



# City of Jonesboro

300 S. Church Street  
Jonesboro, AR 72401

## Signature Copy

**Resolution: R-EN-268-2021**

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**File Number: RES-21:286**

**Enactment Number: R-EN-268-2021**

A RESOLUTION TO CONTRACT WITH CORINTH COCA-COLA BOTTLING COMPANY, INC. FOR EXCLUSIVE POURING RIGHTS AT THE JONESBORO SHOOTING SPORTS COMPLEX

WHEREAS, the City of Jonesboro owns and maintains Jonesboro Shooting Sports Complex; and

WHEREAS, Corinth Coca-Cola Bottling Company is also seeking exclusive pouring rights at Jonesboro Shooting Sports Complex for a period of 10 years; and

NOW, THEREFORE BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF JONESBORO, ARKANSAS

SECTION 1: That the City of Jonesboro, Arkansas shall contract with Corinth Coca-Cola Bottling Company for the exclusive pouring rights at Jonesboro Shooting Sports Complex for a period of 10 years. A copy of said contract is attached as "Exhibit A.

SECTION 2: The Mayor, Harold Copenhaver and City Clerk, April Leggett are hereby authorized by the City Council for the City of Jonesboro to execute all documents necessary to effectuate the agreement.

PASSED AND APPROVED THIS 7TH DAY OF DECEMBER 2021.

## **AGREEMENT**

THIS AGREEMENT is made as of the 1st day of November 2021 ("Effective Date") by and between City of Jonesboro Parks and Recreation ("ACCOUNT") and Corinth Coca-Cola Bottling Company, Inc. ("SUPPLIER").

### **RECITALS**

WHEREAS, SUPPLIER desires to obtain certain exclusive promotional and beverage availability rights for products of SUPPLIER; and

WHEREAS, ACCOUNT is vested with the authority to grant SUPPLIER exclusive promotional, advertising and beverage availability rights described herein with respect to the FACILITY (as defined herein) and is willing to do so for the consideration stated herein.

NOW, THEREFORE and in consideration of the mutual covenants contained in this Agreement, ACCOUNT and SUPPLIER ("the Parties") hereto agree as follows:

#### **Section 1 – Definitions**

- (a) "Agreement Year" shall mean each twelve-month period during the Term beginning with the first day of the Term.
- (b) "Beverages" shall mean all nonalcoholic beverages of any kind, liquid or powder, excluding fresh-brewed coffee or water drawn from a public water source.
- (c) "Packages" shall mean Products in bottles, cans, pouches and post-mix containers of all sizes.
- (d) "Products" shall mean all Beverages purchased directly from the SUPPLIER or sold through Beverage vending machines owned by and serviced by SUPPLIER.
- (e) "Competitive Products" shall mean all Beverages which are not Products.
- (f) "Facility" shall mean the entire premises of Jonesboro Sports Shooting Complex, located at 3702 Moore Road, Jonesboro, Arkansas, including without limitation, current and future buildings, the grounds, parking areas, vending and concession areas.

#### **Section 2 – Term**

This Agreement shall be in effect for a period of 10 (Ten) years beginning as of the Effective Date and ending on October 30, 2031("Term").

#### **Section 3 – Advertising Rights**

- (a) ACCOUNT hereby grants to SUPPLIER the exclusive right to advertise Beverages and specifically Products, at the Facility, in connection with the Facility and ACCOUNT. SUPPLIER shall also have the exclusive right to advertise at the Jonesboro Shooting Complex (as defined herein) at the Facility.
- (b) ACCOUNT agrees the SUPPLIER's advertising shall be prominently listed on any menus, including menu boards, located at Facility and all equipment dispensing Products shall be prominently identified with the appropriate trademarks and logos.
- (c) ACCOUNT agrees that should Facility dispense any Products into cups, that ACCOUNT will purchase Approved Cups from SUPPLIER and that no other trademarked cups or containers will be permitted.

#### **Section 4 – Sponsorship Rights**

- (a) SUPPLIER will be recognized as the “Official” or “Exclusive” beverage of Facility and ACCOUNT and SUPPLIER’s trademark / logo shall be displayed on all Facility concessions and menu signage at Facility.
- (b) Facility and ACCOUNT will provide opportunities for SUPPLIER to sample to attendees at the Facility, as mutually agreed upon, new Beverages as they may become available to SUPPLIER.

