# CITY COUNCIL MEETING COMMUNICATION

**DATE:** February 19, 2024

**ITEM:** Approving the Proposal for Ball Field and Grounds Maintenance for Holiday Park Baseball Complex and Raccoon River Park Softball Complex

**FINANCIAL IMPACT:** None at this time. The estimated expense for the 2024 maintenance provided by Musco Sports Lighting d/b/a Iowa Sports Turf Management at Holiday Park Baseball Complex is $251,000 and $174,000 at Raccoon River Softball Complex.

**BACKGROUND:** Staff has worked closely with Iowa Sports Turf Management at Holiday Park Baseball Park since the City took over operations of the complex in 2013 and City staff has maintained the ball field and grounds maintenance in-house for over 25+ years at Raccoon River Park Softball Complex.

After reviewing the costs of maintaining in-house and the City's existing relationship with Iowa Sports Turf Management, staff is recommending that Iowa Sports Turf Management take on the ball field and grounds maintenance at both sports complexes to maintain and enhance the facilities, which will benefit the facilities and continue to provide quality fields to all user groups. Iowa Sports Turf Management will provide all labor, equipment, materials, and products needed to manage and maintain the fields and grounds at the sports complexes, as well as materials and products necessary to properly prepare fields for play.

This is an initial five (5) year agreement with an option for one (1) additional five (5) year renewal. Finance & Administration was made aware of the proposed management shift on Wednesday, February 7.

**The Parks and Recreation Department** is proposing the acceptance of Iowa Sports Turf Management maintaining the sports complexes to provide excellent horticultural maintenance and other services to the public, as described in the Agreement.

**HOLIDAY PARK BASEBALL COMPLEX:**

| Service | Expense |
|---|---|
| Supplies | $28,000 |
| Labor | $167,000 |
| Equipment | $16,000 |
| Special Projects | $20,000 |
| Administrative Fee | $20,000 |

**RACCOON RIVER PARK SOFTBALL COMPLEX:**

| Service | Expense |
|---|---|
| Supplies | $22,000 |
| Labor | $107,000 |
| Equipment | $15,000 |
| Special Projects | $20,000 |
| Administrative Fee | $10,000 |

**OUTSTANDING ISSUES:** None

**RECOMMENDATION:** Approve the Agreement between the City of West Des Moines and

Iowa Sports Turf Management for the provision of ball field and turf management at Holiday Park Baseball Complex and Raccoon River Park Softball Complex.

**Lead Staff Member:** Laura Murphy, Superintendent of Recreation

**STAFF REVIEWS**

| | |
|---|---|
| Department Director | Ryan Penning, Director of Parks & Recreation |
| Appropriations/Finance | Tim Stiles, Finance Director |
| Legal | Greta Truman, City Attorney |
| Agenda Acceptance | |

**PUBLICATION(S)** (if applicable)

| | |
|---|---|
| Published In | |
| Dates(s) | |

**SUBCOMMITTEE REVIEW** (if applicable)

| | |
|---|---|
| Committee | Finance & Administration |
| Date Reviewed | February 7, 2024 |
| Recommendation | Yes I No I Split |

**AGREEMENT**
**BETWEEN THE CITY OF WEST DES MOINES AND IOWA SPORTS TURF MANAGEMENT**
**FOR PROVISION OF BALL FIELD AND TURF MAINTENANCE SERVICES**

THIS AGREEMENT (hereinafter called "Agreement") is made this 14th day of February, 2024, by and between the CITY OF WEST DES MOINES, IOWA (hereinafter called "City") and Musco Sports Lighting d/b/a Iowa Sports Turf Management (hereinafter called "Contractor").

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

I. **DEFINITIONS**

A. The term "City" shall mean the City of West Des Moines, Iowa and where necessary shall include the Mayor and City Councilmembers, employees, 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 "Superintendent" shall mean the City of West Des Moines Superintendent of Recreation or their designee.

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

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

G. 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, and Attachment B, generally described as the area in Raccoon River Park Softball Complex, excluding the dog park, beach, shelter, and playground areas, and bounded by the parking lot curb closes to the softball fields.

H. 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. **PREMISES**

A. Holiday Park Baseball Complex located at 1701 Railroad Avenue, West Des Moines, Polk County, Iowa, and presently consists of 11 baseball fields, parking lots, walkways, a plaza, concession and restroom facilities, and lighting, as shown on the attached Attachment A, excluding the softball and aquatic center areas, and bounded by the parking lot curb closest to the baseball fields; and

B. Raccoon River Park Softball Complex located at 2500 Grand Avenue, West Des Moines, Polk County, Iowa and presently consists of five (5) softball fields, parking lots, walkways, a plaza, concession and restroom facilities, and lighting, as shown on the attached Attachment B; and

C. Various sports fields in City of West Des Moines parks system.

III. **TERM**

A. This Agreement shall commence on the above date of execution and shall continue until December 31, 2028 unless otherwise terminated at an earlier date as provided for herein, with an option for one (1) additional five (5) year renewal. Any extension of this Agreement shall be effective only if in writing and executed by the parties. If the City elects to exercise the option to renew this Agreement, it shall provide notice as indicated herein ninety (90) days before the expiration of the initial term of this Agreement. The renewal may include modifications to the original terms of this Agreement if mutually agreed to by the City and the Contractor.

