



**Date** May 9, 2022

**APPROVING EXCEPTION TO THE PROCUREMENT ORDINANCE REQUEST FOR PROCUREMENT (RFP) PROCESS FOR GOOD CAUSE, APPROVING MAINTENANCE AGREEMENT WITH IOWA SPORTS TURF MANAGEMENT, INC. TO MAINTAIN VARIOUS ATHLETIC FIELDS, AND TERMINATION OF EXISTING MAINTENANCE AGREEMENT WITH IOWA SPORTS TURF MANAGEMENT, INC.**

WHEREAS, the Des Moines Parks and Recreation Department is charged with providing recreational and athletic opportunities to the residents of Des Moines and owns and operates various athletic sport venues; and

WHEREAS, Iowa Sports Turf Management, Inc. is recognized as being an expert in horticultural field maintenance and has expressed a desire to provide custodial care and horticultural maintenance at City athletic fields; and

WHEREAS, on February 9, 2009, by Roll Call No. 09-152, the City Council approved a Maintenance Agreement with (Greater Des Moines Baseball Co.) GDMBC for a period of five years with one 5-year renewal for the James W. Cownie Soccer and Baseball Parks and various other athletic fields; and

WHEREAS, on April 9, 2018, by Roll Call No. 18-0585, the City Council approved a subsequent Maintenance Agreement which terminated the City's above-described agreement with GDMBC and extended the agreement with Iowa Sports Turf Management, Inc. until December 31, 2022 with an option for one additional 5-year renewal; and

WHEREAS, the Parks and Recreation Department has negotiated with Iowa Sports Turf Management, Inc. to enter into a replacement Maintenance Agreement, in form on file in the City Clerk's Office, for maintenance duties at the James W. Cownie Soccer and Baseball Parks, various sports fields, and the George Davis Softball Complex, for an initial term from May 10, 2022 until December 31, 2026, with an option for one additional 5-year renewal with mutual agreement of the parties; and

WHEREAS, said replacement Maintenance Agreement terminates the current agreement with Iowa Sports Turf Management, Inc. effective May 10, 2022, and further increases the annual administrative fee, equipment fee, and labor and supply cost charges to reflect increased costs incurred by the contractor when providing maintenance services under the Agreement; and

WHEREAS, the City Manager recommends that the above-described procurement for services be exempted from the request for proposals process for good cause shown as approved by the City Manager, pursuant to Section 2-710(b) of the Municipal Code of the City of Des Moines.



**Roll Call Number**

**Agenda Item Number**

46

**Date** May 9, 2022

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa, that:

1. Good cause has been shown to exempt the procurement of custodial care and horticultural maintenance services at the James W. Cownie Baseball and Soccer Parks and other athletic fields from the request for proposals process under the Procurement Ordinance.
2. The Maintenance Agreement by and between the City and Iowa Sports Turf Management, Inc. in form on file in the City Clerk's Office and terminating and replacing the existing agreement, is hereby approved, the Mayor is hereby authorized and directed to sign said agreement on behalf of the City, and the City Clerk is hereby directed to attest to said signature.

(Council Comm. No. 22-205)

MOVED BY \_\_\_\_\_ to adopt.

SECOND BY \_\_\_\_\_.

Approved as to form:

/s/ Glenna K. Frank  
Glenna K. Frank  
Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
GATTO				
SHEUMAKER				
MANDELBAUM				
VOSS				
WESTERGAARD				
TOTAL				
MOTION CARRIED			APPROVED	
_____ Mayor				

**CERTIFICATE**

I, P. Kay Cmelik, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

\_\_\_\_\_ City Clerk

**MAINTENANCE AGREEMENT**  
**City of Des Moines Athletic Turf Facilities**  
**By and Between**  
**City of Des Moines**  
**and**  
**Iowa Sport Turf Management, Inc.**

THIS MAINTENANCE AGREEMENT is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2022, by and between the City of Des Moines (hereinafter referred to as "CITY") and the Iowa Sports Turf Management, Inc., an Iowa Corporation (hereinafter referred to as "CONTRACTOR" or "ISTM").

