

**HUNTSVILLE TOWN
RESOLUTION 2024-02-13B**

HUNTSVILLE MARATHON AGREEMENT

**A RESOLUTION OF HUNTSVILLE TOWN, UTAH, ADOPTING THE
HUNTSVILLE MARATHON AGREEMENT**

WHEREAS, Huntsville Town (hereafter “Town”) is a municipal corporation, duly organized and existing under the laws of the State of Utah;

WHEREAS, Utah Code §10-3-717 allows the governing body of Huntsville Town to exercise all administrative powers by resolution including regulating the use and operation of municipal property;

WHEREAS, the Town sponsors the Huntsville Marathon each year and desires to enter an Agreement for the same;

WHEREAS, the Town has negotiated the Agreement for the Huntsville Marathon with the event organizers;

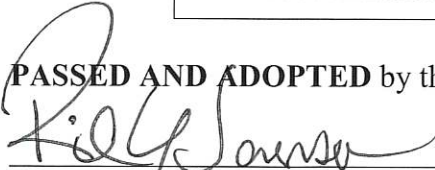
NOW, THEREFORE, be it resolved by the Town Council of Huntsville, Utah, as follows:

Section 1: Agreement. The Mayor is hereby authorized to finalize and execute the terms of the Agreement for the Huntsville Marathon hereby adopted and incorporated herein by this reference as set forth in Exhibit “A” attached hereto.

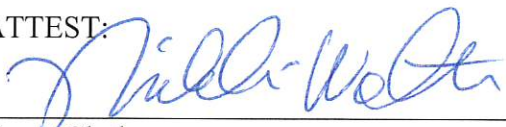
Section 2: Effective Date. This Resolution shall be effective immediately upon adoption.

VOTES	AYE	NAY	RECUSED	EXCUSED
Mayor Richard Sorensen	X			
CM Lewis Johnson	X			
CM Sandy Hunter	X			
CM Artie Powell	X			
CM Bruce Ahlstrom	X			

PASSED AND ADOPTED by the Town Council on this 13th day of February 2024.



RICHARD SORENSEN, Mayor

ATTEST:


Town Clerk



Exhibit A

AGREEMENT

This Agreement ("Agreement") is made as of February 13, 2024, by and between Huntsville Utah Marathon and Half Marathon, a (pending) Utah non-profit corporation ("Marathon Committee") and Huntsville Town Corporation ("Town").

WHEREAS, Marathon Committee desires to organize and run an annual public running event utilizing streets, parks and other public facilities operated and approved by the Town similar to that conducted by the Town in 2012-2021 (the "Marathon") and such shall be insured by and at the expense of the Marathon (see section 5); and

WHEREAS, Town desires to cooperate with Marathon Committee with respect to the Marathon as provided for herein.

NOW, THEREFORE, for good and valuable consideration, the adequacy and receipt of the which is hereby acknowledged, the parties agree as follows:

1. **Marathon.** Marathon Committee is hereby given the sole and exclusive right to publicize, organize and operate the Marathon. Marathon Committee shall coordinate the date for the Marathon with the Town and shall keep them generally informed of the planning for the Marathon. Town shall use its best efforts to cooperate with Marathon Committee with respect to such planning and the running of the Marathon. In such organization and operation by the Marathon Committee, it shall strive to:
 - a. Achieve a standard of excellence within its peer group of race events;
 - b. Minimize risk to the Town;
 - c. Maximize net revenue from the Marathon; and
 - d. Maximize community involvement with the Marathon from the entire Ogden Valley.

Marathon Committee shall generally conduct itself and the Marathon in such a manner as generally conducted by other public charities.

2. **Proceeds.**
 - a. Marathon Committee shall annually pay the Town fifteen percent (15%) of the gross amount of the cash actually received by the Marathon Committee from ticket sales for the full and half marathon for such year. If any year's Marathon has less than 1,000 of paying runners, combined from all running events, then Marathon Committee shall instead pay to the Town twenty percent (20%) of Marathon Committee's net receipts from the full and half marathon events. In either case, payment attributable to a Marathon shall be made to the Town no later than sixty (60) days after the running of such Marathon.
 - b. Marathon Committee shall annually determine the amount from any remaining net proceeds from the Marathon that should be carried over to help promote, organize and run the next year's Marathon. Marathon

Committee shall annually contribute all remaining net proceeds to one or more municipal entities and/or public charities who have been recognized by the Internal Revenue Service's as satisfying section 501(c)(3) of the Internal Revenue Code and who have a physical presence in or around Huntsville, Eden, Liberty, and/or Ogden Canyon.