B. The Contractor will provide the maintenance as described at the Premises for the purpose of maintaining and enhancing the facilities with Contractor services and the City recognizes that such maintenance of the Premises will be beneficial to the general public of the City of West Des Moines. 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.

C. In consideration of the Contractor maintaining the Premises to provide excellent horticultural maintenance and other services to the public, as described in Section IV of this Agreement, and subject to the terms and conditions of this agreement, the City authorizes unto the Contractor and the Contractor accepts from the City, the right to provide the maintenance at the Premises for the payment described below:

   a. Holiday Park Baseball Complex ("Baseball"): Annual administrative fee of twenty thousand dollars ($20,000), an annual equipment expense of sixteen thousand dollars ($16,000), an annual cost of labor expense of one hundred and sixty-seven thousand dollars ($167,000), an annual special projects expense, if applicable, of twenty thousand dollars ($20,000), and supplies expense of twenty eight thousand dollars ($28,000), with a total amount to not exceed two hundred and fifty-one thousand dollars ($251,000) in 2024;

      Raccoon River Park Softball Complex ("Softball"): Annual administrative fee of ten thousand dollars ($10,000), an annual equipment expense of fifteen thousand dollars ($15,000), an annual cost of labor expenses of one hundred and seven dollars ($107,000), an annual special projects expense, if applicable, of twenty thousand dollars ($20,000), and supplies expense of twenty two thousand dollars ($22,000), with a total amount to not exceed one hundred and seventy-four thousand dollars ($174,000) in 2024.

   b. Beginning in 2024 and each year thereafter, the not to exceed the amount for actual labor and supply costs shall be increased by 3% annually as follows:
      i. Baseball:
         1. 2024: $251,000.00
         2. 2025: $258,530.00
         3. 2026: $266,285.90
         4. 2027: $274,274.48
         5. 2028: $282,502.71

      ii. Softball:
         1. 2024: $174,000.00
         2. 2025: $179,220.00
         3. 2026: $184,596.60
         4. 2027: $190,134.49
         5. 2028: $195,838.53

   c. The administrative fees shall remain at the rates identified during the term of this Agreement. The administrative fee is to be divided by 12 and that allotted amount is to be added to each monthly invoice. The City shall pay to the Contractor the administrative fee each month during the term of

this Agreement. The Contractor shall submit monthly an invoice with a summary of actual expenses to be reimbursed by the City. Such summary of all supplies procured and labor costs to perform the services needed to carry out the terms and conditions outlined in this Agreement shall be categorized by expense type.

d. The special project expense built into the annual cost is a use-as-approved funding source. Contractor must work closely with City on what projects are completed out of those funds. Contractor will receive City approval prior to working on any special projects outside the normal maintenance of the Premises.

## IV. MAINTENANCE AND CARE OF PREMISES

A. **MAINTENANCE DUTIES.** The Contractor shall be responsible for the ordinary maintenance and repair of the Premises, as further described in section IV., keeping the same in good order and condition inclusive of but not limited to:

a. Outfield & Infield Turf: Mow and trim to a two to three inch height a minimum of two times per week from April 1 to November 1. 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 play with sod or seed as necessary to maintain a safe playing surface with City approved sod or seed and seeding rates.

b. Common Area Turf: Mow and trim turf in common areas that are not part of the playing surface to a maximum of three inch height a minimum of one time per week from April 1 to November 1. 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.

c. Turf 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 Supervisor by April 1 of each year or prior to any applications. 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. Chemical applications shall be made as follows:

i. 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.

ii. Insect Control: Contractor is responsible for preventing 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.

iii. 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 requirements 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.

iv. 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 by the City.

d. Playing Field 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 spraying with appropriate treatment and cutting them out and/or the direct removal of weeds through other means 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).

e. Playing 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. Unlevel 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 before the first game and then between every other game at a minimum. Prep scheduled Tournament fields between every game when time allows.

f. Playing Field Preparation: Contractor shall provide the following services on an as needed basis 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.

g. Warning Track Maintenance: Inspect warning tracks daily to ensure safe playing conditions. Unlevel 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 regularly.

h. Irrigation Management and Adjustment: The Contractor shall be responsible for seasonally starting up and shutting down the irrigation system. All irrigation systems and the parts shall be installed, repaired, maintained, replaced, and insured by Contractor. Contractor must contact Supervisor to report damages to irrigation system. Contractor is responsible for day-to-day management of the field irrigation systems including setting of clocks, increasing, or decreasing irrigation frequency, head repair, adjustment, and cleaning. 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.

