



# Huntsville, Alabama

305 Fountain Circle  
Huntsville, AL 35801

## Cover Memo

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**Meeting Type:** City Council Regular Meeting **Meeting Date:** 10/24/2024

**File ID:** TMP-4670

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**Department:** Parks and Recreation

**Subject:**

**Type of Action:** Approval/Action

Facility Use Agreement Between the City of Huntsville and Huntsville Museum of Art Foundation Board, to stage a unique recreational activity featuring a temporary outdoor ice-skating rink, called "Skating in the Park".

Resolution No.

**Finance Information:**

**Account Number:** NA

**City Cost Amount:** NA

**Total Cost:** NA

**Special Circumstances:**

**Grant Funded:** NA

**Grant Title - CFDA or granting Agency:** NA

**Resolution #:** NA

**Location: (list below)**

**Address:** Big Spring Park West 200 Church Street Huntsville, 35801

**District:** District 1 ☐ District 2 ☐ District 3 ☐ District 4 ☒ District 5 ☐

**Additional Comments:**

The terms of the agreement shall be from October 30, 2024, through January 31, 2025, inclusive. The "Board" may access the Premises for Event set-up starting at 8 a.m. on the morning of Wednesday, October 30, 2024. The Event shall commence at 4:00 p.m. on the afternoon of Friday, November 22, 2024, and shall conclude no later than 8 p.m. on the night of Sunday, January 25, 2025. The take-down of the Event and restoration of the Premises shall be concluded no later than 5 p.m. on the evening of Friday, January 31, 2025.



## RESOLUTION NO. 24

**BE IT RESOLVED** by the City Council of the City of Huntsville, Alabama, that the Mayor be, and he is hereby authorized to enter into an Agreement by and between the City of Huntsville and the Huntsville Museum of Art Foundation Board., hereinafter referred to as the “the Board” or “Licensee” on behalf of the City of Huntsville, a municipal corporation in the State of Alabama, which said agreement is substantially in words and figures similar to that certain document attached hereto and identified as “Facility Use Agreement between the City of Huntsville and Huntsville Museum of Art Foundation Board”, consisting of six(6) pages including Exhibit A, and the date of October 24, 2024, appearing on the margin of the first page, together with the signature of the President or President Pro Tem of the City Council, an executed copy of said document being permanently kept on file in the Office of the City Clerk of the City of Huntsville, Alabama.

**ADOPTED** this the 24<sup>th</sup> day of October 2024.

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President of the City Council of  
the City of Huntsville, Alabama

**APPROVED** this the 24<sup>th</sup> day of October 2024.

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Mayor of the City of Huntsville

**FACILITY USE AGREEMENT**  
**BETWEEN THE CITY OF HUNTSVILLE AND**  
**HUNTSVILLE MUSEUM OF ART FOUNDATION BOARD**

**FACILITY USE AGREEMENT BETWEEN THE CITY OF HUNTSVILLE**  
**AND HUNTSVILLE MUSEUM OF ART FOUNDATION BOARD**

This License Agreement (the "Agreement") is entered into this 24th day of October, 2024, by and between the City of Huntsville, a municipal corporation in the State of Alabama (hereinafter referred to as the "City" or "Licensor"), and the Huntsville Museum of Art Foundation Board, a domestic nonprofit corporation (hereinafter referred to as "the Board" or "Licensee").

**WHEREAS**, the City of Huntsville has a public interest in promoting a vital and thriving downtown area; and

**WHEREAS**, the Board desires to stage a unique recreational activity for the Huntsville/North Alabama community featuring a temporary outdoor ice skating rink to be located on the West side of the Huntsville Museum of Art in Big Spring Park West; and

**WHEREAS**, said event shall be called "Skating in the Park" and shall compliment other downtown Huntsville activities, tourism, and holiday family events, such as Tinsel Trail, while providing a fundraising opportunity for the Huntsville Museum of Art; and

**WHEREAS**, the City has determined that the event will serve the public purpose by enhancing the economic vitality and growth of the Downtown Huntsville area;

**NOW THEREFORE**, for and in consideration of the mutual covenants herein, the parties agree as follows:

1. **Use of Premises, Term, and Timing.**

(a) Subject to the terms and conditions of this License Agreement, the City hereby grants the Board a license to utilize that portion of Big Spring Park West, located at 200 Church Street, Huntsville, AL 35801, which is shown on the map attached hereto and incorporated herein by reference as **Exhibit A** and hereinafter referred to as the "Premises," to be used for an event called "Skating in the Park" (the "Event"). To accommodate the Event, a 50-by-100-foot temporary ice-skating rink (the "Rink") shall be installed at the Premises. The Rink will be open to members of the public upon payment of an admission fee. The Board will also conduct related activities including the rental of ice skates and the operation of a concession stand.

