

RESOLUTION NO. 22-2020

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS, AUTHORIZING THE CITY MANAGER TO FINALIZE AND EXECUTE A MEMORANDUM OF UNDERSTANDING (“MOU”) WITH STACEY S. SMITH RODEO COMPANY, INC. (“RODEO CO.”), TO OUTLINE THE BASIC PRINCIPLES IN A HOTEL OCCUPANCY TAX GRANT AGREEMENT (“GRANT AGREEMENT”); AND AUTHORIZING THE CITY MANAGER TO NEGOTIATE THE TERMS AND PROVISIONS OF THE GRANT AGREEMENT, FINALIZE, EXECUTE AND ADMINISTER THE GRANT AGREEMENT.

WHEREAS, the City of Mesquite (“**City**”) is home to the Mesquite Championship Rodeo (“**MCR**”), a world renowned rodeo that draws tourists from around Texas as well as from around the United States and the world; and

WHEREAS, the Texas Legislature has declared the City as the “Rodeo Capital of Texas”; and

WHEREAS, Stacey S. Smith Rodeo Company, Inc. produces professional rodeos around the United States including the MCR; and

WHEREAS, a large number of participants in and fans of the MCR are tourists staying overnight in local hotels and motels, which positively impacts the local economy; and

WHEREAS, Chapter 351 of the Texas Tax Code (“**Chapter 351**”) addresses expenditures of the municipal hotel occupancy tax revenue; and

WHEREAS, the City has determined that continuing the production of the MCR will promote tourism as well as the convention and hotel industry within the City, and that advertising and conducting solicitations and promotional programs to attract tourists to the City for the MCR is eligible for funding under Chapter 351; and

WHEREAS, the Memorandum of Understanding attached hereto as Exhibit A and made a part hereof for all purposes (“**MOU**”) outlines the basic principles to be embodied in a definitive Hotel Occupancy Tax Grant Agreement (“**Grant Agreement**”) between the City and Stacey S. Smith Rodeo Company, Inc. to fund Chapter 351 eligible expenses; and

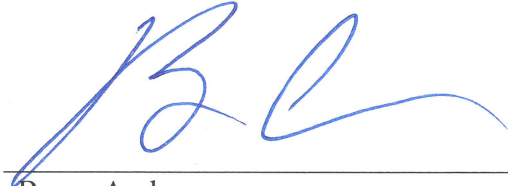
WHEREAS, the Mesquite City Council is of the opinion and finds that the MOU and the Grant Agreement contemplated therein is in the public interest of the City and its citizens.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS:

SECTION 1. That the City Manager is hereby authorized to finalize and execute the MOU, attached hereto as Exhibit A and made a part hereof for all purposes.

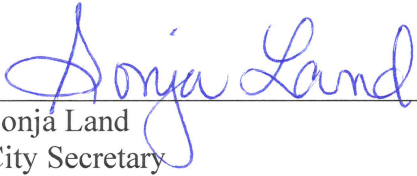
SECTION 2. That the City Manager is further hereby authorized to negotiate the terms and provisions of a Hotel Occupancy Tax Grant Agreement between the City and Stacey S. Smith Rodeo Company, Inc., consistent with the terms of the MOU to fund Chapter 351 eligible expenses, and to finalize, execute and administer the Grant Agreement.

DULY RESOLVED by the City Council of the City of Mesquite, Texas, on the 1st day of June 2020.



Bruce Archer
Mayor

ATTEST:



Sonja Land
City Secretary

APPROVED AS TO LEGAL FORM:



David L. Paschall
City Attorney

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (“**MOU**”) is made by and between the City of Mesquite, Texas (“**City**”) and Stacey S. Smith Rodeo Company, Inc., a Texas corporation (“**Rodeo Co.**”). The City and Rodeo Co. may be individually referred to as a “**Party**” and collectively as the “**Parties**”. This MOU shall serve to outline the basic principles to be embodied in a definitive Hotel Occupancy Tax Grant Agreement (“**Grant Agreement**”) which, when executed, shall set forth the agreement of the Parties with respect to the hotel occupancy tax grant contemplated by this MOU.

