

#5

INFORMATION FOR THE May 24, 2017
TONOPAH TOWN BOARD MEETING

AGENDA ITEM:

THE 2017 TOWN OF TONOPAH SMACK DOWN RODEO ON FRIDAY SATURDAY NIGHTS JULY 14TH AND 15TH

PETITIONER: (INCLUDE NAME, ADDRESS, PHONE NUMBER, E-MAIL)

MANUEL SOUZA/SOUZA BUCKING BULLS. 4649 SCHOOLHOUSE RD. CATHEYS VALLEY, CA. 95306

209-966-6872 OR. 209-347-7305. EMAIL. MANUELWRECKING@GMAIL.COM

BACKGROUND OF ACTION ITEM REQUESTED:

2017 WILL BE THE 3RD ANNUAL RODEO THIS EVENT IS THE ONLY ONE OF ITS KIND TO BE HELD WITHIN A 100 PLUS MILE RADIUS OF THE TOWN .

FISCAL IMPACT:

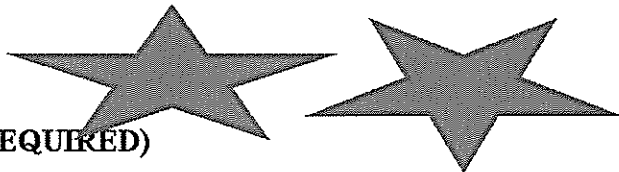
THE FISCAL IMPACT IS TO DRAW MORE PEOPLE INTO TOWN SPENDING MONEY AND ENJOYING THE THINGS THAT TONOPAH HAS TO OFFER AND HOPEFULLY BEING ENCOURAGED TO COME BACK AND ATTEND OTHER E VENTS THROUGH THE YEAR

PLEASE NOTE: DUE TO POSTING REQUIREMENTS, ALL AGENDA ITEMS MUST BE TURNED IN BY 12:00 NOON FIVE WORKING DAYS (WEDNESDAY) PRIOR TO THE DAY OF THE SCHEDULED MEETING OR BY 12:00 NOON SIX WORKING DAYS (TUESDAY OF THE PRIOR WEEK) IF A HOLIDAY FALLS PRIOR TO THE MEETING.

NOTE: (THE DAYS IN PARENTHESES ARE FOR REGULAR SCHEDULED TOWN BOARD MEETINGS WHICH FALL ON THE SECOND AND FOURTH WEDNESDAY OF EACH MONTH)

IN ORDER TO FACILITATE THE REVIEW AND CONSIDERATION OF AN AGENDA ITEM PRESENTED TO THE TONOPAH TOWN BOARD, PLEASE INCLUDE ALL DOCUMENTS OR ANY RELEVANT MATERIAL OR INFORMATION WITH YOUR REQUEST.

MANUEL SOUZA



SIGNATURE (REQUIRED)

DATE: May 16 th 2017

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REQUEST TAKEN BY:

DATE:

APPLICATION FOR REQUEST OF STATE 5/8THS ROOM TAX GRANT FOR TONOPAH

USE AND MAINTENANCE AGREEMENT

This Agreement is hereby made and entered into this 24th day of May, 2017, by and between the UNINCORPORATED TOWN OF TONOPAH, P.O. Box 151, Tonopah, Nevada, 89049, hereinafter referred to as the "TOWN", and MANUEL SOUZA, 4649 Schoolhouse Rd, Catheys Valley, CA 95306, hereinafter referred to as the "USER".

WITNESSETH:

WHEREAS, the TOWN is the owner of certain improved real property, commonly known as the Rodeo Grounds, hereinafter referred to as the "Premises"; and

WHEREAS, USER desires to use said Premises for organized rodeo/bull riding activities; and

WHEREAS, the Tonopah Town Board, at a regular and properly agendized meeting held on May 24, 2017, discussed the issue of allowing USER to use and maintain the Premises, and voted to allow USER to use and maintain the Premises, under the terms and provisions hereinafter provided.

NOW, THEREFORE, for and in consideration of the mutual promises, covenants and agreements of the respective parties herein set forth, it is agreed as follows:

1. Term of Agreement.

This Agreement shall become effective on _____ and shall be terminated on _____.

2. Premises Subject to this Agreement

- a. This Agreement pertains to a portion of the TOWN'S improved real property (the "Premises"), more particularly described as follows:

Township 3 North, Range 43 East, Parcel # 8-391-01, together with the improvements thereon, commonly known as the Rodeo Grounds/Fairgrounds, being 28.85 acres, more or less; and, except as provided in subsection "b" herein, includes the arena, corrals, all structures, and lighting.

- b. The Premises, for purposes of this Agreement, shall not include the area of the Rodeo Grounds/Fairgrounds commonly known as the 4-H area, now used by Central Nevada Grange, and does not include the Town corrals other than the roping steer corral located at the east end of the Rodeo Grounds Arena.

