CITY OF WEST DES MOINES
CITY COUNCIL MEETING COMMUNICATION

DATE: January 7, 2019

ITEM: Motion – Approval of Agreement – Holiday Park Baseball Complex Turf and Field Maintenance Services – Iowa Cubs Sports Turf Management, LLC

FINANCIAL IMPACT: Estimated annual expense of $157,840 to be paid from the Holiday Park Baseball operating budget.

SYNOPSIS: The original five year contract agreement (2014-2018) with Iowa Cubs Sports Turf Management, LLC (ICSTM) for field maintenance services at the Holiday Park Baseball Complex expired at the end of 2018. Based upon ICSTM's satisfactory performance, staff recommends renewal of the agreement for an additional five years (see Attachment A). The agreement renewal contains only minor revisions with most of them clarifying scope of work.

ICSTM's unit costs have not increased during the term of their current agreement, and most will stay the same in the new agreement. For example, the unit cost for mowing, which is a large percentage of ICSTM's work, is staying the same at $50 per hour. The unit cost for tasks such as dugout maintenance, infield maintenance, and field preparation between games will be increasing from $25 to $30 per hour.

The total estimated annual cost of ICSTM's original agreement was $129,900. Based upon the actual hours spent by ICSTM at the complex in 2018 and the new hourly rates, the total estimated annual amount under the new agreement is $157,840. This difference in annual cost is partially due to the hourly rate increase, but also due to additional maintenance needs of newly renovated fields to keep them in excellent condition and additional practices, games, and tournaments with all 11 fields available for use.

The agreement was reviewed and approved by the Finance & Administration Committee on December 12, 2018.

BACKGROUND: Survey results related to ICSTM's work at the Holiday Park Baseball Complex are included below:

Metric	2018	2017	2016	2015	2014	2013
% satisfied with quality of field maintenance	94%	90%	98%	90%	85%	78%
% satisfied with overall condition of ballpark	98%	95%	97%	91%	81%	77%

*Above percentages include very satisfied, satisfied, and neutral responses

OUTSTANDING ISSUES: None

RECOMMENDATION: That the Council approve the contract agreement with Iowa Cubs Sports Turf Management, LLC.

Lead Staff Member: Ryan Penning, Superintendent of Recreation

STAFF REVIEWS

Department Director	Sally Ortgies, Director of Parks & Recreation
Appropriations/Finance	Tim Stiles, Finance Director
Legal	Richard Scieszinski, City Attorney
Agenda Acceptance	

PUBLICATION(S) (if applicable)

Published In	
Dates(s) Published	

SUBCOMMITTEE REVIEW (if applicable)

Committee	F & A		
Date Reviewed	12/12/18		
Recommendation	**Yes**	~~No~~	~~Split~~

AGREEMENT
BETWEEN THE CITY OF WEST DES MOINES AND IOWA CUBS SPORTS TURF MANAGEMENT, INC.
FOR PROVISION OF YOUTH BASEBALL TURF & FIELD MAINTENANCE SERVICES

THIS AGREEMENT ("Agreement") is made this 7TH day of January, 2019, by and between the CITY OF WEST DES MOINES, IOWA, a municipal corporation, ("City") and Iowa Cubs Sports Turf Management, Inc., ("Contractor").

FOR AND IN CONSIDERATION OF MUTUAL PROMISES AND COVENANT S HEREIN CONTAINED THE PARTIES AGREE AS FOLLOWS:

I. Definitions

A. The term "City" shall mean the City of West Des Moines, Iowa, its officials, employees, agents, contractors and assigns, volunteers and agents of the City.

B. The term "Department" shall mean the City of West Des Moines Parks and Recreation Department.

C. The term "Department Director" shall mean the City of West Des Moines Director of Parks and Recreation or their designee.

D. The term "Supervisor" shall mean the City of West Des Moines Recreation Program/Facility Supervisor or their designee.

E. The term "Contractor" shall mean Iowa Cubs Sports Turf Management, Inc., its officers, directors, employees, sub-contractors, volunteers and agents.

F. The term "Premises" shall include the area in the attached diagram entitled Attachment A, generally described as the area in Holiday Park for baseball, excluding the softball and aquatic center areas, and bounded by the parking lot curb closest to the baseball fields.

