitors' experiences and extend their stay-meets the purposes identified in (1)(a) Tourism Marketing" and (1)(b) "marketing...of special events... to attract tourists." Visitor Information Services/Gift shop/gallery meets purposes in (1)(d) "Supporting the operation of tourism-related facilities owned or operated by non-profit organizations"
12. Anticipated Project Costs:
a. Total County Funds awarded in 2016: $8,000

13. Project Cost Analysis
Project Budget

Column A Item	Column B Use of County Funds	Column C Use of other Funds	Column D Total Available Project Funds
Personalle	$ 5,696	21,841	
Benefits	704	2,700	
Marketing/Promotion **Materials**	1,100	6,689	
Direct Sales Activities - FB ads	500	300	
Minor Equipment			
Travel/Trainings **(list below)**			
1. DLC + delivering materials		400	
2.			
3.			
Contract Services **(list below)**			
1. Yakindo Designs / Azvar		500	
2.			
3.			
4.			
Overhead (building rent, utilities etc.)			
Project Subtotal:	$8,000	$32,430	$40,430

includes
$10,943 in kind
in Personnel
Materials
Travel

14. PROJECT WORK PLAN - Lewis County Lodging Tax portion

List the tasks, Cost and time frame,
Name individual(s), consultant(s), and organization responsible for the project.

Table III

Tasks	Time Frame—Dates	Estimated Cost	Responsible Party/Name
Develop, print, disseminate 5000 2017 Season brochures & 1000 Fall Season postcards	(Jan 2017 mailing) Nov/Dec 2016 Aug/Sept 2016	500 Brochure 300 Postcard 300 Postage	Advocate Printing Jess Martin April Doolittle
Facebook posts, content share, strategic ads/boosts	Ongoing, daily	500 ~~posts~~ ads ~~300 ads~~	Jess Martin
MortonRoxy.org updates	Ongoing, weekly	800	Jess Martin
Creating ~~&~~ and Marketing Special packages w/ area lodging & businesses	Ongoing, for shoulder seasons	1500	Jess Martin
Coordinating event stops for regional tourism groups	Ongoing, highest frequency with summer tourism	1500	Jess Martin
Coordinating tourism information services (Morton VC, DLC)	Ongoing, at least monthly if not weekly	600	Jess Martin Bonnie McBride
Staffing BCJ Gallery (gift shop & Visitor information site) 4 days/wk	Ongoing Current days: Wed-Sat	2000	Bonnie McBride

Return completed Project Submission form to:

Karri Muir
Lewis County BOCC. Rm. 210
351 NW North Street – 2nd Floor
Chehalis, WA 98532

Telephone: (360) 740-1419
e-mail: Karri.Muir@lewiscountywa.gov