WHEREAS, the City of Des Moines is the title holder of the premises presently denoted as:

- James W. Cownie Soccer Park located at 2600 Hartford, Des Moines, Polk County, Iowa, and presently consisting of 12 soccer fields, 4 parking lots, walkways, plaza, 2 stadiums, portable bleachers, concession and rest room facilities, and lighting, as shown on the attached Exhibit "A"; and
- James W. Cownie Baseball Park located at 2050 S.E. 22<sup>nd</sup> Street, Des Moines, Polk County, Iowa and presently consisting of 8 baseball fields, 2 parking lots, 4 batting cages, walkways, bleachers, concession and rest room facilities and lighting, as shown on the attached Exhibit "B"; and
- George Davis Softball Complex located at 4980 N.E. 46<sup>th</sup> Street and presently consisting of 4 softball fields, 1 parking lot, walkways, concession and rest room facilities, maintenance building and lighting, as shown on the attached Exhibit "C"; and
- Savage Softball Fields located at 2601 Hubbell Street, Des Moines, Polk County, Iowa and presently consisting of 2 softball fields, common area between the North and South fields, concession and rest room facilities, walkways, bleachers and lights, as shown on the attached Exhibit "D"; and
- Carney Park located at 27040 S.W. 30<sup>th</sup> Street, Des Moines, Polk County, Iowa and presently consisting of 2 softball fields, lights, restrooms and parking, as shown in attached Exhibit "E"; and;
- Ashfield Park located at 701 E. 18<sup>th</sup> Street, Des Moines, Polk County, Iowa and presently consisting of two flag football fields, bleachers, and lights as shown in attached Exhibit "F" (Exhibits C, D, E, and F, hereinafter referred to as the "Sports Fields");  
(Exhibits A-F hereinafter collectively referred to as the "Premises"); and

WHEREAS, the CONTRACTOR is desirous of providing the maintenance as described below at the Premises for the purpose of maintaining and enhancing the facilities with CONTRACTOR services; and

WHEREAS, the CITY recognizes that such maintenance of the Premises will be beneficial to the general public of the City of Des Moines.

NOW, THEREFORE, in consideration of the covenants herein and other good and valuable consideration, the adequacy and receipt of which is hereby acknowledged, it is agreed as follows:

1. TERMINATION OF 2018 AGREEMENT, TERM, AND CONSIDERATION.

(a) The parties agree that the 2018 Maintenance Agreement - City of Des Moines Athletic Turf Facilities By and Between the City of Des Moines and Iowa Sports Turf Management shall be terminated on April 30, 2022.

(b) The term of this Agreement shall commence on May 10, 2022 with an initial term until December 31, 2026 with an option for one (1) additional five (5) year renewal with mutual agreement of both parties.

(c) In consideration of the CONTRACTOR maintaining the Premises to provide excellent horticultural maintenance, custodial care and other services to the general public, as described in Section 2 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:

(i) James W. Cownie Soccer Park ("Soccer"): Annual administrative fee of thirty thousand dollars (\$30,000.00) and an annual equipment fee of forty thousand dollars (\$40,000.00) plus an amount not to exceed three hundred and fifteen thousand dollars (\$315,000.00) per calendar year for the actual labor and supply costs;

James W. Cownie Baseball Park ("Baseball"): Annual administrative fee of nine thousand dollars (\$9,000.00) and an annual equipment fee of twenty thousand dollars (\$20,000.00) plus an amount not to exceed one hundred forty two thousand dollars (\$142,000.00) per calendar year for the actual labor and supply costs;

Sports Fields (plus various City of Des Moines parks and Des Moines Public School fields used for City athletic programs): Annual administrative fee of twenty thousand dollars (\$20,000.00) and an annual equipment fee of forty thousand dollars (\$40,000.00) plus an amount not to exceed two hundred thirty thousand dollars (\$230,000.00) per calendar year for the actual labor and supply costs.