G. Words and phrases herein shall be construed as in the singular or plural number, and as masculine, feminine or neuter gender according to context.

II. Term

This Agreement shall commence on the above date of execution and shall continue until December 31, 2023, unless otherwise terminated at an earlier date as provided for herein.

III. Scope of Services

The Contractor hereby agrees to provide all labor, equipment, materials, and products needed to manage and maintain the baseball fields and grounds within the Premises, as well as materials and products necessary to properly prepare fields for play. Services shall include the following:

A. Turf Maintenance

1. Outfield & Infield Turf: Mow and trim to a two to four inch height a minimum of one time per week from April 1 to October 15. Mowing shall occur at times that do not conflict with games, tournaments or other scheduled activities at the complex. All trash/litter must be removed from turf areas prior to mowing. Any damage (i.e. irrigation heads, plant material, etc.) caused by mowing activities shall be repaired by the Contractor to the City's satisfaction at the Contractor's cost. Replace turf areas damaged in the course of play with sod or seed as necessary to maintain a safe playing surface with City approved sod or seed and seeding rates.
2. Common Area Turf: Mow and trim turf in common areas that are not part of the playing surface to a maximum of four inch height, a minimum of one time per week from April 1 to October 15. Mowing shall occur at times that do not conflict with games, tournaments or other scheduled activities at the complex. All trash/litter must be removed from turf areas prior to mowing. Any damage (i.e. irrigation heads, plant material, etc.) caused by mowing activities shall be repaired by the Contractor to the City's satisfaction at the Contractor's cost.
3. Chemical Applications: All chemical applications must be applied by a State of Iowa pesticide applicator certified in the applicable category. Documentation of chemical application shall be provided to the City within 24 hours of each application. Contact information for all licensed applicators must be supplied to Department's Supervisor by April 1 of each year or as soon as possible, but in any event, at least two (2) business days prior to any applications. Chemical applications shall be made as follows:

possible, but in any event, at least two (2) business days prior to any applications. Chemical applications shall be made as follows:

a. Crabgrass Control: Apply pre-emerge treatments at labeled rates to achieve season-long control. Apply in season post-emerge spot treatments to manage escapes where needed.

b. Insect Control: Contractor is responsible to prevent insect damage to turf. This shall be achieved through an IPM approach utilizing scouting, curative treatments and/or through preventative applications. Turf damage due to insects which requires reseeding will be at the cost and responsibility of the Contractor with City approved sod or seed and seeding rates.

c. Fertilizer: Nitrogen – apply minimum of 2 pounds per 1,000 Square Feet per growing season. Phosphorous – no minimum requirement unless need shown through soil test. Potassium – no minimum requirement unless need shown through soil test. Micronutrients – no minimum requirement unless need shown through soil test. Soil testing to determine nutrient needs will be the responsibility of the Contractor. Soil test results will be provided to the City upon completion.

d. Broadleaf Weed Control: Generally apply a spring and fall (spot) treatment with acceptable labeled rates to maintain a mostly weed free turf. The City may request additional treatments as deemed necessary.

The Contractor shall submit agronomic plans to the City of West Des Moines prior to any application. The Contractor will be allowed the flexibility to choose the timing of applications and products used as long as the above minimums are met. Chemical and fertilizer applications different from those specified may be considered, but must have prior written approval from the City.

B. Playing Field Maintenance

1. Weed Control: Maintain weed-free condition of all areas within premises including all warning track areas, all fence lines, gravel areas, areas under and around bleachers, under and around scoreboards, in and around batting cages, and in and around all concrete areas by regularly spot spraying with Roundup or City-approved equivalent and/or pulling weeds from April 1 to November 15. All trimming, weed eating, and weed removal shall be performed as necessary in order to ensure compliance with West Des Moines Code section 4-4-2 (Nuisances Declared).
2. Infield Maintenance: Inspect fields daily to ensure safe playing conditions. Infield surface must be groomed and lined to ensure safe playing conditions during scheduled activities. Uneven and unsafe infield playing surface areas shall be repaired immediately. Contractor will be responsible for providing maintenance and field prep for both league play and tournament play. Tournaments will require adequate on-site staffing levels to ensure all scheduled fields are prepared for each game. Tournament fields must be prepped between every other game at a minimum. Prep scheduled Tournament fields between every game when time allows.
3. Field Preparation: Contractor shall provide the following services on an as-needed basis, as reasonably determined by the City, throughout the season: repair of infield areas from wear and weather damages, inspection and repair of batter boxes and pitching mounds, edging of infield and outfield, safe and proper base placement and prevention of infield lip buildup, infield lining, field raking, and all other work necessary to present a safe, game-ready playing surface for scheduled games and programs within Premises. Contractor shall receive weekly schedule of activities from the City.
4. Warning Track Maintenance: Inspect warning tracks daily to ensure safe playing conditions. Uneven and unsafe warning track surfaces shall be repaired immediately. Edging, dragging, rolling, watering, vegetation control, and removal of stones and debris that may adversely affect play and safety shall be done on a regular basis.