3. User Fees

The USER hereby agrees to pay to the TOWN all power bills and water bills during the specified period of this Agreement. Copies of billings from NV Energy and Tonopah Public Utilities for this period will be provided to the USER along with an invoice from the TOWN.

4. Maintenance

- a. USER agrees to perform routine maintenance and general clean-up of the Premises and the grooming, leveling and raking of the arena, chutes and pens.
- b. The TOWN agrees to maintain all infrastructures of the Premises, including, but not limited to, sprinkler lines, water mains and all appurtenances to the same, buildings, structures, and lighting and other fixtures not included herein.

5. Authorized Uses

It is agreed by the parties hereto that the Premises herein shall be used by the USER to conduct organized rodeo/bull riding activities; and the USER covenants to refrain from conducting any activities on the Premises not reasonably related to or incidental thereto, without first obtaining written consent therefore from the Town Board or Administrative/Utility Manager.

6. Selling Liquor/Food on the Premises

- a. If USER sells or distributes alcoholic beverages, USER hereby acknowledges by the parties hereto that as a condition precedent to USER selling alcoholic beverages on the Premises, that USER will obtain a Nye County Retail Liquor License or Special Liquor Permit for the Premises.
- b. If USER sells food, USER hereby acknowledges by the parties hereto that as a condition precedent to USER selling food on the Premises, that USER will obtain a State of Nevada Food Permit for the Premises.
- c. USER agrees to comply with all laws relating to the sale of alcoholic beverages/food and to refrain from any conduct or activity which would constitute the basis of a suspension or revocation of such license or permit; and to refrain from placing or attempting to place the aforesaid liquor license/food permit or special liquor permit in operation at any other location on the Premises.
- d. USER will provide copies of aforesaid license/permit to the Town prior to use of the Premises.

7. Waste, Nuisances and Unlawful Acts

- a. The USER covenants that it will not commit, or suffer any person on the premises at the USER'S invitation or by the USER'S permission, to commit waste upon the Premises or commit or suffer any such person to commit a public or private nuisance at the Premises, or commit or suffer to permit any illegal or immoral activities to be carried on at the Premises.
- b. The USER further covenants and agrees, at all times during the term of this Agreement, to conduct business and activities at the Premises in a lawful manner and in conformity with all applicable laws of the United States and the State of Nevada, and all ordinances, rules and regulations of the County of Nye, the Town of Tonopah (including the Tonopah Town Park Ordinance), and any and all other competent public authority affecting the use or condition of the Premises.

8. Condition of Premises

The USER acknowledges that the Premises have been examined, that the USER knows the condition thereof, and that there have been no representations regarding the condition thereof relied upon in the execution of this Agreement. The USER accepts the Premises “as is”, in the condition in which said Premises are at the present time.

9. Improvements

- a. The USER shall not, without the written consent of the TOWN, make or cause to be made improvements, alterations, changes, or additions in, on or to the Premises.
- b. In the event that the USER requests and receives permission to make improvements to or on the Premises, all costs and expenses of making improvements, alterations, changes, or additions shall be the liability and obligation of the USER alone, and the USER shall promptly make payment of all such costs and expenses. The USER shall comply with all applicable laws, ordinances, regulations, rules and orders of any and all governmental authorities with respect to all improvements, alterations, changes, or additions made by the USER on the Premises.
- c. The USER acknowledges and agrees that title to all improvements now existing on the Premises, and all improvements, alterations, and additions as may be hereafter made by the USER on the Premises, shall be in the TOWN alone and, upon the termination of this Agreement, whether by lapse of the term hereof, forfeiture, or otherwise, the USER shall not remove any such improvements, alterations, and additions from the Premises.

10. Fixtures

The USER acknowledges and agrees that title to all fixtures now existing on or in the Premises, and all fixtures hereafter installed on or in the Premises shall be in TOWN alone and, upon the termination of this Agreement, whether by lapse of the term hereof, forfeiture, or otherwise, the USER shall not remove any such fixtures from the Premises.

11. Possession and Inspection

- a. During the term of this Agreement, and so long as the USER performs all the terms and conditions required hereunder, the USER shall enjoy all the rights to the Premises granted hereunder.
- b. The TOWN shall have the right to visit and inspect the Premises, at all reasonable times, to ascertain whether the USER is complying with the terms and conditions of this Agreement.

12. Vacation of the Premises

- a. Upon the termination of this Agreement, whether by lapse of time, forfeiture or otherwise, the USER will vacate and surrender possession of the Premises to the TOWN.

- b. Prior to surrender of possession to the TOWN, the USER shall have the right to remove from the Premises all personal property of the USER, excepting any personal property which has been installed so as to become a fixture in or on the Premises.

13. Assignment

Any assignment of this Agreement, in whole or part, without the written consent of the TOWN being first obtained, shall nullify this Agreement.

