

**2013 LODGING TAX SERVICES AGREEMENT  
BETWEEN KITTITAS COUNTY AND HIGH COUNTRY ARTISTS**

This Contract, dated January 23, 2013 is made and entered into by and between KITTITAS COUNTY ("County") and HIGH COUNTRY ARTISTS ("Contractor").

WHEREAS, the purpose of this Agreement is to provide for activities and expenditures designed to increase tourism,

NOW THEREFORE, in consideration of the terms and conditions contained herein, or attached and incorporated and made a part hereof, the County and the Contractor mutually agree as follows:

**Section 1. Scope of Work.**

- a. Contractor shall provide the services and staff described in its **Application for Lodging Tax Funds** submitted to the Lodging Tax Advisory Committee, attached hereto as **Exhibit "A."**
- b. Except as otherwise specifically provided in this Agreement, Contractor shall furnish the following as required to perform the services, described in Paragraph (a) above, in accordance with this Agreement: Personnel, labor and supervision; technical, professional and other services. All such services, property and other items furnished or required to be furnished, together with all other obligations performed, or required to be performed, by Contractor under this Agreement are collectively referred to herein as "Services."
- c. In relation to facilities operations, Contractor warrants that after June 30, 2013, the lodging tax funds shall be used only for the operation of facilities in which the County or applicable city has an ownership interest.
- d. Contractor warrants that after June 30, 2013, the lodging tax funds shall be confined to the actual marketing of special events and festivals designed to attract tourists.
- e. Contractor shall commence, perform and complete such Services in accordance with any and all attachments to this Agreement.

**Section 2. Payment.**

- a. As full compensation for satisfactory performance of the Contractor's Services, the County agrees to pay Contractor the sum of one thousand dollars (\$1,000).
- b. Additional payment terms: The County will make payment to the Contractor only on a reimbursement basis, as receipts for any items including marketing and/or advertising are submitted to the County, not to exceed the sum of one thousand dollars (\$1,000).
- c. Funds under this Contract which are disbursed for operations as opposed to marketing of special events and/or festivals designed to attract tourists, or used for the support of the operations and capital expenditures of tourism-related facilities owned by non-profit

organizations, shall be completed and the Contractor's request for reimbursement completed and received by the County on or before June 15, 2013 in order to receive reimbursement on or before June 30, 2013.

### **Section 3. Performance by Contractor.**

- a. Contractor shall not (by contract, operation of law or otherwise) delegate or subcontract performance of any Services to any other person or entity without the prior written consent of the County. Any such delegation or subcontracting without the County's prior written consent shall be voidable at the County's option.
- b. Contractor shall at all times be an independent contractor and not an agent or representative of the County with regard to performing the Services. Contractor shall not represent that it is, or hold itself out as, an agent or representative of the County. In no event shall Contractor be authorized to enter into any Agreement or undertaking for or on behalf of the County. It is understood that the Contractor and the Contractor's staff and employees are not employees of the County and are not, therefore, entitled to any benefits provided employees of the County.
- c. Contractor shall comply with all applicable laws, ordinances, rules, regulations, orders, licenses, permits, and other requirements, now or hereafter in effect, of any governmental authority (including, but not limited to, such requirements as may be imposed upon the County and applicable to Services). Contractor shall furnish such documents as may be required to effect or evidence such compliance. All laws, ordinances, rules, and orders required to be incorporated into agreements of this character are incorporated into this Agreement by this reference. Contractor agrees to obtain all required licenses and permits, and further agrees to keep them in full force and effect during the term of this Agreement.
- d. The County and the Contractor agree that in fulfilling the terms and conditions of this Agreement neither shall discriminate on the basis of race, creed, color, national origin, age, sex, marital status, or the presence of a physical, sensory, or mental handicap.
- e. The Services shall at all times be subject to inspection by and approval of the County, but the County's making (or failure or delay in making) such inspection or approval shall not relieve Contractor of its responsibility to perform the Services in accord with this Agreement, notwithstanding the County's knowledge of defective or non-complying performance, or the substantiality or ease of discovering the same. Contractor shall provide the County with sufficient, safe, and proper facilities and equipment for such inspection and free access to such facilities.
- f. This contract is subject to review by any Federal or State auditor. Contractor shall promptly furnish the County or its designee, or such Federal or State auditor with such information related to the Services as may be requested by the applicable governmental entity. Contractor shall preserve and maintain all financial records and records relating to performance of Services under this Agreement for six (6) years after contract termination. For such duration after the County makes final payment of compensation due hereunder, Contractor shall provide the County access to (and the County shall have the right to examine, audit and copy, with or without notice) all of Contractor's books, documents, papers and records related to the Services or this Agreement.

