

CITY OF WILLIAMSPORT, PA RESOLUTION

RESOLUTION # 9121

DATE 3-18-21

TITLE

**RESOLUTION TO APPROVE AN
OPERATION AND MAINTENANCE AGREEMENT
FOR HISTORIC BOWMAN FIELD**

WHEREAS, the City of Williamsport is the owner of the baseball stadium known as Historic Bowman Field and the Crosscutters are a franchise in the MLB Draft League, and

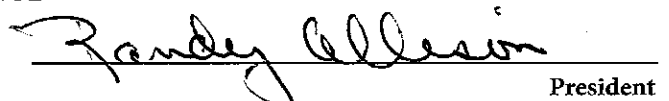
WHEREAS, the parties hereto wish to set forth the terms and conditions of their agreement to provide for the successful operation of an MLB Draft League team, the Crosscutters, at Historic Bowman Field;

NOW, THEREFORE, BE IT HEREBY RESOLVED, by the City Council of the City of Williamsport, that the attached agreement is approved, and,

BE IT FURTHER RESOLVED the Mayor and City Controller be hereby authorized to execute the attached Agreement between the City of Williamsport and Cutting Edge Baseball, LLC d/b/a Williamsport Crosscutters.

Approved


City Clerk


President

HISTORIC BOWMAN FIELD
OPERATION AND MAINTENANCE AGREEMENT

THIS AGREEMENT made this _____ day of March, 2021 by and between the City of Williamsport, 245 West Fourth Street, Williamsport, Pennsylvania 17701 (Permitter) and the Cutting Edge Baseball LLC d/b/a Williamsport Crosscutters, P.O. Box 3173, Williamsport, Pennsylvania 17701 “Crosscutters” and (Permittee).

WITNESSETH:

WHEREAS, the City of Williamsport is the owner of the baseball stadium known as Historic Bowman Field and the Crosscutters are a franchise in the MLB Draft League, and

WHEREAS, the parties hereto wish to set forth the terms and conditions of their agreement to provide for the successful operation of the MLB Draft League team, the Crosscutters, at Historic Bowman Field.

NOW, THEREFORE, in consideration of the promises herein contained and intending to be legally bound hereby, the parties hereto agree as follows:

1. PERMIT: the City of Williamsport hereby grants the Crosscutters a permit to use the baseball stadium commonly known as Historic Bowman Field together with all improvements and appurtenances pertaining thereto including the offices, clubhouse facilities, parking areas and equipment. The Crosscutters agree to provide the staff necessary to maintain and clean the stadium and offices and the improvements permitted herein (excluding the exceptions in item 4 of this agreement) and shall maintain the same in substantially the same condition, except for normal wear & tear throughout the term of this Permit. The Crosscutters also warrant that it shall use its best efforts to purchase materials and supplies in connection with its business from vendors in the City of Williamsport as a first priority and in the greater Williamsport area as a second priority provided that such materials and supplies are competitive in pricing, quality, delivery and service and provide that such purchases do not violate the regulations of the MLB Draft League.

2. TERM: The term of this permit shall be for a period of five (5) years from October 16, 2020 to October 15, 2025.

3. INSURANCE AND HOLD HARMLESS: The Crosscutters shall provide the City of Williamsport with a policy of liability insurance in the amount of Two Million (\$2,000,000) Dollars to cover its spectators, employees, ballplayers or any other person on or off the premises with respect to the use or occupancy of the premises. In addition thereto, the Permittee shall also obtain a policy of liability insurance for dispensing alcoholic beverages in the minimum amount of Two Million (\$2,000,000) Dollars. The City of Williamsport shall be named as an additional insured on said policies of insurance. The Crosscutters will also hold the City of Williamsport harmless from any and all claims or damages arising out of the Williamsport Crosscutters actions in the course of operating its business under the terms of this Permit. The City of Williamsport shall provide general liability insurance for the stadium in such amounts as it deems appropriate and name the Crosscutters as an additional named insured on this policy and shall hold the Crosscutters harmless from any liability for the City's acts.

4. USE OF HISTORIC BOWMAN FIELD: The Crosscutters agree to make the complex available for baseball games to other community groups who have requested the use of the field through the Department of Recreation and the Bowman Field Commission when these activities do not interfere with the Crosscutters' schedule of games or practices. It is further agreed that no use of the playing field will be made without prior consultation with and written notification to the Crosscutters and that use of the field for practices will not be allowed. Said use and approval as referenced above shall not be unreasonably withheld.

All such users shall be responsible for and shall bear the expense of cleaning up and repairing the entire facility, including the parking areas, stadium seating area, concourse, bathrooms, and press box and restoring the playing field to reasonable standards. Such other users shall be responsible for cleanup and restoration of the facility and the playing field to standards set by the Permitter/Permittee and, if these users adhere to these standards of restoration, cleanup and repair, then these users may do such

cleanup, repair and restoration at their own cost and expense. If, however, said work shall not be performed, or not be performed according to the standards set by the Permitter/Permittee, then the Permitter shall have the right to clean and repair any damage to the playing field or retain contractors to do such work. The Permitter will collect the cost of such work from such other users..

