

City of Scottsbluff, Nebraska

Monday, March 16, 2020

Regular Meeting

Item Reports1

Council to discuss and consider action on approving an updated Agreement with Kirk Bernhardt as the Umpire Coordinator and Concession Stand Operator at Lacy Park for the 2020 softball season and authorize the Mayor to sign the Agreement.

Staff Contact: Rick Deeds, Park Superintendent

AGREEMENT

This Agreement entered into by and between KIRK BERNHARDT, hereinafter referred to as "BERNHARDT" and the CITY OF SCOTTSBLUFF, NEBRASKA, hereinafter referred to as "CITY."

1. BERNHARDT agrees to furnish and provide the CITY the following:
 - a. All USA Softball (USA) sanctioned umpires for the CITY's Adult Men's, Adult Women's, and Adult Co-ed softball programs (Aleague@) for the 2020 softball season;
 - b. To act as the program coordinator for the CITY's adult softball league for the period April 1, 2020 through August 30, 2020; and
 - c. To operate the concession stand at Lacy Park for the period April 1, 2020 through August 30, 2020, depending and conditional upon the schedule of final tournaments.
2. The City agrees to continue to provide fields for the CITY's Adult Men's, Adult Women's, and Adult Co-ed softball league programs ("fields").
3. BERNHARDT'S responsibility for furnishing USA sanctioned umpires are as follows:
 - a. To furnish a minimum of one (1) umpire per field, per game for each division.
 - b. To insure that the umpire assignments are covered.
 - c. If the need arises, to insure replacement umpires are assigned.
 - d. To insure that all umpires assigned are versed on the respective CITY league (Men's, Women's and Co-ed) rules and regulations as well as USA rules and regulations.
 - e. To insure that assigned umpires arrive at their assigned games at least 15 minutes prior to the scheduled time of the game to insure the continuity of staying as close as possible to game schedules.
 - f. To submit to the CITY a hard copy of the Umpire Schedule for all divisions of league play prior to the league games being played.
 - g. Allow the CITY the right to air concerns to BERNHARDT regarding umpiring quality, attendance, behavior and establish remedies, acceptable to

both parties regarding these concerns.

h. Assess, by use of Voucher, appropriate umpire fees as follows:

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| 1) | Adult Men's A and B Divisions (per umpire) | \$25.00 |
| 2) | Adult Men's C Division (per umpire) | \$25.00 |
| 3) | Adult Women's and Adult Co-ed (per umpire) | \$25.00 |
| 4) | Umpires who continue to work after 11:00 p.m.
will be paid this additional amount, beginning
at 11:00 p.m. | \$ 5.00 |
| 5) | Tournament rates for any Division (per umpire) | \$25.00 |
| 6) | Tournament U.I.C. | |
| a) | For every team in Tournament | \$ 3.00 |
| b) | Or | \$50.00 |
| | Whichever is greater. | |

4. BERNHARDT'S responsibilities to the CITY as coordinator for the CITY's Adult Softball Program are as follows:

- a. Coordinate with the CITY's Park Supervisor in the advertising and promotion of the CITY's adult softball league;
- b. Prepare and disseminate league rules and regulations;
- c. Assist with league meetings league registration and league rosters;
- d. Develop a league schedule guaranteeing eighteen games for all teams in the men's and women's leagues, and one round-robin guarantee in the co-ed league, and further guaranteeing all teams two games in a double elimination tournament at the end of their season;
- e. Notify and post rained out, postponed games and other schedule changes so as to maintain continuity and harmony within the league schedules and to enable each team to have the number of games that it was guaranteed;
- f. Maintain and provide the CITY with league records, league standings and league expenditures, including but not limited to equipment needs and league expenses;
- g. Communicate with the CITY's Park Supervisor, or their designee, regarding past, current or future recommended league changes;
- h. To be at the fields or have a designee at the fields to address league issues and concerns, schedule changes, prepare and post tournament information, interpret league rules and regulations, interpret USA rules and regulations,

resolve disputes and protests, enforce CITY rules and regulations, and insure participants are aware of CITY ordinances and statutory laws;

- i. Establish, develop and maintain uniformity and parity in the level of play, regarding the various divisions of play;
- j. Insure that all equipment is properly secured and all electrical equipment turned off after the conclusion of the final game;
- k. Notify the CITY's Park Supervisor of any league or equipment needs;
- l. Address other league needs or issues that the CITY may deem necessary, including maintenance, upkeep and concessions.

