

CITY OF JOHNSTOWN, CAMBRIA COUNTY, PENNSYLVANIA

RESOLUTION NO. 10541

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF JOHNSTOWN, CAMBRIA COUNTY, PENNSYLVANIA AUTHORIZING AND DIRECTING THE CITY MANAGER AND/OR HIS DESIGNEE TO TAKE ANY/ALL ACTIONS NECESSARY TO EXECUTE A CONTRACT RENEWAL OPTION WITH TOP DOG PRODUCTIONS FOR INTERIM EVENT MANAGEMENT SERVICES TO BE PROVIDED AT THE FRANK J. PASQUERILLA CONFERENCE CENTER ON A TEMPORARY/INTERIM BASIS FOR THE PERIOD OF FEBRUARY 1, 2023 THROUGH FEBRUARY 28, 2024

WHEREAS, the City of Johnstown is the legal owner of the Frank J. Pasquerilla Conference Center located at 301 Napoleon Street in Johnstown, which is an event venue consisting of meeting space, a ball room and conference rooms available for booking for private and public events; and

WHEREAS, the City of Johnstown lacks the capacity and staffing necessary to manage and operate the Conference Center on an ongoing basis in the manner intended, i.e., for purposes of hosting and managing events and/or otherwise operating the venue in the manner intended; and

WHEREAS, the City of Johnstown accordingly issued a Request for Proposals for the management for the Frank J. Pasquerilla Conference Center that closed in April of 2022, and did not receive any satisfactory proposals submitted in response, thereby resulting in the City's exercise of its right to reject any/all such proposals; and

WHEREAS, as a result of the lack of success with respect to the first issuance of the request for proposals for the management of the Conference Center, the City subsequently issued a second request for proposals that resulted in no response; and

WHEREAS, the City is experiencing an urgent and pressing demand for staffing and management personnel to ensure the adequate operation of the Conference Center currently, for purposes of previously booked events and requests being received for events to be booked in the near and immediate future; and

WHEREAS, in light of these emergent needs for management of the Conference Center, and to avoid the loss of opportunities presented by those seeking to book events at the Conference Center, the City has determined that it is in the best interest of the Conference Center, the City of Johnstown, and its taxpayers, to continue a temporary, short-term contract with Top Dog Productions to provide management and related services on an interim and temporary basis; and

WHEREAS, the City has complied with all necessary requirements to ensure that this temporary/emergency procurement has been appropriately documented and is in fact necessary and existing as an urgent/emergent demand; and

WHEREAS, the City Council approved a temporary management agreement with Top Dog Productions on September 7, 2022, to extend through February 1, 2023. The City Manager and Top Dog Productions subsequently signed and entered into the temporary management agreement; and

WHEREAS, the temporary management agreement approved by City Council on September 7, 2022 and signed by the parties contains an option for contract renewal under section 1(c)(i); and

WHEREAS, the City determined that it is in the best interest of the facility and City to approve the renewal option contained in the contract which will extend the contract through February 2024, under the existing terms of the temporary management agreement approved on September 7, 2022.

NOW, THEREFORE, be it resolved by the City Council of the City of Johnstown, Cambria County, Pennsylvania that the City Manager and/or his designee is hereby authorized and directed to sign the renewal option contained within the temporary management agreement with Top Dog Productions for a period commencing February 1, 2023 through February 28, 2024.

ADOPTED: December 14, 2022

By the following Vote:

Yeas: Mayor Janakovic, Mr. Britt, Mr. Arnone, Mrs. Mock, Ms. Huchel

Nays: Mr. Capriotti, Rev. King

Absent:



Frank Janakovic, Mayor
Michael Capriotti, Deputy Mayor

ATTEST:

I do hereby certify that the foregoing is a true and correct copy of Resolution No. **10541** as the same by the City Council of the City of Johnstown, Pennsylvania.



Ethan Imhoff, City Manager

MANAGEMENT AND OPERATIONS AGREEMENT

This Management and Operating Agreement ("Agreement"), is made and entered into this 7th day of September, 2022, by and between the City of Johnstown, hereinafter referred to as "City" and Top Dog Productions, Inc., 219 Bass Avenue, Johnstown, PA 15904 ("Top Dog" and/or "Operator").

