

Town of Lyons
PROFESSIONAL SERVICES AGREEMENT

Project Name: Event Management Services

This PROFESSIONAL SERVICES AGREEMENT (“Agreement”) is made and entered into this 22nd day of February, 2017, by and between the **TOWN OF LYONS, COLORADO**, a municipal corporation of the State of Colorado, with offices at 432 5th Avenue, Lyons, Colorado 80540 (the “**Town**”), and **ADVENTURE FIT INC**, a Colorado corporation with offices at 1891 Oak Avenue, Boulder, Colorado 80304 (“**Adventure Fit**”). The Town and Adventure Fit may be referred to collectively as the “Parties” or each individually as “Party”

RECITALS

WHEREAS, the Town and Oskar Blues Brewery, LLC (“Oskar Blues”) desire to combine the Town’s annual Lyons Outdoor Games and Oskar Blues’ Burning Can Festival into a single event co-produced and jointly funded by the Town and Oskar Blues (the “Event”); and

WHEREAS, the Town and Oskar Blues entered into a certain Event Co-Production and Joint Funding Agreement for the Event, dated February 22, 2017 (“Co-Production Agreement”); and

WHEREAS, the Town and Oskar Blues require certain professional event management services for the Event as more fully described in Exhibit A;

WHEREAS, the Town desires to contract with Adventure Fit subject to the terms of this Agreement and contingent upon payment by Oskar Blues to the Town pursuant to the Event Agreement; and

WHEREAS, Adventure Fit represents that it possesses the necessary qualifications to perform these services.

NOW, THEREFORE, for the consideration herein expressed, it is agreed as follows by and between the Town and Adventure Fit that Adventure Fit shall perform the following:

1.0 SERVICES AND PURPOSE OF AGREEMENT

- 1.1 Services. The Town desires to achieve, secure, receive, or obtain certain service(s) or work product(s) as more specifically described in **Exhibit A** (the “Services”). **Exhibit A** describes the requirements and deliverables required by this Agreement and is attached hereto and incorporated herein by reference. As an independent contractor, Adventure Fit offers and agrees to perform and/or deliver the Services in accordance with the terms and conditions of this Agreement. The Parties recognize and acknowledge that, although the Town has requested certain general services to be performed or certain work product to be produced, Adventure Fit has offered to the Town the process, procedures, terms, and conditions under which Adventure Fit plans and proposes to achieve or produce the services and/or work product(s) and the Town, through this Agreement, has accepted such process, procedures, terms, and conditions as binding on the Parties.
- 1.2 Parties’ Representatives. The Town assigns Dave Cosgrove, Director of Parks, Recreation & Cultural Events, as the Town Representative for this Agreement. The

Town Representative will monitor Adventure Fit's progress and performance under this Agreement and shall be available to Adventure Fit to respond to questions, assist in understanding Town policies, procedures, and practices, and supervise the performance of any Town obligations under this Agreement. Adventure Fit's representative for this Agreement is _____.

- 1.3 Changes to Services. Any changes to the Services that are mutually agreed upon between the Town and Adventure Fit shall be made in a formal writing referencing this Agreement and, only upon execution by both Parties of such formal writing, shall become an amendment to the Services described in this Agreement. To be effective, any written change must be signed by Adventure Fit and by the Town or by a person expressly authorized in writing to sign on behalf of each Party. Changes to the Services or to this Agreement shall not be made through oral agreement or electronic mail messages.
- 1.4 Meeting Attendance. Adventure Fit shall attend such meetings of the Town relative to the Scope of Work set forth in **Exhibit A** as may be requested by the Town. Adventure Fit shall also attend a post-Event meeting ("Post-Event Meeting") with the Town and Oskar Blues, which shall be scheduled after the Event but no later than June 30, 2017. Any requirement to attend meetings made by the named representatives of the Town shall be given with reasonable notice to Adventure Fit so that a representative may attend.
- 1.5 Lawful Performance. It is further agreed that no party to this Agreement will perform contrary to any state, federal, or county law, or any of the ordinances of the Town of Lyons, Colorado.

2.0 COMPENSATION

- 2.1 Commencement of and Compensation for Services. Following execution of this Agreement by the Town, Adventure Fit shall be authorized to and shall commence performance of the Services as described in **Exhibit A**, subject to the requirements and limitations on compensation as provided by this Section 2.0 and its subsections. Compensation to be paid hereunder shall not exceed **One Hundred Sixty Thousand Dollars (\$160,000.00) plus fifty percent (50%) of all sponsorship sales, after activation expenses have been paid**, unless a larger amount is agreed to by and between the Parties in accordance with the amendment requirements of this Agreement.
 - A. Method of Compensation. Adventure Fit shall perform the Services and shall invoice the Town for work performed based on the rates and/or compensation methodology and amounts described in **Exhibit B** subject to the not-to-exceed amount set forth in this Section 2.0. **These invoices for payment should be emailed to ap@townoflyons.com or mailed to Town of Lyons, P.O. Box 49, Lyons, CO 80540.** Monthly, partial, progress payments shall be made by the Town to Adventure Fit for the percentage of the Scope of Work completed. Progress payments shall not constitute a waiver of the right of the Town to require the fulfillment of all material terms of this Agreement and the delivery of all improvements embraced in this Agreement.

- B. Final Payment. Final payment may be requested by Adventure Fit upon completion and acceptance, by the Town, of all work or Services as set forth in Exhibit A. The total amount of final payment shall consist of the compensation set forth in paragraph 2.1, as adjusted in accordance with approved change orders, if applicable, less all previous payments to Adventure Fit.
- C. Final Accounting. Adventure Fit shall provide to the Town a detailed final accounting of all payments to Adventure Fit received from the Town and of all Event Revenues generated by the Event on or before the date of the Post-Event Meeting described in Section 1.4 above.
- D. Extra Work. Should work beyond that described in **Exhibit A** be required, it will be paid for as extra work at a cost to be agreed upon in separate written agreement by the Town and Adventure Fit prior to commencement of the additional work. Such additional agreements shall be executed and approved by all persons required by Town purchasing ordinances or policies.
- E. Receipts. The Town, before making any payment, may require Adventure Fit to furnish at no additional charge releases or receipts from any or all persons performing work under this Agreement and/or supplying material or services to Adventure Fit, or any subcontractor if this is deemed necessary to protect the Town's interest. The Town, however, may in its discretion make payment in part or full to Adventure Fit without requiring the furnishing of such releases or receipts.
- F. Oskar Blues Payment. Oskar Blues shall fund a portion of the not-to-exceed amount set forth in Section 2.1 pursuant to that certain Event Agreement, dated February 22, 2017, entered into by and between the Town and Oskar Blues for the co-production of the Event. The Parties agree that the Town's performance under this Agreement is contingent upon payment by Oskar Blues to the Town pursuant to that certain February 22, 2017 Event Agreement between the Town and Oskar Blues.

2.2 Reimbursable Expenses. If this Agreement is for lump sum compensation, there shall be no reimbursable expenses. If the Agreement is for compensation based on a time and materials methodology, the following shall be considered "reimbursable expenses" for purposes of this Agreement and may be billed to the Town without administrative mark-up but which must be accounted for by Adventure Fit and proof of payment shall be provided by Adventure Fit with Adventure Fit's monthly invoices:

- None
- Vehicle Mileage (billed at not more than the prevailing per mile charge permitted by the IRS as a tax deductible business expense)
- Printing and Photocopying Related to the Services (billed at actual cost)
- Long Distance Telephone Charges Related to the Services
- Postage and Delivery Services
- Lodging and Meals (but only with prior written approval of the Town as to dates and maximum amount)

Any fee, cost, charge, or expense incurred by Adventure Fit not otherwise specifically authorized by this Agreement shall be deemed a non-reimbursable cost that shall be borne by Adventure Fit and shall not be billed or invoiced to the Town and shall not be paid by the Town.

