

RESOLUTION NO. 2246

A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF TROUTDALE AND MCMENAMINS INC. FOR THE SUMMER CONCERT SERIES AS AN EVENT OF CITYWIDE INTEREST.

THE TROUTDALE CITY COUNCIL FINDS AS FOLLOWS:

1. The McMenamins Edgefield Summer Concert Series is an event of citywide interest.
2. It is both necessary and desirable to enter into an Agreement with McMenamins Edgefield relating to the Summer Concert Series.
3. The City of Troutdale will receive reimbursement from McMenamins Edgefield for all overtime costs associated with the Summer Concert Series.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TROUTDALE

Section 1. That the City Manager is authorized to sign an Agreement relating to the Edgefield Summer Concert Series which is in substantial conformity to that which is attached to the Staff report as Exhibit "A".

Section 2. This resolution is effective upon adoption.

YEAS: 7


NAYS: 0

ABSTAINED: 0



Doug Daoust, Mayor

Date: 4/23/14



Debbie Stickney, City Recorder
Adopted: April 22, 2014

**Agreement
Between the City of Troutdale and McMenamins Inc.
For the Summer Concert Series as an
Event of Citywide Interest**

THIS AGREEMENT is made and entered into between the City of Troutdale, an Oregon municipal corporation (the "City") and McMenamins, Inc, an Oregon corporation ("McMenamins") for the purpose of establishing the City's and McMenamins' coordination obligations related to outdoor concerts held at 2126 SW Halsey, Troutdale, Oregon ("Edgefield") from June through September ("Summer Concert Series").

RECITALS

- A. Edgefield is zoned General Commercial under the Troutdale Development Code ("TDC") 3.120. Edgefield and the Summer Concert Series are allowed as permitted uses under the TDC.
- B. On April 24, 2007, the Troutdale City Council designated Edgefield as an event of citywide interest under the TDC ("Event of Citywide Interest") and collectively deemed all events at Edgefield as Events of Citywide Interest, including the Summer Concert Series.
- C. Parking for the Summer Concert Series requires use of unpaved parking areas for temporary overflow parking. Temporary overflow parking in conjunction with Events of Citywide Interest is allowed on unpaved surfaces under TDC 9.070(C).
- D. The City requires an applicant to submit an application for Events of Citywide Interest ("Events Permit Application"). The Events Permit Application provides City staff with specific information about the planned event to help the City better assist an applicant during the planning for such authorized events. The City reviews the Events Permit Application and signs-off on the proposed activities ("Events Permit"). This Agreement provides coordination obligations for the City and McMenamins for the Summer Concert Series.

IN CONSIDERATION of the mutual benefits and obligations set forth herein, the parties agree as follows:

AGREEMENT

- Events of Citywide Interest.** The City reaffirms the City Council's 2007 declaration that all events at Edgefield are Events of Citywide Interest under the TDC, including the Summer Concert Series, and that temporary overflow parking is allowed on unpaved surfaces of the Edgefield property pursuant to TDC 9.070(C).
- Events Permit Applications.** McMenamins agrees to annually provide the City with Events Permit Applications for (a) the Summer Concert Series and (b) Annual and Reoccurring Events of Citywide Interest.

3. **Event Permits and Obligations.** The City and McMenamins agree that the following terms and conditions will be incorporated by reference into the Events Permit for each Summer Concert Series.

3.1 **City's Obligations**

3.1.1 The City Police Department will provide traffic control on the public roads to include SW Halsey, 244th Avenue, 238th Avenue, and 257th Avenue and assist McMenamins in facilitating parking for the Summer Concert Series ("Traffic Control").

3.1.2 The City Police Department will coordinate with police agencies outside of the City of Troutdale ("Outside Police Agencies") if, for any reason in the City's sole judgment, additional police staff is needed to provide Traffic Control.

3.1.3 The City will bill McMenamins monthly for City police services for Traffic Control.

3.1.4 The City Police Chief or his designee will participate in any neighborhood meeting McMenamins schedules related to the Summer Concert Series.

3.1.5 The City Police Department, after coordinating with McMenamins, will provide Multnomah County, the Oregon Department of Transportation, the City of Wood Village, and the City of Fairview information on Traffic Control for the Summer Concert Series.

3.2 **McMenamins' Obligations**

3.2.1 McMenamins will provide door hangers to affected neighborhoods of Sedona Park, Cherry Ridge, and the homes on Halsey Street east of Edgefield. Flyers will be provided to the Cherry Ridge Apartment complex and the Troutdale Terrace Apartments on 257th Avenue south of Sedona Park.

3.2.2 Door hangers and flyers will include information on the Summer Concert Series schedule, the address for the McMenamins Summer Concert Series homepage for up-to-date concert changes and information, the approximate ending time of 9:30 PM but not later than 10:00 PM for Summer Concert Series shows, and telephone numbers to contact McMenamins staff during a concert.

3.2.3 McMenamins will make reasonable efforts to monitor for potential violations of law occurring upon its premises during the Summer Concert Series that may breach the peace or constitute or become a nuisance, and will use its best commercially-reasonable efforts to suppress such violations and avoid future recurrences.

