

LB
11/14/02
Item #35

AN ORDINANCE **96729**

AUTHORIZING THE EXECUTION OF A LICENSE AGREEMENT WITH COWPARADE HOLDINGS, INC. (“COWPARADE”), THE AMERICAN CANCER SOCIETY, INC. (“ACS”), AND THE DAISY DREAM FOUNDATION (“DAISY”); PROVIDING FOR THE USE OF CERTAIN CITY PROPERTY FOR THE COWPARADE SAN ANTONIO EVENT (“EVENT”); PROVIDING THAT TEN PERCENT (10%) OF THE TOTAL NET REVENUE FROM THE EVENT GO TO THE CITY’S OFFICE OF CULTURAL AFFAIRS; GRANTING THE CITY AN EXCLUSIVE LICENSE TO RETAIL AND WHOLESALE SPECIFIC MERCHANDISE RELATED TO THE EVENT; PROVIDING THAT SEVEN AND A HALF PERCENT (7.5%) OF THE FIRST \$20,000 GROSS RETAIL REVENUE AND TEN PERCENT (10%) OF ALL GROSS RETAIL REVENUE OVER \$20,000 DERIVED FROM SUCH RETAIL SALES OF EVENT-SPECIFIC SAN ANTONIO COWPARADE MERCHANDISE PRODUCED BY THE CITY UNDER THIS LICENSE AND BEARING THE SAN ANTONIO COWPARADE LOGO TO BE PAID TO ACS WITH ACS TO RECEIVE TEN PERCENT (10%) OF THE GROSS WHOLESALE REVENUE WHEN THE CITY ACTS AS A WHOLESALER; AND CONSIDERATION OF A WAIVER OF ANY AND ALL FEES ASSOCIATED WITH CITY RIGHT-OF-WAY MANAGEMENT PERMITS AND LICENSES.

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WHEREAS, in 1998, CowParade was conceived and initiated in Zurich, Switzerland by artists Beat and Erna Seebert-Quin and since that time CowParade has evolved into the world’s largest premier public art event and exhibited in such cities as Chicago, New York, Kansas City, Houston, Las Vegas and London; and

WHEREAS, CowParade is a public exhibition that places life-size fiberglass cows designed and created by host-city artists in city landscapes for the public to view and interact with and in every city artists are challenged by the creations from past events, inspired by the cultural influences and history of their cities and moved by their own artistic interpretations; and

WHEREAS, CowParade is funded through individual and corporate sponsorships and through these sponsorships, increased tourism, and merchandise sales, the event has raised hundreds of millions of dollars for charities all over the world and the City of San Antonio is planning on sponsoring three cows to support these efforts; and

WHEREAS, now the cows are coming to San Antonio to turn our streets into a forum for public art, creativity and innovation allowing local artists to give San Antonio a distinct style that will make this event a real reflection of our City; and

WHEREAS, as the primary focus of CowParade is charity, at the conclusion of the Event, the cows will be herded and auctioned, with a substantial portion of the proceeds benefiting the ACS and the City of San Antonio's Office of Cultural Affairs, who will receive ten percent (10%) of the event's net revenues; and

WHEREAS, the City shall be granted an exclusive license to develop and sell, both retail and wholesale, Event-specific merchandise and the City shall retain all revenues generated under the license, except that seven and a half percent (7.5%) of the first \$20,000 in gross retail revenue and ten percent (10%) of all gross retail revenue thereafter and ten percent (10%) of all gross wholesale revenue shall go to ACS; and

WHEREAS, CowParade San Antonio is scheduled to begin placing cows in the downtown area during the holiday season starting November 29, 2002 and the auction is tentatively scheduled for May 15, 2003; **NOW THEREFORE:**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. The execution of a License Agreement with CowParade Holdings, Inc., the American Cancer Society, Inc., and the Daisy Dream Foundation providing for the use of certain City property for the CowParade San Antonio Event, providing that ten percent (10%) of the total net revenue from the Event go to the City's Office of Cultural Affairs, and granting the City an exclusive license to retail and wholesale specific merchandise related to the Event with seven and a half percent (7.5%) of the first \$20,000 gross retail revenue and ten percent (10%) of all gross retail revenue over \$20,000 derived from such retail sales of event-specific San Antonio CowParade merchandise produced by the City under this license and bearing the San Antonio CowParade logo to be paid to ACS with ACS to receive ten percent (10%) of the gross wholesale revenue when the City acts as a wholesaler, commencing as of the effective date of this Ordinance and terminating July 31, 2003, is hereby authorized and approved.

SECTION 2. The waiver of any and all fees associated with City right-of-way management permits and licenses that may be applicable to this Event is hereby approved and authorized.

SECTION 3. The City Manager, or her designee, is authorized, for a sixty (60) day period following the effective date of this Ordinance, to execute said License Agreement. A copy of said License Agreement, executed by CowParade, ACS and Daisy, is attached hereto and incorporated herein as Exhibit I.

SECTION 4. Proceeds from the CowParade San Antonio will be deposited into Index Code 079186 entitled "CowParade San Antonio Proceeds" in Fund 29-005000 (Miscellaneous Special Revenue-Hotel/Motel Tax Fund).

SECTION 5. Proceeds from merchandise produced by the City under this License Agreement and bearing the San Antonio Cow Parade logo will be deposited into Index Code 058685 entitled "Sale of City License Merchandise" in Fund 29-027000 (Miscellaneous Special Revenue -Official City Store Fund).

SECTION 6. Proceeds paid to ACS under this License Agreement will reduce Index Code 058685 entitled "Sale of City License Merchandise" in Fund 29-027000 (Miscellaneous Special Revenue -Official City Store Fund).

SECTION 7. The financial allocations in this Ordinance are subject to approval by the Director of Finance of the City of San Antonio. The Director of Finance may, subject to concurrence by the City Manager or the City Manager's designee, correct allocations to specific index codes and fund numbers as necessary to carry out the purposes of this Ordinance.

SECTION 8. This Ordinance shall be effective on and after the tenth day after passage hereof.

PASSED AND APPROVED this 14th day of November, 2002.

ATTEST: Jolanda L. Ledezma
City Clerk

ED/Garza
M A Y O R
EDWARD D. GARZA

APPROVED AS TO FORM: _____

Tom Zeitunich
for City Attorney