(ii) Beginning January 1, 2023 and each year thereafter, the not to exceed amount for actual labor and supply costs shall be increased by 3% annually as follows:

2022					
James Cownie Soccer		James Cownie Baseball		Sports Fields	
Labor and materials	\$315,000	Labor and materials	\$142,000	Labor and materials	\$230,000
Administrative fee	\$30,000	Administrative fee	\$9,000	Administrative fee	\$20,000
Equipment allowance	\$40,000	Equipment allowance	\$20,000	Equipment allowance	\$40,000
<b>TOTAL</b>	<b>\$385,000</b>	<b>TOTAL</b>	<b>\$171,000</b>	<b>TOTAL</b>	<b>\$290,000</b>
<b>2022 TOTAL</b>		<b>\$846,000</b>			
2023					
James Cownie Soccer		James Cownie Baseball		Sports Fields	
Labor and materials	\$324,450	Labor and materials	\$146,260	Labor and materials	\$236,900
Administrative fee	\$30,000	Administrative fee	\$9,000	Administrative fee	\$20,000
Equipment allowance	\$40,000	Equipment allowance	\$20,000	Equipment allowance	\$40,000
<b>TOTAL</b>	<b>\$394,450</b>	<b>TOTAL</b>	<b>\$175,260</b>	<b>TOTAL</b>	<b>\$296,900</b>
<b>2023 TOTAL</b>		<b>\$866,610</b>			
2024					
James Cownie Soccer		James Cownie Baseball		Sports Fields	
Labor and materials	\$334,183	Labor and materials	\$150,647	Labor and materials	\$244,007
Administrative fee	\$30,000	Administrative fee	\$9,000	Administrative fee	\$20,000
Equipment allowance	\$40,000	Equipment allowance	\$20,000	Equipment allowance	\$40,000
<b>TOTAL</b>	<b>\$404,183</b>	<b>TOTAL</b>	<b>\$179,647</b>	<b>TOTAL</b>	<b>\$304,007</b>
<b>2024 TOTAL</b>		<b>\$887,837</b>			
2025					
James Cownie Soccer		James Cownie Baseball		Sports Fields	
Labor and materials	\$344,208	Labor and materials	\$155,166	Labor and materials	\$251,327
Administrative fee	\$30,000	Administrative fee	\$9,000	Administrative fee	\$20,000
Equipment allowance	\$40,000	Equipment allowance	\$20,000	Equipment allowance	\$40,000
<b>TOTAL</b>	<b>\$414,208</b>	<b>TOTAL</b>	<b>\$184,166</b>	<b>TOTAL</b>	<b>\$311,327</b>
<b>2025 TOTAL</b>		<b>\$909,701</b>			
2026					
James Cownie Soccer		James Cownie Baseball		Sports Fields	
Labor and materials	\$354,534	Labor and materials	\$159,820	Labor and materials	\$258,866
Administrative fee	\$30,000	Administrative fee	\$9,000	Administrative fee	\$20,000
Equipment allowance	\$40,000	Equipment allowance	\$20,000	Equipment allowance	\$40,000
<b>TOTAL</b>	<b>\$424,534</b>	<b>TOTAL</b>	<b>\$188,820</b>	<b>TOTAL</b>	<b>\$318,866</b>
<b>2026 TOTAL</b>		<b>\$932,220</b>			

(iii) The administrative fees shall remain at the rates identified above during the term of this Agreement. The CITY shall pay to the CONTRACTOR the annual administrative fees on the 15th of January

each year during the term of this Agreement. The CONTRACTOR shall submit monthly an invoice and 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 set forth in this Agreement shall be categorized by expense type, including but not limited to, the following categories: employee payroll including wages and benefits; horticulture products; chemicals; equipment lease and repair; cellular service; insurance; fuel; and tools. CONTRACTOR shall maintain and provide to the CITY upon request properly executed payroll and time records, invoices, contracts, vouchers, or other acceptable accounting documents evidencing the nature and propriety of the costs and expenses incurred by the CONTRACTOR in accordance with this Agreement. Upon receipt of the CONTRACTOR invoice and summary, the CITY shall reimburse the CONTRACTOR in a timely manner.