WHEREAS, the City is the legal owner of the Frank J. Pasquerilla Conference Center ("Conference Center"), located in the City of Johnstown, Cambria County; and

WHEREAS, following the unsuccessful issuance of a Request for Proposals addressing the long-term management and operation of the Conference Center, the parties mutually desire to enter into a temporary/interim Management and Operations Agreement on the terms and conditions outlined below.

NOW THEREFORE, with the intent to be legally bound, the parties mutually agree as follows:

1. DEFINITIONS

The terms set forth below shall have the corresponding meanings set forth below:

- a. **PREMISES.** The Frank J. Pasquerilla Conference Center situated at 301 Napoleon Street, Johnstown, Pennsylvania, adjacent to the 1st Summit Arena.
- b. **BUILDINGS.** The Frank J. Pasquerilla Conference center consisting of a total meeting space of 11,801 sq. feet. This includes a 6-section, 10,400 sq. ft. main ballroom floor, conference rooms totaling 3,500+ sq. ft. of space, offices, kitchen, and storage areas.
- c. **TERM.** A term of approximately five (5) months with an ending date of February 1, 2023.
 - i. **Renewal option thru February of 2024.**
 - a) If the second release of the management and operations request for proposals goes unanswered, this agreement will be eligible for renewal for one year term.
 - b) Any renewal shall be subject to negotiation of these terms, and future approval by the City Council of the City of Johnstown.
 - c) Agreement Commencement date: September 7th, 2022.
- d. **ADDRESSES.**

- i. Operator's Address: 219 Bass Avenue, Johnstown PA 15904
- ii. Operator's Address, Premises & Mailing: 301 Napoleon Street, Johnstown, PA 15901
- iii. City's Address: 401 Main Street, Johnstown, PA 15901

2. PREMISES

- a. PREMISES. In light of emergent needs for management of the Conference Center, and to avoid the loss of opportunities presented by those seeking to book events at the Conference Center, the City of Johnstown hereby gives Top Dog Productions management and related services rights of the Conference Center on an interim and temporary basis until such time as a more permanent management company can be selected and installed
- b. ACCESS. The City shall have the right to enter the Premises at all reasonable hours with reasonable prior notice except in the case of emergency, for the purposes of conducting inspections which the City deems necessary for the safety, preservation, or improvement of the premises.
- c. KEYS. Keys to be provided to the Operator to inventory and create sets, an inventory report of what keys exist will be provided to the city along with a duplicate set of "Master Keys"

3. TERM AND COMMENCEMENT OF AGREEMENT

- a. The initial term of this Agreement shall commence on September 7th, 2022 and shall end on February 1, 2023.
 - i. Any event contracts created by the Operator prior to February 1, 2023, must be honored by the new management company and/or the City, if a new management company is selected by the City. This applies to any event scheduled up to February 1, 2024.
 - ii. If the agreement is not extended per the terms of Section One, and the City makes the decision to close the facility, change its use, or sell the building, the City understands that any contracts that are in place for events up to February 1, 2024 MUST be honored as originally contracted by the Operator.

4. RENT AND SURCHARGE PAYMENTS

- a. This Agreement is being entered into with Top Dog Productions and shall be in accordance with the terms and conditions of Request for Proposal and will

not impose any cost upon the City beyond certain specified maintenance and/or capital improvements as further detailed therein, **in exchange for a minimal lease rate of \$1.00.**

- b. All payments must be delivered to the Director of Finance, Room 104, City Hall, 401 Main Street, Johnstown, PA 15901, no later than the close of business, on the last day of each month.

5. OPERATION AND USE OF PREMISES

- a. The Operator will be responsible for day-to-day maintenance costs, lawn care, snow removal, venue tours, inquiries. It is understood the City will be responsible for capital and long-term maintenance costs. The Conference Center shall be maintained as a public, non-exclusive facility. The Operator shall have the exclusive right to operate the Conference Center in a manner that the Operator determines most effective. The Operator shall be required to maintain the current condition of the Conference Center and is authorized to make those improvements. Operator, in its sole discretion, determines what changes are necessary, and has the right to execute them during the term of the Management and Operations Agreement.
- b. The Operator shall use the facility exclusively for the operation of a conference center and its related uses including weddings, banquets, private functions, corporate dinners etc. Any use other than that of a conference center is prohibited without the express written consent of the City Manager.