- 2.3 Increases in Compensation or Reimbursable Expenses. Any increases or modification to the compensation or reimbursable expenses shall be subject to the approval of the Town and shall be made only by written amendment of this Agreement executed by both Parties.
- 2.4 Payment Processing. Adventure Fit shall submit invoices and requests for payment in a form acceptable to the Town. Invoices shall not be submitted more often than once each month unless otherwise approved by this Agreement or in writing by the Town in accordance with the amendment requirements of this Agreement. Unless otherwise directed or accepted by the Town, all invoices shall contain sufficient information to account for all appropriate measure(s) of Adventure Fit's work effort (e.g., task completion, work product delivery, or time) and all authorized reimbursable expenses for the Services during the stated period of the invoice. Following receipt of an invoice from Adventure Fit, the Town shall promptly review Adventure Fit's invoice. All Town payments for Services rendered pursuant to this Agreement shall be issued in the business name of Adventure Fit only, and in no event shall any such payments be issued to an individual. In no event shall any Town payments to Adventure Fit be in the form of or based upon a salary or an hourly wage rate.
- 2.5 Town Dispute of Invoice or Invoiced Item(s). The Town may dispute any Adventure Fit compensation and/or reimbursable expense requested by Adventure Fit described in any invoice and may request additional information from Adventure Fit substantiating any and all compensation sought by Adventure Fit before accepting the invoice. When additional information is requested by the Town, the Town shall advise Adventure Fit in writing, identifying the specific item(s) that are in dispute and giving specific reasons for any request for information. The Town shall pay Adventure Fit within forty-five (45) days of the receipt of an invoice for any undisputed charges or, if the Town disputes an item or invoice and additional information is requested, within thirty (30) days of acceptance of the item or invoice by the Town following receipt of the information requested and resolution of the dispute. To the extent possible, undisputed charges within the same invoice as disputed charges shall be timely paid in accordance with this Agreement. Payment by the Town shall be deemed made and completed upon hand delivery to Adventure Fit or designee of Adventure Fit or upon deposit of such payment or notice in the U.S. Mail, postage pre-paid, addressed to Adventure Fit.

3.0 ADVENTURE FIT'S REPRESENTATIONS AND OFFERED PERFORMANCE

Adventure Fit offers to perform the Services in accordance with the following Adventure Fit-elected practices and procedures. By this Agreement, the Town accepts such offer and the following are hereby made part of the terms and conditions of this Agreement:

- 3.1 General. Adventure Fit shall become fully acquainted with the available information related to the Services. Adventure Fit shall affirmatively request from the Town Representative and the Town such information that Adventure Fit, based on Adventure

Fit's professional experience, should reasonably expect is available and which would be relevant to the performance of the Services. Adventure Fit shall promptly inform the Town concerning ambiguities and uncertainties related to Adventure Fit's performance that are not addressed by the Agreement. Adventure Fit shall provide all of the Services in a timely and professional manner. Adventure Fit shall comply with all applicable federal, state and local laws, ordinances, regulations, and resolutions.

- 3.2 Independent Contractor. Adventure Fit shall perform the Services as an independent contractor and shall not be deemed by virtue of this Agreement to have entered into any partnership, joint venture, employer/employee or other relationship with the Town. This Agreement does not require Adventure Fit to work exclusively for the Town. This Agreement shall not be interpreted as the Town dictating or directing Adventure Fit's performance or the time of performance beyond a completion schedule and a range of mutually agreeable work hours, but shall be interpreted as Adventure Fit's offer and Town acceptance of terms and conditions for performance. Adventure Fit's business operations shall not be combined with the Town by virtue of this Agreement, and the Town will not provide any training to Adventure Fit, its agents, or employees beyond that minimal level required for performance of the Services. The Parties acknowledge that Adventure Fit may require some assistance or direction from the Town in order for the Services to meet the Town's contractual expectations. Any provisions in this Agreement that may appear to grant the Town the right to direct or control Adventure Fit or the Services shall be construed as Town plans or specifications regarding the Services.
- 3.3 Liability for Employment-Related Rights and Compensation. Adventure Fit shall be solely responsible for all compensation, benefits, insurance and employment-related rights of any person providing Services hereunder during the course of or arising or accruing as a result of any employment, whether past or present, with Adventure Fit, as well as all legal costs including attorney's fees incurred in the defense of any conflict or legal action resulting from such employment or related to the corporate amenities of such employment. Adventure Fit will comply with all laws, regulations, municipal codes, and ordinances and other requirements and standards applicable to Adventure Fit's employees, including, without limitation, federal and state laws governing wages and overtime, equal employment, safety and health, employees' citizenship, withholdings, reports and record keeping. **ADVENTURE FIT ACKNOWLEDGES THAT NEITHER IT NOR ITS AGENTS OR EMPLOYEES ARE ENTITLED TO UNEMPLOYMENT INSURANCE BENEFITS UNLESS ADVENTURE FIT OR SOME ENTITY OTHER THAN THE TOWN PROVIDES SUCH BENEFITS. ADVENTURE FIT FURTHER ACKNOWLEDGES THAT NEITHER IT NOR ITS AGENTS OR EMPLOYEES ARE ENTITLED TO WORKERS' COMPENSATION BENEFITS. ADVENTURE FIT ALSO ACKNOWLEDGES THAT IT IS OBLIGATED TO PAY FEDERAL AND STATE INCOME TAX ON ANY MONEYS EARNED OR PAID PURSUANT TO THIS AGREEMENT.** To the maximum extent permitted by law, Adventure Fit waives all claims against the Town for any Employee Benefits; Adventure Fit will defend the Town from any claim and will indemnify the Town against any liability for any Employee Benefits for Adventure Fit imposed on the Town ; and Adventure Fit will reimburse the Town for any award, judgment, or fine against the Town based on the position Adventure Fit was ever the Town 's employee, and all

attorneys' fees and costs the Town reasonably incurs defending itself against any such liability.

- 3.4 Interaction with Public. Adventure Fit recognizes that its conduct during the performance of the Services hereunder reflects upon its reputation in the community as well as upon the public perception of the Town. Therefore, Adventure Fit offers and warrants to the Town that Adventure Fit, its agents and employees will conduct all of their interactions with the citizens and the public relating to the performance of the Services hereunder in such a manner as to provide customer service that reflects positively upon its reputation and the Town's public image.
- 3.5 Subcontractors. The Parties recognize and agree that subcontractors may be utilized by Adventure Fit for the performance of certain Services if and as described more particularly in **Exhibit A**; however, the engagement or use of subcontractors will not relieve or excuse Adventure Fit from performance of any obligations imposed in accordance with this Agreement and Adventure Fit shall remain solely responsible for ensuring that any subcontractors engaged to perform Services hereunder shall perform such Services in accordance with all terms and conditions of this Agreement.
- 3.6 Standard of Performance. In performing the Services, Adventure Fit warrants that it shall use that degree of care, skill, and professionalism ordinarily exercised under similar circumstances by highly competent members of the same profession practicing in the State of Colorado. Adventure Fit represents to the Town that Adventure Fit is, and its employees or subcontractors performing such Services are, properly licensed and/or registered within the State of Colorado for the performance of the Services (if licensure and/or registration is required by applicable law) and that Adventure Fit and employees possess the skills, knowledge, and abilities to perform the Services competently, timely, and professionally in accordance with this Agreement. In addition, Adventure Fit warrants and represents that it will provide the Services in accordance with more specific standards of performance as are included within **Exhibit A**. Adventure Fit represents, covenants and agrees that the Services will be provided to the Town free from any material errors. Adventure Fit's failure to meet or exceed any of the foregoing standards and warranties may be considered a material breach of this Agreement and may be grounds for termination of the Agreement pursuant to Section 4.0 below, in addition to any other remedies as provided in Section 9.0 below.
- 3.7 Review of Books and Records. Adventure Fit shall promptly comply with any written Town request for the Town or any of its duly authorized representatives to reasonably access and review any books, documents, papers, and records of Adventure Fit that are pertinent to Adventure Fit's performance under this Agreement for the purpose of the Town performing an audit, examination, or other review of the Services.
- 3.8 Licenses and Permits. Adventure Fit shall be responsible at Adventure Fit's expense for obtaining, and maintaining in a valid and effective status, all licenses and permits necessary to perform the Services unless specifically stated otherwise in this Agreement.
- 3.9 Affirmative Action. Adventure Fit warrants that it will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national

origin. Adventure Fit warrants that it will take affirmative action to ensure applicants are employed, and employees are treated during employment without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