(iv) As part of the Sports Field administrative fee, CONTRACTOR shall provide the maintenance to sports fields for non-CITY sponsored tournaments that the tournament operator is required to provide under the CITY's facility use agreement for such fields. If non-CITY tournament operators request more frequent services such as chalking, dragging fields, and installation of temporary fencing, the CONTRACTOR will charge the CITY \$30 per hour from the first scheduled game to last completed game for additional chalking and dragging of fields and a \$200 per-field fee for installation and removal of temporary fencing regardless of the number of games.

(v) As part of the Sports Field administrative fee the CONTRACTOR shall provide semi-permanent painted field markings at up to 25 various City and Des Moines School District park fields.

## 2. MAINTENANCE AND CARE OF THE PREMISES.

(a). STAFFING. The CONTRACTOR shall be responsible for providing supervisors and qualified staff, who are trained and educated to handle the various areas of responsibility assigned under this Agreement, and to carry out the horticultural and custodial care for the necessary work to maintain the Premises. Employees needed to carry out the CONTRACTOR's provisions of this Agreement shall be the employees of the CONTRACTOR. The CITY recognizes that the CONTRACTOR has the right and obligation to employ a staff capable of performing assigned duties. CONTRACTOR will supply staff to cover all hours of rentals and events.

(b). MAINTAINANCE DUTIES. The CONTRACTOR shall be responsible for the ordinary maintenance and repair of the Premises, as further described in subsection 2.b., keeping the same in good order and condition inclusive of but not limited to:

- (i) Maintenance and care of athletic fields, non-athletic turf and other landscape features (all plantings will be done by the CITY);
- (ii) Custodial care of sidewalks, parking lots, restrooms, concessions, grounds, stadiums and portable seating;
- (iii) Purchase of all commodities and supplies needed to carry out the responsibilities provided by the CONTRACTOR under this Agreement;
- (iv) Marking, dragging, raking, and painting of fields for practice, league and tournament matches/games;
- (v) Transporting and placing goals, portable seating, and bases;
- (vi) Providing staff during all uses of the PREMISES including unlocking and locking the security gates for event set-up and tear down;
- (vii) Maintaining and repairing irrigation system, limited to replacing heads, winterization and spring start-up, pursuant to CITY's schedule and specifications;
- (viii) Provide to the CITY an annual accounting of expenses in a form acceptable to the CITY to maintain the Premises no later than February 15<sup>th</sup> for the previous calendar year for each term of this Agreement;
- (ix) It shall be the duty of the CONTRACTOR to mow and trim the grass between the parking lots and inside and outside the soccer, softball, flag football and baseball fields and pick up debris and trash on the Premises and place in locations/containers provided by the CITY;
- (x) CONTRACTOR shall immediately give notice to the City of any damage to the Premises or of the development of any dangerous or deteriorating condition on the Premises.

(c). The above described maintenance duties for the Cownie Soccer Park, Cownie Baseball Park and Softball Complex shall apply to the entire Park and Complex, including regular maintenance and custodial care for the parking lot, restrooms, concession, walkways and all trees, bushes and plants. The maintenance duties for the Sports Fields apply to the fenced field area and restrooms during programmed events at the facility and the common area at Savage Ball Park between the North and South fields. The maintenance at Ashfield Park is limited to marking field lines and placing flags/cones for programmed events and shall also include prescriptive measures to cultivate an improved field turf but shall not include custodial care of restrooms.

(d). The CITY shall have the right to enter upon and inspect the Premises or any City owned property at any time.

<b>George Davis Softball</b>		
<b>Contractor responsibilities – Fields</b>		
<b>Task</b>	<b>How often</b>	<b>Notes</b>
Drag/rake - Sunday	Prior to first game and after every 3 games	
Drag/rake - Weeknight	Prior to first game and after 2 games	On fields with 4 games
Drag/rake - Tournaments	Prior to first game and after every third game	
Nail drag	As needed	
Chalk - Sunday	Prior to first game and after every 3 games	
Chalk - Weeknight	Prior to first game and after 2 games	On fields with 4 games
Chalk - Tournaments	After every game	\$25/hour from first scheduled game to last completed game
Water	As needed	Including infield between games and outfield
Clean dugouts	Within 24 hours after use	Remove trash, dirt and sand
Edge infield/outfield/ warning track	Every 2-3 weeks minimum or as needed	
Lip repair - Rake	Within 24 hours after use	Rake dirt back into the infield
Lip repair - Water pressure	Weekly	Use water pressure to minimize lips
Portable Fence install/ removal	As needed	When requested by City (free) or renter (\$150)
Reports	Every other week	Record submitted of dates tasks were completed
Aeration	4 times per year	
Mowing	As needed	Field and common areas
Replace irrigation heads	As needed	