B. **SUMMARY OF MAINTENANCE**

| **Baseball and Softball, West Des Moines** | | | | |
|---|---|---|---|---|
| **Contractor Responsibilities** | | | | |
| **Task** | **Unit Cost** | **Unit** | **Frequency** | **Notes** |
| **Turf Maintenance** | | | | |
| Mowing – field turf and common areas | $60.00 | Per Hour | Minimum of twice per week in-season | Keep turf mowed & trimmed to 2-3" height. Field turf & common areas. See section IV.A.a. |

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| Seeding | $5.50 | Per Pound | As needed to repair worn/damaged areas | Use City approved seed & seeding rates. |
| Sodding | $2.75 | Per Square Foot | As needed to repair worn/damaged areas | Use City approved sod. |
| **Grounds Maintenance** | | | | |
| Litter removal | $45.00 | Per Hour | Once per week prior to mowing | Remove trash/debris including paper, cups, food, seeds, etc. prior to mowing. |
| Dugout maintenance | $45.00 | Per Hour | Trash - Within 24 hours or prior to next day's games<br>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 | $45.00 | Per Hour | As needed | Maintain weed-free condition of all areas. |
| **Chemical Applications** | | | | |
| Crabgrass control | $28.00 | 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 | $30.00 | Per Bag | 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 | $27.00 | 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. |
| Broadleaf weed control | $180.00 | 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. |
| General weed control (Roundup) | $70.00 | 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 | $45.00 | Per Hour | Prior to 1st game of day | |
| Drag/rake infields – weekends/tournaments | $45.00 | Per Hour | Prior to 1st game & after every 2 games | Attempt to do between foul lines, mound and batter's box after every game if time allows. |
| Nail drag | $45.00 | Per Hour | As Needed | |
| Chalk infields – weekday/leagues | $45.00 | Per Hour | Prior to 1st game of day | Per weekly Master Schedule. |
| Chalk infields – weekends/tournaments | $45.00 | Per Hour | Prior to 1st game of day & after every 2 games | Attempt to do foul lines, mound and batter's box after every game if time allows. |
| Water turf | $45.00 | Per Hour | As Needed | |
| Water infields | $45.00 | Per Hour | As Needed | Including prior to weekday leagues & between weekend tournament games as needed to reduce dust and wind erosion. |

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|---|---|---|---|---|
| Edge infield/outfield/warning tracks | $45.00 | Per Hour | Annually | |
| Add warning track material | $260.00 | Per Ton Installed | As Needed | Replace/Repair warning track damage due to erosion. Product replacement must be City approved. |
| Add infield material | $220.00 | Per Ton Installed | Annually | Replace infield material due to erosion. Product replacement must be City approved. |
| Lip repair/maintenance – rake/blower | $45.00 | Per Hour | Within 24 hours after use | Rake/Blow infield material back onto infields. |
| Lip repair/maintenance – water pressure | $45.00 | Per Hour | Annually | Use water pressure to move infield material back onto infields. |
| Aeration | $0.02 | Per Square Foot | 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 maintenance | $45.00 | Per Hour | Daily | Manage day-to-day operation of irrigation system. Report any other irrigation issues to the City. |
| Irrigation heads | $150.00 | Per Head | As Needed | Replace and/or repair irrigation heads on an as needed basis. To be billed separately. |
| Irrigation startup/winterization | $1,500.00 | Each Time Per Complex | Annually | Startup irrigation system at the beginning of the season and winterize the system at the end of the season. |
| Temporary fence | $45.00 | Per Man Hour | As Needed | Setup and teardown of temporary fencing. |
| Paint foul lines | $45.00 | Per Hour | Weekly | |
| Overseeding | $5.50 | Per Pound | Annually | Overseed all common areas & field turf. |
| Topdressing | $50.00 | Per Ton | Annually | Topdress as needed. Product must be City approved. |
| Sodding | $2.75 | Per Square Foot | Annually | Sod as needed. Product must be City approved. |
| **Miscellaneous** | | | | |
| Tree limb/leaf cleanup | $45.00 | Per Hour | As Needed | Cleanup of fallen debris. Deposit into yard waste dumpster in Parks maintenance yard. |
| Bullpen maintenance | $55.00 | Per Hour | As Needed | Maintain the bullpen space in-season. Prep area for the season and winterize for the off-season. |
| Batting cages | $55.00 | Per Hour | As Needed | Replace batting mats and groom crushed rock as needed. Prep area for the season and winterize for the off-season. |
| Concrete surface/bleacher pressure washing | $45.00 | Per Hour | As Needed | Pressure wash areas, as needed. |
| Reports/statements | Included | N/A | Monthly | Detailed billing statement with dates and when tasks were completed. |

## V. FIELD AND FACILITY USAGE

A. **FIELDS**. The ball fields within the Premises shall be reserved for scheduled league games, tournament games, programs, and practices by the City. 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. Any other use of the Premises by the City shall be coordinated and communicated to Contractor on a weekly basis.