C. Miscellaneous

1. Irrigation Management and Adjustment: The City shall be responsible for seasonally starting up and shutting down the irrigation system. All irrigation systems and their component parts shall be installed, repaired, replaced and insured by the City or City-contracted vendor. Contractor is responsible for day to day management of the field irrigation systems including, but not limited to, the setting of clocks, increasing or decreasing irrigation frequency, head adjustment and cleaning. Contractor shall contact Department's Supervisor to report damages to irrigation system. Electricity and water used for irrigation purposes shall be separately metered and paid for by the City. Electric meters and water meters for irrigation systems shall be listed in the City's name with the utility

supplier. Contractor shall work with the City to establish an optimal watering rate as weather conditions dictate throughout the season. Nothing in this paragraph shall negate Contractor's financial responsibility for any damage to the irrigation system and component parts caused by the Contractor.

D. Summary of Services

A summary of all services to be provided by Contractor with pricing included below:

Holiday Park Baseball Complex, West Des Moines				
Contractor Responsibilities				
Task	**Unit Cost**	**Unit**	**Frequency**	**Notes**
Turf Maintenance				
Mowing	$50.00	Per Hour	Minimum of once per week in-season	Keep turf mowed & trimmed to 2-4" height. Field turf & common areas.
Seeding	$4.00	Per Pound	As needed to repair worn/damaged areas	Use City approved seed & seeding rates
Sodding	$2.50	Per Square Foot	As needed to repair worn/damaged areas	Use City approved sod
Grounds Maintenance				
Litter pick-up	$30.00	Per Hour	Once per week prior to mowing	Remove trash/debris including paper, cups, food, seeds, etc prior to mowing
Dugout maintenance	$30.00	Per Hour	Trash - Within 24 hours or prior to next day's games Sweep/blow out – Within 48 hours as needed	Remove trash/debris including paper, cups, food, seeds, etc daily. Sweep/blow out dirt & infield material.
Weed control (hand pulling)	$30.00	Per Hour	As needed	
Chemical Applications				
Crabgrass control	$28	Per Bag	See Scope of Services - III., for details	Applied by State of IA certified pesticide applicator. Treatment Record Form completed & turned into City within 24 hrs. Proper application & warning signage to be posted throughout Complex per law.
Insect control	$1,300	Per Gallon	See Scope of Services – III., for details	Payment to be determined on case by case basis. Provide quote to City for approval prior to any application.
Fertilizer	$.55	Per Pound	See Scope of Services – III., for details	Applied by State of IA certified pesticide applicator. Treatment Record Form completed & turned into City within 24 hrs. Proper application & warning signage to be posted throughout Complex per law.
Broadleaf weed control	$120.00	Per Gallon Millennium	See Scope of Services – III., for details	Applied by State of IA certified pesticide applicator. Treatment Record Form completed & turned into City within 24 hrs. Proper application & warning signage to be posted throughout Complex per law.
General weed control (Roundup)	$60.00	Per Gallon	See Scope of Services – III., for details	Applied by State of IA certified pesticide applicator. Treatment Record Form completed & turned into City within 24 hrs. Proper application & warning signage to be posted throughout Complex per law.
Field Maintenance				
Drag/rake infields – weekday/leagues	$30.00	Per Hour	Prior to 1st game of day	
Drag/rake infields –	$30.00	Per Hour	Prior to 1st game &	Prep between foul lines, mound and batter's

