

REQUEST FOR COUNCIL ACTION

SUBJECT: 2016 West Jordan Moto Stampede

SUMMARY: Approve an Agreement for Services with Bryan Green DBA Beyond Pro for the production of the 2016 West Jordan Moto Stampede in the amount of \$27,550.00.

FISCAL

IMPACT: The payment total 27,550.00, which would be paid from the motorsports account.

STAFF RECOMMENDATION:

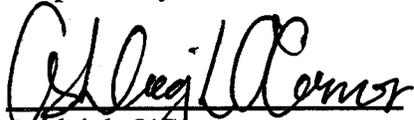
Staff recommends approval of the attached Agreement.

MOTION RECOMMENDED:

"I move to approve Resolution No. 16-124 authorizing and directing the Mayor to execute the Agreement for Services with Bryan Green DBA Beyond pro for the production of the 2016 West Jordan Moto Stampede in the amount of \$27,550.00."

Roll Call vote required

Prepared by:


Ashleigh O'Connor
Volunteer & Events Coordinator

Reviewed by:


Brian Clegg
Parks Director

Reviewed by:


David R. Brickey
Deputy City Attorney

Reviewed by:


Mark R. Paesh
City Manager

BACKGROUND DISCUSSION:

In researching local Endurocross events there is only one contractor – Bryan Green that is available for hire to build and run an EnduroCross.

Beyond Pro will provide the following:

- a. Furnish Moto Race Timing System and Computers
- b. Furnish back up timing System
- c. Furnish fully equipped race trailer with racing supplies
- d. Provide online registration
- e. Provide website soliciting participant and providing information
- f. Solicit and collect money from sponsors. Pay 75% to City of West Jordan and retain 25% to Bryan Green d/b/a Beyond Pro
- g. 100% of the gate proceeds go to the City of West Jordan
- h. Provide prizes for the winners for each class
- i. Provide hay bale covers
- j. Carry insurance for riders/entries
- k. Provide trophies
- l. Furnish and build all necessary track obstacles needed for the event and maintain obstacles during the event
- m. Remove all track and obstacle equipment from the premise no later than two weeks after the event date.
- n. Provide t-shirts for the first one hundred riders
- o. Furnish hay to line areas of the track for safety
- p. Provide all required flag men, arena secretaries and timers necessary to stage the event
- q. Provide an announcer for the event
- r. Provide laborers for the track support and safety
- s. Adequate print, online and radio marketing for the event
- t. Share online marketing and graphics with West Jordan for further promotion
- u. Beyond Pro Series will keep all contestant entry fees

Attachments Include:

Resolution

Agreement for services

THE CITY OF WEST JORDAN, UTAH

A Municipal Corporation

RESOLUTION NO. 16-124

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT BY AND BETWEEN THE CITY OF WEST JORDAN AND BRYAN GREEN DBA BEYOND PRO

WHEREAS, the City Council for the City of West Jordan has reviewed the Agreement for Services with Bryan Green DBA Beyond Pro for production of the 2016 West Jordan Moto Stampede; and

WHEREAS, the City Council desires that the agreement be executed by the Mayor,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WEST JORDAN, UTAH, THAT:

Section 1. After approval as to legal form by the City Attorney, the Mayor is hereby authorized and directed to execute the Agreement for Services for the 2016 West Jordan Moto Stampede with Bryan Green DBA Beyond Pro.

Section 2. This Resolution shall take effect immediately upon passage.

Adopted by the City Council of West Jordan, Utah, this 27th day of July 2016

KIM V. ROLFE
Mayor

ATTEST:

MELANIE S. BRIGGS, MMC
City Clerk

Voting by the City Council	"AYE"	"NAY"
Council Member Dirk Burton	_____	_____
Council Member Jeff Haaga	_____	_____
Council Member Zach Jacob	_____	_____
Council Member Chris McConnehey	_____	_____
Council Member Chad Nichols	_____	_____
Council Member Sophie Rice	_____	_____
Mayor Kim V. Rolfe	_____	_____

AGREEMENT FOR SERVICES

City of West Jordan and

BRYAN GREEN D/B/A BEYOND PRO SERIES

THIS AGREEMENT FOR SERVICES (the "Agreement") is made this _____ day of _____, 2016 by and between the City of West Jordan, a municipal corporation (hereinafter referred to as "City"), and Bryan Green d/b/a Beyond Pro an independent contractor located at 14301 South Minuteman Drive, Draper, Utah 84020 (hereinafter referred to as "Contractor").