- g. Contractor understands and acknowledges that Contractor is solely responsible for its own reporting and accounting of all state, federal, social security, and local taxes, of every nature, arising from Contractor's performance of this Agreement. All compensation received by the Contractor will be reported to the Internal Revenue Service at the end of the calendar year in accord with the applicable IRS regulations.

#### **Section 4. Release, Indemnity, and Hold Harmless.**

The County assumes no liability for the Contractor's actions under this Agreement. Contractor releases and shall defend, indemnify, and hold harmless the County, its officers and employees, agents, representatives, attorneys and/or volunteers, from and against all claims, costs, liabilities, damages, and expenses, (including, but not limited to, reasonable attorney fees) which arise or may arise or be alleged to arise out of or by reason of this Agreement including:

- Any fault, negligence, strict liability or product liability of Contractor in connection with the Services for this Agreement;
- Any lien asserted upon any property of the County in connection with the Services for this Agreement;
- Any failure of Contractor, or of the Services, to comply with any applicable law, ordinance, rule, regulation, order, license, permit and other requirement, now or hereafter in effect, of any governmental authority; or
- Any breach of or default under this Agreement by Contractor.

#### **Section 5. Compliance with Public Records Law.**

- a. In compliance with Washington's public records law, the County will retain copies of any documents associated with this Agreement, which may be required by law unless legally exempt from such retention, for any applicable legally required retention period.
- b. In the event a public records request is made to the County for documents created in relation to this Agreement, should legal uncertainty arise regarding the disclosability of any documents under federal or state public records laws, the County shall provide notice to Contractor pursuant to Washington's public records act, chapter 42.56 RCW, to allow Contractor to seek a court injunction.
- c. The County specifically shall not be liable to Contractor for the County's release under public records laws of any documents not protected by trademark, copyright or other law.

#### **Section 6. Industrial Insurance Waiver.**

With respect to performance of this Agreement and as to any claims against the County, its Additional Insureds, officers, agents and employees, the Contractor expressly waives its immunity under Title 51 of the Revised Code of Washington, the Industrial Insurance Act, for injuries to Contractor's employees and agrees that the obligations to indemnify, defend and hold harmless provided in this Agreement

extend to any claim brought by or on behalf of any employee of the Contractor. **This waiver is mutually negotiated by the parties to this Agreement.**

#### **Section 7. Insurance and Endorsements.**

- a. The County may require through a request in writing that the Contractor provide the County with a certificate, binder, or policy of liability insurance, acceptable to the County in an amount specified by the County.
- b. Such liability insurance shall be such as will protect Contractor, its employees, agents and representatives, from all claims, losses, harm, costs, liabilities, damages and expenses arising out of personal injury (including death) or property damage that may result from performance of the Services or this Agreement, whether such performance is by Contractor or any of its employees, agents or representatives.
- c. Should the County require such liability insurance, the Contractor agrees to provide proof of insurance prior to commencing performance of this Agreement.
- d. Copies of the County's written request and the insurance documents provided by Contractor shall be attached to this Agreement and by this reference will be made part hereof.
- e. Where insurance is requested by the County, all liability insurance policies shall be endorsed to include the County as an Additional Insured and shall stipulate that the insurance afforded by the policies shall be primary insurance, and that any insurance, self-insured retention, deductibles, or risk retention trusts maintained or participated in by the Parties shall be excess and not contributory to any other insurance maintained by the County. Contractor shall furnish the County a certificate of insurance with Endorsement as evidence that the required policies are in full force and effect.

#### **Section 8. Termination.**

The County may, by written notice thereof to Contractor, terminate this Agreement as to all or any portion of the Services not yet performed, whether or not Contractor is in breach or default. Upon receiving such notice of termination, Contractor shall, except as otherwise directed by the County, immediately stop performing the Services to the extent specified in the notice. In the event the County terminates the Contractor's Services, the Contractor is obligated and hereby agrees to refund to the County all monies paid for Services not yet rendered by the Contractor, if any, as of the date of the notice of termination.

#### **Section 9. Miscellaneous.**

- a. Contractor shall not (by contract, operation of law or otherwise) assign this Agreement or any right or interest in this Agreement without the County's prior written consent.
- b. This Agreement embodies the entire Agreement between the County and Contractor, and supersedes any and all prior oral or written communications, proposals, conditions, promises, representations, or understandings regarding the Services. No change, amendment or

modification of any provision of this Agreement shall be valid unless set forth in a written amendment to the Agreement signed by both parties.