weekends/tournaments			after every 2 games	box after every game if time allows.
Nail drag	$30.00	Per Hour	As Needed	
Chalk infields – weekday/leagues	$30.00	Per Hour	Prior to 1st game of day	Per weekly Master Schedule.
Chalk infields – weekends/tournaments	$30.00	Per Hour	Prior to 1st game of day & after every 2 games	Prep between foul lines, mound and batter's box after every game if time allows.
Water turf	$30.00	Per Hour	As Needed	
Water infields	$30.00	Per Hour	As Needed	Including prior to weekday leagues & between weekend tournament games as needed to reduce dust and wind erosion.
Edge infield/outfield/warning tracks	$30.00	Per Hour	Annually	
Add warning track material	$150.00	Per Ton	As Needed	Replace/Repair warning track damage due to erosion. Product replacement must be City approved.
Add infield material	$150.00	Per Ton	Annually	Replace infield material due to erosion. Product replacement must be City approved.
Lip repair/maintenance – rake/blower	$30.00	Per Hour	Within 24 hours after use	Rake/Blow infield material back onto infields.
Lip repair/maintenance – water pressure	$30.00	Per Hour	Annually	Use water pressure to move infield material back onto infields.
Aeration	$300.00	Per Hour	4 times per year	Deep tine aerate field turf minimum 2 times per year outside playing season. Solid tine field turf only in-season.
Irrigation	$30.00	Per Hour	Daily	Manage day-to-day operation of irrigation system.
Paint foul lines	$30.00	Per Hour	Weekly	
Overseeding	$4.00	Per Pound	Annually	Overseed all common areas & field turf.
Topdressing	$45.00	Per Ton	Annually	Topdress as needed. Product must be City approved.
Sodding	$2.50	Per Square Foot	Annually	Sod as needed. Product must be City approved.
Miscellaneous				
Tree limb/leaf cleanup	$30.00	Per Hour	As needed	Cleanup of fallen debris. Deposit into yard waste dumpster in Parks maintenance yard.
Bullpen maintenance	$50.00	Per Hour	As needed	
Batting cages	$30.00	Per Hour	As needed	Replace batting mats and groom crushed rock as needed
Reports	Included	N/A	Monthly	Detailed billing statement with dates and when tasks were completed.

IV. Field Usage

A. The City may close the fields to the general public, leagues, tournaments, programs, practices, camps, or clinic play for repairs and/or renovations and limit access by the Contractor.

B. Use of the Premises by the City shall be coordinated and communicated to Contractor on a weekly basis.

V. Facilities

A. Lighting: All field light fixtures, poles, bulbs, or underground wiring shall be repaired, maintained, replaced and insured by the City for the full term of this Agreement. Electric meters for field lights shall be listed in the City's name with the electricity supplier and insured by the City for the full term of this Agreement. All electrical use of lights shall be paid for by the City. Contractor must contact Department to report damages or outages with field lights. Nothing in this paragraph shall negate Contractor's responsibility to pay for any damages to the field lighting and associated equipment caused by Contractor.

B. Scoreboards: All scoreboards used in conjunction with Contractor activities shall be repaired, maintained, replaced and insured by the City. Contractor must contact Department to report damage to scoreboards.

Nothing in this paragraph shall negate Contractor's responsibility to pay for any damages to the scoreboards and associated equipment caused by Contractor.

C. Security Lighting: Security lighting along the access roads and in the parking lots at Holiday Park shall be repaired, maintained, and replaced by the City. Electrical use of security lighting shall be paid by the City. Contractor must contact Department to report damages or outages with security lights. Nothing in this paragraph shall negate Contractor's responsibility to pay for any damages to the security lighting and associated equipment caused by Contractor.

D. Restrooms: The City shall provide permanent restrooms at Holiday Park during the period of time the restrooms are open to the public (typically April 15 to October 15). Dates are subject to change according to weather conditions. Permanent restrooms will be stocked and maintained by the City or City-contracted vendor. A City employee or City-contracted security guard will check and lock all permanent restrooms within the Premises every evening during the period of time the restrooms are open.

E. Bleachers: The City shall be responsible for the installation, inspection, repair and maintenance of all City owned bleachers within the Premises. Nothing in this paragraph shall negate Contractor's responsibility to pay for any damages to the bleachers and associated equipment caused by Contractor.