B. **FACILITIES.** The City agrees to provide safe and adequate facilities.

a. Lighting: All field lights shall be repaired, maintained, replaced, and insured by the City for the full term of this Agreement. Any replacement or repair of the field light fixtures, poles, bulbs, or underground wiring is the responsibility of the City. 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.

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 damages with scoreboards.

c. Security Lighting: Security lighting along the access roads and in the parking lots on Premises 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.

d. Restrooms: The City shall provide permanent restrooms at the Premises during the season (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.

f. Storage and Office Space:
    a. Holiday Park Baseball Complex: The Contractor will have access to the east side of the Parks Maintenance Building, located at 1701 Railroad Avenue, Building 500, West Des Moines, off of 14th Street/Holiday Park Road. The Contractor shall have use of the two eastern garage bay doors and the office/storage area on the far east end of the building.
    b. Raccoon River Park Softball Complex: The Contractor will have access to the garage bay in the Parks Maintenance Building, located at 2500 Grand Avenue, West Des Moines. The Contractor will have access to the restroom located in that building.
    c. All fire and building code requirements shall be followed on the Premises. The Contractor shall be responsible for insuring all contents of Contractor's assigned area.
    d. The amount of storage and location of storage may be subject to change during the term of this Agreement.
    e. City is responsible for safe and adequate plumbing and electrical systems, secure windows and doors, maintenance of safety systems (fire extinguisher, alarm system, etc.), and protective roofing.

g. Concession Building: The concession building shall be repaired, maintained, and insured by the City.

| **Baseball and Softball, West Des Moines** | | |
|---|---|---|
| **Facility Responsibilities - City** | | |
| **Maintenance Activity** | **Responsible Party** | **Notes** |
| Litter & trash removal from dumpster | City of WDM | 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 |
| Bleachers/picnic tables/scorers tables; site furniture cleaning | City of WDM | Inspection, Maintenance, Transporting, & Placement / P&R |
| Concession building/HVAC maintenance | City of WDM | P&R / Public Services |
| Restrooms (permanent) | City of WDM | Reliable Maintenance Service / Public Services Contractor |
| Restroom (permanent) plumbing and HVAC maintenance | City of WDM | P&R / Public Services |
| Restrooms (temporary portable restrooms) | City of WDM | P&R |
| Security lighting | City of WDM | P&R / MidAmerican |
| Complex electric | City of WDM | P&R / Public Services |
| 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 |
| Pitching Screens | City of WDM | P&R |
| Concrete drainage ways | City of WDM | Public Services |
| Bases & rubbers | City of WDM | Equipment will be provided by the City |

## VI. OTHER RESPONSIBILITIES

A. **PERSONNEL.** The Contractor shall provide the staff to manage and maintain the ball fields and grounds within the premises. The Contractor shall provide the City with Contact information (name, address, e-mail address, and telephone number) for at least two (2) designated contact persons responsible for ensuring response to the City's request for services. The Contractor shall ensure that at least one contact persons is available and accessible during peak season including early mornings, evenings, late nights, Saturdays, Sundays, and holidays based on the ball field's schedule. The Contractor shall maintain adequate staffing levels to meet minimum field maintenance requirements for league and tournament rentals. Personnel applying pesticides and fertilizers shall be licensed as required by the State of Iowa.

B. **SAFETY.** Contractor will ensure that its employees observe and exercise all necessary caution and discretion so as to avoid injury to person or damage to property of any and all kinds.

C. **RESPONSE TIME.** The majority of maintenance shall be done regularly, however, maintenance may occasionally be needed on an "as-needed" basis. In these cases, the Contractor shall respond within 24 hours after a maintenance request is made by the City unless stated otherwise in the Specifications.

D. **SERVICE RECORDS.** The Contractor shall maintain all maintenance records including time/date of maintenance, 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. Chemical and fertilizer applications different from those specified may be considered but must have prior written approval from the City.

E. **AUTHORITY/DIRECTION.** The Contractor and their designated personnel shall respond to requests made by the City in a positive, courteous, and timely manner. The City reserves the right to reject any equipment or personnel from continued or further engagement of services due to incompetence or inability of equipment to function properly for the requested services.

