

TEMPORARY USE AND LEASE AGREEMENT

This TEMPORARY USE LEASE AGREEMENT (this “Lease” or “Lease Agreement”) is made and entered into as of December 15, 2020 (the “Effective Date”), by and between Rally on the Rocks, LLC, a Utah Limited Liability Company (hereinafter referred to as “Lessor”), and San Juan County, a political subdivision of the State of Utah (hereinafter collectively referred to as “Lessee”). Lessor and Lessee may be referred to collectively as the “Parties” herein.

WITNESSETH:

WHEREAS, Lessor owns specific property located within Spanish Valley at the intersection of Spanish Valley Drive and Old Airport Road; and

WHEREAS, Lessor, under the current worldwide pandemic is seeking opportunities to work with entities who can assist in improving the economic conditions of the County and assist in providing revenue and resources for the County; and

WHEREAS, Lessee has contacted the County seeking a location to temporarily operate a vending and staging area; and

WHEREAS, Lessee is willing to comply with conditions and is willing to temporarily lease the County’s property.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained hereafter, the Parties hereto agree as follows:

Section 1. Description and Use of the Leased Premises

Lessee will be able to utilize the entire 5-acre portion of Lessor’s property to host and provide event vending services, overnight-parking and camping for the Rally on the Rocks event scheduled for May 12th through May 15th, 2021.

Section 2. Additional Hospitality Services Provided

Lessee will provide temporary power, restroom facilities, security and abide by current San Juan County Public Health code guidelines and regulations.

Section 3. Term

The term of this Temporary Use and Lease shall be for the term of the event beginning on May 10th through May 18th, 2021

Section 4. Rent

As of the Effective Date, the rent that Lessee agrees to pay Lessor under this Temporary Lease shall be TWO THOUSAND DOLLARS AND NO/100 (\$2,000.00), payable on or before the last day of the month in which the event takes place.

Section 4. Taxes

Lessee and vendors thereon shall collect and pay all taxes associated with the event.

Section 5. Conditions

- a. All site preparation shall be provided by the Lessee to the extent that preparations are done in a safe manner to protect the public at all times.
- b. San Juan County Public Health Approval is required for the vending event prior to holding the event.
- c. San Juan County Public Health guidelines shall be adhered to at all times for both vendors and the public attending the event.
- d. Access to the Site shall use the predetermined route as attached as Exhibit "A". Avoidance of driving in existing residential areas and streets shall be encouraged at all times and at all hours.
- e. Noise restrictions will be in effect at the Site from 10:00 pm until 7:00 am where minimal travel noise leaving and going to the site is allowed.
- f. Lessee will encourage event attendee's and operator of OHV and ATVs, as defined in Utah Code §§ 41-6a-102 and 41-22-2, behaviors and awareness regarding local sound and noise concerns and encourage the aforementioned vehicles to meet measurable muffler 96 dB standards based on SAE J2825 and SAE J1492.
- g. Lessee will provide their own security and only use the County Sheriff in an emergency.
- h. Lessee shall provide work with County staff on mitigation measures with keeping dust at a level that is acceptable to the County. Any damages cause to road surfaces shall be repaired by the Lessee at Lessee's cost.
- i. Lessee shall return the property to like conditions prior to expiration of the term of the lease.
- j. Lessee shall provide adequate trash and sewer services according to the San Juan County Public Health

Section 6 Right of Entry

The Parties acknowledge, understand, and agree that Lessor and any of its authorized agents may enter into and upon the Leased Premises with prior notice and approval by Lessee, for the purpose of inspecting the same, of posting notices of non-responsibility for alterations, additions or repairs, or for any other reasonable purpose, which approval shall not be unreasonably withheld.

Section 7. Assignment and Subletting

Notwithstanding anything herein to the contrary, Lessee may not assign or sublet this Lease.

Section 8. Notices

All notices, demands or other writings under this Lease shall be in writing and shall be deemed delivered on the date of personal delivery or three days after it is deposited in the United States mail with postage prepaid and addressed as follows:

To Lessee: San Juan County Attn: County Administrative Officer 117 South Main Street, PO Box 9 Monticello, Utah 84535	To Lessor: Rally on the Rocks, LLC 1081 North 4150 West Clearfield, Utah 84015
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Section 9. Utilities

The Parties acknowledge, understand, and agree that Lessee shall be solely responsible for all utility costs associated with the Leased Premises, which includes water, sewer, and electricity and includes all costs associated.

Section 10. No Liens

Lessee shall keep the Leased Premises and every part thereof and all other improvements at any time located thereon free and clear of any and all mechanics, materialmen, and other liens for or arising out of or in connection with the work or labor done, services performed, or materials or equipment used or furnished on the Leased Premises.

Section 11. Remedies Cumulative

All rights and/or remedies herein conferred on Lessee shall be deemed cumulative, and no one shall be exclusive of the other or of any other remedy inferred by law or equity.

Section 12. Default

In the event either party defaults in the terms or conditions of this Lease Agreement, the non-defaulting party must give written notice of the default to the defaulting party. Failure of the defaulting party to cure the default within fifteen (15) days from receipt of the written notice will allow the non-defaulting party to terminate this Lease Agreement.

