

RESOLUTION 2022-4-21

A RESOLUTION OF HUNTSVILLE TOWN, UTAH, TO ENTER INTO AN AGREEMENT WITH JOHN M. JANSON FOR LAND USE AND PLANNING WORK IN HUNTSVILLE TOWN

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

WHEREAS, the Town Council is the municipal legislative body;

WHEREAS, the Town is in need of a Land Planner to advise the Town Council on commercial development standards;

WHEREAS, the Town is in need of a Land Planner to update sections of the Land Use Code;

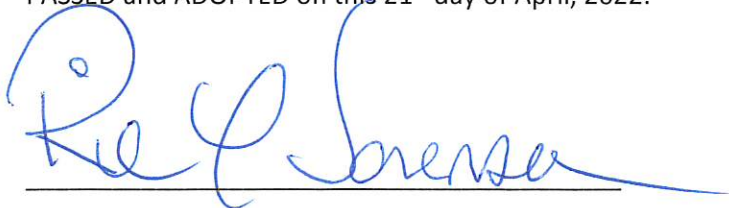
WHEREAS, the mayor, with advise of the Town Council, has entered an Agreement with John M. Janson for Land Use Planning and the Town Council desires to ratify that Agreement;

NOW, THEREFORE, BE IT RESOLVED by the Huntsville Town Council as follows;

Section 1. Ratification. That the Agreement between Huntsville Town and John M. Janson attached hereto as Exhibit "A" and incorporated herein by this reference is hereby ratified by the Town Council and shall continue in full force and effect according to the terms of the Agreement.

Section 2. Effective Date. This Resolution is effective immediately upon adoption by the Town Council.

PASSED and ADOPTED on this 21st day of April, 2022.



Richard L. Sorensen, Huntsville Town Mayor

ATTEST:

Beckki Endicott

Beckki Endicott, Huntsville Town Clerk



Votes	Ayes	Nays	Excused	Recused
Mayor Richard L. Sorenson	X			
CM Bruce Ahlstrom	X			
CM Kevin Anderson	X			
CM Sandy Hunter			X	
CM Artie Powell	X			

CERTIFICATE OF PASSAGE AND PUBLICATION OR POSTING

According to the provision of U.C.A. 10-3-713,1953 as amended, I, the municipal clerk of Huntsville Town, hereby certify that the foregoing resolution was duly passed and published, or posted at 1)Town Hall 2) www.huntsvilletown.com 3) pmn.gov

Beckki Endicott

Huntsville Town Clerk

DATE: 4-21-22

INDEPENDENT CONTRACTOR AGREEMENT

THIS AGREEMENT is effective May 6, 2022, by and between **HUNTSVILLE TOWN**, and **JOHN M. JANSON**, who is for the purposes of this agreement considered the “**Independent Contractor**”.

RECITALS:

- A. Huntsville is in need of consultant planning services.
- B. Independent Contractor has experience in providing planning services as a consultant.
- C. Huntsville desires to enter into a service contract with the Independent Contractor for such services.
- D. The parties have determined that it is mutually advantageous to enter into this services contract (“**Agreement**”).

AGREEMENT:

NOW, THEREFORE, in consideration of the premises, mutual covenants, and undertakings, the parties hereby agree as follows:

1. **Employment of Independent Contractor.** Huntsville agrees to engage the Independent Contractor, and the Independent Contractor agrees to furnish all services and materials necessary or desirable to provide Huntsville with the following planning services, including but not limited to, (1) Complete an update to the Town’s Zoning Ordinance, generally as provided in exhibit A (2) Provide educational presentation (s) concerning the State Law, processing options for the Planning Commission and the Town Council, if requested (3) attend Huntsville Planning Commission and Town Council meetings, virtually or in person, as needed and; (4) as requested by the Town from time-to-time provide other planning related services. (All such services are collectively referred to herein as the “**Services**”). In the event of conflicts and/or inconsistencies within or among, this Agreement, and applicable statute, rules, regulations, or standards, the Independent Contractor shall (1) provide the better quantity or greater quality or (2) comply with more stringent requirements or standards, either or both, in accordance with Huntsville’s reasonable interpretation.

2. **Fees for Services.** Huntsville shall pay the Independent Contractors according to the attached exhibit A. Billings shall occur monthly and provide an hourly accounting of the work performed. The hourly fee is \$100 and the total project cost shall not exceed \$12,000, unless additional work is agreed to in writing by all parties. Each month the Independent Contractor shall provide Huntsville with a detailed hourly invoice. Provided the invoice is in a form acceptable to Huntsville and the Services have been performed to the satisfaction of Huntsville then Huntsville shall pay such amount within a reasonable time of receipt of the invoice.

3. **Expenses and Costs.** The Fee includes all expenses, taxes, and costs related to

the performance of the Services, except if a mutually acceptable virtual meeting platform needs to be purchased such as Zoom, printing costs (if needed) and meeting minutes, which shall be a Town responsibility.