- 3.10 Employment of or Contracts with Illegal Aliens. Adventure Fit shall not knowingly employ or contract with an illegal alien to perform work under this Agreement. Adventure Fit shall not contract with a subcontractor that fails to certify that the subcontractor does not knowingly employ or contract with any illegal aliens. By entering into this Agreement, Adventure Fit certifies as of the date of this Agreement that it does not knowingly employ or contract with an illegal alien who will perform work under this contract for Services and that Adventure Fit will participate in the e-verify program or department program in order to confirm the employment eligibility of all employees who are newly hired for employment to perform work under the public contract for services. Adventure Fit is prohibited from using either the e-verify program or the department program procedures to undertake pre-employment screening of job applicants while this Agreement is being performed. If Adventure Fit obtains actual knowledge that a subcontractor performing work under this Agreement knowingly employs or contracts with an illegal alien, Adventure Fit shall be required to notify the subcontractor and the Town within three (3) days that Adventure Fit has actual knowledge that a subcontractor is employing or contracting with an illegal alien. Adventure Fit shall terminate the subcontract if the subcontractor does not stop employing or contracting with the illegal alien within three (3) days of receiving the notice regarding Adventure Fit's actual knowledge. Adventure Fit shall not terminate the subcontract if, during such three (3) days, the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien. Adventure Fit is required to comply with any reasonable request made by the Department of Labor and Employment made in the course of an investigation undertaken to determine compliance with this provision and applicable state law. If Adventure Fit violates this provision, the Town may terminate this Agreement, and Adventure Fit may be liable for actual and/or consequential damages incurred by the Town, notwithstanding any limitation on such damages provided by such Agreement.
- 3.11 Duty to Warn. Adventure Fit agrees to call to the Town's attention errors in any drawings, plans, sketches, instructions, information, requirements, procedures, and/or other data supplied to Adventure Fit that it becomes aware of and believes may be unsuitable, improper, or inaccurate in a material way. However, Adventure Fit shall not independently verify the validity, completeness or accuracy of such information unless included in the Services or otherwise expressly engaged to do so by the Town.

4.0 TERM AND TERMINATION

- 4.1 Term. This Agreement shall be effective on the **22nd of February, 2017 at 12:01 a.m.**, (the "Effective Date") and shall terminate at the earlier of the date on which all obligations of the parties have been met (to include all Services have been completed) or **11:59 p.m. on the 31st of December, 2017**, or on a prior date of termination as may be permitted by this Agreement; provided, however, that the Parties may mutually agree in writing to extend the term of this Agreement, subject to annual appropriation. Those provisions that survive termination, to include the indemnification obligations and any warranty obligations, shall remain in effect past termination.
- 4.2 Continuing Services Required. Adventure Fit shall perform the Services in accordance with this Agreement commencing on the Effective Date until such Services are terminated or suspended in accordance with this Agreement. Adventure Fit shall not temporarily delay, postpone, or suspend the performance of the Services without the written consent of the Town Board of Trustees, Town Administrator, the Town Representative, or other Town employee expressly authorized in writing to direct Adventure Fit's services.
- 4.3 Town Unilateral Termination. This Agreement may be terminated by the Town for any or no reason upon written notice delivered to Adventure Fit at least ten (10) days prior to termination. In the event of the Town's exercise of the right of unilateral termination as provided by this paragraph:
- A. Unless otherwise provided in any notice of termination, Adventure Fit shall provide no further services in connection with this Agreement after receipt of a notice of termination; and
- B. All finished or unfinished documents, data, studies and reports prepared by Adventure Fit pursuant to this Agreement shall be delivered by Adventure Fit to the Town and shall become the property of the Town; and
- C. Adventure Fit shall submit to the Town a final accounting and final invoice of charges for all outstanding and unpaid Services and reimbursable expenses performed prior to Adventure Fit's receipt of notice of termination and for any services authorized to be performed by the notice of termination as provided by Section 4.3(A) above. Such final accounting and final invoice shall be delivered to the Town within thirty (30) days of the date of termination; thereafter, no other invoice, bill, or other form of statement of charges owing to Adventure Fit shall be submitted to or accepted by the Town.
- 4.4 Termination for Non-Performance. Should a party to this Agreement fail to materially perform in accordance with the terms and conditions of this Agreement, this Agreement may be terminated by the performing party if the performing party first provides written notice to the non-performing party which notice shall specify the non-performance, provide both a demand to cure the non-performance and reasonable time to cure the non-performance, and state a date upon which the Agreement shall be terminated if there is a failure to timely cure the non-performance. For the purpose of this Section 4.4, "reasonable time" shall be not less than five (5) business days. In

the event of a failure to timely cure a non-performance and upon the date of the resulting termination for non-performance, Adventure Fit shall prepare a final accounting and final invoice of charges for all performed but unpaid Services and authorized reimbursable expenses. Such final accounting and final invoice shall be delivered to the Town within fifteen (15) days of the date of termination; thereafter, no other invoice, bill, or other form of statement of charges owing to Adventure Fit shall be submitted to or accepted by the Town. Provided that notice of non-performance is provided in accordance with this Section 4.4, nothing in this Section 4.4 shall prevent, preclude, or limit any claim or action for default or breach of contract resulting from non-performance by a Party.

- 4.5 Unilateral Suspension of Services. The Town may suspend Adventure Fit's performance of the Services at the Town's discretion and for any reason by delivery of written notice of suspension to Adventure Fit which notice shall state a specific date of suspension. Upon receipt of such notice of suspension, Adventure Fit shall immediately cease performance of the Services on the date of suspension except: (1) as may be specifically authorized by the notice of suspension (e.g., to secure the work area from damage due to weather or to complete a specific report or study); or (2) for the submission of an invoice for Services performed prior to the date of suspension in accordance with this Agreement.
- 4.6 Delivery of Notice of Termination. Any notice of termination permitted by this Section 4.0 and its subsections shall be addressed to the person signing this Agreement on behalf of either Town or Adventure Fit at the address shown below or such other address as either party may notify the other of and shall be deemed given upon delivery if personally delivered, or forty-eight (48) hours after deposited in the United States mail, postage prepaid, registered or certified mail, return receipt requested.

5.0 INSURANCE

- 5.1 Insurance Generally. During the term of this Agreement, Adventure Fit shall obtain and shall continuously maintain, at Adventure Fit's expense, insurance of the kind and in the minimum amounts specified as follows by checking the appropriate boxes:
- Adventure Fit shall obtain and maintain the types, forms, and coverage(s) of insurance deemed by Adventure Fit to be sufficient to meet or exceed Adventure Fit's minimum statutory and legal obligations arising under this Agreement ("Adventure Fit Insurance"); or
 - Adventure Fit shall secure and maintain the following ("Required Insurance"):
 - Worker's Compensation Insurance in the minimum amount required by applicable law for all employees and other persons as may be required by law. Such policy of insurance shall be endorsed to include the Town as a Certificate Holder.
 - Commercial General Liability Insurance with minimum combined single limits of **One Million Dollars (\$1,000,000.00)** each occurrence and of **Two Million Dollars (\$2,000,000.00)** aggregate. The policy shall be applicable to all

premises and all operations of Adventure Fit. The policy shall include coverage for bodily injury, broad form property damage (including completed operations), personal injury (including coverage for contractual and employee acts), blanket contractual, independent contractors, products, and completed operations. The policy shall contain a severability of interests provision. Coverage shall be provided on an "occurrence" basis as opposed to a "claims made" basis. Such insurance shall be endorsed to name the Town as Certificate Holder and name the Town, and its elected officials, officers, employees and agents as additional insured parties.