Section 13. Insurance

The Lessee shall maintain the following insurance for the duration of this contract and an additional year after the termination of this contract, the following types of insurance

- a. A valid occurrence form commercial general liability insurance policy, which covers contractual liability and contractual agreements, with minimum limits as follows:
 - (1) Each occurrence - \$1,000,000.00;
 - (2) Damage to Rented Premises - \$300,000.00;
 - (3) Medical Exp. (Any one person) - \$5,000.00;
 - (4) Personal and Adv. Injury - \$2,000,000.00;
 - (5) General aggregate - \$2,000,000.00; and
 - (6) Products – Comp/Op aggregate - \$2,000,000.00;
- b. A valid automobile liability insurance policy that satisfies the minimum amounts required by Utah law; and
- c. A valid Workers Compensation and Employers' Liability insurance policy with minimum limits as required by Utah law. If any proprietor, partner, executive, officer, member, or other person is excluded from the Workers Compensation and Employers' Liability insurance policy, the Lessee shall provide Lessor with the applicable state issued waiver.
- d. Lessee's insurance will also include a rider over any claims from any airborne dust in the air.

For the duration of this contract and for one year after the termination of this contract, Lessor may request the Lessee to provide Lessor with certificates or other records that demonstrate that the Lessee is in compliance with the insurance requirements set forth in this section (the "Certificates/Records"). If the Lessee fails to provide Lessor with the requested Certificates/Records within three business days of Lessor's request, Lessor may immediately terminate this Lease contract. If the Lessee fails to have the insurances required by this Lease contract, Lessor may immediately terminate this contract.

Section 14. Lessor's Option to Terminate

Lessor shall have the right, by written notice to Lessee given at least one month in advance, to terminate this Lease and surrender its lease hold interest to Lessor.

Termination shall be effective on the date specified in Lessee's notice. On and as of the effective date of the termination, Lessee shall be relieved from all further liability for rental or otherwise hereunder and shall deliver possession of the Leased Premises to Lessor in accordance with the provisions of this Lease.

Section 15. Disposition of Improvements on Termination of Lease

On termination of this Lease for any cause, Lessee shall return the property to like conditions as found prior to this lease and repair any roadway damage if needed.

Section 16. Parties Bound

The covenants and conditions herein contained shall apply to and bind the heirs, successors, executors, administrators, and assigns of all of the parties hereto, and all the parties hereto shall be jointly and severally liable for performance of their respective duties and obligations as described in this Lease.

Section 17. Time of the Essence

Time is of the essence of this Lease and of each and every covenant, term, condition and provision of this Lease.

Section 18. Survival of Terms, Provision, Promises, or Otherwise of This Lease after Termination

Termination of this Lease shall not extinguish or prejudice either Party's right to enforce this Lease with respect to any uncured breach or default of or under this Lease.

Section 19. Waivers or Modification

No waiver or failure to enforce one or more parts or provisions of this Lease shall be construed as a continuing waiver of any part or provision of this Lease, which shall preclude the Parties from receiving the full bargained for benefit under the terms and provisions of this Lease. A waiver or modification of any of the provisions of this Lease or of any breach thereof shall not constitute a waiver or modification of any other provision or breach, whether or not similar, and any such waiver or modification shall not constitute a continuing waiver. The rights of and available to each of the Parties under this Lease cannot be waived or released verbally, and may be waived or released only by an instrument in writing, signed by the party whose rights will be diminished or adversely affected by the waiver.

Section 20. Binding Effect; Entire Lease; Amendment

This Lease is binding upon and shall inure to the benefit of the Parties and their respective heirs, successors, assigns, officers, directors, employees, agents, representatives, subrogees and to all persons or entities claiming by, through or under them. This Lease, including all attachments, if any, constitutes and/or represents the entire agreement and understanding between the Parties with respect to the subject matter herein. There are no other written or oral agreements, understandings, or promises between the Parties that are not set forth herein. Unless otherwise set forth herein, this Lease supersedes and cancels all prior agreements, negotiations, and understandings between the Parties, whether written or oral which are void, nullified and of no legal effect if they are not recited or addressed in this Lease. Neither this Lease nor any provisions hereof may be supplemented, amended, modified, changed, discharged, or terminated verbally. Rather, this Lease and all provisions hereof may only be

supplemented, amended, modified, changed, discharged, or terminated by an instrument in writing, signed by the Parties.

Section 21. Severability

If any part or provision of this Lease is found to be prohibited or unenforceable in any jurisdiction, such part or provision of this Lease shall, as to such jurisdiction only, be inoperative, null and void to the extent of such prohibition or unenforceability without invalidating the remaining parts or provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render inoperative, null or void such part or provision in any other jurisdiction. Those parts or provisions of this Lease, which are not prohibited or unenforceable, shall remain in full force and effect.

Section 22. Authorization

The persons executing this Lease Agreement on behalf of a Party hereby represent and warrant that they are duly authorized and empowered to execute the same, that they have carefully read this Lease Agreement, and that this Lease Agreement represents a binding and enforceable obligation of such Party.

Section 23. Authority; Counterparts; Electronic Signatures

The Parties signing this Lease represent that they have been duly authorized by their respective principals and by all necessary corporate and public action to enter into and execute this Lease. This Lease may be executed in any number of counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument. For purposes hereof, facsimile and/or e-mail signatures hereon shall be treated the same as, and accorded the same legal significance as original signatures hereon.

In Witness Whereof, the Parties have executed this Lease to be effective on the day and year first above written.

Each party is signing this contract on the date below the party's signature.

LESSEE

By: _____

Kenneth Maryboy, Chair
San Juan County Board of County Commissioners

Date: _____

ATTEST:

John David Nielson
San Juan County Clerk/Auditor

Date: _____

LESSOR

By: _____

Print Name: _____

Title: _____

Date: _____