F. **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' conduct. Any damages caused by the Contractor shall be repaired to new or better condition as soon as practicable. The City has the option to withhold payment until proper repair has been made.

G. **LOCKS/ACCESS.** The City shall check out one set of keys to Contractor for maintenance building, storage sheds, and various padlocks. City is responsible for padlock purchases and lock repairs. Any alarm system codes and instructions for Contractor use must be supplied to the City, 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.

H. **ROAD ACCESS.** 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.

I. **SCHEDULES/COMMUNICATION.** Weekly field schedules shall be communicated to the Contractor by the City by e-mail. Constant communication between the City and Contractor will take place and regular meetings will take place as applicable.

## 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 from corporate, federal, state, county, or local agencies or governmental units all permits for operations, improvements, or changes.

## VIII. INSURANCE AND HOLD HARMLESS

A. Contractor agrees to defend, pay on behalf of, indemnify, and hold harmless the City of West Des Moines, its elected and appointed officials, employees, volunteers, and others working on behalf of the City as provided for in Attachment C to this Agreement. Contractor agrees to obtain and maintain in continuous effect during the term of this Agreement and while any of its obligations under this Agreement remain unsatisfied, the insurance coverages set forth in Attachment C, with amounts, coverages, limits, exclusions, and endorsements as therein provided.

## IX. COMPLIANCE WITH LAW

A. Contractor, as its sole expense, shall comply with all ordinances of the City of West Des Moines and the laws and regulations of the State of Iowa and the federal government and shall at its sole expense, obtain all licenses or permits which may be required for the conduct of tits business within the terms of this Agreement, or which may be required for the making of repairs or improvements to the Premises. Contractor agrees to comply with the following general covenants, policies, and conditions put forth by the City of West Des Moines.

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. Material Safety Data Sheets (MSDS) for City materials will be supplied to the Contractor upon request.

c. ADA Statement: The City does not discriminate on the basis of disability. If you believe you have been discriminated against in any program or facility, you may file a complaint alleging the discrimination with the ADA Coordinator through the City Manager's office. The TDD line for the City of West Des Moines is 222-3334.

d. FLSA Statement: "We hereby certify that these goods were produced in compliance with all applicable requirements of Sections 6, 7, and 12 of the Fair Labor Standards Act, as amended, and of regulations and orders of the United States Department of Labor issued under Section 14 thereof."

e. 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 or applicants for employment 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.

f. Authority/Direction: The Contractor and his designated personnel shall respond to requests made by the City in a positive, courteous and timely manner. The City reserves the right to reject any equipment or personnel from continued or further engagement of services due to incompetence or insubordination or inability of equipment to function properly for the requested services.

g. 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 in maintaining facilities on Premises.

h. 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. However, in the event that the City receives complaints regarding any of the Contractor's employees, the City reserves the right to request that appropriate corrective action be taken by the Contractor in its capacity as employer.

i. Anti-Bullying Statement. The Parks & Recreation Department will not tolerate bullying* in any youth program or activity, and The Association will do all they reasonably can to create a safe space for participants, regardless of an individual's actual or perceived age, color, creed/denomination, national origin, race, religion, marital status, sex, sexual orientation, gender identity, physical attributes/appearance, physical or mental ability or disability, ancestry, political belief, socioeconomic status, or familial status. **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.*

## X. SUBMITTALS AND PAYMENTS

A. The following shall be submitted to the City by April 1, or prior if noted, to any Contractor activity taking place at Premises:

   a. Roster of current employee's names, e-mail addresses and phone numbers.
   b. List of emergency contact names, e-mail addresses and phone numbers.
   c. 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 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, according to the terms of Attachment C – Insurance Requirements, 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.

D. Contractor will be paid monthly with invoices submitted by the 15th of each month. Invoices must contain the contract name and address, City PO number, location of service, dates of service, service completed with expense lines, and detailed specifications 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:

   City of West Des Moines
   Parks and Recreation
   Attn: Recreation Program/Facility Supervisor – Athletics
   4200 Mills Civic Parkway
   P.O. Box 65320
   West Des Moines, IA 50265