- Comprehensive Automobile Liability Insurance with minimum combined single limits for bodily injury and property damage of not less than **One Million Dollars (\$1,000,000.00)** each occurrence with respect to each of Adventure Fit's owned, hired and non-owned vehicles assigned to or used in performance of the Services. The policy shall contain a severability of interests provision. Such insurance coverage must extend to all levels of subcontractors. Such coverage must include all automotive equipment used in the performance of the Agreement, both on the work site and off the work site, and such coverage shall include non-ownership and hired cars coverage. Such insurance shall be endorsed to name the Town as Certificate Holder and name the Town, and its elected officials, officers, employees and agents as additional insured parties.
- Professional Liability (errors and omissions) Insurance with a minimum limit of coverage of _____ Dollars (\$_____) per claim and annual aggregate. Such policy of insurance shall be obtained and maintained for one (1) year following completion of all Services under this Agreement. Such policy of insurance shall be endorsed to include the Town as a Certificate Holder.
- Liquor Liability Insurance with a minimum limit of at least **One Million Dollars (\$1,000,000.00)**.

The Required Insurance shall be procured and maintained with insurers with an A- or better rating as determined by Best's Key Rating Guide. All Required Insurance shall be continuously maintained to cover all liability, claims, demands, and other obligations assumed by Adventure Fit.

5.2 Additional Requirements for All Policies. In addition to specific requirements imposed on insurance by this Section 5.0 and its subsections, insurance shall conform to all of the following:

A. For both Adventure Fit Insurance and Required Insurance, all policies of insurance shall be primary insurance, and any insurance carried by the Town, its officers, or its employees shall be excess and not contributory insurance to that provided by Adventure Fit; provided, however, that the Town shall not be obligated to obtain or maintain any insurance whatsoever for any claim, damage, or purpose arising from or related to this Agreement and the Services. Adventure Fit shall not be an insured party for any Town-obtained insurance policy or coverage.

B. For both Adventure Fit Insurance and Required Insurance, Adventure Fit shall be solely responsible for any deductible losses.

C. For Required Insurance, no policy of insurance shall contain any exclusion for bodily injury or property damage arising from completed operations.

D. For Required Insurance, every policy of insurance shall provide that the Town will receive notice no less than thirty (30) days prior to any cancellation, termination, or a material change in such policy or in the alternative, Adventure Fit shall provide such notice as soon as reasonably practicable and in no event less than thirty (30) days prior to any cancellation, termination, or a material change in such policy.

5.3 Failure to Obtain or Maintain Insurance. Adventure Fit's failure to obtain and continuously maintain policies of insurance in accordance with this Section 5.0 and its subsections shall not limit, prevent, preclude, excuse, or modify any liability, claims, demands, or other obligations of Adventure Fit arising from performance or non-performance of this Agreement. Failure on the part of Adventure Fit to obtain and to continuously maintain policies providing the required coverage, conditions, restrictions, notices, and minimum limits shall constitute a material breach of this Agreement upon which the Town may immediately terminate this Agreement, or, at its discretion, the Town may procure or renew any such policy or any extended reporting period thereto and may pay any and all premiums in connection therewith, and all monies so paid by the Town shall be repaid by Adventure Fit to the Town immediately upon demand by the Town, or at the Town's sole discretion, the Town may offset the cost of the premiums against any monies due to Adventure Fit from the Town pursuant to this Agreement.

5.4 Insurance Certificates. **Within five (5) days of the Effective Date of this Agreement, Adventure Fit shall submit to the Town certificates of insurance for all Required Insurance and all necessary endorsements.** Insurance limits, term of insurance, insured parties, and other information sufficient to demonstrate conformance with this Section 5.0 and its subsections shall be indicated on each certificate of insurance. **Certificates of insurance shall reference the Project Name as identified on the first page of this Agreement.** The Town and Oskar Blues may both request and Adventure Fit shall provide within three (3) business days of such request a current certified copy of any policy of Required Insurance and any endorsement of such policy to the requesting party. The Town may, at its election, withhold payment for Services until the requested insurance policies are received and found to be in accordance with the Agreement.

6.0 CLAIMS, INDEMNIFICATION, HOLD HARMLESS AND DEFENSE

- 6.1 Notices of Claim. A Party shall notify the other Party immediately and in writing in the event that a Party learns of a third-party claim or an allegation of a third-party claim arising or resulting from the Parties' performance or failure to perform pursuant to this Agreement. The Parties shall reasonably cooperate in sharing information concerning potential claims.
- 6.2 Claims Challenging Town Law, Ordinance, Rule, or Policy/Procedure. In the event any claim is asserted by a third party against the Town and/or Adventure Fit alleging that any law, statute, ordinance, rule or approved Town policy or procedure is unlawful, unconstitutional or otherwise improper, then:
- A. Adventure Fit shall not be entitled to and shall not defend such claim; and
 - B. The Town may, at its sole discretion, elect to defend, not defend, settle, confess, compromise, or otherwise direct the manner in which such claim is addressed; and
 - C. Adventure Fit shall reasonably cooperate with the Town in any Town defense of such claim although Adventure Fit shall bear any cost or expense incurred by Adventure Fit in such cooperation, including but not limited to Adventure Fit's cost and expense incurred in consultation with its own legal counsel; and
 - D. Only if authorized by law and without waiving the provisions of the Colorado Constitution or the Colorado Governmental Immunity Act, the Town shall indemnify and hold Adventure Fit harmless for any damages, liability, expenses, or court awards, including costs and attorney's fees that are or may be awarded as a result of any loss, injury or damage sustained or claimed to have been sustained by any third party, including but not limited to, any person, firm, partnership, or corporation, in connection with or arising out of such claim.
- 6.3 Indemnification for Certain Claims. For any claim not within the scope of Section 6.2 above, Adventure Fit expressly agrees to indemnify and hold harmless the Town, and any of its council members, board members, commissioners, officials, officers, agents, contractors, attorneys, or employees from any and all damages, liability, expenses, or court awards, including costs and attorney's fees that are or may be awarded as a result of any loss, injury or damage sustained or claimed to have been sustained by any third party, including but not limited to, any person, firm, partnership, or corporation, in connection with or arising out of any intentional, reckless, negligent or tortious conduct, error, omission, or act of commission by Adventure Fit or any of its employees, agents, or others acting on Adventure Fit's behalf in performance of the Services. Nothing in this Agreement shall be construed as constituting a covenant, promise, or agreement by Adventure Fit to indemnify or hold the Town, its elected officials, board members, commissioners, officials, officers, agents, contractors, attorneys, or employees harmless for any negligence solely attributable to the Town, its elected officials, boards, commissions, officials, officers, agents, contractors, attorneys, or employees. Adventure Fit's obligation to indemnify pursuant to this Section shall survive the completion of the Services and shall survive the termination of this Agreement.

6.4 Defense of Claims.

- A. Claims Against Both the Town and Adventure Fit. In the event any claim is asserted by a third party against both the Town and Adventure Fit arising out of any Party's performance of the Services which claim is not within the scope of Section 6.2 above, the Town shall be entitled to elect to defend such claim on behalf of both the Town and Adventure Fit subject to the provisions governing indemnification set forth in this Section. In the event that the Town elects to defend such claim, the Town shall consult with Adventure Fit in such defense but the Town is entitled to exercise its independent discretion in the manner of defense, including but not limited to the selection of litigation counsel and the discretion to settle, confess, compromise, or otherwise direct and dispose of any claim. In the event that the Town elects to defend such claim, Adventure Fit may at its own cost and expense elect to assume the defense of Adventure Fit, in which case Adventure Fit shall bear its own attorneys' fees, costs, and expenses in such defense and such fees, costs, and expenses shall not be subject to indemnification pursuant to this Section.
- B. Claims Against Only One Party. In the event of any claim asserted by a third party against only one Party to this Agreement arising out of any Party's performance of the Services which claim is not within the scope of Section 6.2 above, the Party shall be entitled to elect to defend such claim on behalf of such Party subject to the provisions governing indemnification set forth in this Section. Where appropriate, the defending Party may also elect to join the other Party through third-party practice or otherwise in accordance with the Colorado Rules of Civil Procedure or other applicable rules, in which case the joined Party may defend such claim subject to indemnification pursuant to this Section. In the event that a Party elects to intervene voluntarily in any claim asserted against the other Party arising out of any Party's performance of the Services or any claim that any law, statute, ordinance, rule or approved Town policy or procedure is unlawful, unconstitutional or otherwise improper, the intervening Party shall bear its own attorneys' fees, costs, and expenses in such intervention and such fees, costs, and expenses shall not be subject to indemnification pursuant to this Section.