F. Storage: The Contractor may store equipment and small amounts of material in the storage building and the open area directly to the south of this storage building at Parks Maintenance Site located at 1421 Maple Street, West Des Moines. The Contractor shall have use of the northern garage bay and the office/storage area on the far north end of the building. The City anticipates demolishing this building before this Agreement expires. It is understood that prior to the demolition of the building, Contractor will move, at Contractor's sole expense, all items from the storage building. The City may allow the Contractor to use a different storage building within same Parks Maintenance Site at that time. All items stored by Contractor in or on City buildings will be removed within fourteen (14) days written notice by City. Contractor shall follow all fire and building code requirements. The Contractor shall be responsible for insuring all contents of the building. The amount of storage and location of storage may be subject to change during the term of this Agreement.

G. Concession Building: The concession building shall be repaired, maintained, and insured by the City. Nothing in this paragraph shall negate Contractor's responsibility to pay for any damages to the concessions building and concessions equipment caused by Contractor.

Holiday Park Baseball Complex, West Des Moines		
Facility Responsibilities - City		
Maintenance Activity	**Responsible Party**	**Notes**
Litter & trash removal/dumpster	City of WDM	Reliable Maintenance Service / Public Services Contractor
Tree & plant care	City of WDM	Mulching, pruning, watering, planting, etc / Public Services Forestry
Batting cages	City of WDM	Net & fence maintenance / P&R
Fencing/dugout repairs	City of WDM	P&R
Scoreboards	City of WDM	Controller & Board Maintenance / P&R
Field lights	City of WDM	Programming & Maintenance / P&R / Musco
Bleachers/picnic tables	City of WDM	Inspection & Maintenance / P&R
Concession building/HVAC maintenance	City of WDM	P&R / Public Services
Restrooms (permanent)	City of WDM	Reliable Maintenance Service / Public Services Contractor
Restrooms (temporary Kybo's)	City of WDM	P&R
Security lighting	City of WDM	P&R / Mid-American
Complex electric	City of WDM	P&R / Public Services
Irrigation start-up, back flow inspection, shutdown	City of WDM	T&T Sprinklers / P&R Contractor
Playground inspection/repair	City of WDM	Public Services
Flagpole/memorial area	City of WDM	P&R

Portable mounds & repair kits	City of WDM	P&R
Base & pitching rubber replacement	City of WDM	P&R
Concrete drainageways	City of WDM	Public Services
Bases & rubbers	City of WDM	Equipment will be provided by the City

VI. Other Responsibilities

A. Keys and Locks: The City shall check out one set of keys to Contractor for the maintenance building, storage sheds and various padlocks. City is responsible for padlock purchases and lock repairs. Any alarm system codes and instructions for their use must be supplied to the Department's Supervisor, along with an emergency call list. Any costs incurred by the City resulting from failure of the Contractor to comply with this provision shall be the sole responsibility of the Contractor.

B. Roads and Parking: All roads and parking lots will be maintained by the City. At no time shall any equipment or materials be stored in roads or parking lots by the Contractor without prior approval from City.

C. Damage: Any damaged structure, field, or equipment must be reported to the Department's Rec/Fac. Supervisor within twenty-four (24) hours.

D. Response Time: Although the majority of maintenance shall be done on a regular basis according to the detailed specifications, maintenance may occasionally be required on an "as needed" basis. In these cases, the Contractor shall preform the requested maintenance within 24 hours after a request for maintenance is made by the City unless stated otherwise in specifications.

E. Records: The Contractor shall maintain all maintenance records including time/dates of specific maintenance duties, name and quantity of any products used, and any other pertinent information. A copy of these records shall be provided at the City's request. All records of chemical and fertilizer applications shall be provided to the City within 24 hours following each application. Information contained in chemical and fertilizer application records shall be in accordance with State of Iowa requirements.

F. Staffing Levels: The Contractor shall maintain adequate staffing levels to meet minimum field maintenance requirements for League and Tournament rentals.

G. Schedules: Current weekly field schedules shall be communicated to the Contractor by the Department's Supervisor by e-mail. All attempts will be made to forward these updated field schedules each Tuesday during the playing season.

VII. Improvements

A. Any utility, field or structure additions, improvements or changes, and paint colors must be submitted to Department's Supervisor and approved by Department Director, and if applicable, the City's Parks & Recreation Advisory Board, the City's Planning & Zoning Commission, and/or the City Council in advance.