WHEREAS, the City desires to obtain services from Contractor, and Contractor desires to provide these services to City.

NOW THEREFORE, City and Contractor agree as follows:

1. Retention as Contractor. City hereby retains Contractor, and Contractor hereby accepts such engagement, to perform the services described in Paragraph 2 herein. Contractor warrants it has the qualifications, experience and equipment to properly perform these services.

2. Description of Services.

Contractor shall stage and produce the West Jordan Moto Stampede for a total of one (1) performance to be held September 17, 2016 (the "Event"), and shall perform the following services, at Contractor's sole expense:

- a. Furnish Moto Race Timing System and Computers
- b. Furnish back up timing System
- c. Furnish fully equipped race trailer with racing supplies
- d. Provide online registration
- e. Provide website soliciting participant and providing information
- f. Solicit and collect money from sponsors. Pay 75% to City of West Jordan and retain 25% to Bryan Green d/b/a Beyond Pro
- g. 100% of the gate proceeds go to the City of West Jordan
- h. Provide prizes for the winners for each class
- i. Provide hay bale covers
- j. Carry insurance for riders/entries
- k. Provide trophies
- l. Furnish and build all necessary track obstacles needed for the event and maintain obstacles during the event
- m. Remove all track and obstacle equipment from the premise no later than two weeks after the event date.
- n. Provide t-shirts for the first one hundred riders
- o. Furnish hay to line areas of the track for safety
- p. Provide all required flag men, arena secretaries and timers necessary to stage the event
- q. Provide an announcer for the event
- r. Provide laborers for the track support and safety

- s. Adequate print, online and radio marketing for the event
- t. Share online marketing and graphics with West Jordan for further promotion
- u. Beyond Pro Series will keep all contestant entry fees

3. Compensation and Payment. The City of West Jordan will pay to Contractor \$27,550.00 . A 50% (\$13,775.00) deposit will be paid after contract is finalized and the balance will be paid at the end of the event. For informational purposes, prior to receiving payment, Contractor shall provide City with a detailed written description of work performed and a detailed description of costs and expenses. Contractor will pay to City 75% of collected sponsorship funds no later than the end of the event.

4. Extra Services. City shall not pay Contractor for any services, costs or expenses not specifically included in this Agreement unless expressly authorized, in writing, as extra services. Unless the City and Contractor have agreed in writing before the performance of extra services, no liability and no right to claim compensation for such extra services or expenses shall exist.

5. Services by the City. The City shall perform the following services, at City's sole expense:

- a. Arena, including clean up from patrons, EMS, security, and ticket sales
- b. Box Office and front gate volunteer staffing.
- c. Allow Food vendors
- d. Sound System with operator (estimated cost \$1950)
- e. Chairs for Lower Reserved seating (estimated cost \$600)
- f. Tractor for the Arena. A Tractor Operator may be provided if available.
- g. Online marketing and ads in the West Jordan Journal Good Neighbor News pages
- h. The city will keep all money collected from ticket sales
- i. Adequate print, online and radio marketing for the event

6. Assignment. This Agreement is not assignable by Contractor, without the City's prior consent in writing.

7. Hold Harmless and Insurance.

A. Indemnity.

Contractor shall defend, indemnify and hold the City, its elected officials, officers, employees and volunteers harmless from all claims, lawsuits, demands, judgments or liability including, but not limited to, general liability, automobile and professional errors and omissions liability, arising out of, directly or indirectly, the negligent acts, errors and omissions of the Contractor in performing the services described.

