

CITY OF FIFE AGREEMENT

1. **Parties and Date.** This Agreement is made this 28 day of May, 2013, between the City of Fife, a Washington municipal corporation ("City") and Clownbuggie Entertainment ("Recipient").

2. **Recitals.**

2.1 The City collects a tax known as the Lodging Tax and deposits the revenues from the Lodging Tax into a special fund to be used solely for paying for tourism promotion and for the acquisition and/or operation of tourism relate facilities.

2.3 In consideration of the terms, conditions and covenants contained herein, the parties agree as follows.

3. **Funding and Scope of Activities.** The City shall provide from Lodging Tax revenues, a total of \$2,885 in funding (the "Funds") to Recipient to perform the activities set forth in Exhibit A attached hereto for the purpose of attracting tourism business to the City, in accordance with the terms and conditions set forth in Exhibit A. The Funds will be paid in accordance with Exhibit A.

4. **Compliance with Federal, State and Local Laws.** The Recipient agrees to abide by all applicable federal and state statutes and regulations pertaining to the subject matter of this Agreement, including without limitation RCW 67.28.1815, which provides that lodging tax revenues may be used solely for the purpose of paying all or a part of the cost of tourism promotion, acquisition of tourism-related facilities, or operation of tourism-related facilities, as such terms are defined in RCW 67.28.080.

5. **Reimbursement of Funds.** Recipient warrants that the Funds received under this Agreement shall be used solely for purposes permitted under this Agreement and agrees to repay to the City any Funds found to have been used for some purpose other than those permitted herein.

6. **Indemnification and Hold Harmless.** The Recipient shall defend, indemnify and hold the City, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or in connection with the performance of this Agreement, except for injuries and damages caused by the sole negligence of the City

7. **Insurance.**

7.1 The Recipient shall procure and maintain for the duration of all services and activities set forth in Exhibit A, insurance against claims for injuries to persons or damage to property which may arise from or in connection with performance of the services hereunder by the Recipient, their agents, representatives, employees or subcontractors.. Recipient's

maintenance of insurance as required by the Agreement shall not be construed to limit the liability of the Recipient to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity. Recipient shall obtain insurance of the types described below

Commercial General Liability insurance covering liability arising from premises, operations, stop gap liability, independent contractors, products-completed operations, personal injury and advertising injury, and liability assumed under an insured contract. The City shall be named as an insured on Recipient's Commercial General Liability insurance policy. The General Liability insurance shall be written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate.

Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.

7.2 The insurance policy shall contain, or be endorsed to contain that the Recipient's insurance coverage shall be primary insurance as respect the City. Any insurance, self-insurance, or insurance pool coverage maintained by the City shall be excess of the Lessee's insurance and shall not contribute with it. The Recipient shall provide a certificate of insurance evidencing the required insurance before commencing the services and activities set forth in Exhibit A. Insurance is to be placed with insurers with a current A.M. Best rating of not less than A: VII.

8. **Assignment.** Neither the Recipient nor the City shall have the right to transfer or assign, in whole or in part, any or all of its obligations and rights hereunder without the prior written consent of the other Party.

9. **Waiver.** Failure to insist upon strict compliance with any terms, covenants or conditions of this Agreement shall not be deemed a waiver of such, nor shall any waiver or relinquishment of such right or power at any time be taken to be a waiver of any other breach.

10. **Applicable Law; Venue.** This Agreement shall be construed and interpreted in accordance with the laws of the state of Washington and, in the event of dispute, the venue for any action brought hereunder shall be in Pierce County Superior Court.

11. **Severability.** If any phrase, sentence or provision of this agreement is held invalid by a court of competent jurisdiction, such invalidity shall not affect the remainder of this Agreement, and to this end the provisions of this Agreement are declared to be severable.

12. **Independent Contractor.** Recipient is and shall be at all times while performing the activities set forth in Exhibit A an independent contractor.

13. **Attorneys' Fees.** In the event that the City is required to institute a lawsuit against the Recipient to enforce any of the terms of this Agreement and the City prevails in such lawsuit, the Recipient agrees to reimburse the City for its reasonable costs, expenses, attorneys' fees and expert witness fees, including such costs, expenses and fees incurred in any appeal.

14. **Entire Agreement.** This document contains all covenants, agreements and stipulations of the parties on the subject matter expressed herein. No changes, amendments or modifications of the terms of this Agreement shall be valid unless reduced to writing and signed by the duly authorized representatives of both parties as an amendment to this Agreement.

RECIPIENT:

Julie Terry
By: Clownbuggie Entertainment

Name: Julie Terry

Title: Owner

THE CITY:

City of Fife, Washington

By: Kurt W. Reuter

ATTEST:

Carol Etgen
Carol Etgen, City Clerk

APPROVED AS TO FORM:

Gregory F. Amann
Gregory F. Amann
Assistant City Attorney

EXHIBIT A
SCOPE OF ACTIVITIES

Fife Harvest Festival, October 5th, 2013 from 10 am – 5 pm

Clownbuggie Entertainment will provide:

- 1) 4 face painters for 7 hours for \$875. Face painting will be Fall themed.
- 2) 2 Balloons makers for \$2,000 (10-5 pm). One will start in the parade.
- 3) Glitterbug will do a half hour performance.
- 4) Provide the sno cone machine and charge \$10/machine for cleaning.

Make check to Clownbuggie Entertainment

The \$2885 payment will be due the day of the event.

Clownbuggie Entertainment
253-334-3472
19005 109th St. Ct. E.
Bonney Lake, WA 98391