## XI. TERMINATION OF MAINTENANCE AGREEMENT AND DEFAULT BY CONTRACTOR

A. 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, reasonable wear and tear excepted.

B. Upon default by the Contractor of any of the terms and provisions of this Agreement, and following the recommendation of the City's Parks and Recreation Advisory Board and action taken by the City Council, this Agreement may be terminated or cancelled at the sole option of the City, provided, however, before termination or cancellation, the Department Director, shall give written notice to the Contractor, pursuant to Section XI – Notices of this Agreement, by Certified Mail, with return receipt, or personal service specifying the default or defaults and stating the Agreement may be deemed by the City's sole judgment to be cancelled and forfeited ten (10) calendar days after giving of such notice unless such default or defaults are remedied within such time period. A longer time period to remedy a default may be granted by the Department Director in his or her sole discretion. A shorter time period to remedy a default may be deemed necessary by the Department Director in his or her sole discretion if the Department Director determines that the basis for the default has or will create an immediate hazard to any participants or spectators or has or will create a significant liability exposure to the City. The Department Director, in his or her sole discretion, may also direct the Contractor to immediately cease its activities related to this Agreement if the Department Director determines that an immediate hazard to any participants or spectators or a significant liability exposure to the City has or will exist. Any bankruptcy or insolvency proceedings by the Contractor shall, at the City's sole option, immediately terminate this Agreement without prior notice and the facility under the control of the Contractor shall vest with the City. Upon proper notice from the Department

Director to the Contractor as herein provided, any default of this Agreement by the Contractor that is not timely cured or remedied shall constitute a material and substantial breach of this Agreement.

C. If the City is required to expend any money to fulfill the terms, conditions, and obligations of this Agreement, either during the term of this Agreement by reason of default or after termination of the Agreement, the City, or its assigns may pursue reimbursement of any costs directly from the Contractor, or may seek any legal or equitable remedy available, including costs and attorney fees occasioned by such action.

D. The Contractor, nor any one claiming by, through or under the Contractor, shall not have the right to file or place any Mechanic's Lien or other lien of any kind or character whatsoever, upon the Premises, facilities, or building controlled by the Contractor under this Agreement, and notice is hereby given that no contractor, subcontractor, or anyone else who may furnish any material, service or labor for any improvements, alteration, repairs or any part thereof, shall at any time be or become entitled to any lien thereon.

## XI. NOTICES

A. Notices as provided for in this Agreement to the City shall be deemed sufficient if sent by certified mail with return receipt requested to the Superintendent of Recreation, Parks and Recreation, City of West Des Moines, 4200 Mills Civic Parkway, P.O. Box 63520, West Des Moines, Iowa 50265. Notices as provided in this Agreement to the Contractor shall be deemed sufficient if sent via certified mail with return receipt requested to Contractor, President, Iowa Sports Turf Management, 742 NE 47th Place, Des Moines, IA 50313.

## XII. INDEPENDENT CONTRACTOR

A. The relationship between the City and the Contractor shall be that of independent contractor and not one of the employer/employee.

This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter contained in this Agreement and supersedes all prior agreements, understandings, and negotiations between the parties.

**CITY OF WEST DES MOINES, IOWA**

By: _____
Russ Trimble, Mayor

Attest: _____
Ryan Jacobson, City Clerk

STATE OF IOWA)
) ss:
COUNTY OF POLK )

On this ____ day of _____, 20__, before me a Notary Public in and for said County, personally appeared Russ Trimble and Ryan T. Jacobson, to me personally known, who being duly sworn, did say that they are the Mayor and City Clerk, respectively of the City of West Des Moines, Iowa, a municipal corporation, created and existing under the laws of the State of Iowa and that said record was signed on behalf of said municipal corporation by authority and resolution of its City Council as contained in Roll Call No. _____, passed on the _____ day of _____ _____, 20__, and said Mayor and City Clerk acknowledged said record to be the free act and deed of said municipal corporation by it voluntarily executed.

