

**PUBLIC PROPERTY LEASE AGREEMENT
PLANET BLUEGRASS MAJOR EVENT – ROCKYGRASS FESTIVAL**

EVENT DATE: July 26-28, 2019

THIS AGREEMENT (“Agreement”) is made by and between the **TOWN OF LYONS**, a Colorado municipal corporation whose address is 432 Fifth Avenue, Lyons, Colorado 80540, (“Town”), and the **TELLURIDE BLUEGRASS FESTIVAL, PBC**, a Colorado Public Benefit Corporation doing business as **PLANET BLUEGRASS** (hereinafter “PB”), whose address is 500 West Main Street, Lyons, Colorado 80540. The Town and PB may be referred to individually herein as a “Party,” and may be collectively referenced as the “Parties.” This Agreement is effective for the dates indicated below.

References to "Site," "Site Plan," "Event," and "Major Event," are references to these terms as defined in the Site Plan for Planet Bluegrass ("Site Plan"), a site plan for property zoned CE-1, which was approved by the Board of Trustees in 1999, and which is on record with the Town Clerk for the Town of Lyons, Colorado. The Site Plan is incorporated into this Agreement for purposes of aiding the Parties' understanding of the terms and conditions of this Agreement.

WHEREAS, the Town of Lyons has previously approved a Site Plan for property commonly known as the Planet Bluegrass property (generally, the "Site"). The Site Plan is the governing zone district document for the Site and the Site Plan provides certain opportunities for annual commercial entertainment functions on the Site; and

WHEREAS, PB has scheduled or plans to schedule a "Major Event" as this term is defined by the Site Plan; and

WHEREAS, nothing in this Agreement is intended to condone, consent to, authorize or otherwise waive or approve a deviation from the Site Plan or the prior unlawful erection or use of any structure located within the property described in the Site Plan; and

WHEREAS, this Agreement sets forth the Parties' understanding and agreement for the use of public property owned by the Town of Lyons during the period of the Event.

NOW, THEREFORE, in consideration of the mutual promises, covenants, and agreements of the Parties, conformance with the Site Plan, and other good and valuable consideration, the sufficiency and adequacy of which are hereby acknowledged by the Parties, the Parties hereto agree as follows with respect to the Event.

1. Lease of Property and the Event.

A. Dates. The Event will be held on the Site on the following dates and times:

Dates: **Friday, July 26, 2019 through Sunday, July 28, 2019**

Time: Beginning **Friday, 10:00 a.m.** Ending **Sunday, 10:00 p.m.**

- B. Term. The term of this lease shall commence 24 hours prior to the date and time of the first day of the permitted occupancy of Town-owned property as described in 1.C below and terminate 18 hours following the conclusion of the Event.
- C. Leased Property. The Town shall provide PB use of the following sites for the identified term which is under the ownership and control of the Town of Lyons for the purposes identified below and no other (the "Leased Property"):

LAVERN M. JOHNSON PARK

- (1) All of LaVern M. Johnson Park, including the eastern-most multi-purpose field, areas that have sod, including areas near plaza, the RV and tent camping areas, the shower facility and both restroom facilities (collectively "LaVern Johnson Park") beginning five (5) days prior to the Event and ending one (1) day after the Event.

11:00 a.m. Wednesday, July 24, 2019 to 12:00 p.m. Monday, July 29, 2019

As described in 1.B. above, PB will be allowed access to LaVern Johnson Park beginning 24 hours prior to the dates above to set up for use. Please see Camping Plan Section VI.C for details of LaVern Johnson Park set up.

LaVern Johnson Park is generally illustrated on the attached **Exhibit A**, and PB shall comply with the traffic flow and other elements depicted in **Exhibit A**. If there is any conflict between the language of this Agreement and any exhibit or attachment hereto, the language of this Agreement shall govern. The use of LaVern Johnson Park shall be limited to providing camping sites and parking sites for recreational or other vehicles used for overnight lodging ("recreational vehicles") as provided in Section 2(C) of this Agreement.

