

CITY OF JOHNSTOWN, CAMBRIA COUNTY, PENNSYLVANIA

RESOLUTION NO. 10564

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF JOHNSTOWN, CAMBRIA COUNTY, PENNSYLVANIA AUTHORIZING THE CITY MANAGER TO EXECUTE ALL DOCUMENTS REQUIRED AND TAKE ALL ACTIONS NECESSARY TO SIGN AN AGREEMENT WITH BISHOP MC CORT TO SELL CONCESSION AT SARGENT'S STADIUM AND ROXBURY PARK.

WHEREAS, the City of Johnstown owns Sargent's Stadium and the concession stands within the stadium; and

WHEREAS, the City of Johnstown owns the concession stand on the grounds of Roxbury Park; and

WHEREAS, Bishop McCort wishes to use the concession stands at both sites to sell food and beverage product to the general public at events held at each location; and

WHEREAS, the City wishes to lease both concessions stands to Bishop McCort pursuant to the terms and conditions of the attached lease agreement; and

WHEREAS, Bishop McCort shall pay the City of Johnstown a rental fee equal to 20% of total net profits. Payments will be made monthly, on or before the 30th day following the end of each month. Along with each payment, Bishop McCort is required to provide monthly financial statements outlining the calculation of net profit and total sales; and

NOW, THEREFORE, BE IT RESOLVED, the City Council of the City of Johnstown, hereby authorizes the City Manager and/or his designee to sign all documents and take all actions necessary to execute a lease agreement with Bishop McCort to operate the concession stands at Sargent's Stadium from April 12 thru April 30, 2023, and August 16 thru December 31, 2023, and Roxbury Park from April 12 thru December 31, 2023.

ADOPTED:

By the following vote:

Yeas: Mr. Capriotti, Rev. King, Mr. Arone, Ms. Huchel, Mr. Britt

Nays:

Absent: Mrs. Mock, Mayor Janakovic



Frank Janakovic, Mayor

ATTEST:

I do hereby certify that the foregoing is a true and correct copy of Resolution No. **10564** as the same adopted by the City Council of the City of Johnstown, Pennsylvania.

A handwritten signature in blue ink, appearing to read 'E. Imhoff', is positioned above a horizontal line.

Ethan Imhoff, City Manager

LEASE and LICENSE

CONCESSION OPERATIONS at POINT STADIUM and ROXBURY PARK

THIS LEASE dated this 12th day of April 2023, by and between THE CITY OF JOHNSTOWN, CAMBRIA COUNTY, a municipal corporation under the laws of the Commonwealth of PA, with its principal place of business located at 401 Main Street, Johnstown, Pennsylvania, 15901 (hereinafter "CITY")

AND

BISHOP MC CORT 25 Osborne Street Johnstown, PA 15905 (hereinafter "RENTER")

PREAMBLE

WHEREAS, the City of Johnstown owns the Point Stadium, and the concession stands within the Stadium, and;

WHEREAS, the City of Johnstown owns the concession stand on the grounds of Roxbury Park, and;

WHEREAS, the RENTER wishes to use the concession stands at both sites to sell food and beverage products to the general public, and;

WHEREAS, the City wishes to lease both concession stands to the Renter pursuant to the terms and conditions of this lease.

NOW THEREFORE, with the intent to be legally bound, the City and Renter hereto agree as follows:

I. PREMISES AND TERM

- a. The City hereby grants Renter the exclusive license to sell food and beverages at the Point Stadium and leases the concession stands located at the Point Stadium beginning as of April 12, 2023, thru April 30, 2023, and August 16, 2023, thru December 31, 2023. Renter shall have the exclusive use of the concession stands for the above term and the exclusive right to sell food and beverages at the Point Stadium for the above term. During this term, approval of any outside vendor must be done so by Bishop McCort and the City collectively.
- b. The City hereby grants Renter the exclusive license to sell food and beverages at Roxbury Park and leases the concession stand located in Roxbury Park beginning as of April 12, 2023, and continuing thereafter until December 31, 2024. Renter shall have the exclusive use of the concession stand for the above term and the exclusive right to sell food and beverages at Roxbury Park for the above term. During this term, approval of any outside vendor must be done so by Bishop McCort and the City collectively.

- c. Upon expiration of the initial term hereof, the parties may extend the term for one, one-year period. If the City agrees to extend the initial term with the Renter, it shall be pursuant to the same conditions and terms contained herein.
- d. Nothing contained herein shall prohibit the City from seeking and awarding requests for proposals for either or both concession sites at the expiration of the initial term.
- e. This concession contract doesn't include any City-Sponsored concert held at Sargent's Stadium. The City and its concert partners will have sole rights to provide concessions at City-sponsored concerts held at Sargent's Stadium. It is anticipated that zero to four City-sponsored concerts would occur at the stadium in FY 2023.

II. PROVISION OF SUPPLIES AND EQUIPMENT

- a. All equipment, personnel, supplies, and preparation incidental to the establishment, maintenance, and operation of the concession stands are the responsibilities of the Renter.