_____
Notary, State of Iowa

**MUSCO SPORTS LIGHTING D/B/A**
**IOWA SPORTS TURF MANAGEMENT**

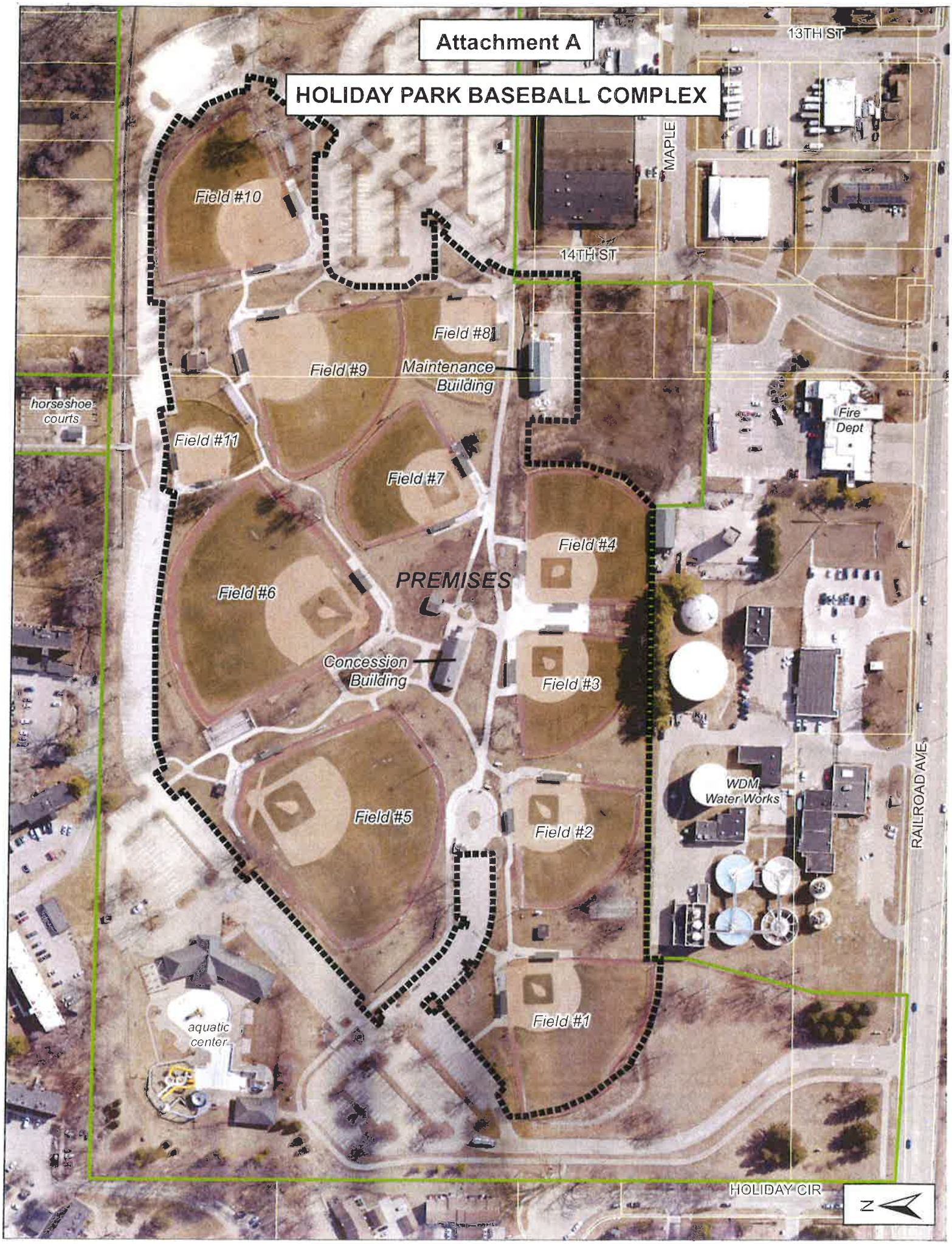
By: _____
Casey Scheidel, President

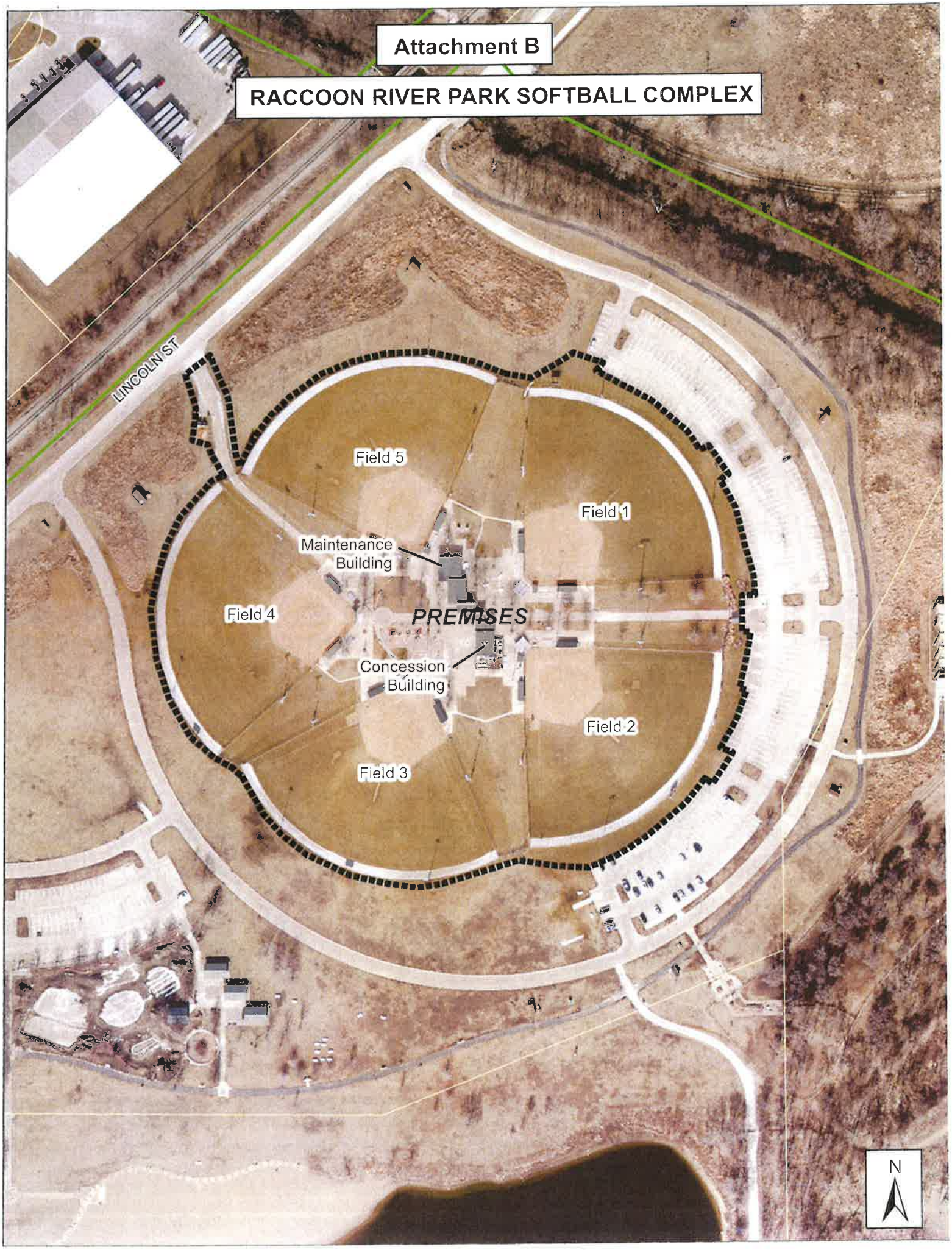
STATE OF IOWA )
)SS
COUNTY OF POLK )