4. **Services Performed in a Professional, Reasonable Manner.** The Services shall be provided by the Independent Contractor in a professional manner in compliance with all applicable laws, ordinances, rules, regulations, and applicable standards of performance, including, but not limited to, the system requirements for contractors of Utah Code Ann. § 63G-12-101, *et seq.* Subject to the foregoing, the exact nature of how the Services are to be performed and other matters incidental to providing the Services shall remain with the Independent Contractor.

5. **Public Information.** The Independent Contractor understands and agrees that this Agreement and related invoices, etc., will be public documents, as provided in Utah Code Ann. § 63G-2-101, *et seq.*

6. **Confidentiality.** Independent Contractor agrees (1) to hold any confidential information in strict confidence; (2) not to disclose confidential information to any third-party, except upon Huntsville's prior written consent; and (3) to use reasonable precautions and processes to prevent unauthorized access, use, or disclosure of Huntsville confidential information; provided, however, that Independent Contractor may disclose confidential information if and only to the extent required to do so by applicable law (in which case, Independent Contractor shall advise Huntsville as soon as practicable and prior to disclosure, if practical, and cooperate and assist Huntsville at Huntsville's cost and expense, if Huntsville seeks a protective order or other relief from such disclosure requirements). As used in this Agreement, confidential information means all information material that constitutes a private, controlled, or protected record or document, or is exempt from disclosure as referenced in Utah Code Ann. § 63G-2-101, *et seq.* Independent Contractor also agrees to obligate their employees (if any) to the same obligations imposed on the Independent Contractor as provided in this section.

7. **Equipment and Facilities.** For purposes of performing the Services, the Independent Contractor shall furnish and supply at its sole cost all necessary labor, supervision, equipment, tools, and supplies necessary and incident to performing the Services, except for, projection systems, virtual meeting platforms, printing, and advertising costs.

8. **Indemnity.** The Independent Contractor shall defend, protect, indemnify, save, and hold harmless Huntsville, including its elected and appointed officials, employees, agents, and contractors from and against any and all demands, liabilities, claims, damages, actions, or proceedings, in law or in equity, including reasonable attorneys' fees and costs of suits, relating to or arising from the Independent Contractor providing the Services to Huntsville. Nothing herein shall be construed to require the Independent Contractor to indemnify Huntsville against Huntsville's own negligence.

9. **Term.** This Agreement shall be effective as of the date hereof and unless terminated earlier shall terminate on June 30, 2023 provided, however, upon the consent of the parties hereto and subject to the right to terminate as provided herein, this Agreement may be

renewed for successive one (1) year term.

10. **Assignment and Delegation.** Independent Contractor will not assign or delegate the performance of its duties under this Agreement without the prior written approval of Huntsville.

11. **Employment Status.**

a. **Official Status.** Although not anticipated, the Independent Contractor shall have complete control and discretion over all personnel providing Services hereunder. All such personnel shall be and remain employees of the Independent Contractor and shall be considered to be independent contractors. Independent Contractors have no authority, expressed or implied, to bind Huntsville to any agreement, settlements, or liability whatsoever.

b. **Salary and Wages.** Huntsville shall not have any obligation or liability for the payment of any salary or other compensation to personnel providing sub-contracted Services hereunder.

c. **Employment Benefits.** All personnel providing Services shall have no right to any Huntsville pension, civil service, or any other Huntsville benefits pursuant to this Agreement or otherwise.

12. **Termination.** Either party may terminate this Agreement upon thirty (30) days' prior written notice to the other party.

13. **Notice.** Any notice required or permitted to be given hereunder shall be deemed sufficient if given by a communication in writing and shall be deemed to have been received (a) upon personal delivery or actual receipt thereof, or (b) within three days after such notice is deposited in the United States Mail, postage prepaid, and certified and addressed to the parties as set forth below:

Huntsville: Mayor, Richard Sorensen

with a copy to: Town Clerk, Beckki Endicott

Independent Contractor: John M. Janson

14. **Claims and Disputes.** Claims, disputes, and other issues between the parties arising out of or related to this Agreement shall be decided by litigation in the Second Judicial District Court in and for Weber County, Utah. Unless terminated pursuant to provisions hereof or otherwise agreed in writing, the Independent Contractor shall continue to perform the Services during any such litigation and Huntsville shall continue to make payments to Independent Contractor in accordance with the terms of this Agreement.

