

COTTONWOOD HEIGHTS

RESOLUTION NO. 2017-20

A RESOLUTION APPROVING ENTRY INTO AN AGREEMENT WITH BROOKSEE, LLC FOR REIMBURSEMENT AND INDEMNIFICATION CONCERNING THE 2017 BIG COTTONWOOD MARATHON AND HALF

WHEREAS, the city council (the "*Council*") of the city of Cottonwood Heights ("*City*") met in regular session on 28 March 2017 to consider, among other things, approving the City's entry into a "Reimbursement Agreement" (the "*Agreement*") with Brooksee, LLC ("*Brooksee*"); and

WHEREAS, Brooksee is in the business of promoting and staging marathon and half-marathon running races, including the "Revel Big Cottonwood Marathon & Half" (the "*Event*") scheduled to occur on Saturday, 9 September 2017, which consists of two road races commencing at 6:45 a.m. at Guardsman Pass and the Spruces Campground, respectively, in Big Cottonwood Canyon (the "*Canyon*") and ending at a location in City's boundaries; and

WHEREAS, Brooksee will obtain a special event permit (the "*Permit*") from City as required by Chapter 14.56 of City's code of ordinances ("*Chapter 14.56*"), and all other necessary permissions and approvals of all other pertinent governmental authorities, before staging the Event; and

WHEREAS, in order to, *inter alia*, promote public health and the benefits of physical exercise, City is co-sponsoring the Event; and

WHEREAS, to avoid public safety concerns arising from hundreds of small, private vehicles transporting the Event's runners up the Canyon during pre-dawn hours on September 9th, Brooksee and City desire for such transportation to occur via chartered busses so that smaller, private vehicles can be prohibited from accessing the Canyon before and during the Event; and

WHEREAS, consequently, City contemplates entering into an interlocal agreement (the "*Interlocal*") with Canyons School District ("*District*") whereunder District will provide 30 of its "school busses," and qualified drivers, to transport runners up the Canyon on September 9th prior to the Event; and

WHEREAS, District is willing to so contract with City only if (1) the fee of \$10,000 (the "*Fee*") for District's provision of the busses, etc. is prepaid before the Event; (2) adequate insurance, prepaid before the Event, is provided through the Utah Local Governments Trust ("*ULGT*") to provide adequate insurance protection (the "*Insurance*") to District for its participation in the Event; and (3) City agrees to indemnify, defend and hold District harmless from all liabilities, claims, damages, actions, proceedings, etc. arising from District's participation in the Event (the "*City Indemnity*"); and

WHEREAS, because City is prohibited from using public monies to advance private enterprise, and to induce City to enter into the Interlocal and to issue the Permit, Brooksee has agreed to pay and fully perform all of its obligations under Chapter 19.46, and to also prepay and

indemnify the City for the entirety of (1) the Fee, (2) the cost of the Insurance, (3) the cost of City's legal fees incurred in negotiating and drafting the Interlocal, the Agreement and any other necessary or advisable documents or agreement or in the provision of any associated legal counsel to City, and (4) any other out-of-pocket costs, fees or expenses incurred by City in connection with the Event or its facilitation; and

WHEREAS, Brooksee also has agreed to indemnify City on the same basis as City indemnifies District under the City Indemnity; and

WHEREAS, the Council has reviewed the form of the Agreement, a photocopy of which is annexed hereto; and

WHEREAS, after careful consideration, the Council has determined that the Agreement accomplishes the reimbursement and indemnity desired by City, and that it is in the best interests of the health, safety and welfare of the citizens of the City to therefore approve the City's entry into the Agreement as proposed;

NOW, THEREFORE, BE IT RESOLVED by the city council of the city of Cottonwood Heights that the attached Agreement be, and hereby is, approved, and that the City's mayor and recorder are authorized and directed to execute and deliver the Agreement on behalf of the City.

This Resolution, assigned no. 2017-20, shall take effect immediately upon passage.

PASSED AND APPROVED this 28th day of March 2017.

ATTEST:

By:

Paula Melgar, Recorder



COTTONWOOD HEIGHTS CITY COUNCIL

By:

Kelvyn H. Cullimore, Jr., Mayor

VOTING:

Kelvyn H. Cullimore, Jr.	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>
Michael L. Shelton	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>
J. Scott Bracken	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>
Michael J. Peterson	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>
Tee W. Tyler	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>

DEPOSITED in the office of the City Recorder this 28th day of March 2017.

RECORDED this 28 day of March 2017.