5. ALCOHOL SALES: The Permittee shall have the right to sell, dispense and allow consumption of alcoholic beverages or other beverages as allowed by their liquor license in Historic Bowman Field during the term of this lease upon the following conditions:

- a. No more than two containers of alcoholic beverages shall be sold to any customer at any one time.
- b. The Crosscutters shall provide adequate security to supervise the sale, dispensing and consumption of alcoholic beverages at Historic Bowman Field.
- c. There shall be no sales of alcoholic beverages after the seventh inning.
- d. Purchasers of alcoholic beverages shall not be permitted to carry these beverages outside the gates at Historic Bowman Field.

6. UTILITIES: The Permittee shall be responsible only for utilities such as electric, phone, water and sewer where the cost of these is incurred in connection with the use of Historic Bowman Field and offices by them and not in connection with the use by other parties.

7. CONCESSIONS: The Permittee shall have exclusive concession rights during all games and events sponsored by it and shall have the exclusive right to retain all revenue derived therefrom. During events not sponsored by it, other users shall negotiate the use of the concession stands directly with the Permittee which consent will generally not be granted during the Crosscutters season and one week before and after the season. Said use and approval as referenced above shall not be unreasonably withheld.

8. OTHER EVENTS: The Permittee shall have the right to schedule other events inside, and on the property surrounding Historic Bowman Field with the written

consent of the City and the City will receive compensation as set forth in the BB&T Ballpark at Historic Bowman Field fee schedule of events (as amended), which consent shall not be unreasonably withheld. The City shall have the right to rent Historic Bowman Field for other uses consistent with this agreement and retain the rental income therefrom as long as they do not interfere with the Crosscutters' league schedule or practices and these events do not damage the playing field. No use of the playing field will be made without prior consultation with the Permittee. It is agreed that any scheduled event must conclude 72 hours (or otherwise agreed upon time) before a Crosscutters game. The City of Williamsport may offer concession rights at Historic Bowman Field within the parameters of item #7, to each organization which uses Historic Bowman Field. Said use and approval as referenced above shall not be unreasonably withheld.

9. PARKING: The Permittee shall have the right to charge for the parking of motor vehicles outside of BB&T Ballpark at Historic Bowman Field after review and approval from the Mayor.

10. PAYMENTS: The following fee schedule shall apply for baseball games of the Permittee:

- a. The Permittee shall pay the City \$15,000 for the 2021 season and \$20,000 for the 2022, 2023, 2024, and 2025 seasons of which half is due and payable on or before July 15th of each season, with the balance due to be paid on the 15th day of the month after the last home game or scheduled event, for the use of Historic Bowman Field together with all improvements and appurtenances pertaining thereto including the clubhouse facilities, parking areas, scoreboard, video board production equipment and other equipment.
- b. In addition to item 10a above, the Permittee shall also pay the City annually, on the 15th day of the month after the last game or scheduled event, \$2,500 for the use of office space for the benefit of the Permittee.

- c. In addition, the Permittee shall provide \$100,000 as matching funds for a RACP Grant for the production and installation of a HD Video Board for Historic Bowman Field.

The use of outside facilities shall follow fee schedules established by Williamsport City Council, herein incorporated as Attachment 'C'.

11. OTHER RIGHTS AND OBLIGATIONS:

- a. The Permittee shall have the right to sell or permit advertising upon the interior portion of the outfield fence and to retain 100% of the proceeds therefrom.

- b. The Permittee shall have the right to sell food and non-alcoholic drinks, baseball clothing, equipment, and memorabilia, and related items from temporary stands, and temporary enclosures outside of Historic Bowman Field on game days, and Crosscutter sponsored event days, and retain 100% of the proceeds therefrom.

- c. The Permittee shall have the right to broadcast games, charge an admission price, sell souvenirs and other items in connection with its games and events, including programs and retain 100% of the proceeds therefrom.

- d. The Permittee shall have the exclusive use of the home team, visitor's and umpire's clubhouses from May 1 through September 15 of each season. In addition, the Permittee shall have the exclusive use of the offices in Historic Bowman Field during the term of this Agreement.