5. All fees collected by BERNHARDT on behalf of the CITY which are payable to the CITY for the league or adult softball programs will be collected at Scottsbluff City Hall, 2525 Circle Drive, between the hours of 7:00 a.m. and 4:00 p.m., Monday through Friday. BERNHARDT will not accept any payments unless specifically directed to do so by the City's Park Supervisor.

6. The CITY is responsible for all field preparations. The CITY will notify BERNHARDT of any fields that may not be playable.

7. In regard to BERNHARDT operating the concession stand at Lacy Park:

- a. BERNHARDT may use all equipment belonging to the CITY located within the concession stand;
- b. BERNHARDT will open the concession stand no later than 6:00 p.m. and close the stand no earlier than 9:30 p.m. each night CITY adult softball league games are held for the term of this Agreement. BERNHARDT will also keep the concession stand open for weekend tournaments. If inclement weather causes cancellation of games during a particular period of time, BERNHARDT is not required to keep the concession stand open during that period of time. BERNHARDT will provide adult supervision for any individuals under sixteen (16) years of age who participate in the operation of the concession stand.
- c. All equipment of the CITY located within the concession stand may be used by BERNHARDT. BERNHARDT shall keep all equipment in good working order and restored to the CITY in as good condition as it was in when this Agreement began, reasonable wear and tear accepted.
- d. BERNHARDT will keep the concession area in clean and sanitary condition and will comply with all applicable ordinances, regulations, including regulations of the Department of Health.

- e. CITY is under a contractual Agreement regarding the type of soft drinks that can be sold in the concession stand. BERNHARDT agrees to comply with the contractual Agreement and only sell soft drinks in the concession stand that are permitted and authorized by the City. No alcoholic beverages may be sold at the concession stand. Otherwise the CITY places no restrictions upon concessions that may be sold or the prices to be charged therefore, provided however that such prices shall be reasonable.
- f. In regard to the concession stand, all profits earned in its operation are the exclusive property of BERNHARDT and the CITY shall have no claim to such profits. Any losses incurred by BERNHARDT in the operation of the concession stand shall be borne by BERNHARDT and the CITY shall have no obligation to reimburse any portion of such loss to BERNHARDT. BERNHARDT may employ assistants, subcontractors or others to assist in the carrying out of his obligations. All products sold at the concession stand will be provided by BERNHARDT at BERNHARDT'S expense.

8. BERNHARDT will act as an independent contractor and not as an employee of the CITY. BERNHARDT'S compensation will be as set forth in this Agreement and will not include any benefits of any type which are payable to CITY employees. The CITY shall have no right to control the manner in which BERNHARDT accomplishes his responsibilities. BERNHARDT may employ assistants to assist in carrying out his responsibilities. Other than the playing fields themselves, all equipment, tools and other things reasonably necessary for BERNHARDT to carry out his responsibilities under this Agreement will be provided by BERNHARDT.

9. During the term of this Agreement, BERNHARDT will maintain public liability insurance in an amount of not less than \$1,000,000.00. Such insurance policy will show the CITY as an additional insured. A certificate in a form acceptable to the CITY will be furnished to the CITY before BERNHARDT begins the performance of any of his responsibilities.

10. The CITY agrees and is responsible under this Agreement as follows:

- a. The CITY reserves the right to access financial and schedule records to insure umpired games match actual games and payment information.
- b. For BERNHARDT'S services, the CITY agrees to pay the sum of \$5,000.00 in five equal monthly installments. Such payments will be made after the following dates:

\$1,000.00 - April 5, 2020

\$1,000.00 - May 3, 2020

\$1,000.00 - June 7, 2020

\$1,000.00 - July 5, 2020

\$1,000.00 - August 2, 2020

11. This Agreement may only be amended by a signed document from both parties.
12. This Agreement will be interpreted according to the laws of the state of Nebraska.
13. This Agreement may be terminated by the CITY in the event BERNHARDT fails to cure any default of this Agreement within five (5) days after written notice by the City has been sent to BERNHARDT at the following address: 200123 Ridge Drive, Gering, NE 69341.

IN WITNESS WHEREOF the parties have hereunto set their hands and seal this ____ day of _____, 2020.

CITY OF SCOTTSBLUFF, NEBRASKA,

Kirk Bernhardt

By _____
Mayor

ATTEST:

City Clerk