6. REPAIRS AND MAINTENANCE

- a. Any repairs or required approved replacements kitchen equipment (either permanently installed or moveable that is owned by the City) will be the responsibility of the City. If the Operator purchases any equipment during the temporary management period, it is understood that said equipment will not remain with the building after temporary management term completes and remain property of the Operator. The Operator will notify the City of such purchases for record keeping purposes.
- b. Top Dog Productions will not be responsible for the cost of any repairs to equipment that is permanently mounted to the facility.
- c. The City agrees to repair, at its cost, the following items upon the commencement of this agreement:
 - 1. Walk In freezer repairs.
 - 2. Dish washing machine leaks.

3. Draining of the grease traps.
 4. Hood system inspection and cleaning.
 5. Replacement of ice machine filters.
 6. Gas recharge of walk-in cooler.
- d. The City and Top Dog Productions agree to conduct an inspection and inventory of conference center contents no less than one week following the mutual signing of this agreement, and then again within a week of the contract's end date.
 - e. Future requests for repairs shall be submitted by Top Dog Productions to the City on a weekly basis. The City shall respond to such requests within a week of the repair request.
 - f. For emergency service calls and repairs, the City Manager and Public Works Director shall be notified immediately of the nature of such requests. The City agrees to maintain funds to pay for such repairs.

7. UTILITIES

The City shall be responsible for the installation, operation, payment, and maintenance of all utilities currently connected to the Premises and those to be connected in the future. The City shall in no way be liable for loss or interruption of utility service upon the premises.

8. COMPLIANCE WITH LAWS

The Operator, at its sole cost and expense, shall comply with all applicable federal, state, county and municipal laws and regulations now or hereafter in force in connection with Operator's use and occupancy of the leased Premises.

9. INDEMNIFICATION

- a. Except and to the extent of any injury to persons or damages to property that is proximately caused by or results from the negligent act or omissions of the City, its employees, or agents, Operator shall indemnify and hold City, its employees, and agents harmless from and against any and all demands, claims, causes of action, fines, penalties, damages, liabilities, judgments and expenses incurred in connection or arising from:
 - i. The use and occupancy of the Premises by the Operator or any person claiming under Operator

- ii. Any activity or work or thing done or permitted by Operator on or about the Premises or Buildings;
 - iii. Any breach by Operator or its employees, agents, contractors, or invitees of this Agreement;
 - iv. Any injury or damage to person, property or business of Operator, its employees, agents, contractors, or invitees upon entering the Premises under the express or implied invitation of Operator.
 - v. Any violation by Operator of any federal, state, county and municipal laws, and regulations now or hereafter in force.
- b. If any action or proceeding is brought against the City by reason of any of the foregoing the above points, (I thru v.), the Operator, upon written notice from the City, shall defend and indemnify the same at the Operator's expense.

10. INSURANCE

- a. CITY'S INSURANCE. At all times during the term, the City shall keep in force, at current coverage levels the following insurance:
- i. All risk property insurance insuring all Property, Buildings, all improvements located therein (excluding the Operator's Property);
 - ii. Commercial general liability insurance insuring the Premises.
 - iii. Such other insurance as the City reasonably determines from time to time
- b. OPERATOR'S INSURANCE. The Operator, at its sole cost and expense shall keep the following coverage in place during the term of the Agreement:
- i. Liability Insurance – a minimum of \$3 million in Combined Single Limit general liability insurance, covering personal injury, property damage liability and contractual liability
 - ii. Workers Compensation Insurance – that meets the statutory obligations with the following coverage limits Employers Liability limits of at least \$100,000 each accident, \$500,000 disease-policy limits, and \$100,000 disease each employee.
 - iii. Property Insurance – replacement value (building and personal property) plus business interruption.

- iv. Additional Insured. The Lessee shall list the City of Johnstown as an additional insured on each policy and provide proof of coverage to the City.

11. ASSIGNMENT

This Agreement cannot be assigned by the Operator to any other party without prior authorizing action by the City of Johnstown City Council.

12. NOTICE

Any notice required or permitted to be given under this Agreement shall be sufficient if in writing and sent certified mail to the addresses listed in Section One for the City and Operator.

13. AGREEMENT

This Agreement contains the entire agreement between the parties.

14. AMENDMENTS

This Agreement may be amended only by mutual written agreement of the parties.

This agreement supersedes and replaces all previous Agreement(s) between the Operator and the City.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written:

Accepted:



Signature, Operator, Pres. D. Coval

City of Johnstown



Signature, City Manager



Signature, Operator, VP. D. Greene



Signature, Witness



Signature, Witness, Karen Durham



Signature, Witness