RECITALS

WHEREAS, rodeo is the official sport of Texas; and

WHEREAS, the City is home to the Mesquite Championship Rodeo (“**MCR**”), a world renowned rodeo that draws tourists from not only around the great State of Texas, but also from around the United States and world, and that is held at the Mesquite Arena located at 1818 Rodeo Drive, Mesquite, Texas 75149 (“**Venue**”); and

WHEREAS, the Texas Legislature has declared the City as “The Rodeo Capital of Texas”; and

WHEREAS, Rodeo Co. produces professional rodeos around the United States, including the MCR; and

WHEREAS, a large number of participants in and fans of the MCR are tourists, many travelling great distances, staying overnight in local hotels and motels and positively impacting the local economy; and

WHEREAS, Chapter 351 of the Texas Tax Code (“**Chapter 351**”) addresses expenditures of the municipal hotel occupancy tax revenue; and

WHEREAS, the City has determined that continuing the Rodeo Co. produced MCR will promote tourism and the convention and hotel industry within the City, and that advertising and conducting solicitations and promotional programs to attract tourists to the City for the MCR is eligible for funding under Chapter 351.

NOW, THEREFORE, the City and Rodeo Co. agree to work cooperatively to draft and approve the Grant Agreement to promote the MCR and fund the grant in the manner set forth herein.

**ARTICLE I
PURPOSE OF GRANT AGREEMENT**

1.01 The purpose of the Grant Agreement is to: (a) commit Rodeo Co. to produce the MCR at the Venue during the 2020, 2021 and 2022 rodeo seasons and to promote tourism and the convention and hotel industry in the City through advertising and conducting solicitations and promotional programs to attract tourists and convention delegates or registrants to the

City and the MCR; and (b) commit the City to fund Chapter 351 permissible expenses as provided herein

**ARTICLE II.
INTENTIONS OF RODEO CO.**

- 2.01 Rodeo Co. will produce the MCR at the Venue for the 2020, 2021 and 2022 rodeo seasons.
- 2.02 Rodeo Co. will actively advertise and promote the MCR and tourism in the City for the 2020, 2021 and 2022 rodeo seasons.
- 2.03 To assist the City in promoting tourism and the convention and hotel industry in the City, Rodeo Co. will provide the following to the City for each MCR performance for the 2020, 2021 and 2022 rodeo seasons:
- A. three (3) suites at the Venue;
 - B. three (3) signs in the performance area of the Venue bearing the Visit Mesquite Texas logo (“**VMT Logo**”), each sign being equivalent in size and placement as the highest contributing sponsor of the MCR, the City retaining approval of placement and re-positioning of such signage;
 - C. three (3) premium spaces/booths for City hospitality partners to be coordinated by the City, but which such hospitality partners shall not be a restaurant or competitor of other Venue vendors;
 - D. three (3) video board messages selected by City for promotional messages to be run on the video board with the same frequency as the highest frequency message;
 - E. three (3) guest passes for experiential tourism opportunities such as Shark Tank, access to the catwalk over the bullpen or similar opportunities acceptable to City; and
 - F. public address announcements as requested by City.
- 2.04 For the 2020 rodeo season, Rodeo Co. shall incur and pay a minimum of \$125,000 in expenses to advertise and conduct solicitations and promotional programs to attract tourists to the City and promote MCR. Provided such advertising and marketing complies with Chapter 351 and the following requirements, Rodeo Co. may submit evidence of such expenses (meaning a minimum of \$125,000 in qualifying advertising and marketing expenses) to the City on or before August 30, 2020 and the City will reimburse Rodeo Co. with a hotel occupancy tax grant for \$125,000 on or before September 30, 2020:
- A. such advertising and marketing must be for the sole purpose of promoting the MCR, attracting tourists to the City and promoting the local convention and hotel industry;
 - B. such advertising and marketing subject to reimbursement may not include ads placed through trade or sponsorship agreements;