- (2) The general public may continue to camp in LaVern Johnson Park until:

9:00 a.m. Wednesday, July 24, 2019

Reservations for a camping site(s) or parking site(s) for recreational or other vehicles used for overnight lodging will be made through the Town and will be charged the fee(s) as determined by the Town prior to the above date.

PB will begin managing the LaVern Johnson Park campground on the dates stated in (C)(1) above. The Town will provide the list of reservations for this time period to PB's LaVern Johnson Park Supervisor. All campers must vacate LaVern Johnson Park by **9:00 a.m. on the date stated in this Paragraph C. (2)**.

- (3) LaVern Johnson Park campground is open for camping to PB LaVern Johnson Park camping ticket holders beginning **July 24, 2019 at 11:00 a.m.** for no additional fee.

2. Leased Property Management Requirements.

- (A) Camping and Parking Plan. PB shall provide to the Town a Camping and Parking Plan for the Leased Property that: (1) includes a schedule of activities and a plan to provide security and staffing that meets the needs of and demands upon Town-owned property, as approved by the Town Administrator; (2) includes a proposed fee schedule for the charges for use of camping sites, recreational vehicle sites, and parking sites at the Leased Property; and (3) illustrates and describes the use and location of all proposed structures, gates, fences, camping areas, portable restroom facilities, trash receptacles, and other structures or facilities proposed for use during the Event by PB on the Leased Property. Such Camping and Parking Plan shall also include an illustration of proposed routing of traffic in the area of the Leased Property and the Site and illustrate the primary pedestrian routes to and from the Leased Property to the Site. PB shall provide the Camping and Parking Plan to the Town Administrator no later than **5:00 p.m. on May 31, 2019**.
- (B) Dust and Trash. PB shall take all steps necessary to control and manage dust, and limit and manage trash, litter, and debris, on the Leased Property caused by persons using, visiting, or occupying the Leased Property during the term of the Event. PB shall take all steps necessary to keep all areas within the Leased Property sufficiently wet to prevent and reduce the likelihood of grass fires.
- (C) Camping and Parking. PB shall limit campsites, recreational vehicle sites, and parking sites as follows:
- LaVern Johnson Park: Overnight camping sites sufficient to accommodate a maximum of **800** campers and a minimum of **118** parking sites.
- The Camping and Parking Plan will be presumed accepted if PB is not informed otherwise by **June 14, 2019**.
- (D) Other Camping. PB shall provide to the Town Administrator any written agreement(s) and, if any agreement is not written, shall provide a written description of the general terms and conditions of any agreement, between PB and any third party which involves the provision of camping, recreational vehicle parking, and/or other parking services for the Event. Such agreement or written description shall be provided to the Town Administrator no later than **5:00 p.m. on May 31, 2019**.
- (E) Services. In accordance with the terms outlined in the Camping and Parking Plan, PB shall be allowed to use all existing electrical, sewer, waste, or water hook-ups for any overnight camping site or recreational vehicle site. **Damage and repair to utilities will be the responsibility of PB** and the Town reserves the right to prohibit the use of any or all such utilities at any time if it determines in its sole discretion that the PB or occupants of the Leased Property are abusing such utilities. Charcoal grills are allowed at designated locations only provided that there is not a county wide fire ban in place. PB shall provide to all owners or operators of recreational vehicles parked on the Leased Property a copy of written information regarding the location and requirements of the use of the Town's recreational vehicle dump station. The written information

distributed for LaVern Johnson Park shall be the same information as is posted on the Town of Lyons LaVern Johnson Park Camping information website.