15. **Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

16. **Product of Services Patents, Copyrights, Etc.** The results of Services shall constitute "work made for hire" for Huntsville. Huntsville shall be considered the author of such work for all purposes and the exclusive owner of all rights comprised in the copyright of such work and shall have the right to exploit any or all of the foregoing in any and all media, now known or later devised. If the results of any Services are not determined to be "work made for hire," or if Huntsville is not considered the owner of all such rights, the Independent Contractor hereby assigns to Huntsville without reservation, all right, title, and interest (including, but not limited to, the copyright and any extension or renewal thereof) in and to all ordinance related work and other expressions created by the Independent Contractor pursuant to this Agreement. Huntsville, in return, hereby grants to the Independent Contractor a nonexclusive license to reproduce said ordinance work created by the Independent Contractor for marketing and future use. No other copyrights are included in this grant of nonexclusive license to the Independent Contractor. The Independent Contractor shall, upon request, execute, acknowledge, and deliver to Huntsville such additional documents as the Independent Contractor may deem necessary or advisable to evidence and effectuate the assignment and Huntsville's rights under this Agreement. The Independent Contractor will indemnify and hold Huntsville, its officers, agents, and employees harmless from liability of any kind or nature, including the Independent Contractor's use of any copyrighted or un-copyrighted composition, secret process, patented or unpatented invention, article, or appliance furnished or used in the performance of the Services.

17. **Titles and Captions.** All section or subsection titles or captions herein are for convenience only. Such titles and captions shall not be deemed part of this Agreement and shall in no way define, limit, augment, extend, or describe the scope, content, or intent of any part or parts hereof.

18. **Pronouns and Plurals.** Whenever the context may require, any pronoun used herein shall include the corresponding masculine, feminine, or neuter forms, and the singular form of nouns, pronouns, and verbs shall include the plurals and vice versa.

19. **Applicable Law.** The provisions hereof shall be governed by and construed in accordance with the laws of the State of Utah.

20. **Entire Agreement and Modification of Agreement.** This Agreement and exhibit attached hereto constitute the entire agreement between the parties pertaining to the subject matter hereof and supersedes all prior agreements and understandings pertaining thereto. No subsequent alteration, amendment, change, or addition to this Agreement shall be binding upon the parties unless reduced to writing and signed by the parties.

21. **Force Majeure.** Neither party to this Agreement will be held responsible for delay or default caused by fire, riot, acts of God, and/or war which is beyond that party's reasonable control.

22. **Time.** Time is the essence hereof.

23. **Survival.** All agreements, covenants, representations, and warranties contained herein shall survive the execution of this Agreement and shall continue in full force and effect throughout the term of this Agreement.

24. **Waiver.** No failure by any party to insist upon the strict performance of any covenant, duty, agreement, or condition of this Agreement or to exercise any right or remedy consequent upon a breach thereof shall constitute a waiver of any such breach or of such or any other covenant, agreement, term, or condition. Any party may, by notice delivered in the manner provided in this Agreement, but shall be under no obligation to, waive any of its rights or any conditions to its obligations hereunder, or any duty, obligation, or covenant of any other party. No waiver shall affect or alter the remainder of this Agreement, but each and every other covenant, agreement, term, and condition hereof shall continue in full force and effect with respect to any other then existing or subsequently occurring breach.

25. **Rights and Remedies.** The rights and remedies of the parties hereto shall not be mutually exclusive, and the exercise of one or more of the provisions of this Agreement shall not preclude the exercise of any other provisions hereof.

26. **Severability.** In the event that any condition, covenant, or other provision hereof is held to be invalid or void, the same shall be deemed severable from the remainder of this Agreement and shall in no way affect any other covenant or condition herein contained. If such condition, covenant, or other provision shall be deemed invalid due to its scope or breadth, such provision shall be deemed valid to the extent of the scope or breadth permitted by law.

27. **Exhibits and Recitals.** The recitals set forth above and all exhibits to this Agreement are incorporated herein to the same extent as if such items were set forth herein in their entirety within the body of this Agreement.

28. **Injunctive Relief.** Notwithstanding anything to the contrary in this Agreement, the Independent Contractor acknowledges that the unauthorized use or disclosure of confidential information would cause irreparable harm to Huntsville. Accordingly, the Independent Contractor agrees that Huntsville will have the right to obtain an immediate injunction against any breach or threatened breach of section 6 of this Agreement, as well as the right to pursue any and all other rights or remedies available at law or in equity for such breach.

29. **Conflicts of Interest.** The Independent Contractor represents and certifies that it has not offered or given any gift or compensation prohibited by law to any officer or employee of Huntsville to secure favorable treatment with respect to being awarded this Agreement.

IN WITNESS WHEREOF, Huntsville caused this Agreement to be signed by its Mayor and attested by its Town Clerk and delivered, and the Independent Contractor has caused the same to be signed and delivered.

HUNTSVILLE

By:

Richard Sorensen

Richard Sorensen, Mayor

Date

7/5/22

ATTEST



Becki Endicott

Becki Endicott, Town Clerk

APPROVED AS TO FORM

4-21-2002

John M. Janson

Date
