

RESOLUTION – AUTHORIZING AGREEMENT WITH THE FRIENDS OF SPRING LAKE 5

BE IT RESOLVED by the Mayor and Borough Council of the Borough of Spring Lake that the Mayor and Borough Clerk be and hereby authorized to execute an agreement with the Friends of Spring Lake 5, a copy of which is annexed hereto and made a part hereof as if set forth at length herein.

James Naughton

MAYOR JENNIFER NAUGHTON

I hereby certify that the above Resolution was duly adopted by the Mayor and Borough Council of the Borough of Spring Lake at a meeting held on June 9, 2020.

Dina M. Zahorsky
DINA M. ZAHORSKY, BOROUGH CLERK

	M O V E D	S E C O N D E D	A Y E S	N A Y S	A B S E N T	A B S T A I N
MR. DRASHEFF		✓	✓			
MR. ERBE					✓	
MR. JUDGE	✓		✓			
MR. FROST			✓			
MR. SAGUI			✓			
MS. WHALLEY			✓			
MAYOR NAUGHTON						

I hereby certify that the above Resolution was duly adopted by the Mayor & Borough Council of the Borough of Spring Lake at a meeting held on June 9, 2020.

Borough Clerk

AGREEMENT

This Agreement is entered into this 7th day of October, 2020, by and between THE BOROUGH OF SPRING LAKE, a municipal corporation of the State of New Jersey (hereinafter referred to as "Borough")

and

THE FRIENDS OF THE SPRING LAKE 5, a New Jersey Non-Profit Corporation, with principal offices at 1011 Highway 71, Spring Lake, New Jersey 07762 (hereinafter referred to as "FSL5");

WITNESSETH:

In consideration of the mutual promises and covenants herein contained the parties hereto agree as follows:

1. FSL5 is hereby granted the exclusive right to continue to organize and carry out a five (5) mile road race, commonly referred to as the "Spring Lake 5", which shall be held on the Saturday of Memorial Day weekend, commencing at approximately 8:00 a.m. and shall be run each year over the same course principally in the Borough as in the prior years and through the downtown of Spring Lake (unless a request for course adjustments are requested by FSL5 as a result of changes to the course of configuration of town streets) (hereafter referred to as the "Spring Lake 5" or the "Race"). This Agreement is for the running of the Spring Lake 5 in the years 2021 thru 2025, unless terminated as provided in paragraph 10 herein, and will become automatically effective following the conclusion of the existing contract for the Race between the Borough and FSL5.

2. The FSL5 shall render the following services to carry-out the Race:

- a. Organize, promote and conduct all facets of the Race, including, but not limited to, printing and distribution of applications, processing all applications or registrations to enter and run, depositing and accounting for all monies associated with the Race, obtaining and distributing race numbers, placing all entrants in its computer data base, providing appropriate awards for runners, including an award for the first male and first female finisher who is a Spring Lake resident, arranging for portable sanitation and first aid services, obtaining and distributing tee shirts to all participants and volunteers, organizing the finish line, setting up and breaking down the start-finish and refreshment areas, and organizing a general cleanup of the areas related to the Race.