- 3.2.4 McMenamins will provide an onsite liaison to the City Police Department during the Summer Concert Series. McMenamins will communicate the onsite liaison's name and telephone number that will ring directly to the liaison on the night of an event, to the City Police Chief, or his designee, no fewer than twenty four (24) hours before the start of an event. McMenamins must inform the Chief of Police of any last-minute staffing changes for the liaison role, and include the new liaison's telephone number. The onsite liaison and the Chief of Police, or his designee, shall communicate to assure compliance with the terms of the agreement. The onsite McMenamins liaison shall have the authority to terminate the concert(s).
- 3.2.5 McMenamins will ensure that noise level from a Summer Concert Series show does not exceed 87 decibels ("dB") as measured at the Distillery Bar. This dB noise limit will be included in the promoter/performers contracts.
- 3.2.6 McMenamins will not have any concerts at Blackberry Hall after 10:00 P.M. following the conclusion of any Summer Concert Series show.
- 3.2.7 McMenamins will start the Summer Concert Series after school is out for summer in June 2014 and will not schedule Summer Concert Series shows on school nights (Sunday through Thursday) during the month of September 2014 unless the following day is (i) a holiday recognized by the Reynolds School District; or (ii) school in-service day for Reynolds School District.
- 3.2.8 McMenamins will not schedule Summer Concert Series shows on more than two consecutive days.
- 3.2.9 McMenamins will ensure that Summer Concert Series shows end at approximately 9:30 P.M. but not later than 10:00 P.M.
- 3.2.10 McMenamins will provide staff for direction and control for guest vehicle parking needs when guests arrive at or depart from the venue. This may include working with an outside agency.
- 3.2.11 McMenamins will provide a staff member at the entrances and exits as needed to work with the City Police Department in directing traffic and parking.
- 3.2.12 McMenamins will ensure that there is no amplified sound during the Summer Concert Series prior to 2:00 P.M. System and sound checks conducted after 2:00 P.M. will be limited to the minimum time required, but will not exceed three hours (approximately one hour for the system check and two hours for the sound check).
- 3.2.13 McMenamins will ensure that lighting in the parking lots will be turned off no later than midnight following a Summer Concert Series show. An exception would be permitted when the City Police Department determines that there is a public safety need to maintain the lighting.

- 3.2.14 McMenamins will ensure that lighting in the parking lots for the Summer Concert Series will face in a northerly direction.
- 3.2.15 McMenamins will provide the City Manager with a copy of the contract between the promoter and McMenamins as it pertains to the coordination obligations set forth in this Agreement. Proprietary business and financial information will be redacted prior to submitting the copy to the City.
- 3.2.16 McMenamins will reimburse the City for City police services associated with the Summer Concert Series within 30 days of receiving an invoice issued pursuant to section 3.1.3 of this Agreement.
- 3.2.17 McMenamins will directly reimburse any Outside Police Agency for police services associated with the Summer Concert Series within 30 days of receiving an invoice.
- 3.2.18 McMenamins will ensure that the maximum capacity for any Summer Concert Series show does not exceed 5,000 persons.
- 3.2.19 McMenamins will contract with the Summer Concert Series promoter for security inside the Summer Concert Series venue and for the performers.
4. **Term.** The term of this Agreement shall be from June 1 to September 30, 2014. Thereafter, this Agreement will automatically renew for successive annual terms between June 1 and September 30 of each year, unless terminated sooner under the terms of this Agreement.
5. **Amendment and Termination.** This Agreement may be amended or terminated by the mutual written consent of the parties and their successors in interest. The City Manager or designee is authorized to amend or terminate this Agreement on behalf of the City. The City may also terminate this agreement (a) for material breach on 60-days' written notice, provided that McMenamins will not be in breach if, within thirty (30) days after receiving such notice, it either corrects the deficiency or commences a continuous good faith effort to correct its performance within a reasonable period of time; or (b) upon 60 days' of supplying McMenamins with written notice following September 1, or the final concert of that year's Summer Concert Series, whichever occurs later; however before the termination becomes effective on the 60th day under this provision the parties agree that one or the other of them shall be allowed to propose in writing that the agreement be continued upon new terms, and may supply such terms before the termination becomes effective, and the party receiving such terms shall consider such terms in good faith, both parties understanding that the effective date for the termination may by mutual written consent be extended to facilitate such discussions.
6. **Remedies.** The remedies available under this Agreement are those provided for under local and state law, including, but not limited to TMC 8.24 and 1.04.095.

7. **Notices.** Any written notice delivered under this agreement shall be delivered by placing the notice in US mail, with the date of mailing constituting the date of notice, to the following locations:

If to McMenamins:

DJ Simcoe
McMenamins Edgefield
2126 SW Halsey St.
Troutdale, OR 97060

If to City:

Craig Ward
City of Troutdale
219 E. Historic Columbia River Hwy
Troutdale, OR 97060

As a courtesy, copies of written notices may be delivered by email on the same day a mailed notice is delivered. Such contemporaneously-emailed notice shall have equal effect as the mailed notice.


Craig Ward, City Manager
City of Troutdale

4/24/14
Date


DJ Simcoe
McMenamins, Inc.

5/1/14
Date