B. The Contractor shall not erect, post or exhibit signs within the Premises unless prior written approval is first given by the Department Director. All signs shall comply with the ordinances of the City and any rules and regulations adopted by the City's Parks and Recreation Advisory Board, the Department, or the City. Any signs erected, removed or taken down by the Contractor shall not damage any building or facility.

C. The Contractor shall be solely responsible for acquiring, at its own expense, all federal, state, county, or local agencies or governmental permits for operations, improvements or changes.

VIII. Insurance Requirements

The Contractor shall obtain and maintain through the term of this agreement *and two years beyond*, insurance with terms and limits of coverage equal to or in excess of those set forth in the specifications governing the services provided, but in no event, are such terms and limits to be less than those set forth below. The limits of liability under insurance policies required by this Contract shall in no-way limit the Contractors actual liability.

(A) Commercial General Liability, including coverage for premises and operations, independent contractors, products & completed operations, contractual liability, explosion, collapse and underground hazards (XCU), personal injury/advertising injury.

The City shall be named as additional insured on a primary and non-contributory basis; include waiver of subrogation in favor of the City.

Bodily Injury & Property Damage - Each Occurrence	$1,000,000
Personal Injury & Advertising Injury - Per Person	$1,000,000
General Aggregate on the Above	$2,000,000
Products & Completed Operations General Aggregate	$2,000,000
Fire Damage Limit	$100,000
Medical Expense Limit	$5,000

(B) Business Automobile Liability Insurance, including coverage for all owned, non-owned and hired automobiles with limits of liability not less than the following.

The City shall be named as additional insured on a primary and non-contributory basis; including waiver of subrogation in favor of the City. The limit can be satisfied by providing a primary policy or in combination with an excess liability policy.

Bodily Injury & Property Damage – Each Accident	$1,000,000

(C) Pollution Liability Insurance, including coverage for potential risk to the environment or losses cause by pollution conditions that may arise from the operations of the contractor described in the contractor's scope of services.

Each Occurrence	$1,000,000
Policy Aggregate Limit	$1,000,000

(D) Workers Compensation and Employers Liability, as required by any applicable law or regulation. The policy will include waiver of subrogation endorsement in favor of the City of West Des Moines.

Part 1- Workers Compensation Benefits	Statutory

(E) Employers Liability

Bodily Injury Each Accident	$500,000
Bodily Injury by Disease Policy Limit	$500,000
Bodily Injury by Disease Each Employee	$500,000

(F) Umbrella Liability

The contractor will maintain umbrella liability insurance on an occurrence basis in excess of the general liability, automobile liability and employers liability insurance described above which is at least broad as all underlying policies; including but not limited to Additional Insured and Waiver of Subrogation and Primary and Non-Contributory.

Each Occurrence Limit	$1,000,000
Aggregate Limit	$1,000,000

Before providing any services, the Contractor shall furnish an insurance certificate to Department, showing adequate insurance to be in force.

Any subcontractors utilized shall be subject to the same insurance requirements above.

IX. General Covenants, Policies and Conditions

A. Mandatory Drug and Alcohol Testing Programs: Contractor certifies that all of their employees who may operate a commercial motor vehicle are included in a substance abuse program that meets the requirements of Federal Department of Transportation Drug and Alcohol Testing regulations (Code of Federal Regulations, 49CFR, Part 382 and Part 40).

B. Right-To-Know Statement: Contractor certifies that, in accordance with the "Hazard Communication Rule", 29 CFR 1910.120 (the "Right-To-Know" Law) and the State of Iowa "Hazardous Chemicals Risk

Right-to-Know Rule", employees exposed to materials on the worksite will be trained for the materials in use by the Contractor as part of the contract.

C. Discrimination: The City of West Des Moines does not discriminate on the basis of age, color, creed, disability, gender identity, national origin, race, religion, sex, sexual orientation, or veteran status. Contractor agrees not to discriminate against any employees, applicants for employment or persons utilizing the Premises on the basis of age, color, creed, disability, gender identity, national origin, race, religion, sex, sexual orientation, or veteran status and to include a similar non-discrimination provision in all agreements associated with this professional services agreement.

D. Damages: The Contractor shall be responsible for any and all damage to public property (including public utilities), private property, or personal injury due to its own or its employees' negligence or intentional or reckless conduct on or about the Premises.