7.0 RECORDS AND OWNERSHIP OF DOCUMENTS

- 7.1 Retention and Open Records Act Compliance. All records of Adventure Fit related to the provision of Services hereunder, including public records as defined in the Colorado Open Records Act ("CORA"), and records produced or maintained in accordance with this Agreement, are to be retained and stored in accordance with the Town's records retention and disposal policies. Those records which constitute "public records" under CORA are to be at the Town offices or accessible and opened for public inspection in accordance with CORA and Town policies. Public records requests for such records shall be processed in accordance with Town policies. Adventure Fit agrees to allow access by the Town and the public to all documents subject to disclosure under applicable law. Adventure Fit's willful failure or refusal to comply with the provisions of this Section shall result in the immediate termination of this Agreement by the Town. For purposes of CORA, the Town Clerk is the custodian of all records produced or created as a result of this Agreement.

Nothing contained herein shall limit Adventure Fit's right to defend against disclosure of records alleged to be public.

- 7.2 Town's Right of Inspection. The Town shall have the right to request that Adventure Fit provide to the Town a list of all records of Adventure Fit related to the provision of Services hereunder retained by Adventure Fit in accordance with this subsection and the storage location and method. Adventure Fit agrees to allow inspection at reasonable times by the Town of all documents and records produced or maintained in accordance with this Agreement.
- 7.3 Ownership. Any work product, materials, and documents produced by Adventure Fit pursuant to this Agreement shall become property of the Town of Lyons upon delivery and shall not be made subject to any copyright unless authorized by the Town. Other materials, methodology and proprietary work used or provided by Adventure Fit to the Town not specifically created and delivered pursuant to the Services outlined in this Agreement may be protected by a copyright held by Adventure Fit and Adventure Fit reserves all rights granted to it by any copyright. The Town shall not reproduce, sell, or otherwise make copies of any copyrighted material, subject to the following exceptions: (1) for exclusive use internally by Town staff and/or Town contractors; or (2) pursuant to a request under the Colorado Open Records Act, C.R.S. § 24-72-203, to the extent that such statute applies; or (3) pursuant to law, regulation, or court order. Adventure Fit waives any right to prevent its name from being used in connection with the Services.
- 7.4 Return of Records to Town. At the Town's request, upon expiration or termination of this Agreement, all records of Adventure Fit related to the provision of Services hereunder, including public records as defined in the Colorado Open Records Act ("CORA"), and records produced or maintained in accordance with this Agreement, are to be returned to the Town in a reasonable format and with an index as determined and requested by the Town.

8.0 FORCE MAJEURE

Neither Adventure Fit nor the Town shall be liable for any delay in, or failure of performance of, any covenant or promise contained in this Agreement, nor shall any delay or failure constitute default or give rise to any liability for damages if, and only to extent that, such delay or failure is caused by "force majeure." As used in this Agreement, "force majeure" means acts of God, acts of the public enemy, acts of terrorism, unusually severe weather, fires, floods, epidemics, quarantines, strikes, labor disputes and freight embargoes, to the extent such events were not the result of, or were not aggravated by, the acts or omissions of the non-performing or delayed party.

9.0 REMEDIES

In addition to any other remedies provided for in this Agreement, and without limiting its remedies available at law, the Town may exercise the following remedial actions if Adventure Fit substantially fails to perform the duties and obligations of this Agreement. Substantial failure to perform the duties and obligations of this Agreement shall mean a significant, insufficient, incorrect, or improper performance, activities or inactions by Adventure Fit. The remedial actions include:

- A. Suspend Adventure Fit's performance pending necessary corrective action as specified by the Town without Adventure Fit's entitlement to an adjustment in any charge, fee, rate, price, cost, or schedule; and/or
- B. Withhold payment to Adventure Fit until the necessary services or corrections in performance are satisfactorily completed; and/or
- C. Deny payment for those services which have not been satisfactorily performed, and which, due to circumstances caused by Adventure Fit, cannot be performed, or if performed would be of no value to the Town; and/or
- D. Terminate this Agreement in accordance with this Agreement; and/or
- E. Other remedies as may be provided by attached addendum or addenda.

The foregoing remedies are cumulative and the Town, in its sole discretion, may exercise any or all of the remedies individually or simultaneously.

10.0 MISCELLANEOUS PROVISIONS

- 10.1 No Waiver of Rights. A waiver by any Party to this Agreement of the breach of any term or provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach by either Party. The Town's approval or acceptance of, or payment for, services shall not be construed to operate as a waiver of any rights or benefits to be provided under this Agreement. No covenant or term of this Agreement shall be deemed to be waived by the Town except in writing signed by the Town Council or by a person expressly authorized to sign such waiver, and any written waiver of a right shall not be construed to be a waiver of any other right or to be a continuing waiver unless specifically stated.
- 10.2 No Waiver of Governmental Immunity. Nothing in this Agreement shall be construed to waive, limit, or otherwise modify any governmental immunity that may be available by law to the Town, its officials, employees, contractors, or agents, or any other person acting on behalf of the Town and, in particular, governmental immunity afforded or available pursuant to the Colorado Governmental Immunity Act, Title 24, Article 10 of the Colorado Revised Statutes.
- 10.3 Binding Effect. The Parties agree that this Agreement, by its terms, shall be binding upon the successors, heirs, legal representatives, and assigns; provided that this Section 10.3 shall not authorize assignment.
- 10.4 No Third-Party Beneficiaries. Nothing contained in this Agreement is intended to or shall create a contractual relationship with, cause of action in favor of, or claim for relief for, any third party, including any agent, subconsultant or subcontractor of Adventure Fit. Absolutely no third-party beneficiaries are intended by this Agreement. Any third party receiving a benefit from this Agreement is an incidental and unintended beneficiary only.

- 10.5 Article X, Section 20/TABOR. The Parties understand and acknowledge that the Town is subject to Article X, § 20 of the Colorado Constitution ("TABOR"). The Parties do not intend to violate the terms and requirements of TABOR by the execution of this Agreement. It is understood and agreed that this Agreement does not create a multi-fiscal year direct or indirect debt or obligation within the meaning of TABOR and, therefore, notwithstanding anything in this Agreement to the contrary, all payment obligations of the Town are expressly dependent and conditioned upon the continuing availability of funds beyond the term of the Town's current fiscal period ending upon the next succeeding December 31. Financial obligations of the Town payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available in accordance with the rules, regulations, and resolutions of Town of Centennial, and other applicable law. Upon the failure to appropriate such funds, this Agreement shall be terminated.
- 10.6 Governing Law, Venue, and Enforcement. This Agreement shall be governed by and interpreted according to the law of the State of Colorado. Venue for any action arising under this Agreement shall be in the appropriate court for Boulder County, Colorado. To reduce the cost of dispute resolution and to expedite the resolution of disputes under this Agreement, the Parties hereby waive any and all right either may have to request a jury trial in any civil action relating primarily to the enforcement of this Agreement. The Parties agree that the rule that ambiguities in a contract are to be construed against the drafting party shall not apply to the interpretation of this Agreement. If there is any conflict between the language of this Agreement and any exhibit or attachment, the language of this Agreement shall govern.
- 10.7 Survival of Terms and Conditions. The Parties understand and agree that all terms and conditions of the Agreement that require continued performance, compliance, or effect beyond the termination date of the Agreement shall survive such termination date and shall be enforceable in the event of a failure to perform or comply.
- 10.8 Assignment and Release. All or part of the rights, duties, obligations, responsibilities, or benefits set forth in this Agreement shall not be assigned by Adventure Fit without the express written consent of the Town. Any written assignment shall expressly refer to this Agreement, specify the particular rights, duties, obligations, responsibilities, or benefits so assigned, and shall not be effective unless approved by the Town through the authorizing agent executing this Agreement. No assignment shall release Adventure Fit from performance of any duty, obligation, or responsibility unless such release is clearly expressed in such written document of assignment.
- 10.9 Interpretation and Mutual Negotiation. It is the intent of the Parties that this Agreement shall in all instances be interpreted to reflect Adventure Fit's status as an independent contractor with the Town and that in no event shall this Agreement be interpreted as establishing an employment relationship between the Town and either Adventure Fit or Adventure Fit's employees, agents, or representatives. The Parties agree that this Agreement is the result of mutual negotiation between the

Parties and that the Agreement shall not be construed against the Town on grounds relating to drafting, revision, review, or recommendation by any agent or representative of the Town. The Parties further agree that all warranties in this Agreement are made by Adventure Fit to induce the Town to accept Adventure Fit's offer to enter into this Agreement and have been incorporated into the Agreement at Adventure Fit's request.