<b>George Davis Softball</b>		
<b>Contractor responsibilities – Amenities</b>		
<b>Task</b>	<b>How often</b>	<b>Notes</b>
Bathrooms cleaned - Weeknights	Daily	
Bathrooms cleaned - Weekends	At least every 3 hours	
Bathrooms hosed, swept, mopped - Weeknights	Daily before play	
Bathrooms power washed	Once per month	
Bugs removed from light fix.	Weekly	
Garbage cans emptied	Within 24 hours after use	More times if needed

<b>Cownie Baseball</b>		
<b>Contractor responsibilities – Fields</b>		
<b>Task</b>	<b>How often</b>	<b>Notes</b>
Drag/rake - Tournaments	Prior to first game and after every third game	
Nail drag	As needed	
Chalk - Tournaments	After every game	\$25/hour from first scheduled game to last completed game
Water	As needed	Including infield between games and outfield
Clean dugouts	Within 24 hours after use or prior to next day's games	Remove trash, dirt/sand

Edge infield/outfield/ warning track	Every 2-3 weeks	
Add warning track material – Cownie Baseball	As needed	Remove/repair track damage after flooding
Lip repair - Rake	Within 24 hours after use	Rake dirt back into the infield
Lip repair - Water pressure	Weekly	Use water pressure to minimize lips
Reports	Every other week	Record submitted of dates tasks were completed
Aeration	4 times per year	
Mowing	As needed	Field and common areas
Replace irrigation heads	As needed	

<b>James Cownie Baseball Park</b>		
<b>Contractor responsibilities – Amenities</b>		
<b>Task</b>	<b>How often</b>	<b>Notes</b>
Bathrooms cleaned – Weeknights	Daily	
Bathrooms cleaned – Weekends	At least every 3 hours	
Bathrooms hosed, swept, mopped – Weeknights	Daily before play	
Bathrooms power washed	Once per month	
Bugs removed from light	Weekly	
Garbage cans emptied	Within 24 hours after use	More times if needed

<b>Carney and Savage</b>		
<b>Contractor responsibilities – Fields</b>		
<b>Task</b>	<b>How often</b>	<b>Notes</b>
Drag/rake - Weeknight	Prior to first game and after 2 games	On fields with 4 games
Drag/rake - Sunday	Prior to first game and after every third game	
Drag/rake - Tournaments	Prior to first game and after every third game	
Drag/rake - Practices only	Once per week	
Chalk - Weeknight	Prior to first game and after 2 games	On fields with 4 games
Chalk Sunday	After every 3 games	
Chalk - Tournaments	After every game	\$25/hour from first scheduled game to last completed game
Nail drag	As needed	
Clean dugouts	Once per week	
Edge infield/outfield	Once per month	
Lip repair - Rake	Once per week	
Lip repair - Expanded	Once per month	
Reports	Every other week	Record submitted of dates tasks were completed
Aeration	1 time per year	
Mowing	As needed	Field at both and common areas (Savage between North and South fields)

<b>Carney and Savage</b>		
<b>Contractor responsibilities – Amenities</b>		
<b>Task</b>	<b>How often</b>	<b>Notes</b>
Garbage cans emptied	Every other day	More if needed

<b>Ashfield and various Youth Sports Sites</b>		
<b>Task</b>	<b>How often</b>	<b>Notes</b>

Adult field striping	Weekly (in season)	Initial striping and weekly thereafter
Sports field striping	25 total stripings per year	Various School and City facilities
Reports	Every other week	Record submitted of dates tasks were completed
Aeration	1 time per year	Ashfield
Dragging	2-3 times monthly	EK Davis Park

Other applicable information:

- At each City facility listed above all weeds found on playing fields, warning track areas, fence lines, gravel walkways, areas under and around bleachers, scoreboards, batting cages, decorative planters, and all surrounding areas must be removed either by spraying with appropriate treatment and then cutting them out or the direct removal of weeds through other means.
- Contractor cannot post any signage without City approval. City will print and laminate needed signage, at the City's sole discretion.