E. Independent Contractor Relationship: The Contractor and the City acknowledge that employees of the Contractor shall not be City employees and the parties further acknowledge an independent contractor relationship between the City and Contractor and that all individuals employed by the Contractor or a sub-contractor shall be employees of the Contractor only. In this regard, the Contractor shall have the right to control and direct its employees and shall have the right to hire and fire said employees.

F. Anti-Bullying Statement: The Parks and Recreation Department will not tolerate bullying* in any youth program or activity, and the Contractor and its employees agree not to engage in bullying behavior. **For the purposes of this statement, bullying is defined as the unwanted, aggressive use of physical, social or mental/intellectual power to control, harm or humiliate another person in a repetitive or pervasive manner.*

G. Subcontracting: The Contractor shall not subcontract any portion of the services to be provided by this Agreement without written permission from the City of West Des Moines.

L. Payment: Contractor will be paid on a monthly basis with invoices submitted by the 15th of each month. Invoices must contain the contract number, daily hours worked, and detail of all services provided each day. All work being billed shall be referenced on invoices according to the tasks and pricing included in this Agreement. Invoices shall be sent to:

Bruce Mankle
Recreation Program/Facility Supervisor
City of West Des Moines, Parks & Recreation Department
4200 Mills Civic Parkway
PO Box 65320
West Des Moines, IA 50265
Office) 515-22203454
Cell) 515-418-7780
Bruce.mankle@wdm.iowa.gov

X. Submittals

A. The following shall be submitted to the Department's Supervisor by March 1, or prior if noted, to any Contractor activity taking place on the Premises:

1. Roster of current employees' names, e-mail addresses and phone numbers.
2. List of emergency contact names, e-mail addresses and phone numbers.
3. List of regular staff hours for weekdays and weekends.

B. In addition, the Contractor shall submit the required certificate of insurance to the City Clerk and Department's Supervisor on an annual basis, prior to the expiration of the existing insurance policy. If the Contractor fails to do so, then upon written demand by the City or Department, the Contractor must provide the City or Department with the required certificate of insurance within five (5) business days of the date of the written demand. If the Contractor does not comply within five (5) business days, then the Contractor is in default of this Agreement. The Contractor is in default if there is no insurance coverage at any given time during the term of this Agreement.

C. The Contractor shall attend any meetings requested by the City. Regular meetings with Department staff will be scheduled during the operating season.

XI. Termination

A. This Agreement may be terminated by City for any reason at any time by giving written notice to the Contractor of such termination and specifying the effective date thereof. Said notice shall be delivered by

registered mail to the Contractor at the address referenced on the proposal form. The City shall be reimburse Contractor for all reasonable work performed prior to the termination of the Agreement.

At the expiration of this Agreement, or sooner as hereinafter set forth, the Premises and all City property thereon shall be in as good condition as on the above execution date.

XII. Release of Liability and Hold Harmless

A. Contractor agrees to indemnify, hold harmless, and defend the City from any and all claims, demands, causes of action, liability, loss, damage or injury, both to person and property, that may be asserted claimed or recovered against the City, associated with, arising out of, related to, or connected to this Agreement. This indemnification applies to and includes, but is not limited to, the payment of all penalties, fines, judgments, awards, decrees, attorney's fees, expert witness fees, investigation fees, settlements, related costs or expenses, interest, and any reimbursements incurred by or assed to the City. For the purposes of this Section, "City" also includes West Des Moines Water Works. This provision shall survive the termination of this Agreement.

B. Owner understands and agrees that it shall have no right of coverage under any and all existing or future City insurance policies.

C. Contractor specifically agrees that the City is not liable for any loss or damage sustained by Contractor by reason of any defects, deficiencies, or impairments of the electrical apparatus or wires furnished for the concession operations, lighting, or scoreboards, by reason of any loss of water supply or electrical current which may occur from time to time from any cause, or for any loss resulting from fire, water, tornado, explosion, vandalism, civil commotion or riot, or any act of God.

D. The parties also specifically agree that the City is not liable for any failures by the Contractor to pay taxes, assessments, sales taxes, withholding taxes, or other public charges levied or assessed to Contractor.