- b. The FSL5 shall in its application for runners of the Race provide a hold harmless release clause in language and form as previously used, unless changed by the Borough and given to FSL5, which shall protect and hold harmless the Borough and Spring Lake Recreation (hereinafter referred to as "Spring Lake Recreation").
 - c. The FSL5 shall reimburse the Borough for all verifiable costs incurred on behalf of the Race by the Borough for additional police and police services, Department of Public Works employees, and for the reasonable time involved by the Borough Administrator's office, if any, and the Borough Auditor. Bills shall be submitted by the Borough as soon as practicable after the Race, but within sixty (60) days following the running of the Race and shall be paid within 60 days of receipt by the FSL5. If the FSL5 has not received bills from the afore-referenced Borough Services within said 60 days then it will notify the Borough of such omission.
3. The Borough, acting through Spring Lake Recreation, shall be responsible to recruit and arrange to have at least thirty (30) volunteers available to work at the finish line of the Race and such other activities as directed by FSL5.
4. The FSL5 shall have issued liability insurance coverage in an amount of Five Million (\$5,000,000) Dollars covering the individuals, volunteers and other persons associated with the Race. Said liability policy shall also name the Borough and Spring Lake Recreation as additional named insureds on the policy. A Certificate of Insurance shall be presented to the Borough Clerk not less than thirty (30) days prior to the running of the Race.
5. The Race shall be limited to approximately 12,500 registrants each year with the expectation that no more than approximately 10,000 will run and finish the Race. The Mayor and Borough Council reserve the right to regularly review the number of participants in the Race and to re-evaluate the maximum number of registrants if experience indicates that more than 10,000 runners have completed the Race in 2 out of 3 consecutive years. There shall be no increase in the size of the Race unless the Mayor and the Borough Council are of the opinion that the Race can be increased safely. In the event of an increase in the Race, there shall be an addendum attached to this Agreement, modifying the number of participants who are able to participate.
- a. All expenses of the Race, as incurred by FSL5, shall be paid from the entry fees of the Race.
 - b. Each year of this Agreement Spring Lake Recreation shall receive an

amount equal to \$5.25 for each registered runner into the Race. In addition, should the fee to enter the Race increase from the 2020 fee of \$50 per runner, the fee to be paid to Spring Lake Recreation per registered runner shall increase by ten percent (10%) of any increase above \$50.00 per registered entrant.

- c. Each year that this agreement is in effect and the Race has a minimum of 7,001 paid registrants into the Race the Borough will be paid an additional fee of \$20,000 in support of physical improvements at Marucci Park. This fee will be paid in any and all subsequent renewal years until the bond/debt for said physical improvements is paid in full. Should the FSL5 in its sole discretion choose to terminate this agreement as permitted in paragraph 9 of this agreement or should FSL5 not renew this agreement, the obligation to make any additional payments under this paragraph 5 (c) shall be null and void. To the extent the registrants into the Race in any year fall below 7,001 the fee of \$20,000 will be reduced by \$2,000 for every 1,000 registrants below 7,001 (e.g. 6,000-7,000 registrants fee payable is \$18,000.)
 - d. In addition, each year of this Agreement Spring Lake Recreation shall also receive \$1.25 per registrant in the Spring Lake Five Kids' Race (as defined herein).
 - e. The amount contributed to Spring Lake Recreation and the Marucci Park project shall be in addition to any monies donated to the Spring Lake First Aid Squad, Spring Lake Fire Company #1, Good Will Fire Company, Manasquan First Aid Squad, Belmar First Aid Squad, or other volunteer organizations or community groups and causes to which FSL5 shall determine.
 - f. A representative of FSL5 shall be available quarterly each year upon the request of the Borough Council to meet publicly or in executive session to update the Council on the planning of the Race for the coming year and/or to explain any aspects about the Race from the prior year.
 - g. No non-Race related merchandise shall be sold by FSL5, except that any Race-related merchandise that remains after distribution to participants may be sold to the general public. The sale of other items during the Race shall require the prior approval of the Mayor and Borough Council.
6. FSL5 shall advise the Mayor and Borough Council in advance of any proposed material Race sponsorship opportunity which it feels is advantageous to the Race but such "opportunity" does not include sponsors who pay \$10,000, or less, in any year or a "sponsor" making payment to be affiliated with the Race who

provides product for the Race which might exceed \$10,000. The Mayor and Council shall have the right, within twenty (20) days' notice of any such sponsorship to approve or disapprove of any such proposed sponsors and, if approved, the Borough shall receive eighty percent (80%) of any revenues derived from such sponsorship that is in excess of \$10,000.

7. FSL5 shall advise the Mayor and Borough Council in advance of any proposed professional video, audio or film productions taken at the time of the Race for which it is proposed FSL5 will receive compensation. The Mayor and Borough Council shall have the right, within twenty (20) days of notice of any professional video, audio or film productions, to approve/disapprove of this feature. In event of approval, the Borough would receive eighty percent (80%) of the revenues received from the professional video, audio or film taken at the time of the race.