- e. The City shall provide and maintain an updated, operative, functioning public address system at Historic Bowman Field, and shall maintain, repair and update the scoreboard including interface to scoreboard and scoring system, but excluding video production equipment, (video production equipment shall be defined as including, but not limited to, video switcher, matrix switcher, video cameras and accessories, wireless video transmitters, intercom system, tripods and batteries) so that it is at all times operational, functioning and in good working order. The City shall install and provide the video production equipment with the installation of the new video scoreboard; once installed the maintenance, repair, replacement, and upgrades of video production equipment shall become the responsibility of the Permittee, so that it is at all

times operational, functioning and in good working order. The video production equipment (or its replacements) shall be and remain the property of the City of Williamsport. Should the Permittee desire or be required to replace and/or upgrade any of the video production equipment, the Permittee shall consult with the City to ensure that the new video production equipment is functionally equivalent or better than the equipment which it is intended to replace and/or upgrade. The City shall maintain a program of re-bulbing the field lights so as to comply with the standard of the MLB Draft League.

f. The City shall provide sufficient electrical power to enable the stadium, clubhouse, offices and other aspects of the stadium to be functional for baseball operations as determined by the Permitter/Permittee.

g. The City shall repair or replace the chain link fence surrounding the stadium, and continually provide adequate gates and fences so that the Permittee has a means of assuring itself that no one is admitted to the ball games without a ticket; and shall provide for the Permittee's nonexclusive use one batting cage and one batting tunnel meeting MLB Draft League specifications.

h. If MLB discontinues maintaining the playing field under the MLB/City lease, the City will provide and maintain equipment to maintain and preserve the field including a grass mower, sod cutter, edger, plate tamper, power washer, and three leaf blowers sufficient to meet normal operating standards.

The Permittee shall be responsible for proper operation of said equipment. The Permittee shall also be responsible for advising the City of the need for maintenance of the equipment. The Permittee will replace equipment which becomes unusable because it was improperly operated by the Permittee or because the City was not timely advised of the need for maintenance.

i. The Permittee shall be responsible for cutting the playing field grass from May 1 to September 15.

12. IMPROVEMENTS: If MLB discontinues maintaining the playing field under the MLB/City lease, the City shall be responsible for bringing the grounds into

playing condition before the start of the season which obligation shall not exceed \$9,000 unless an extraordinary event or act by a party other than the Crosscutters has damaged the field. The City shall also be responsible for maintenance of all fixed assets. The Crosscutters, however, shall be required to perform minor routine maintenance during the baseball season including day to day items and preparation of the field for games. The City agrees to use its best efforts to commit to a program of capital improvements to the park as needed and to maintain the park and facilities at least in accordance with the minimum facility compliance standards of the MLB Draft League.

The Crosscutters and City agree to arrange an annual meeting of appropriate representatives to review the status of the Capital Investment Plan as set forth in Attachment 'A' and Annual Maintenance Plan as set forth in Attachment "B". Each item shall be reviewed and a decision will be made as to the party responsible for attending to which, if any, of the items in the following year and the appropriate date on which work will be completed.

The City and the Crosscutters agree to permit a naming rights agreement for the stadium.

The City will retain all revenues from the sale or rental of the stadium name, excluding the market value of any items (tickets, signage, etc.) which would normally be revenues to the Crosscutters. The value of any such items included in the transaction will be paid to the Crosscutters. The City agrees that no award of naming rights will be made to any party, or in such manner, that the current business arrangements of the Crosscutters will be negatively impacted.

The City agrees to use its best efforts to pursue the capital investment plan set forth in Attachment 'A'.

13. LOSS OF WORKING AGREEMENT: Nothing to the contrary withstanding, the parties agree that if the Permittee should lose its working agreement with the MLB Draft League, and another affiliation cannot be obtained, it would not be under the obligation to play baseball games at Historic Bowman Field in as much as it would not have an affiliation that would supply players and a team for play in the MLB

Draft League. In such event, the Permittee shall not be required to pay the rental fee (excluding office space) and the permittee shall have the option of terminating this agreement.

14. RENEWAL AND/OR RENEGOTIATION: If the Permitter/Permittee do not begin good faith discussions on the renewal and/or renegotiation of this agreement by October 15, 2024 or no new lease is signed by January 31, 2025, this Operation and Maintenance Agreement, with its existing terms, will automatically be extended one-year to October 15, 2026.

15. COMPLIANCE: The Permittee will comply with all laws of the United States and the Commonwealth of Pennsylvania, and all ordinances, rules, regulations or requirements of the Pennsylvania Liquor Control Board and the City of Williamsport, its boards, commissions, agencies and authorities and will not do or permit to be done anything on said premises during the term of this Lease in violation thereof.

16. NONDISCRIMINATION AND AFFIRMATION ACTION: The Permittee will fully comply with the spirit and substances of all federal, state and local laws relating to discrimination on the grounds of race, color, creed, age, sex, national origin or physical handicap in the conduct of its own business on the premises. The Permittee will ensure that all employees and contractors to comply with requirements of such laws. The Permittee shall provide Equal Opportunity for Employment without discrimination as to race, color, creed, age, sex, national origin or physical handicap. The Permittee represents and warrants that it actively pursues employment of minorities and women and that it will require the same from any contractor. In addition, the Permittee will comply with all other laws of the United States and the Commonwealth of Pennsylvania and all ordinances, rules and regulations or requirements of the City of Williamsport, its boards, commissions, agencies and authorities, and will not do or permit to be done anything on said premises during the term of this permit in violation thereof.

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