14. Termination of Agreement

It is expressly understood that this Agreement may be terminated for good cause, by either party hereto, by giving ten (10) days' written notice of termination, delivered via certified mail, return receipt requested.

15. Default

In the event the TOWN determines that the USER is in default under any of the provisions hereof, the TOWN shall give the USER written notice thereof, delivered via certified mail, return receipt requested, specifying the provision(s) under which the default has been determined to exist, and the USER shall have ten (10) days from the date of receipt of written notice to cure such default. In the event the USER does not correct any such default within the (10) days of receipt of notice, the TOWN may declare this Agreement forfeited, cancelled and terminated, and may enter and repossess all of the Premises, with or without process of law.

16. Covenant of Non-Discrimination

The USER covenants that in carrying out its business, and in its use of the Premises, it will in no way discriminate against, or allow the discrimination against, any person or persons on the basis of race, color, nationality, religion, gender, age, disability, or any other feature, trait or characteristic now classified as worthy of protection or which becomes so classified, under the federal or state laws and constitutions, during the term of this Agreement.

17. The USER'S Employees/Volunteers

The USER shall be responsible for the wages and the insurance of all persons the USER employs on the Premises; and the USER shall carry out and fully comply with all laws, both federal and state, relating to the employment of labor.

18. Insurance

- a. The USER agrees to maintain in effect, for the term of this Agreement, general liability and, if the USER intends to employ any persons on the Premises, State Industrial Insurance System (employer's liability), insurance indemnifying the USER and the TOWN against losses and/or claims arising from or during the USER'S occupation and use of the Premises.

- b. The USER shall maintain no less than _____ Dollars (\$ _____) combined single limit in general liability insurance.

- c. The USER shall maintain no less than the statutorily required minimum in State Industrial Insurance System (employer's liability) insurance, if it employs any person or persons on the Premises.
- d. The USER shall not occupy the Premises until the TOWN has been furnished with certificates of insurance evidencing the USER'S compliance with the insurance provisions of this Agreement. Said certificates will provide that the referenced insurance will not be cancelled or reduced without at least thirty (30) days written notice to the TOWN.

19. Indemnification

It is agreed and understood that the USER will indemnify and hold the TOWN harmless from and against all claims, demands, actions or suits, including attorney's fees based upon or arising out of personal injury, including death or property damage caused by or sustained by the USER and/or any other person or persons, in connection with the USER occupation or use of the Premises under the provisions of this Agreement. The USER expressly covenants to relive the TOWN from any and all liability or responsibility in connection therewith, and/or from any injuries to persons or damages to property occurring or committed on the Premises as a result of the activities conducted thereon by the USER, its agents, contractors or employees.

20. Force Majeure

Neither of the parties hereto shall be liable to the other for failure to perform the obligations required to be performed hereunder for such period of time as its failure of performance is caused by strikes, acts of God, national war emergency, or government restrictions.

21. Notices

Any notice required or permitted to be given hereunder shall be deemed properly given upon delivering the same via certified mail, return receipt requested, postage prepaid, to the addresses hereinabove set forth.

22. Relationship of Parties

All other provisions in this Agreement to the contrary notwithstanding, it is expressly understood and agreed that nothing herein contained shall be deemed to constitute a partnership or a joint venture between the TOWN and the USER; nor shall the TOWN become liable for any debt or obligation incurred by the USER in the operation of any of the business or activities conducted on the Premises.

23. Interpretation and Construction

The paragraph captions or headings in this Agreement are inserted for convenience only and shall not be considered as part of this Agreement, or use in its interpretations. Such captions in no way define, limit or describe the scope or intent of this Agreement and are for reference only.

24. Entire Agreement

This Agreement sets forth the entire understanding between the parties, and there are no terms or conditions other than those set forth herein.

25. Modification

This Agreement may only be modified or amended by a written instrument signed by the parties with the same formality as this Agreement.

26. Governing Law

The formation, interpretation and performance of this Agreement shall be governed and construed in accordance with the laws of the State of Nevada applicable to contracts to be performed wholly within the State of Nevada.

27. Inurement

This Agreement shall be binding upon and inure to the benefit of all the heirs, administrators, executors, successors and assigns of the parties hereto.

28. Time of the Essence

Time is of the essence of this Agreement.

29. Severability

If any provision of this Agreement is held to be invalid, such invalidity shall not affect the validity of provisions of this Agreement which can be given effect without the invalid provisions, and to the end the provisions of this Agreement are declared to be severable.

IN WITNESS WHEREOF, the parties hereto do hereby execute this Agreement on the date hereinabove first appearing.

TOWN:
Tonopah Town Board

USER:

Duane Downing, Town Board Chairman

Manuel Souza, Souza's Bucking Bulls

ATTEST:

Kat Galli, Deputy Town Clerk