#### **Section 5 – Product Rights**

- (a) ACCOUNT hereby grants to SUPPLIER the Exclusive right to sell and distribute Beverages at the Facility. ACCOUNT and its concessionaires shall purchase all Products and Approved Cups directly from SUPPLIER in accordance with the pricing schedule set forth in Exhibit A. Such prices shall remain in effect through Agreement Year one. During the remainder of the Term, SUPPLIER agrees that any price increases shall be communicated to account 30 days before price increases take effect.
- (b) ACCOUNT hereby grants SUPPLIER the exclusive Beverage vending rights at the Facility on a Self-Fill basis. ACCOUNT shall allow the placement of a minimum of 1 Beverage vending machines in mutually agreed to locations at the Facility. ACCOUNT will maintain Beverage Product availability in SUPPLIER’s Beverage vending machines as required to maximize availability and volume of Products. Beverage vending machines will be supplied to ACCOUNT and maintained by SUPPLIER at no cost to ACCOUNT.
- (c) During the term, SUPPLIER will loan to ACCOUNT, at no cost, Beverage equipment reasonably required and as mutually agreed upon to dispense Beverages at Facility (Equipment). ACCOUNT represents that electrical service at the Facility is proper and adequate for the installation and proper operation of Equipment. ACCOUNT agrees to indemnify and hold harmless SUPPLIER from any damages arising out of defective electrical services and improper operation of Equipment.
- (d) During the Term, ACCOUNT agrees to make 20-ounce sparkling beverages and other still (PET) polyethylene terephthalate bottled Products, such as 18.5 oz Gold Peak Tea, exclusively available for sale and distribution at Jonesboro Sports Shooting Complex.

#### **Section 6 – Delivery**

- (a) SUPPLIER agrees to deliver Products ordered by ACCOUNT within SUPPLIER’s standard delivery schedule. SUPPLIER agrees to make a good faith effort to deliver Products to ACCOUNT outside of SUPPLIER’s standard delivery schedule if needed. ACCOUNT agrees to provide SUPPLIER with a minimum of two (2) days advance notice for Product orders, excluding weekends and holidays.

**Section 7 – Consideration.** In consideration of the rights and benefits granted to SUPPLIER hereunder, SUPPLIER agrees to:

- (a) Sell in year 1 to ACCOUNT, at zero dollars, 1 special event trailer for use in promoting Products and making Products available for sale at Facility.

- (b) Pay ACCOUNT in years 2 and 3 the sum of Two Thousand Five Hundred dollars (\$2,500) per year as a Sponsorship Funding, payable within thirty (30) days after the anniversary date of the executed contract. If ACCOUNT terminates this Agreement during the Term, any unearned amount will be refunded to SUPPLIER.
- (c) Pay ACCOUNT in years 4 thru 10 the sum of Five Thousand Dollars (\$5,000) per year as Yearly Sponsorship Funding, payable within thirty (30) days after the anniversary date of the executed contract. If ACCOUNT terminates this Agreement during the Term, any unearned amount will be refunded to SUPPLIER.
- (d) **Rebates-** Supplier will pay all rebates at the end of each quarter in the agreement year in which they were earned for the following products purchased and paid for by the account directly from the supplier.

### **Section 8 – Competitive Products**

- (a) No Competitive Products may be made available as gratis, sold, dispensed or served anywhere, at any time at the Facility.
- (b) No permanent or temporary advertising, signage or trademark visibility for Competitive Products will be displayed or permitted anywhere at the Facility.
- (c) ACCOUNT will not enter into any agreement or relationship whereby any Competitive Products are associated in any manner with the Facility in any advertising or promotional activity of any kind.