- c. Notice for any purpose under this Agreement, except service of process, shall be given by the Contractor to the Kittitas County Commissioners and the Kittitas County Auditor, 205 W 5<sup>th</sup> Ave, Suites 108 and 105, Ellensburg, WA 98926. For all purposes under this Agreement, any notice by the County to the Contractor shall be given to the Contractor's address provided on the signature page. Notice may be given by delivery or by depositing in the U.S. Mail, first class, postage prepaid, certified mail, return receipt requested.
- d. The section and paragraph headings of this Agreement are for reference convenience only and are not intended to restrict, affect or be of any weight in interpreting or construing the provisions of such sections or paragraphs.
- e. This Agreement may be executed in one or more counterparts and by facsimile, each of which will be deemed an original, but all of which together will constitute one and the same instrument.
- f. Contractor warrants to the County that the individual signing on Contractor's behalf has the requisite power and authority to enter into and to perform Contractor's obligations under this Agreement. Contractor further warrants to the County that Contractor has made no misrepresentation or misleading statement in connection with this Agreement, and is not in violation of any applicable law, ordinance, or regulation the consequence of which will or may materially affect Contractor's ability to perform its obligations under this Agreement.
- g. If any term or condition of this Agreement or the application thereof to any person(s) or circumstances is held invalid, such invalidity shall not affect the other terms, conditions or applications which can be given effect without the invalid term, condition or application. To this end, the terms and conditions of this Agreement are declared severable.
- h. The exclusive venue for any action brought to enforce this Agreement or any of its terms shall be in Kittitas County, State of Washington.

**KITTITAS COUNTY**

**BOARD OF COUNTY COMMISSIONERS**

\_\_\_\_\_  
Chair

\_\_\_\_\_  
Vice Chair

\_\_\_\_\_  
Commissioner

ATTEST: \_\_\_\_\_  
Julie Kjorsvik, Clerk of the Board

**CONTRACTOR**

\_\_\_\_\_  
[Print Name]

\_\_\_\_\_  
[Address]

\_\_\_\_\_  
[Telephone]

APPROVED AS TO FORM:

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Deputy Prosecuting Attorney

60  
**Section 5 – Application**

RECEIVED

JUL 17 2013

Organization Name: HIGH COUNTRY ARTISTS

I.R.S. status: 501c (3) YES Other Washington State NonProfit Corp.

How long has Organization been in existence?: SINCE 2000

Organization's Mailing Address: 302 W. 3<sup>RD</sup>, CLE ELUM WA 98922

Phone: (509) 649-2880

Organization's Billing Address: 302 W. 3<sup>RD</sup>, CLE ELUM WA 98922

Organization Email Address: info@highcountryartists.com

Primary Contact Person: Charlene Kauzlarich

Title: Treasurer

Primary Mission: TO CREATE & FOSTER ART & CULTURE WITHIN OUR COMMUNITY

Project Name: 2013 FRESH AIR ARTISTS FESTIVAL (FAAF)

Describe project: Plein Air artists, writers, and photographers from across the nation are invited to Kittitas County to paint, photograph, and/or write about the natural beauty of our county. Workshops are held on plein air painting, photography, and writing. The week culminates with a juried art exhibit in which cash awards are presented.

Geographic area served: Kittitas County

Anticipated project period: July 13-19, 2013

Amount of contribution requested from the Hotel/Motel Fund: \$3,000

Other funding sources for this project: NONE

Source/Commitments To Date	Amt.	Other Sources Applied to for this Project (include other lodging tax funds from the Cities of Ellensburg, Cle Elum, South Cle Elum, and Roslyn)	Amt.
		Cle Elum Hotel/Motel Fund	\$3,075

Has your organization received funding from the Kittitas County  
Hotel/Motel Tax in the past for this specific project? Yes XX No \_\_\_\_\_

If Yes, please list the year(s) and amount(s) for funding received:

2012 - \$3,000

Authorizing Signature: Charlene Kauzlarich

Name: Charlene Kauzlarich Date: October 15, 2012



**1. Project Description – Please describe in detail including, specifically how will the County funds be used.**

High Country Artists (HCA) is requesting \$3,000 in County Hotel/Motel Funds to assist us with the major expenses of our 2013 Fresh Air Artists Festival (FAAF). Artists from around the country are invited to Kittitas County for a week of outdoor “fresh air” painting, photography, and writing. Participants take part in painting or photographing pristine locations in the county, as well as in painting demonstrations and workshops. Paintings, photographs, and writings created during the week are entered into a juried art show at the end of the week. The public is invited to join the participants in the Friday evening art exhibit and reception at the Carpenter House to enjoy live music, refreshments, and the presentation of cash awards to the selected winners. Fees are charged for each of the events. However, in an effort to keep fees low enough to attract participants, we are not yet able to break even. Our expenses for the festival include:

a. Advertising	\$1,100.
b. Printing of festival brochures	\$ 800
c. Instructors	\$2,500
d. Supplies	\$ 400
e. Event Insurance	\$ 375
f. Awards	\$1,005
g. Jurors	\$ 50
h. Music	\$ 75
i. Food	\$ 125
j. Paypal Fees	\$ 130
Total	\$6,560

**2. Is this project part of a cooperative effort between organizations and/or multiple jurisdictions within Kittitas County? Explain. Also, what kind of local monetary support exists for this project? (Please be as specific as possible; include names of communities and group contributions)**

HCA coordinates the activities of the festival with assistance from several different community organizations, among them being:

- a. The Roslyn Riders provide artists with lunch and a “Cowboy” setting at their club site for one morning.
- b. The Northern Kittitas County Historical Society allows the use of the Carpenter House Museum facilities for workshops and art exhibit/reception.
- c. The Cottage Café, Mavericks Steakhouse, Safeway, and Sunset Café provide food for the reception.
- d. The Flying Horseshoe Ranch, City of Roslyn, Iron Horse Inn, Thorp Mill, and Swauk Teanaway Grange invite artists to paint at their locations.

Hotel/Motel tax funds are the primary means of support for this festival. Following is a listing of monetary support provided in 2012:

Alpine Glass	25
Cashmere Valley Bank	50
Cle Elum Drug	50
Dr. Peterson	50
Kittitas County Hotel/Motel	3,000
NKC Tribune	100
Roslyn Downtown Assn.	100
Roslyn Riders	198
Sterling Savings Bank	50
Total Support	\$3,623

**3. Relevance to all of Kittitas County – How will this project help with promoting Kittitas County tourism?**

The emphasis in all our FAAF brochures, advertisements, and website is the scenic opportunities available in Kittitas County. The participants love coming to Kittitas County because of what it has to offer – a slower pace of life, abundance of scenic places to paint and photograph, and a healthy dose of sunshine and fresh air. An excerpt from the 7/28/11 NKC Tribune quoted one FAAF participant from Seattle as saying she was *"blown away by the Teanaway Valley with those red hills, and snowcapped mountains in the distance."* HCA has received excellent reviews by repeat attendees to the festival. We have developed a very good reputation for our FAAF and are confident our festival attendance will be increasing. The FAAF is an excellent cultural draw for County tourism.

**4. Please describe the target market for this event or project – who are you trying to attract?**

We are targeting folks of all ages, children to adult, who are interested in painting, photographing or writing about the multitude of beautiful outdoor scenes located all over the Kittitas County. Our youngest participant was 12 and the oldest was in her 80's. The FAAF is not only for the professionals, but also for the novice beginners. It is all about artists connecting and sharing with one another and allowing their inner artist to come to the surface. We advertise primarily around the Pacific NW, but also across the country. Our participants come from all over the Pacific Northwest, as well as recent attendees traveling from as far away as South Carolina and New York.

**5. Need – What are the problems/challenges that this project will address?**

The biggest challenge is offering a successful festival that does not put us in the hole financially. We want to keep attendance costs to a minimum. At the same time, we want to attract as many people as we can by offering well-known and sought-after instructors, a week of fun events, and a juried art exhibit with awards worth entering for. The cost of brochures, advertising, and instructors is still out of our reach to cover without the assistance of hotel/motel funds.

**6. Will the project increase occupancy in hotels, motels, RV parks, and campgrounds within Kittitas County? Please provide projections. Include evidence for your projections (i.e. show your work).**

Yes, this festival will increase motel and campground occupancy. The Fresh Air Artists Festival brings people to Kittitas County. Based on prior attendance records, we expect the 2013 FAAF to

bring 200 visitors to Kittitas County. Further, we expect this number of visitors to generate 50 overnight stays for the county.