- 10.10 Paragraph Captions. The captions of the paragraphs and sections are set forth only for the convenience and reference of the Parties and are not intended in any way to define, limit or describe the scope or intent of this Agreement.
- 10.11 Agreement Controls. In the event a conflict exists between this Agreement and any term in any exhibit attached or incorporated into this Agreement, the terms in this Agreement shall supersede the terms in such exhibit.
- 10.12 Integration and Amendment. This Agreement represents the entire and integrated agreement between the Town and Adventure Fit and supersedes all prior negotiations, representations, or agreements, either written or oral. Any amendments to this Agreement must be in writing and be signed by both the Town and Adventure Fit.
- 10.13 Severability. Invalidation of any of the provisions of this Agreement or any paragraph, sentence, clause, phrase, or word herein or the application thereof in any given circumstance shall not affect the validity of any other provision of this Agreement.
- 10.14 Incorporation of Exhibits. Unless otherwise stated in this Agreement, exhibits, applications, or documents referenced in this Agreement shall be incorporated into this Agreement for all purposes. In the event of a conflict between any incorporated exhibit and this Agreement, the provisions of this Agreement shall govern and control.
- 10.15 Notices. Unless otherwise specifically required by a provision of this Agreement, any notice required or permitted by this Agreement shall be in writing and shall be deemed to have been sufficiently given for all purposes if sent by certified mail or registered mail, postage and fees prepaid, addressed to the Party to whom such notice is to be given at the address set forth below or at such other address as has been previously furnished in writing, to the other Party. Such notice shall be deemed to have been given when deposited in the United States Mail properly addressed to the intended recipient.

If to the Town :

If to Adventure Fit:

Town Administrator Lyons Town Hall PO Box 49 432 5th Ave, Lyons, CO 80540	Adventure Fit Inc Attn: _____ 1891 Oak Avenue Boulder, CO 80304
With Copy to: Lyons Town Attorney Michow Cox & McAskin LLP 6530 S. Yosemite Street, Suite 200 Greenwood Village, Colorado 80111	With Copy to:

10.16 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall constitute an original and all of which shall constitute one and the same document. In addition, the Parties specifically acknowledge and agree that electronic signatures shall be effective for all purposes, in accordance with the provisions of the Uniform Electronic Transactions Act, Title 24, Article 71.3 of the Colorado Revised Statutes.

11.0 ATTACHMENTS

11.1 Attachments. The following are attached to and incorporated into this Agreement by reference:

- Scope of Work (**Exhibit A**)
- Compensation (**Exhibit B**)
- Federal Emergency Management Agency (“FEMA”) Grant Program Requirements for Procurement Contracts
- Colorado Community Development Block Grant Disaster Recovery Program (“CDBG-DR”) Requirements for Contracts
- Economic Development Administration (“EDA”) Requirements for Procurement Contracts
- Patent Rights for Small Business Firms and Non-Profit Organizations

- Adventure Fit's Certificate(s) of Insurance
- Proof of Professional Licensing
- Other: **Addendum to Event Management Services PSA**

12.0 AUTHORITY

The individuals executing this Agreement represent that they are expressly authorized to enter into this Agreement on behalf of Town of Lyons and Adventure Fit and bind their respective entities.

REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK

SIGNATURE PAGE FOLLOWS

THIS AGREEMENT is executed and made effective as provided above.

TOWN OF LYONS, COLORADO:

Approval by Town Board of Trustees

Not Required

By: _____
Mayor or Mayor Pro Tem

Approval by Town Administrator

Not Required

By: _____
Victoria Simonsen, Town Administrator

ATTEST:

Debra K. Anthony Town Clerk

APPROVED AS TO FORM (Excluding Exhibits)

Not Required

Kathie Guchenberger
For Town Attorney's Office

ADVENTURE FIT:

By: _____

Printed name: _____

Its: _____

STATE OF _____)
COUNTY OF _____) ss.

The foregoing Professional Services Agreement was acknowledged before me this ____ day of _____, 20____, by _____ as _____ of _____, a _____.

Witness my hand and official seal.

My commission expires: _____.

Notary Public
(Required for all contracts (C.R.S. § 8-40-202(2)(b)(IV)))

Event Production Proposal for:



Overview of Situation:

We are excited about the opportunity to work with Oskar Blues and the Town of Lyons to produce the premier event for the Town and Brewery. Both Burning Can and the Lyons Outdoor Games are valuable assets due to their heritage, economic impact on the town, and for the amount of awareness the events attract. The Town and Lyons and Oskar Blues wish to consolidate the two events into a streamlined production that creates efficiencies, and drives additional revenue due to it's improved identity.

Adventure Fit Approach:

At Adventure Fit, we specialize in crafting and producing custom events that build relationships between brands and customers. Our deep understanding of the active market and 14 years of productions allows us to develop creative events and result-driven solutions for our clients. A great event can truly change a person's life – opening their eyes to a new lifestyle and creating a relationship with a brand. Our goal is to spark that relationship.

Adventure Fit is highly experienced at turn-key event production, allowing our partners to focus on other elements of their business, while knowing the events will be produced flawlessly

Objectives:

- Raise funds for the Town of Lyons and the CAN'd Aid Foundation
- Increase overall attendance
- Increase recognition of Lyons as a premier outdoor destination
- Streamline production while integrating new elements that innovate the event.





Scope of Work:

Event Innovation: We will work with Oskar Blues and the Town of Lyons to gain a clear understanding of your vision for the event, execute the plan to bring it to life.

Site Planning: we will create an efficient attendee traffic flow and strategic event footprint.

Brewery Management: We will handle communication with the attending breweries: registering breweries, fulfilling rental needs, sending event details and schedules.

Event Logistics: We will manage all moving parts of the event: music, sports, vendors, food, beer, camping, and infrastructure.

Registration: We will handle Eventbrite registration set up, sales, and customer service.

Marketing: Based on proposed advertising budget, Adventure Fit will develop a multi-media marketing plan including: press releases, email marketing, partnership marketing, calendar listings, poster distribution media trade, email/offer automation to promote the event to a targeted audience.

Event Set Up:: We will rent and set up infrastructure (tents, tables, chairs, banners) based on the detailed site map

Staffing: We will staff the event to ensure efficient event day processes.

Breakdown: All infrastructure will be removed and we will work with zero-waste providers to 'leave' no trace'.

Sponsorship Management and Activations: Sales, communication, and sponsorship agreement activation will be Adventure Fit responsibility.



www.adventurefit.com

Adventure Fit, Inc.

Boulder, Colorado

303-408-0747

Strategy:

Stage 1: Brand Innovation

We must move quickly to rebrand the event and create the media necessary to launch the 2017 event. This includes: Website development, revised naming and branding, social media accounts, and a press release announcing the news.

Stage 1 cost: \$5000 (including graphic design, website changes, and marketing materials)

Stage 1 timeline: Feb 1 – March 1

Stage 2: Event Planning

We will organize all the necessary people, infrastructure, and partners to produce the following event program:

- Concert with 3 bands
- Beer festival integrated with outdoor lifestyle vendors
- Improved food and beverage selection that drives additional revenue
- Running event
- Kayaking event
- Slackline event
- BMX event
- Mountain Bike event
- Road Bike event
- Kids area
- Dog event
- Camping

Stage 2 cost: event budget: \$100,000 (includes all production, marketing, staff, program, and infrastructure costs)

Stage 2 timeline: March 1 – May 30





Stage 3: Event Marketing

Once the website is in place, we will roll out an integrated campaign that combines digital media, partner collaboration, lead generation with auto email response, retargeting on Facebook and Google network, poster distribution, and press releases.