- c. A financial report shall within sixty (60) days after each Marathon be provided to the Town by the Marathon Committee showing the results, successes, and failure and future plans of the Marathon. The Town shall have a right to audit such report or Marathon Committee's other books and records provided at least fifteen (15) days prior written notice has been given to Marathon Committee.
3. **Term.** It is the intent of the parties that this Agreement and the Marathon continues for a duration of ten (10) years. The parties may renew for an additional term by a separate agreement. The Marathon and Town commit to evaluation of terms every three (3) years. However, the Town may at any time determine that it desires to terminate this Agreement early, in which case, the Town must give Marathon Committee written notice of such termination at least two (2) years prior to such termination date. Section 5 provides for the Town's loss of its interest in the Marathon trade names and trademarks as a result of such early termination. In the event the Marathon Committee is liquidated or dissolved, all of its assets, including but not limited to the trade names and trademark described in Section 5, shall be distributed to the Town.
 4. **Trademarks.** As a result of the past Marathon and through the operation and running of future marathons, there will be trade names and trademarks created, such as the "Huntsville Utah Marathon". Marathon Committee and the Town shall equally own all such trade names and trademarks, however, Marathon Committee shall have an exclusive, royalty free right to use all such trade names and trademarks in the promotion of the Marathon. In the event the Town terminates this Agreement, whether with or without cause, Marathon Committee shall automatically acquire all rights and title to such trade names and trademarks for early termination.
 5. **General.** Marathon Committee shall:
 - a. Maintain its financial records in a consistent manner utilizing good accounting standards commonly practiced by other charitable entities.
 - b. Not borrow money or incur indebtedness that is secured with Town property, other than the Marathon trade names and trademarks.
 - c. Not sell the Marathon or the Marathon trade name or trademarks, without the prior written consent of the Town; and
 - d. Shall maintain good and adequate liability insurance.
 - i. The Marathon and organizers will carry insurance for the event and this Agreement that includes the Town, County, and UDOT as additional insured in the amount of \$2 million.

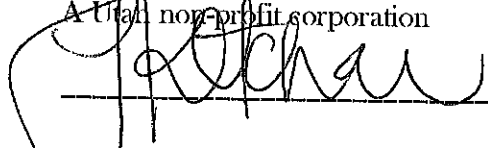
- ii. In the event of any liability arising under the event or this Agreement that the Marathon Committee agrees to indemnify, defend, and hold harmless the Town, County, and UDOT.

6. **Miscellaneous Provisions.**


- a. **Headings.** The subject heading of the sections and subsections of this Agreement are included for purposes of the convenience only and shall not affect the construction or interpretation of any of its provisions.
- b. **Entire Agreements; Conflicting Terms.** This Agreement constitutes the entire agreement between the parties pertaining to the subject matter contained in it and supersedes all prior agreements, representations, and understandings of the parties. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing by both parties. No waiver of any of the provisions of this Agreement shall be deemed, or shall constitute, a waiver of any other provisions, whether similar, nor shall any waiver constitute a continuing waiver.
- c. **Counterparts.** This Agreement may be executed simultaneously in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute the same instrument.
- d. **Assignment.** Neither this Agreement nor any of the parties' rights or obligations hereunder may be assigned or otherwise transferred to any other person, partnership, firm or corporation, without the prior written consent of the other party hereto, which consent shall not be unreasonably withheld.
- e. **Binding Effect.** This agreement shall be binding on and shall inure to the benefit of the parties hereto and their respective legal representatives, heirs, successors and permitted assigns.
- f. **Attorney Fees.** In the event of a dispute between the parties arising out of this Agreement, the successful party, whether arbitration is sought, shall be reimbursed by the other party hereto for all costs and expenses of such dispute, including, but not limited to, reasonable attorney fees.
- g. **Force Majeure.** In the event Marathon Committee shall be delayed or hindered in or prevented from doing or performing any act required in the Agreement by reason of casualties, Acts of God, labor troubles, riots, insurrection, war or other causes beyond the reasonable control of such party, then Marathon Committee shall not be liable or responsible for any such delays and the doing or performing of such act shall be excused for the period of the delay and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay.

Executed and be effective as of the day and year first written above.

Marathon Committee:
Huntsville Utah Marathon and Half Marathon,
A Utah non-profit corporation



Town:
Huntsville Town Corporation

 2/14/24