8. FSL5 represents and agrees that it will not, without the consent of the Mayor and Borough Council, donate more than \$5,000 in any year to any group or organization that is based and does not provide services into Monmouth County, New Jersey, unless such group has provided volunteers, in the year of any donation, to help carry out the Race.

9. FSL5 will give the Borough notice within ninety (90) days after the completion of any Race if it is electing not to continue this Agreement for the ensuing year's Race. If FSL5 does not give notice of termination the Race each ensuing Race under this agreement shall be conducted in the same manner, and as set forth in this Agreement and as carried out for the prior Race. The Borough and Spring Lake Recreation shall not conduct any comparable races either on Memorial Day weekend or within thirty (30) days either before or after Memorial Day weekend during the term of this agreement.

10. For good cause shown, which shall mean a material breach of FSL5's representations herein, or if residents of Spring Lake do not at all times hold not less than eighty percent (80%) of the Trustee positions on the Board of Trustees of FSL5 the Borough shall have the option to terminate this Agreement within a period of ninety (90) days after the date of the last Race by written notice citing such material breach and which notice must be delivered to the FSL5 at the address indicated herein. Notwithstanding anything herein to the contrary, if the Board of Trustees of the FSL5 shall at any time have 8 persons or fewer serving as Trustees but more than 6 persons serving as Trustees, the Board of FSL5 shall be entitled to have two persons who reside outside of Spring Lake serve as Trustees without violating the eighty percent (80%) qualification set forth herein. If the Board of Trustees composition shall fall outside of these

requirements, the FSL5 Trustees shall have six (6) months from the arising of the default to interview appropriate candidates and to make an appointment necessary to come into compliance with the terms herein.

11. The Borough gives permission to the FSL5 to hold a series of races for children on the Friday evening of Memorial Day weekends each year that this Agreement is effective. The races shall take place on Ocean Avenue between the South End Pavilion and Pier Beach and shall be open to children between the ages of 4 to 12 inclusive. The FSL5 shall be responsible for the following:

- a. Providing the volunteers necessary to properly organize, register and supervise the Spring Lake Five Kids' Race, together with arranging for emergency medical services to be present and organizing the general cleanup of the area after completion of the Race.
- b. FSL5 shall reimburse the Borough for any and all reasonable, verifiable costs and expenses incurred by the Borough Police Department, as well as the Department of Public Works in connection with the Spring Lake Five Kids' Race and the services provided by said departments. This reimbursement shall include, but not be limited to, the hourly cost plus benefits and overtime.
- c. In connection with the Spring Lake Five Kids' Race, all conditions and requirements of this Agreement, as provided for the Race are incorporated herein by reference and made a part hereof as if set forth in full, where not contradicted by specific agreements related to the Spring Lake Five Kids' Race.

12. FSL5 shall provide the Borough with an audit report stating its revenues and expenses and a list setting forth the name of each recipient of a donation from FSL5 on or before September 1st of the year of each Race in order for the Borough Auditor to conduct a review of the finances of the Race and the Spring Lake Five Kids' Race, should the Borough so desire.

13. All notices required under this Agreement must be given by certified mail or registered mail, addressed to the proper party, at the following addresses:

On Behalf of the Borough of Spring Lake

Bryan Dempsey, Borough Administrator
Borough Hall
423 Warren Ave.
Spring Lake, NJ 07762

With a copy to:

Joseph J. Colao, Jr.
Pashman Stein Walder Hayden, PC
Bell Works
101 Crawfords Corner Road, Suite 4202
Homdel, NJ 07733-1985

On Behalf of the Friends of Spring Lake 5

Chip Craig, Registered Agent
1011 Highway 71
Spring Lake Heights, NJ 07762

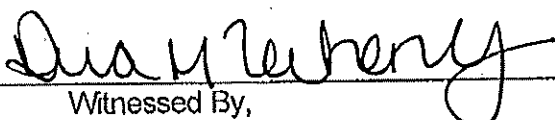
14. Any and all disputes between the parties arising out of this Agreement shall be submitted to mediation with a retired judge of the New Jersey Superior Court. If the dispute cannot be resolved through said mediation, the parties thereafter shall submit the dispute to arbitration with the same retired judge who conducted the mediation.