Adventure Fit will also utilize our local email database of outdoor-lifestyle participants to drive ticket sales

Stage 3 timing: March 15 – June 1

Stage 3 pricing: Marketing budget totaling \$7900 is included in Stage 2 event budget.

Stage 4: Event Production

All the pieces come together at the end of May when the media is invited to a launch party at Oskar Blues, Bohn Park comes to life, and the gates open for business. Attendees' expectations will be exceeded due to the enhanced event program, attention to detail, sponsor activations, and customer service

Stage 4 timing: May 30 – June 4

Stage 4 pricing:

- \$50,000 Event Management fee
- 50% of sponsorship and vendor sales

Stage 5: Event Reporting

A comprehensive report will be delivered that includes:

- Media coverage: outlets and impressions
- Marketing results: impressions and click-through
- Attendance detail
- Revenue detail
- Budget detail

Stage 5 timing: Delivered June 30th.

Stage 5 pricing: included in Stage 4 fees



www.adventurefit.com

Adventure Fit, Inc.

Boulder, Colorado

303-408-0747



Event Program detail:

Sport events will be provided a \$1000 - \$2000 budget for their event and will be expected to pay LOG/Burning Can \$5 for each participant. The sport events would retain their entry fee revenue aside from the \$5/participant fee paid to LOG/Burning Can.

Admission Pricing structure:

- \$5 children 6 – 12
- \$15 general admission 13 and over
- \$40-\$50 Burning Can admission
- \$60-\$70 VIP admission

We anticipate the following ratio:

- 10%: Kids Admission
- 30%: General Admission
- 50%: Burning Can Admission
- 10%: VIP Admission

Food and other vendor fees would cost \$500 not including access to power

New Event Elements would include:

- Mountain Bike demos: Bike companies would pay a vendor fee
- Road Bike event TBD
- Dog event: ideally dockdogs or Ultimate Air Dogs
- Sunday Morning yoga, hikes, and breakfast
- Running event: Trail running race, potentially in addition to Beer Relay

Timeline:

2/15/17	Contract signed
2/15/17	Vision Meeting
3/1/17	Marketing Plan approved
3/15/17	Implement Marketing Efforts
3/15/17	Brewery Selection Complete
5/30 – 6/2	Festival Set up
6/3	Event Day Activation
6/4	Breakdown

We thank you for this opportunity and hope to get this project underway!



EXHIBIT B
Compensation

Compensation Paid to Adventure Fit:

1. As consideration for the benefits and services it receives under this Agreement and contingent upon payment by Oskar Blues to the Town pursuant to that certain Event Agreement, dated February 22, 2017, the Town agrees to pay to Adventure Fit the following amounts subject to the not-to-exceed amount in Section 2.0 of the Agreement:
 - a) \$50,000 for event management services; and
 - b) \$110,000 for event production budget.
2. In addition to the payments above, Adventure Fit shall, after subtracting any activation expenses, receive fifty percent (50%) of all Event sponsorship sales.
3. Payment Schedule. The Town shall pay Adventure Fit the following amounts in accordance with the schedule set forth below:
 - a) Within ten (10) days of execution of this Agreement: \$25,000 (half of the event management services fee)
 - b) April 1, 2017: \$60,000 (first portion of the event production budget)
 - c) June 1, 2017: \$50,000 (final portion of the event production budget)
 - d) At the Post-Event Meeting with Oskar Blues and Adventure Fit, which shall be held no later than June 30, 2017: \$25,000 (second half of the event management services fee)

Event Revenues:

1. With the exception of sponsorship sales, Adventure Fit shall remit all revenues generated by the Event ("Event Revenues") to the Town to be split between the Town and Oskar Blues in accordance with that certain Event Agreement, dated February 22, 2017.
 - a) Event Revenues shall include but not be limited to:
 - i. Event ticket sales after subtracting the ticket service fee paid to Eventbrite,
 - ii. Event camping registration fees,
 - iii. A portion of the participant fees from the sporting events as set forth below,
 - iv. Event alcohol sales,
 - v. Sponsorship sales subject to the terms below,

- vi. Event parking fees,
 - vii. Event merchandise sales, and
 - viii. Any other revenue generated from the Event.
- b) Adventure Fit shall remit to the Town, as part of the Event Revenues, Five Dollars (\$5.00) per paid participant for each sporting event at the Event to be split equally between the Town and Oskar Blues in accordance with that certain Event Agreement, dated February 22, 2017.
- c) Adventure Fit shall, after subtracting any activation expenses, remit fifty percent (50%) of all Event sponsorship sales to the Town to be split equally between the Town and Oskar Blues in accordance with that certain Event Agreement, dated February 22, 2017.

ADDENDUM TO PROFESSIONAL SERVICES AGREEMENT
FOR EVENT MANAGEMENT SERVICES

1. Event Details. The Event shall be held within the Town of Lyons at Bohn Park on June ____, 2017 through June ____, 2017. Bohn Park is located at 219 2nd Avenue in Lyons, Colorado. The hours of operation shall be from _____ to _____ on each day of the Event. The name of the Event is _____.

2. Event Sponsorship. Adventure Fit is granted exclusive rights to sell Event sponsorships. Adventure Fit will manage Event sponsorships including communication with the sponsor, assistance with sponsorship activation, and fulfillment of digital marketing components of sponsorships.

3. Grant of License.

(a) The Town and Adventure Fit shall have a non-exclusive, royalty free, non-transferable license ("Trademark License") to use the name, logo, any item used in connection with that name or logo, and the registered symbols and trademarks of the other party (the "Trademarks") only for the purposes set forth in this Agreement. Neither party will use the other's Trademarks without obtaining the prior approval of the other party. Any materials using Trademarks which are submitted to one party by the other are deemed to be approved if the receiving party has not disapproved the material in writing within ten (10) business days after it receives a request for approval. The parties shall not unreasonably disapprove any material. If any material is disapproved by one party, it will advise the other of the specific reasons for the disapproval. Once materials are approved by one party, the other party may make multiple uses of those approved materials and any images, likenesses, and photographs contained therein in the same or substantially similar media without seeking the other party's further approval.

(b) The approval by a party to use its registered symbols or trademarks does not convey any rights, title or interest to the other party in and to such registered symbols and trademarks. The party receiving permission to use a registered symbol or trademark will (i) follow all reasonable instructions from the owner regarding that symbol or trademark; and (ii) take all reasonable steps to protect it, including, when appropriate, using the symbols "®" or "™".

(c) Each party acknowledges the other party's right, title, and interest in and to its own Trademarks and acknowledges that its use of the other party's Trademarks shall not create any right, title, or interest by such party in or to the other party's Trademarks. Each party agrees that it shall not authorize or represent that it is empowered to authorize any other person to use the other party's Trademarks nor in any manner represent that it has any ownership rights in the other party's Trademarks.

(d) Adventure Fit grants Oskar Blues Brewery, LLC a non-exclusive, royalty free, non-transferable license ("Trademark License") to use the name, logo, any item used in connection with that name or logo, and the registered symbols and trademarks of Adventure Fit only for the purposes set forth in this Agreement. Adventure Fit acknowledges that Oskar Blues grants Adventure Fit a Trademark License as set forth in that certain Event Agreement, dated February 22, 2017, between the Town and Oskar Blues. Adventure Fit will not use Oskar Blues' Trademarks without obtaining the prior approval of Oskar Blues. Any materials using Trademarks which are submitted to Adventure Fit by Oskar Blues are deemed to be approved if Adventure Fit has not disapproved the material in writing within ten (10) business days after it receives a request for approval. Adventure Fit shall not unreasonably disapprove any material. If any material is disapproved by Adventure Fit, it will advise Oskar Blues of the specific reasons for the disapproval. Once materials are approved by Adventure Fit, Oskar Blues may make multiple uses of those approved materials and any images, likenesses, and photographs contained therein in the same or substantially similar media without seeking the other party's further approval.