III. HEALTH REQUIREMENTS

- a. The Renter will be required to obey all health and sanitary laws, regulations, and policies of the City of Johnstown, Commonwealth of Pennsylvania, and other relevant regulations formally adopted by the appropriate level of government.
- b. A SafeServ certified employee will be placed at each location, at the discretion and supervision of the Renter.
- c. All Bishop McCort Managers are required to have their Child Abuse Clearances.

IV. INSURANCE

- a. The Renter will provide the City with a certificate of insurance indicating liability coverage in the amount of \$500,000 for bodily injury and property damages that may result or arise from their activity in the concession stand.

V. INDEMNIFICATION

- a. In consideration for the granting of permission by the City of Johnstown, Pennsylvania, to the Renter for the use of the above-mentioned facilities, the Renter agrees to indemnify and hold harmless the City of Johnstown, its agents, officers, and employees from and against all claims for injury or damages to persons or property arising out of or caused by the use of the concession stands.

VI. COMPENSATION FOR THE CITY

- a. The Renter shall pay the City of Johnstown a rental fee equal to twenty percent (20%) of total net profits.
- b. Payments to the City will be made monthly, on or before the 30th day following the end of each month. Along with payment, Bishop McCort is required to provide monthly financial statements outlining the calculation of net profit and total sales.
- c. The City may require financial statements for single events.

VII. TIME OF OPERATION

- a. The Renter will operate the concession stands at the Point Stadium and Roxbury Park for all events scheduled through the City of Johnstown. Exceptions may be made under agreements with parties hosting a scheduled event in which they wish to utilize their own concessions for specific fundraising purposes. Such exceptions must be agreed

upon by the Renter, the City, and the party involved, at least one week prior to the event.

- b. The City will furnish the Renter with a schedule of all events at the Point Stadium and Roxbury Park, and changes thereto, as soon as they are known. The City shall give the Renter as much advanced notice as possible for all scheduled events.
- c. At its sole discretion, the City will make spot inspections to ensure that the concession stands are in operation during scheduled events.
- d. The Contractor shall operate Sargent's Stadium and Roxbury Park Concession stands for all events scheduled through the City of Johnstown. Failure to do so may result in cancellation of the concession contract and/or a financial penalty of \$500 for each event in which concessions aren't available by the selected contractor.

VIII. GOODS TO BE SOLD

- a. At the start of each year, the Renter shall submit a proposed menu of items and prices to be charged by the Renter for the concession stands.
- b. The Renter will assume the right of being the only vendor to sell or ask for a donation of all food and beverage at the Point Stadium and Roxbury Park. Any outside vendors must, as discussed above, be approved by the Renter and the City collectively.

IX. STAFFING REQUIREMENTS

- a. The Renter is required to adequately staff all concession stands.

X. DEFAULT AND CANCELLATION

- a. The Renter is required to comply with all stated requirements of this lease. If the Renter violates this lease, and after ten (10) days written notice by the City, has not corrected the violation, the City shall have the right to terminate the lease.

XI. MISCELLANEOUS

- a. The Renter shall comply with all applicable laws, ordinances, regulations, and current City vendor contracts. The Renter shall obtain all required permits. Upon the discovery of any violation of the law or local ordinance and regulation, this lease will be immediately voided, and the responsible party will be prosecuted to the fullest extent available.
- b. The Renter shall keep the concession stands and surrounding areas clean and free of litter and debris, as well as, discarded food and drink.
- c. The Renter shall be responsible at its sole cost for any damages to the facilities that are a result of their activities, outside of normal wear and tear.
- d. Utilities will be the responsibility of the City of Johnstown.
- e. At the end of each season, the Renter shall empty, clean, and unplug all appliances kept in the facilities. The Renter will also make arrangements with Pepsi to have the fountain machines flushed and winterized. The City shall give the Renter adequate time at the end of each season to fulfill this requirement.
- f. The City shall provide the Renter with appropriate keys for access to the Point Stadium and its concession stand, as well as the Roxbury Park concession stand. The City will ensure that only the appropriate, authorized person(s) have keys and access to

concession stands and that no one shall enter the concession stands without direct supervision by an authorized individual.

XII. MODIFICATION

- a. This contract may be modified by mutual consent. All such changes or modifications shall be in writing as addendums to this lease.

XIII. NOTICES

- a. Notice here under shall be given only by certified letter and shall be deemed given when the notice is mailed to the party to which it is addressed. Any notices shall be addressed as follows:

To City: City Manager
 City Hall
 401 Main Street
 Johnstown, PA 15901

To Renter: Bishop McCort
 25 Osborne Street
 Johnstown, PA 15905

IN WITNESS THEREOF, with the intent to be legally bound, the parties hereto have set their hands and seals this day and year first written above.

ATTEST

Tom Smith
Bishop McCort

Ethan Imhoff, City Manager
City of Johnstown