- C. only the following forms of advertising and marketing are eligible for reimbursement:
 - 1. digital ads targeting out-of-state customers;
 - 2. billboards placed outside of Texas;
 - 3. printed publications and flyers;
 - 4. print media ads;
 - 5. broadcast media, including television and radio, placed in markets outside of North Texas;
 - 6. internet; and
 - 7. out-of-home, such as buses and posters
- 2.05 In all advertising and marketing made by, for or at the direction of Rodeo Co. relating to the MCR for the 2020, 2021 and 2022 rodeo seasons, Rodeo Co. will do the following:
- A. ensure placement of the VMT Logo on all such advertising and marketing including, but not limited to websites, print, TV, social media, press materials and billboards;
 - B. if the advertising or marketing identifies MCR sponsors, Rodeo Co. will ensure the size of the VMT Logo is commensurate with the size of the highest contributing sponsor shown in the advertising or marketing material; and
 - C. provide City, for City's review and approval, advance copies of any such advertising and marketing materials, which Rodeo Co. agrees will be placed only after receiving City's approval.
- 2.06 In any print advertising or marketing made by, for or at the direction of Rodeo Co. relating to the MCR for the 2020~~1~~, 2021~~2~~ and 2022~~3~~ rodeo seasons, Rodeo Co. will ensure the following shall appear next to the VMT Logo: "produced in cooperation with Visit Mesquite Texas".
- 2.07 In any TV ads made by, for or at the direction of Rodeo Co. relating to the MCR for the 2020, 2021 and 2022 rodeo seasons, Rodeo Co. shall ensure that the ads display the official VMT Logo for a minimum of five seconds, typically at the end of the ad. The VMT Logo must be clearly legible and prominently displayed. Generally, the size of the VMT Logo shall be commensurate with the size of the highest contributing sponsor of any other identified sponsor.
- 2.08 For any Rodeo Co. affiliated website made by, for or at the direction of Rodeo Co. relating to the MCR for the 2020, 2021 and 2022 rodeo seasons, Rodeo Co. will:

- A. ensure the VMT Logo is prominently displayed on the ~~homepage of such~~ website with a link to www.visitmesquitetx.com ~~to be located on a corresponding page relevant to the promotion and mutually agreed upon by the City and Rode Co.~~; and
 - B. ensure the hotel/rodeo “Stay and Play” package deals with five (5) premier hotels selected by the City is prominently displayed on the homepage of such website
- 2.09 On or before September 30 following the end of the 2020, 2021 and 2022 rodeo seasons, Rodeo Co. will provide the City with data and metrics as reasonably requested by the City to include at a minimum (a) email addresses for all online ticket purchases, (b) ticket sales, (c) postal data on ticket purchases, and (d) marketing analytics.
- 2.10 Rodeo Co. will execute a license agreement provided by and acceptable to City for use of the VMT Logo.

**ARTICLE III.
INTENTIONS OF CITY**

- 3.01 Upon execution of the Grant Agreement and in exchange for Rodeo Co. agreeing to perform its obligations identified in Article II. of this MOU, City will provide a grant of local hotel occupancy tax revenue to Rodeo Co. in the sum of \$75,000 to be used by Rodeo Co. solely for advertising and conducting solicitations and promotional programs to attract tourists to the City and promote the MCR along with local convention and hotel industry.
- 3.02 City will provide Rodeo Co. with information, the VMT Logo and web site links for use in Rodeo Co. advertising and marketing required by the Agreement.
- 3.03 City will provide a second grant of local hotel occupancy tax revenue to Rodeo Co. in the sum of \$1250,000 to reimburse Rodeo Co. for advertising and marketing expenses incurred and paid by Rodeo Co. in accordance with Section 2.04 of this MOU.
- 3.04 City will cause the Mesquite Convention and Visitors Bureau (“**MCVB**”) to promote the MCR through:
- A. its website, including ticketing and blogs;
 - B. its social media platforms;
 - C. its e-newsletters;
 - D. inclusion in select ad placements made by MCVB and at MCVB’s discretion;
 - E. cross-promotions with MCVB hospitality partners; and
 - F. inclusion on rack cards in area hotels.
- 3.05 City, at City’s discretion, will provide public relations communications for the MCR through the following:
- A. resident newsletters;