XIII. Notices

Notices sent pursuant to this Agreement shall be sent to the other party by Certified Mail, with return receipt, or personal service and addressed as follows:

For the City:
Director of Parks & Recreation
City of West Des Moines
4200 Mills Civic Parkway
West Des Moines, IA 50265

For the Contractor:
Iowa Cubs Sports Turf Management
1 Line Drive
Des Moines, IA 50309

Iowa Cubs Sports Turf Management, Inc.

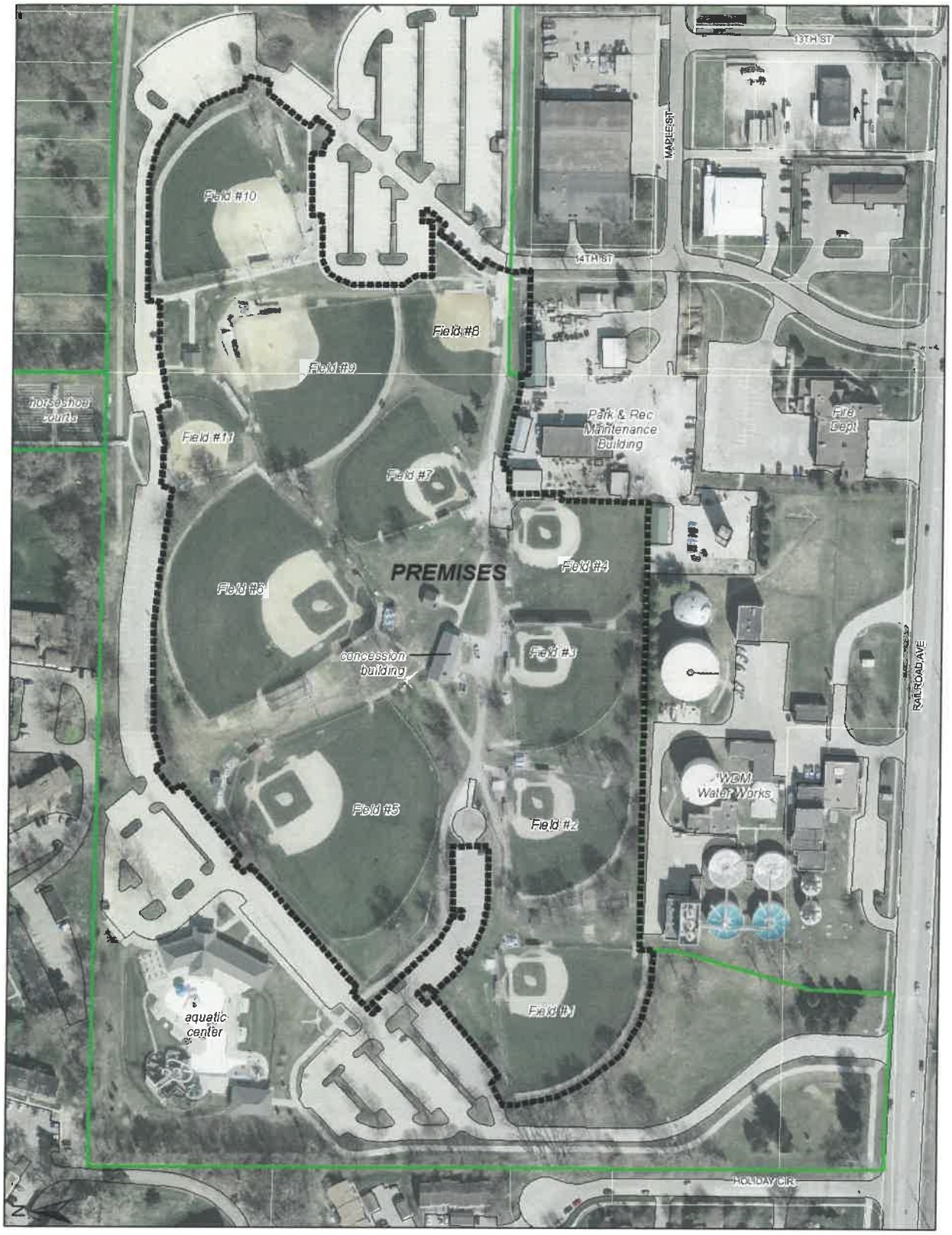
Casey Scheidel

Casey Scheidel, President

CITY OF WEST DES MOINES

Steven K. Gaer, Mayor

Attest:

Ryan Jacobson, City Clerk

Attachment A