- (F) Sanitation and Trash Receptacles. PB shall provide portable toilets and trash receptacles on the Leased Property and at all camping areas, parking areas, and the seating areas. PB shall determine the appropriate number and location of such toilet facilities which will be adequate to serve the anticipated number of persons in attendance at the Leased Property; provided that, a minimum of one (1) portable toilet shall be provided for every fifty (50) persons scheduled or planned for overnight stay and/or parking within LaVern Johnson Park. The Town shall determine the minimum number of portable and onsite toilets that PB shall provide in LaVern Johnson Park by dividing the number of camping passes allowed by fifty (50). PB shall contract for trash collection and removal services to be conducted throughout the duration of the Event (“Sanitation Services Contract”) and such services shall be provided by a licensed Colorado professional trash collection and disposal service or company. PB shall provide the Town with a copy of the Sanitation Services Contract no later than **5:00 p.m. on May 31, 2019**. PB shall locate all portable toilet facilities in consultation with and as directed by the Director of Parks and Public Works and in accordance with the Camping and Parking Plan. All toilet and trash receptacles shall be in place no later than **5:00 p.m. on July 23, 2019** for LaVern Johnson Park. PB or its contractor shall remove all waste material generated by the Event attendees in toilets and waste receptacles and deposit such materials in accordance with all local and state laws. PB shall **remove all toilet and waste receptacles** from the Leased Property by **4:00 p.m. on July 29, 2019**.
- (G) Leased Property Security. PB shall provide on-site security and crowd management at the Leased Property as provided in the Camping and Parking Plan. PB shall provide these services from **July 24, 2019 at 8:00 a.m.** through the termination of this Agreement at a minimum. If PB personnel observe any illegal or criminal acts, they shall report such activity immediately to the Boulder County Sheriff personnel. PB shall arrange for and shall maintain and provide radio communication between its own security force and the Boulder County Sheriff’s Department.
- (H) LaVern Johnson Park Restrooms and Shower Facilities. PB shall maintain on a daily basis the cleanliness of such facilities and keep the facilities stocked with supplies throughout the dates of the Event. At the conclusion of the Event, PB shall perform a final cleaning of the facilities to a level of cleanliness equal to that existing at the time of the Director’s initial inspection. At the conclusion of the Event, the Director or his/her designee may inspect the facilities and, if the cleanliness of the facilities meets with the Director’s approval, the Director shall provide to PB verbal or written confirmation of approval. Should the cleanliness of the facilities not meet with Director’s approval, PB will be billed for any additional hours to clean the facilities.
- (I) Signage. PB shall provide and maintain all necessary signs for the location of on-site parking, off-site parking, shuttle stops, park closure, and “no trespassing” signs for property owners and properties adjacent to the Leased Property and directional signage directing people to the Site.

- (J) Concessions. No concessions, stands, or concession operations shall be provided at the Leased Property. For purposes of this Agreement, “concession” shall include all and any form of business or activity, which provides goods or services for profit, barter, or trade. It is the intent of this Agreement that the Leased Property shall be limited in use to recreational vehicle parking and overnight camping activities only.
- (K) Local Ordinance Conformance. PB shall manage the Leased Property and all other areas of the Town that may be used by PB for the Event in a manner that ensures conformance with all local ordinances and laws. PB may contact the Town Administrator prior to the Event to arrange a meeting to discuss the particular ordinances and laws that may apply to the Event and its activities. Only to the extent authorized by this Agreement and by the Plan approved by the Town Administrator in accordance with this Agreement, the Board of Trustees grants permits for the conduct of the described activities as such permits may be required by Lyons Municipal Code Sections 11-4-30 (campers and tents in public parks), 11-4-40 (open fires in public parks), 11-4-50 (camping), 11-4-60 (overnight parking), 11-4-100, and 10-7-20 (liquor in public places).
- (L) Restoration of Leased Property. PB shall clean, repair, and restore the Leased Property to a condition substantially identical to that existing at **5:00 p.m. on July 23, 2019**, including the **removal of all portable toilets and trash** from the Leased Property by **4:00 p.m.** on Monday, July 29, 2019 unless otherwise provided by this Agreement. Such cleaning will include the shelters and grills in the park. Such cleaning, repair, and restoration shall be deemed complete only where PB has obtained the verbal or written confirmation of the Director of Parks and Recreation following the Director’s or Director’s designee’s inspection that the Leased Property has been cleaned and restored as required by this Agreement. If the Town cleans, repairs and/or restores all or any part of the Leased Property as a result of PB’s failure to do so as required by this Agreement, the Town shall submit its invoice of charges incurred to PB and PB shall pay all such charges in full within five (5) days of receipt of the invoice or seven (7) days of mailing, whichever is less. Failure to pay such charges shall permit the Town to impose and collect such charges as a lien against the Site, refuse to approve future use of Town property, or seek or institute any other remedy provided by law.