B. Contractor's Insurance.

Contractor shall, at Contractor's sole cost and expense and throughout the term of this Agreement and any extensions thereof, carry insurance of the types and amounts indicated below.

Type of Insurance	Limits	
Bodily Injury	Per Individual	\$2,000,000.00
Aggregate		\$3,000,000.00
Property Damage	Per Occurrence	\$1,000,000.00
Automobile Liability	Per Occurrence	\$1,000,000.00
Workers' Compensation		Statutory

b. Except for Workers' Compensation, said insurance shall include as additional insured the following: The City of West Jordan, Utah, its officers, agents, employees and volunteers.

c. Contractor shall procure worker's compensation coverage, as required by the statutes of Utah, for its employees during the performances and during the times between performances.

d. All insurance policies shall be issued by a financially responsible company or companies authorized to do business in the State of Utah which are carry a Moody's rating of not less than A. Within fourteen (14) calendar days after execution of this Agreement, Contractor shall furnish to City [Attn: West Jordan City Clerk, 8000 South Redwood Road, West Jordan, Utah 84088] an insurance certificate or other evidence of the required insurance.

8. Relationship of Parties and No Third Party Rights. This Agreement does not create any joint venture partnership, undertaking or business arrangement between the parties hereto nor any rights or benefits to third parties. The contractual relationship between the City and Contractor out of this Agreement is one of independent contractor and not agency. It is understood that Contractor shall not be deemed an employee of the City, and Contractor has no authority to enter into legally binding obligations on behalf of the City. It is specifically understood by the parties that: (a) the City has no interest in or responsibilities for or duty to third parties as a result of this Agreement, (b) Contractor shall have full power and authority over services performed subject to the obligations of Contractor set forth in this Agreement.

9. Expiration and Termination. This contract shall expire on October 1, 2016. This contract may be terminated, with cause, by either party in advance of the specified termination date, upon written notice being given to the other party. The party in violation will be given ten (10) working days after notification to correct and cease the violations, after which the contract may be terminated for cause. In the event that the City terminates the contract for cause, the City shall not be obligated to pay, and Contractor shall not be entitled to receive, any compensation for any services performed or costs incurred prior to such termination. This contract may be terminated by the City without cause, in advance of the specified expiration date, upon 30 days written notice. In the event that the City terminates for convenience, Contractor shall cease performing services, and City shall pay to Contractor compensation for services actually performed and documented or costs actually incurred and documented prior to termination.

10. Acceptance of Final Payment Constitutes Release. The acceptance by Contractor of the final payment made under this Agreement shall operate as and be a release to City from all claims and liabilities for compensation to, or claimed by, Contractor for anything done, finished or relating to the Contractor's work or services. Acceptance of payment shall be any negotiation of the City's check.

11. Waiver; Remedies Cumulative. Failure by a party to insist upon the strict performance of any of the provisions of this Agreement by the other party, irrespective of the length of time for which such failure continues, shall not constitute a waiver of such party's right to demand strict compliance by such other party in the future. No waiver by a party of a default or breach of the other

party shall be effective or binding upon such party unless made in writing by such party, and no such waiver shall be implied from any omission by a party to take any action with respect to such default or breach. No express written waiver of a specified default or breach shall affect any other default or breach, or cover any other period of time, other than any default or breach and/or period of time specified. All of the remedies permitted or available to a party under this Agreement, or at law or in equity, shall be cumulative and alternative, and invocation of any such right or remedy shall not constitute a waiver or election of remedies with respect to any other permitted or available right or remedy.

12. Assignment. This Agreement shall not be assignable except at the written consent of the parties, and if so assigned, shall be binding upon the successors and assigns of the parties.

13. Construction. This Agreement shall be governed by and construed in accordance with the laws of the State of Utah.

14. Integration. Except for Contractor's written proposals for obtaining this Agreement, this Agreement contains the entire agreement between the parties with respect to the subject matter hereof and integrates all prior conversations, discussions or understandings of whatever kind or nature and may only be modified by a subsequent writing duly executed and approved by the parties hereto.