**7. Will the project increase sales tax revenue to the County? Please provide projections. Include evidence for your projections (i.e. show your work).**

Of the 200 visitors expected next year,

- 75% will purchase at least one meal per day from one of our local restaurants -  $(200 \times .75 \times \$15 \text{ meal cost} \times 5 \text{ days} \times .015 \text{ county sales tax} = \$169)$
- 75% will spend at least \$50 for other items -  $(200 \times .75 \times \$50 \times .015 \text{ county sales tax} = \$112)$
- 25% will buy an average of 12 gallons of gas for each of their cars while in town. According to the Washington State Department of Transportation brochure "Where does the gas tax go?" 11¢ per gallon of gas sold goes to cities and counties for local roads. This will result in \$99  $(200 \times .25 \times 12 \times \$0.11 = \$66)$  gas tax revenue for the County.
- 50 overnight stays will be purchased (48 motels and 2 camping). A survey of local motel prices in Cle Elum reveals an average nightly cost of \$101. The average RV park overnight rate is \$27. Using the 4% lodging rate assessed by Kittitas County, our figures show that these 50 overnight stays will gather \$196 in tax revenue for the County.

Motels:  $(48 \times \$101 \times .04 = \$194)$   
Camping:  $(2 \times \$27 \times .04 = \$2)$   
\$196

In total, the County should expect \$543  $(\$169 + \$112 + \$66 + \$196 = \$543)$  in revenue from this project.

**8. Time Frame – Please explain steps you will take to implement this project and the dates on which you expect to accomplish each step.**

Plans are already underway for next year's festival. Advertising will begin in February 2013 and continue right up until the actual event, which will take place the week of July 13-19, 2013. The actual workshops, instructors, and activities line-up will be in place by February as well.

**9. Can your organization demonstrate the ability to sustain operational capacity subsequent to completion of and separate from this project? If no, please explain why. If yes, please provide proof.**

High Country Artists has been in operation since 2000. Our mission has been to "*foster and create art and culture within our community.*" We created the FAAF as one way to fulfill this mission. We also offer on-site painting classes, weekly "paint till you faint" group painting at the Carpenter House, monthly art exhibits, and weekly "fresh air painting" for community participation around the County throughout the year. Word is spreading that we offer a great festival in Kittitas County. We are confident that our number of registered participants will continue to grow and that the FAAF will eventually become self-supporting.

**10. Accomplishments – How will you measure the success of this project? Please be specific as to performance indicators that will be used to measure your success.**

The success of the 2013 Fresh Air Artists Festival will be determined by the following factors:

- a. Number of participants in the Kittitas County Paint-Out
- b. Number of workshop registrants
- c. Number of art exhibit entries

If these numbers continue to grow, we will know we have created a successful festival. All these factors plus self-sustainability on the festival budget will put us over the top insofar as having established a successful event.

**11. Future Support – Please explain what plans exist to allow this project to become self-sustaining. Include any plans for ticket sales, event sponsors, and other cost-recovery models.**

Festival participants are assessed fees for workshops, demonstrations, paint-out, and art exhibit entries. In addition, various community sponsors donate to the art exhibit awards. We try to keep the costs as low as possible to attract as many people as we can, while at the same time keeping them at a level wherein we won't go broke. That's why hotel/motel funds are so crucial in helping this event get to the point where it should eventually be self-sustaining.

**12. Does your organization have a legally constituted Board of Directors?**

High Country Artists was established in 2000 and became a Washington Non-Profit Corporation in 2002. We elect a new board of directors each year. Currently, the following officers are in place:

President: Virginia Depicolzuane  
Vice President: Kathy Weber  
Secretary: Bonnie Hawk  
Treasurer: Charlene Kauzlarich

13. Attachments – Please attach a copy of your current year's budget. You must include this in order to be considered.

**HIGH COUNTRY ARTISTS  
FINANCIAL STATEMENT  
As Of 10/14/2012**

	2012 TOTAL
<b>INCOME</b>	
Artist Sales	743.43
Hotel/Motel Tax Reimbursement	3,000.00
Donations	3,940.84
Dues	1,990.00
FAAF Registrations	5,831.71
Gallery Sales	227.25
Interest	32.23
<b>TOTAL INCOME</b>	<b>15,765.46</b>
<b>EXPENSES</b>	
Advertising	1,179.70
Artist Profits	577.37
Dues	195.00
Electricity	359.13
FAAF	3,665.73
Insurance	2,013.07
Internet	581.65
NKCHS sale reimbursement	6.25
NKCHS Dues/Donations	75.00
Non-Profit Corp Filing Fee to Sec of State	10.00
Paypal Fees	30.00
Phone	296.56
Postage	336.65
Printing	1,421.28
Propane	1,565.12
Refund of Ins to Roslyn Riders	24.00
Sales Tax to Dept of Revenue	159.17
Supplies	378.39
Trash Disposal	24.79
<b>TOTAL EXPENSE</b>	<b>12,898.86</b>