- B. social media platforms;
- C. e-newsletters;
- D. conditioned on availability of funds, determined at City's discretion, paid placement in MISD's Peachjar electronic flyer distribution program;
- E. City e-marquees and signage; and
- F. assistance with poster distributions.

**ARTICLE IV.
LEGAL EFFECT OF MOU**

- 4.01. This MOU is not to be construed as a binding agreement or contract. A binding contract between the Parties will not exist unless and until the Parties have negotiated, drafted and executed a formal written Grant Agreement based on the business points set forth herein, as well as additional terms and conditions as deemed appropriate by each Party. Notwithstanding any provision to the contrary contained herein, this MOU shall not constitute an agreement by any Party to enter into a final Grant Agreement. Each Party acknowledges and agrees that each Party is proceeding with negotiations relating to the Grant Agreement at its sole cost and expense and that any Party may terminate negotiations at any time and for any reason without any liability or obligation whatsoever.
- 4.02. If the Parties fail to execute the Grant Agreement based on the foregoing terms and other terms and conditions acceptable to the City and Rodeo Co. on or before June 6, 2020, then this MOU shall be null and void. This MOU may be amended only by written agreement signed by the Parties.

**ARTICLE V.
MISCELLANEOUS**


- 5.01 Funds provided under the Grant Agreement may be used only for expenses allowed by Chapter 351.
- 5.02 At City's discretion, City will have the right to make another \$75,000 hotel occupancy tax grant to Rodeo Co. for the 2023, 2024 and 2025 rodeo seasons and Rodeo Co. will continue performing its obligations under Sections 2.03 and 2.05 through 2.10 of this MOU for those seasons.
- 5.03 The City does not waive or surrender any of its governmental powers, immunities or rights and, notwithstanding any provision of this MOU, this MOU does not control, waive, limit or supplant the legislative authority or discretion of the City Council, and the Grant Agreement will provide for the same.

- 5.04 The Parties agree that the Grant Agreement will provide that: (a) a default by the City will not entitle Rodeo Co. to seek or recover any damages, including but not limited to attorneys' fees, consequential and exemplary damages, and that Rodeo Co.'s exclusive remedy will be termination of the Grant Agreement; and (b) a default by Rodeo Co. will entitle the City to (i) terminate the Grant Agreement and recover as damages the percentage of \$75,000 equal to the percentage computed wherein, for all three (3) rodeo seasons, the number of MCR performances occurring prior to Rodeo Co.'s default is the numerator and the number of MCR performances committed to after Rodeo Co.'s default is the denominator and/or (ii) seek recovery of such other damages and relief as allowed by the Grant Agreement, at law and/or in equity; and (iii) in any event of Rodeo Co.'s default, the City may seek recovery of attorneys' fees.
- 5.05 Approval of the Grant Agreement is at the complete discretion of the City Council and/or the City Manager as may be authorized by the City Council.

STACEY S. SMITH RODEO COMPANY, INC.

a Texas corporation

By:

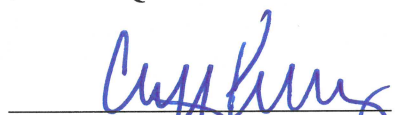

Stacey Smith, President

Dated:

6/3/2020

CITY OF MESQUITE

By:


Cliff Keheley, City Manager

Dated:

9-15-2020