(b) The term of this Agreement shall be from October 30, 2024, through January 31, 2025, inclusive. The Board may access the Premises for Event set-up starting at 8 a.m. on the morning

President of the City Council of the City of  
Huntsville, Alabama  
Date: October 24, 2024

of Wednesday, October 30, 2024. The Event shall commence at 4:00 p.m. on the afternoon of Friday, November 22, 2024, and shall conclude no later than 8 p.m. on the night of Sunday, January 5, 2025. The take-down of the Event and restoration of the Premises shall be concluded no later than 5 p.m. on the evening of Friday, January 31, 2025.

2. Security. Licensee shall be responsible for the provision of security within the Licensed Premises during the period of the lease. Licensee shall hire the number of officers and supervisory personnel as recommended by the Huntsville Police Department for the event. Licensee agrees that the Supervisor of such security officers shall be authorized to make the determination that the event should be cancelled in the event of inclement weather conditions, security issues, or other threats to the safety of the sponsors or attendees of the event.

3. Alcoholic Beverages. Licensee shall not sell, serve, or allow alcoholic beverages on the Premises. Licensee shall post signage stating that no alcoholic beverages may be brought unto the event.

4. Restroom Facilities. There are no public restroom facilities located at the Premises. Licensee shall have one restroom trailer (to accommodate men and women separately, as well as being handicap accessible) to be located on Williams Avenue.

5. Set up and Construction of Rink. Licensee shall obtain the approval of the City's Director of General Services for the construction and set up plan for the Rink and any other structures on the Premises and also for the use of electrical power on the Premises.

6. Alteration of Premises. Licensee may not remove or alter any trees or make any other changes to the Premises without the prior approval of the City's Director of Landscape Management.

7. Vandalism or Weather Damage. Licensee shall promptly repair any damage to its property or the Premises caused by vandalism or weather events. The City shall not be responsible for any damage to property of Licensee, its sponsors, vendors, patrons or any other third parties.

8. Compliance with Laws. Licensee agrees to comply with all ordinances, laws, rules and regulations pertaining to the use of the Premises and shall not use the Premises in an unlawful manner nor create or allow to exist any nuisances or trespass nor deface or damage the Premises.

9. Licensing and Permits. Licensee shall obtain and maintain all licenses and permits and pay all fees necessary or required to hold the event and to sell and serve food on the Premises. The City may require Licensee to provide proof of proper permitting or licensure prior to or during the event.

10. Access. Licensee shall, at all times, maintain handicap access throughout the Premises and maintain the Premises in such a way so as to meet the Americans with Disabilities Act (ADA) standards for accessibility.

11. Indemnification: non-liability. Licensee shall indemnify and hold harmless and does hereby agree to indemnify and hold harmless the City of Huntsville, its officials, officers, elected

officials, employees, agents, contractors and volunteers performing an authorized city function, (hereinafter referred to as "indemnitees") from and against any and all claims, liability, loss, judgments, suits, penalties, costs, expenses and damages aforesaid (including but not limited to reasonable attorneys' fees and expenses and court costs and fees). Licensee's duty to indemnify shall not apply to loss, injury, death or damage arising by reason of the sole negligence of the indemnitees. Licensee's duties hereunder shall survive the termination or expiration of this Agreement.

Nothing contained in this section 9 shall be construed as a waiver of any immunity of statutory protection of the City of Huntsville, Alabama, and no third party may expand any recovery against the City due to Licensee's duty of indemnification.

12. Restoration. Licensee agrees to provide for and pay all costs and expenses associated with clean-up of, and damage to, the City's property resulting from Licensee's use of the Premises. The Premises shall be cleaned and restored entirely by Licensee no later than the end of the Agreement term, to the sole satisfaction of the City.