3. **Town’s Obligations.**

The Town shall provide to PB use of the existing picnic tables within LaVern Johnson Park. All picnic tables shall remain in place throughout the Event.

4. **Transportation and Traffic.**

- (A) Parking Management at Leased Property. PB shall manage all access, ingress, and egress of vehicles at the Leased Property and shall, in particular, manage traffic so as not to interfere with reasonable access to public roads.
- (B) Public Access. The Leased Property shall remain open to the Public until **July 24, 2019 at 9:00 a.m.** After **9:00 am on July 24, 2019**, the Leased Property will be open only to Lyons residents and Leased Property camping ticket holders. For purposes of this Agreement, individuals with a government-issued form of identification that indicates

they *reside within the 80540 zip code* shall be considered Lyons residents. Lyons residents may access the Leased Property via foot traffic only.

- (C) Parking Supervision. PB shall provide sufficient personnel to supervise all parking on Town-owned property.

5. Police Coverage/Financial Requirements.

- (A) Subject to the requirement in this Agreement that PB shall provide security and staffing that meets the needs of and demands upon Town-owned property, the Town will make its Substation Sergeant available for any security needs or assistance requested by PB and will arrange its police scheduling to assist with the security needs of PB with regard to the PB management of the Leased Property. PB shall be responsible for any charges or costs for such security needs or assistance. The Boulder County Sheriff's Office will bill PB for any such costs. Police availability shall be contingent upon the need for the Substation Sergeant to respond to emergency situations elsewhere within the Town or its vicinity.
- (B) PB will be responsible for additional police services and costs on PB-owned property as well as Leased Property for the purpose of traffic control and crowd management.
- (C) PB will coordinate additional law enforcement schedule with the Lyons Substation Sergeant by **5:00 p.m. on June 21, 2019**.

6. Indemnification and Insurance.

- (A) PB shall indemnify the Town of Lyons, its officers, agents, contractors, and employees and to hold them harmless against any and all claims, actions, demands or liabilities, including attorney fees and court costs, for injury, death, damage or loss to person(s) or property arising out of or directly or indirectly resulting from PB's actions or omissions in connection with the conduct and use of the Leased Property and public streets. By demanding this right to indemnification, the City in no way waives or limits its rights under the Colorado Governmental Immunity Act, C.R.S. § 24-20-101, *et. seq.*
- (B) PB shall procure and maintain a general liability insurance policy or policies in the amount and form acceptable to the Town Administrator, sufficient to insure itself, and in addition the Town and its officers, agents and employees against all liabilities, claims, demands, actions or other obligations assumed by PB pursuant to this Agreement. The minimum limits of such insurance policies or policies shall be \$1,000,000.00 combined single limit and the general liability insurance policy shall expressly provide that it is primary insurance and that its coverage will apply prior to utilization of Lyons' general liability coverage.
- (C) On or before **5:00 p.m. on June 28, 2019**, PB shall furnish the Town certificates of insurance policies and all necessary endorsements evidencing insurance coverage required by this Agreement.

- (D) The parties understand and agree that the Town is relying on and does not waive or intend to waive by any provisions of this Agreement, the monetary limitations provided by the Colorado Government Immunity Act, C.R.S. Section 24-10-101, *et seq.* as from time to time amended, or any other immunity that may be otherwise available to Town, its officers, agents or employees.
- (E) PB shall not be relieved of any liability, claims, demands or other obligations assumed pursuant to this section by reason of its failure to procure or maintain insurance or by reason of its failure to procure to maintain insurance in sufficient amounts, duration or types.