15. Future Appropriations. This Agreement shall not be construed in any manner to bind the legislative or administrative discretion of the City or its future budget appropriations. The parties recognize that this contract extends beyond the current fiscal year. Where future appropriations are unavailable or insufficient, the City may terminate this Agreement.

16. Construction of Language of Agreement. The provisions of this Agreement shall be construed as a whole according to its common meaning and purpose of providing a public benefit and not strictly for or against any party. It shall be construed consistent with the provisions hereof, in order to achieve the objectives and purposes of the parties. Wherever required by the context, the singular shall include the plural and vice versa, and the masculine gender shall include the feminine or neutral genders or vice versa.

17. Mitigation of Damages. In all situations arising out of this Agreement, the parties shall attempt to avoid and minimize the damages resulting from the conduct of the other party.

18. Captions. The captions or headings in the Agreement are for convenience only and in no other way define, limit or describe the scope or intent of any provision or section of the Agreement.

19. Authorization. Each party has expressly authorized the execution of this Agreement on its behalf and binds said party and its respective administrators, officers, directors, shareholders, divisions, subsidiaries, agents, employees, successors, assigns, principals, partners, joint ventures, insurance carriers and any others who may claim through it to this Agreement.

20. Representation Regarding Ethical Standards for City Officers and Employees and Former City Officers and Employees. The Contractor represents that it has not: (a) provided an illegal gift or payoff to a city officer or employee or former city officer or employee, or his or her relative or business entity; (b) retained any person to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, other than as exempted

in the City's Conflict of Interest ordinance; or (c) knowingly influenced (and hereby promises that it will not knowingly influence) a city officer or employee or former city officer or employee to breach any of the ethical standards set forth in the City's Conflict of Interest ordinance.

21. Equal Opportunity Clause. The Contractor agrees to abide by the provisions of Title VI and VII of the Civil Rights Act of 1964 (42USC 2000e) which prohibits discrimination against any employee or applicant for employment or any applicant or recipient of services, on the basis of race, religion, color, or national origin; and further agrees to abide by Executive Order No. 11246, as amended, which prohibits discrimination on the basis of sex; 45 CFR 90 which prohibits discrimination on the basis of age; and Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act of 1990 which prohibits discrimination on the basis of disabilities. Also, the Contractor agrees to abide by Utah's Executive Order, dated June 30, 1989, which prohibits sexual harassment in the work place.

22. Notices. Any notice required to be given hereunder shall be deemed to have been given by depositing said notice in this United States mail, postage prepaid, or by facsimile with proof of transmission, and addressed as follows:

TO CITY: CITY OF WEST JORDAN
 City Clerk
 8000 South Redwood Road
 West Jordan, Utah 84088

 With a copy to the City Attorney
 David R. Brickey, City Attorney
 8000 South Redwood Road, 3rd, Floor
 West Jordan, Utah 84088

TO CONTRACTOR: BRYAN GREEN D/B/A BEYOND PRO
14301 SOUTH MINUTEMAN DRIVE, DRAPER, UT 84020

23. Additional Terms/Conditions. Additional terms and conditions of this agreement are:

NONE

In concurrence and witness whereof, this Agreement has been executed by the parties effective on the date and year first above written.

24. Attorney's Fees and Costs. The prevailing party shall have the right to collect from the other party its reasonable costs and necessary disbursements and attorneys' fees incurred in enforcing this Agreement.

CITY OF WEST JORDAN

ATTEST:

Mayor Kim V. Rolfe

Melanie S. Briggs, City Clerk/Recorder

BRYAN GREEN D/B/A BEYOND PRO

By: _____
Bryan Green, an individual

STATE OF _____)
:SS
COUNTY OF _____)

On this ____ day of _____, 2016, personally appeared before me, Bryan Green, who being by me duly sworn did say that he did sign the foregoing instrument in behalf of Bryan Green d/b/a Beyond Pro.

NOTARY PUBLIC

My Commission Expires:

Residing in _____ County, _____