(e) Any Trademark License granted under this Addendum shall expire on or before the 30th day of November, 2017.

4. Representations, Warranties and Covenants.

(a) Adventure Fit hereby represents, warrants and agrees that (a) it has the full right and authority to enter into and fully perform this Agreement in accordance with its terms and that this Agreement constitutes a valid, binding and enforceable agreement, (b) it shall perform its activities under this Agreement in accordance with all applicable Federal, state and local laws and regulations, (c) the execution, delivery and performance of this Agreement will not violate the provisions of any agreement to which it is a party or by which it is bound, (d) it shall, at its own cost, apply for and secure any and all permits, licenses or other consents which may be required for the performance of its obligations under this Agreement, (e) that the person signing this Agreement on behalf of such party has the full authority to do so, (f) it has good title to its Trademarks and has the right to grant the license provided for hereunder in accordance with the terms and conditions hereof, (g) the Event and each Event will be held in accordance with all applicable laws, rules and regulations and will be conducted in a professional manner and in accordance with industry standards, (h) the Town's and Oskar Blues' use of Adventure Fit's Trademarks under the terms of this Agreement does not infringe the proprietary rights of any third party, and (i) there is no claim, action, proceeding or other litigation pending or threatened (to the knowledge of Adventure Fit) with respect to Adventure Fit's ownership of its Trademarks that, if adversely determined, would restrict or otherwise interfere in any material respect with the exercise by the Town or Oskar Blues of the rights purported to be granted the Town or Oskar Blues hereunder. By entering into this Agreement, Adventure Fit acknowledges that the Town does not assume any responsibility for organizing or managing any of the activities or events of Adventure Fit or its affiliates, agents or designees covered under this Agreement.

(b) The Town hereby represents, warrants and agrees that (a) it has the full right and authority to enter into and fully perform this Agreement in accordance with its terms and that this Agreement constitutes a valid, binding and enforceable agreement, (b) it shall perform its activities under the Agreement in accordance with all applicable Federal, state and local laws and regulations, (c) the execution, delivery and performance of this Agreement will not violate the provisions of any agreement to which it is a party or by which it is bound, (d) it shall, at its own cost, apply for and secure any and all permits, licenses or other consents which may be required for the performance of its obligations under this Agreement, (e) that the person signing this Agreement on behalf of such party has the full authority to do so, (f) it has good title to its Trademarks and has the right to grant the license provided for hereunder in accordance with the terms and conditions hereof, (g) Adventure Fit's use of the Town's Trademarks under the terms of this Agreement does not infringe the proprietary rights of any third party, and (h) there is no claim, action, proceeding or other litigation pending or threatened (to the knowledge of the Town) with respect to the Town's ownership of its Trademarks that, if adversely determined, would restrict or otherwise interfere in any material respect with the exercise by Adventure Fit of the rights purported to be granted to Adventure Fit hereunder.

5. Right of First Refusal: For a period of one (1) year, the Town grants Adventure Fit a right of first refusal to manage the Event in 2018. Adventure Fit acknowledges that pursuant to that certain Event Agreement, dated February 22, 2017, Oskar Blues grants Adventure Fit a right of first refusal to manage the Event in 2018. The right of first refusal will survive the termination of this Agreement for the period set forth herein.

6. Confidentiality. This Section 6 is subject to the requirements of the Colorado Open Records Act as set forth in § 24-72-201 *et seq.*, C.R.S., and as set forth in Section 7.0 of the Agreement. For purposes of this Agreement, "Confidential Information" means any and all information or proprietary materials in every form and media not generally known in the relevant trade or industry and which has been or is hereafter disclosed or made available by one party (the "Disclosing Party") to any other party (the "Receiving Party") in connection with the efforts contemplated hereunder, including but not limited to: (a) trade secrets; (b) existing or contemplated products, services, designs, technology, processes, technical data, engineering, techniques, methodologies and concepts and any information related thereto; (c) information relating to business plans, sales or marketing methods and customer lists or requirements; (d) all lists of the Town's current, former and prospective customers, employees of customers and claimants and all information relating to and identified with such persons; and (e) any information which, under the circumstances taken as a whole, would reasonably be deemed to be confidential. Unless prohibited by

law, Receiving Party shall hold in trust and confidence Confidential Information and, except as otherwise set forth herein, avoid the disclosure, release, or dissemination thereof to any other person or entity using the same degree of care as it uses to avoid the unauthorized disclosure, release or dissemination of its own confidential information of similar nature, but not less than reasonable care. Receiving Party shall be permitted to disclose Disclosing Party's Confidential Information to Receiving Party's employees, agents, and contractors to the extent necessary to fulfill the terms contemplated by this Agreement. The Receiving Party shall return or, at the Disclosing Party's request destroy, any and all copies of the Disclosing Party's Confidential Information in the Receiving Party's possession and/or control within 7 days of the termination or expiration of this Agreement.

7. No Joint Venture. This Agreement does not constitute and may not be construed as constituting a partnership or joint venture between the parties. Neither party may obligate or bind the other in any manner whatsoever, and nothing in this Agreement gives any rights to any third person. At all times, the parties are independent contractors.

8. Other Instruments. The parties will execute and deliver such other and further instruments and documents as are or may become necessary to effectuate and carry out the rights, responsibilities, and obligations created by this Agreement.

9. No Restrictions. Nothing contained in this Agreement shall be deemed in any way to prohibit or restrict the right or freedom of any party to conduct any business activity unrelated to the Event without any obligation or accountability to the other even if such business or activity directly competes with the business of the other.

10. Permit Acquisition and Fees. The Town shall cooperate with and assist Adventure Fit in obtaining any applicable permits for the Event. The Town agrees not to charge Adventure Fit any permit fee for the use of Bohn Park for the Event.

11. Emergency Plan. The Town and Oskar Blues shall jointly create and approve an emergency plan for the Event, which could include a first-aid station equipped with emergency medical technicians on standby throughout the scheduled Event hours if needed, pursuant to that certain Event Agreement, dated February 22, 2017. The Town will provide a copy of the emergency plan to Adventure Fit Inc prior to the first day of the Event.

12. Security. The Parties agree to coordinate with the Boulder County Sheriff's Office and Oskar Blues to provide security for the Event in compliance with any applicable laws, policies, or regulations.

13. Event Participation Waivers. The Event website, which is maintained by Oskar Blues, shall include an online registration form for Event participants that includes a participant waiver ("Event Participation Waiver") and online payment option. The Event Participation Waiver shall be required for all participants and members of the public registering for or entering the Event. The waiver shall release the Town, Oskar Blues, and Adventure Fit Inc from all liability for injuries or damages to any registered participant that occur during the Event to the maximum extent allowed by law. Adventure Fit shall make a hard copy of the Event Participation Waiver available at the entrance to the Event for Event participants to sign who do not register for the Event online.

14. Vendor Permits. Adventure Fit shall ensure that all Event vendors have the applicable permits and/or licenses required by local and state law.

15. Event Fence. The Event shall be contained within a fence that is six (6) feet tall. Adventure Fit will be responsible for the set up and take down of this fence and for all costs associated therewith.

16. Damage to Town Property. Adventure Fit is aware that Bohn Park is a public park space, and therefore Adventure Fit shall take all steps necessary to prevent injury to vegetation, wildlife, or historic structures and objects and shall be responsible to the Town for any damage caused by Adventure Fit or its

agents and employees. Adventure Fit shall preserve and maintain Bohn Park in the same condition as that existing prior to the Event. In the event of any damages to Bohn Park occurring during the Event caused by Adventure Fit, its employees, agents, or affiliates prior to, during, or following the Event, Adventure Fit shall pay for the actual cost of repair, replacement, or remedy of such damage. In the event of such damage, the Town shall send Adventure Fit an invoice detailing the costs of the damage, and Adventure Fit's failure to pay such costs within ten (10) days of receipt of such invoice shall constitute breach of the Agreement.

17. Clean Up. Adventure Fit shall restore Bohn Park to the same condition as that existing prior to the Event and shall ensure the removal of all litter, trash, and debris, and shall remove all Adventure Fit equipment used in conjunction with the Even by 5:00p.m. on June 4, 2017.