13. Insurance. Licensee shall obtain and maintain in effect throughout the term of this agreement, Commercial General Liability with the following minimum limits:

\$1,000,000 Per Occurrence Limit  
\$1,000,000 Personal and Advertising Injury  
\$1,000,000 Products/Completed Operations  
\$2,000,000 General Aggregate Limit

Such insurance shall be written on an occurrence basis, and shall specifically insure Licensee against all liability assumed by it hereunder as well as liability imposed by law. The City of Huntsville, its officers, employees, elected officials, agents, contractors and specified volunteers shall be named as additional insureds through ISO Additional Endorsement CG 20 10 or equivalent that is sufficient to provide coverage for ongoing operations and CG 20 37 or equivalent to provide coverage for completed operations. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officers, employees, elected officials, agents, contractors or specified volunteers except it shall be limited except in the case of the indemnitee's or indemnitees' sole negligence. Coverage under the Licensee policy shall be written or endorsed to provide primary coverage to any other valid or collectible insurance. Any City of Huntsville coverage is noncontributory. Licensee shall provide a Certificate of Liability Insurance evidencing required insurance coverage and contractual verbiage prior to the commencement of any use of the facilities; however, failure of the City to procure the Certificate of Insurance does not waive any insurance provisions. The Certificate Holder section shall read as follows:

City of Huntsville, AL its officers, employees, elected officials, agents, contractors and specified volunteers

Attn: City Attorney

P.O. Box 308

Huntsville, AL 35804

[bruce.pitts@huntsvilleal.gov](mailto:bruce.pitts@huntsvilleal.gov)

Such policy of insurance shall be issued by a company authorized to engage in the insurance business in the state of Alabama and shall be approved by the City Attorney of the City of Huntsville prior to Licensee entering upon the Premises upon the terms of this agreement. It is not the intention of the parties to limit the insurance coverage to the minimum limits stated in the contract but the entire limits of coverage carried if limits are higher than those noted on the Certificate of Insurance.

14. Fee. Licensee shall pay to the City the sum of Ten and no/100 Dollars (\$10.00) for the use of the Premises.

15. Non-compliance. In the event of any breach of any condition or term of this Agreement, the City may cancel the Event and terminate this Agreement at any time. Huntsville Police Department, Huntsville Fire and Rescue or any other official of the City of Huntsville acting within the line and scope of his/her authority may take any action they deem necessary in order to protect the public health or safety, to prevent damage or destruction to public or private property, or to enforce applicable laws.

16. Miscellaneous.

(a) This Agreement shall not be amended except by written instrument signed by the parties hereto. This Agreement, together with all exhibits, constitutes the entire agreement between the parties and shall be interpreted under and according to the Laws of the State of Alabama with venue in the courts of Madison County, Alabama. This Agreement shall be binding upon and inure to the benefit of Licensee, its successors and permitted assigns, and the City, its successors and assigns.

(b) Licensee shall not be excused from complying with any of the terms and conditions of this Agreement by any failure of the City upon one or more occasions to insist upon or to seek compliance with any such terms or conditions, nor shall such failure on the part of the City be construed or held to be a waiver of the City's rights thereafter to strictly enforce any provision of this Agreement.

(c) The captions of this Agreement are for convenience and reference only and in no way define, describe, extend or limit the intent or scope of this Agreement.

(d) If, for any reason, any agreement(s), provision(s), or term(s) of this Agreement (whether material to the bargain of City and Licensee or not) should be declared illegal, null and void, unconstitutional or unenforceable, in whole or in part, by any court of competent jurisdiction, the offending portion of this Agreement shall be deemed severed herefrom as though the same was never a part hereof; provided, however, the remainder of this Agreement shall not be impaired and shall remain in full force and effect according to its remaining agreements, covenants, provisions and terms.

17. The parties represent and warrant that they have full authority to enter into this Agreement.

18. The parties acknowledge and agree that this Agreement may be executed by electronic signature, which shall be considered as an original signature for all purposes and shall have the



same force and effect as an original signature. Without limitation, "electronic signature" shall include faxed versions of an original signature or electronically scanned and transmitted versions (e.g. via pdf) of an original signature.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed under their respective seals and delivered as of the date first above written.

**ATTEST**

**LICENSOR:  
THE CITY OF HUNTSVILLE, ALABAMA**

\_\_\_\_\_  
Shaundrika Edwards  
City Clerk

By: \_\_\_\_\_  
Tommy Battle, Mayor

**LICENSEE:  
HUNTSVILLE MUSEUM OF ART  
FOUNDATION BOARD**

By: Audrea Petroff  
Its: Executive Director,  
HMA Foundation Board  
Director of Development,  
Huntsville Museum of Art