### **Section 9 – Termination**

- (a) If either party fails to perform any of the promises set forth in the Agreement, then as an option but not as its sole remedy, the non-breaching party may terminate this Agreement after thirty (30) days written notice to the breaching party and concurrent opportunity to cure.
- (b) If ACCOUNT breaches any of its obligations set forth in the Agreement, then at its option not as its sole remedy, SUPPLIER may terminate this Agreement and ACCOUNT shall: (i) return any Equipment, and (ii) pay to SUPPLIER the unearned portion of any pre-paid Funding.
- (c) Notwithstanding the other provisions of this Agreement, if any federal, state or local law, rule, regulation or order prohibits, restricts or in any manner interferes with the sale or advertising of Beverages at any time during the Term of the Agreement, or if for any reason the use of Facility is interrupted for an extended period of time, then at its sole option and not as its sole remedy, SUPPLIER may terminate this Agreement and ACCOUNT shall: (i) return any Equipment, and (ii) pay to SUPPLIER the unearned portion of any pre-paid Funding.
- (d) ACCOUNT represents and warrants that it has full right and authority to enter into the Agreement and to grant and convey to SUPPLIER the rights set forth herein. Upon expiration or revocation of such authority, then at its option and not as its sole remedy, SUPPLIER may terminate this Agreement and ACCOUNT shall: (i) return any Equipment, and (ii) pay to SUPPLIER the unearned portion of any pre-paid Funding.

**Section 10 – Indemnification**

ACCOUNT agrees to defend, indemnify and hold SUPPLIER harmless from and against all claims, suits, liabilities, costs and expenses, including reasonable attorneys’ cost and fees, for injury to, including death of, person (whether they be third persons or employees of the parties hereto) or any loss of or damage to property in any manner arising from the rights conveyed herein with the understanding that this obligation shall not apply to a loss or damage caused solely by the negligence or willful misconduct of the party to be indemnified. This agreement shall in no way compromise the Tort immunity Status of the city of Jonesboro.

**Section 11 – Notices**

Any notice or other communication hereunder shall be in writing, shall be sent via registered or certified mail, and shall be deemed given when deposited, postage prepaid, in the United States mail, addressed as set forth below or such other address as either of the parties shall advise the other in writing.

If to SUPPLIER:                    Corinth Coca-Cola Bottling Works, Inc.  
6555 AR1  
Jonesboro, Arkansas 72404  
Attention: Bill Pate

If to ACCOUNT:                    City of Jonesboro Parks and Recreation  
3009 Dan Avenue  
Jonesboro, Arkansas 72401  
Attention: Danny Kapales

**Section 13 – Governing Law**

This Agreement any dispute arising out of or relating to the Agreement shall be governed by and construed in accordance with the laws of the State of Arkansas, without reference to its conflict of law rules.

**Section 14 – Compliance with Law**

Each of the parties hereto agrees that it will, in its performance of its obligations hereunder, fully comply with all applicable laws, regulations and ordnances of all relevant authorities and shall obtain all licenses, registrations or other approvals required in order to fully perform its obligations hereunder.

**Section 15 – Entire Agreement**

This agreement and its Exhibit shall constitute the final, complete and exclusive written expression of the intentions of the parties hereto and shall supersede all previous communications, representations, agreements, promises or statements, either oral or written, by or between either parties.

IN WITNESS WHEREOF, the undersigned have caused the Agreement to be duly executed as of the date first above written.

Corinth Coca-Cola Bottling Works, Inc.:

By: Bill Pat

Print Name: Bill Payne

Title: Branch Manager Jonesboro

Date: 11/10/21

**Exhibit A Pricing and Rebates**

<b>Bottler Bottle/Can Beverage Package</b>	<b>Customer Case Cost of Goods</b>	<b>Units Per Case</b>	<b>Customer Unit Cost of Goods</b>	<b>Customer Rebate per Case</b>
16 oz Energy 24 pk	\$41.62	24	\$1.73	\$ 2.00
15 oz Java 12 pk	\$22.56	12	\$1.88	\$ 1.00
20 oz. Coca Cola Soft Drinks 24 pk	\$27.60	24	\$1.15	\$ 3.00
20 oz. Dasani Water 24 pk	\$14.80	24	\$0.62	\$ 3.00
20 oz. PowerAde 24 pk	\$27.60	24	\$1.15	\$ 3.00
18.5 Gold Peak Tea 12 pk	\$15.00	12	\$1.25	\$ 1.00
20 oz Smart Water 24 pk	\$30.00	24	\$1.25	\$ 3.00
16 oz Body Armor 12 pk	\$15.00	12	\$1.25	\$ 0.50