7. Lease Payments.

In consideration of receiving exclusive camping and parking privileges within public sites as identified in this Agreement, PB shall pay to the Town a Total Lease Payment, which shall be for the following amount:

A flat rate of **THREE THOUSAND DOLLARS (\$3,000)** per day for FIVE (5) days equaling FIFTEEN THOUSAND DOLLARS (\$15,000).

PB shall deliver the Total Lease Payment to the Town Clerk at the Lyons Town Hall, 432 5th Avenue, Lyons, Colorado by **August 30, 2019 at 4:00 p.m.** In conjunction with this payment, PB shall provide to the Town Clerk: (1) a written accounting of the amount of revenue it paid to the Town as a result of this Event and a description of the methodology by which such amount was calculated in a manner that is satisfactory to the Town Administrator; and (2) a written history of the amounts PB paid the Town for camping and parking at the Leased Property for similar events in 2014, 2015, 2016, 2017 and 2018. The Town reserves the sole right to determine whether the Total Lease Payment submitted complies with this Agreement.

8. Additional Requirements.

- (A) Except as otherwise provided for herein, the Town Administrator shall be the sole representative of the Town responsible for administering the provisions of this Agreement.
- (B) PB shall abide by the Town Administrator's directions and requirements which are not inconsistent with this Agreement and which are necessary to protect the health, safety, and welfare of the residents of the Town.
- (C) PB understands and agrees that it and the conduct and use of the Leased Property shall be subject to all applicable laws of the state of Colorado and the Town of Lyons.
- (D) PB shall work with the Town of Lyons to secure parking for the Event in order to minimize the impact of Event patrons parking within the community of Lyons.
- (E) PB shall pay the reasonable cost of repair for all damages to the Leased Property caused by PB's actions or omissions in connection with the conduct and use of the Leased Property, including but not limited to damages within LaVern Johnson Park,

including public buildings, signs, parking lots, fencing, public lighting and other similar amenities, and landscaping. For purposes of this Agreement, “conduct and use of the Leased Property” shall mean:

- ∨ Sanitation waste and trash disposal and cleanup of LaVern Johnson Park and all other sites described in this Agreement;
 - ∨ Campground regulation, including off-site campfire management;
 - ∨ Crowd management, restriction of access into public areas not part of the Event, and control of pedestrian traffic between the Site and other areas within the Town;
 - ∨ Noise control;
 - ∨ Parking and traffic control management;
 - ∨ Transportation services;
 - ∨ Compliance with this Agreement or compliance with any reasonable additional requirements of the Town Administrator.
- (F) This Lease Agreement shall not prohibit or prevent visitation or entry by any Town employee or agent for the purpose of inspection, visitation, or other activity not inconsistent with this Agreement.
- (G) This Agreement shall bind the parties and extend to their respective representatives, successors and assigns provided that PB shall not assign this Agreement without the written consent of the Town.
- (H) All documents that PB is required to submit to the Town Administrator pursuant to this Agreement shall be either delivered electronically, mailed or hand-delivered to Lyons Town Hall, 432 5th Avenue, Lyons, Colorado 80540.

Remainder of page left blank intentionally. Signature page follows.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date set forth below.

DATED THIS _____ DAY OF NOVEMBER 2018.

TOWN OF LYONS, COLORADO

By: _____
Connie Sullivan, Mayor

ATTEST:

Town Clerk

**TELLURIDE BLUE GRASS FESTIVAL, PBC
D/B/A PLANET BLUEGRASS.**

By: _____
Craig Ferguson, President

STATE OF COLORADO)
) ss.
COUNTY OF BOULDER)

The foregoing instrument was acknowledged before me this _____ day of _____, 2018, by Craig Ferguson, President of Telluride Bluegrass Festival.

Witness my hand and official seal.
My Commission Expires:_____.

Notary Public