This record was acknowledged before me this 14th day of February, 2024 by Casey Scheidel as President of Musco Sports Lighting d/b/a Iowa Sports Turf Management on behalf of whom the record was executed.

_____
Notary Public in and for the State of Iowa

NOTARIAL SEAL IOWA
**MALLOREE SIMMONS**
Commission Number 823619
My Commission Expires
February 07, 2026


Attachment A
HOLIDAY PARK BASEBALL COMPLEX
13TH ST
MAPLE
14TH ST
Field #10
Field #8
Field #9
Maintenance Building
horseshoe courts
Fire Dept
Field #11
Field #7
Field #4
PREMISES
Field #6
Concession Building
Field #3
WDM Water Works
RAILROAD AVE
Field #5
Field #2
Field #1
aquatic center
HOLIDAY CIR
N


Attachment B
RACCOON RIVER PARK SOFTBALL COMPLEX
LINCOLN ST
Field 5
Field 1
Maintenance Building
Field 4
PREMISES
Concession Building
Field 2
Field 3
N

## ATTACHMENT C

## INSURANCE REQUIREMENTS

The Contractor shall obtain and maintain through the term of the Contract and **two years beyond**, insurance with terms and limits of coverage equal to or in excess to set forth in the specifications governing the Contract, 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 the Contract shall no-way limit the Contractor's 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; including 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 caused by pollution conditions that may arise from the operations of the contractor described in the contractor's scope of service.

| | |
|---|---|
| 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.

| | |
|---|---|
| Part 1 – Workers Compensation Benefits | Statutory |

E. Employers Liability, including coverage for claims from workers who have suffered a job-related injury or illness not covered by workers' compensation.

| | |
|---|---|
| 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 Insurance and Waiver of Subrogation and Primary and Non-Contributory.

| | |
|---|---|
| Each Occurrence Limit | $3,000,000 |
| Aggregate Limit | $3,000,000 |

Before providing any services, the Contractor shall furnish an insurance certificate to the City, showing adequate insurance to be in force. Any subcontractors utilized shall be subject to the same insurance requirements above.

**INDEMNIFICATION AND HOLD HARMLESS**

A. The Contractor shall hold harmless, indemnify, and defend the City and all of its agents and employees of and from any and all claims, demands, actions, or causes of action of whatsoever nature or character both to person and property, arising out of or related to Contractor's performance under the Contract, but only to the extent caused by Contractor's negligent acts or omissions or willful misconduct.

B. 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 assessed to the City, its officials, employees, agents, contractors, and assigns. The Contractor shall provide the City with prompt notice of any such claim, demand, or action so that the City may, at its sole option, defend or settle such claim, demand, or action.

C. Contractor understands and agrees that it shall have no right of coverage under any existing or future insurance policies owned by the City. The Contractor also acknowledges that the City has no responsibility for any damage caused to the Contractor's property by any source.

D. This indemnification and hold harmless provision is effective upon execution and shall be of indefinite duration and shall survive the termination of this Contract.