IN WITNESS WHEREOF, the parties have respectively signed and sealed these presents the day and year first above written.

THE BOROUGH OF SPRING LAKE

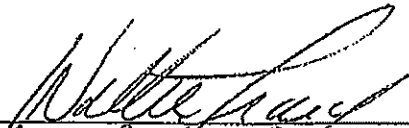


Jennifer Naughton, Mayor

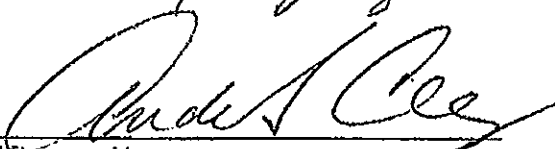


Witnessed By,
Dina Zahorsky, Borough Clerk

THE FRIENDS OF THE SPRING LAKE 5
A New Jersey Non-Profit Corporation



Trustee, Walter Graeg



Witnessed by: Andrea S. Craig

June 6, 2024
08:30 AM

Spring Lake Borough
Detailed Cash Receipts Report by Block/Lot/Qual/Acct

Page No: 1

Range: Block: First to Last Range of Util Accounts: First to Last
Lot:
Qual:
Range of Codes: R05 to R05 Range of Years: First to 2025 Range of Periods: 1 to 12
Range of Batch Ids: First to Last Range of Dates: 01/01/22 to 06/06/24
Range of Sections: First to Last Name to Print: Bill To
Range of Spec Tax Codes: First to Last Print Ref Num: N Print Utility w/Block/Lot/Qual: N
Payment Type Includes: Tax: Y Sp Charges: Y Lien: Y Sp Assmnt: Y Water: Y Sewer: Y
Voucher Agency: Y Misc: Y
Payment Method Includes: Cash: Y Check: Y Credit: Y Voucher: N VT: Y
Range of Installment Due Dates: First to Last
Print Only Miscellaneous w/Block/Lot/Qual: N Sort Miscellaneous Payments by Block/Lot/Qual/Utility Account: N
Print Only Miscellaneous w/Utility Id: N

Block/Lot/Qual/Acct	Name		Interest	Total	Section		Date	User	Batch
	Type	Year Prd Lien Charge Type			Code	Mtd Check# Description			
R05	Spring Lake 5 donatn								
	2022 5 mile run		67,125.00	0.00	67,125.00	R05P CK 2691	07/18/22	KIT2	MKREC
	Spring Lake 5 kids race		1,125.00	0.00	1,125.00	R05P CK 2692	07/18/22	KIT2	MKREC
	REGISTRATION FEES 2023 SL5		79,250.00	0.00	79,250.00	R05P CK 2836	06/16/23	DINA	REC
	Pay Code R05 Total:				147,500.00				
	Misc Total:				147,500.00				

June 6, 2024
08:30 AM

Spring Lake Borough
Cash Receipts Totals from 01/01/22 to 06/06/24

Page No: 2

Code Description	Count	----- Arrears/Other	Principal -----			Interest	Total
			2023	2024	2025		
R05 Spring Lake 5 donat	3	147,500.00	0.00	0.00	0.00	0.00	147,500.00
Misc Payments	3	147,500.00	0.00	0.00	0.00	0.00	147,500.00
Payments Total:	3	147,500.00	0.00	0.00	0.00	0.00	147,500.00
Cash O/S Total:	0	0.00	0.00	0.00	0.00	0.00	0.00
NSF Reversals Total:	0	0.00	0.00	0.00	0.00	0.00	0.00
Total:	3	147,500.00	0.00	0.00	0.00	0.00	147,500.00
Total Cash:	0.00						
Total Check:	147,500.00						
Total Credit:	0.00						
Total V Term:	0.00						