### Recreational Fields Maintenance Responsibilities

Maintenance Activity	Cownie Soccer	Cownie Baseball	GDM Softball	Carney	Savage	Ashfield	Supervisor
Mowing the grass/spraying weeds	ISTM	ISTM	ISTM	ISTM	ISTM	CITY	PARKS
Turf aeration	ISTM	ISTM	ISTM	ISTM	ISTM	CITY	SHARED
Pressure washing concrete surfaces	ISTM	ISTM	ISTM	CITY	ISTM	CITY	SHARED
Removing snow (interior/exterior sidewalks)	CITY	CITY	CITY	CITY	CITY	CITY	SHARED
Litter and trash removal	ISTM	ISTM	ISTM	ISTM	ISTM	ISTM	ISTM
Planting annuals/bushes/trees	CITY	CITY	CITY	CITY	CITY	CITY	PARKS
Irrigation start-up, back-flow inspection, shutdown	ISTM	ISTM	ISTM	N/A	N/A	N/A	ISTM
Irrigation head replacement in summer	ISTM	ISTM	ISTM	N/A	N/A	N/A	ISTM
Site furniture cleaning	ISTM	ISTM	ISTM	ISTM	ISTM	ISTM	ISTM
Flood clean-up/signage/barricades (natural disaster)	BOTH	BOTH	N/A	BOTH	N/A	N/A	SHARED
Restroom plumbing and HVAC maintenance	CITY	CITY	CITY	CITY	CITY	CITY	PARKS/FACILITIES
Playground inspection and repair	CITY	CITY	CITY	CITY	CITY	CITY	PARKS
Restroom cleaning	ISTM	ISTM	ISTM	CITY	CITY	CITY	SHARED
Tree and plant care (including spring cleanup, weeding, mulching, pruning, watering, plant removal)	ISTM	ISTM	ISTM	CITY	CITY	CITY	SHARED

3. PROHIBITION ON ENCUMBRANCE. It is expressly agreed and understood between the parties hereto that nothing in this Agreement shall be construed as empowering the CONTRACTOR to encumber, mortgage, or pledge, or cause to be encumbered, mortgaged, or pledged any interest in the Premises or improvements

thereon in any manner whatsoever. In the event that, regardless of this prohibition, any person furnishing or claiming to have furnished labor or materials at the request of the CONTRACTOR or of any person claiming by, through, or under the CONTRACTOR shall file a lien against the Premises or improvements thereon, the CONTRACTOR, within thirty (30) days after being notified thereof, shall cause said lien to be satisfied of record, or shall cause the Premises and improvements thereon to be released therefrom by the posting of a bond or other security as prescribed by law, or shall cause same to be discharged as a lien against the Premises and improvements thereon by an order of a court having jurisdiction to discharge such lien.

4. COMPLIANCE WITH LAW. CONTRACTOR, at its sole expense, shall comply with all ordinances of the City of 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 its 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 Des Moines Civil and Human Rights Ordinance, which prohibits discrimination on the basis of age, race, religion, creed, color, sex, national origin, ancestry, sexual orientation, familial status, gender identity, or disability in the furnishing of services under this Agreement or in its employment practices.

5. HOLD HARMLESS AND INSURANCE. CONTRACTOR agrees to defend, pay on behalf of, indemnify, and hold harmless the City of Des Moines, Iowa, its elected and appointed officials, employees and volunteers and others working on behalf of the CITY as provided for in Attachment 1 to this Maintenance Agreement. CONTRACTOR agrees to obtain and maintain in continuous effect during the term of this Lease and while any of its obligations under this Lease remain unsatisfied, the insurance coverages set forth in Attachment 1, with amounts, coverages, limits, exclusions and endorsements as therein provided.

6. CITY'S RESPONSIBILITIES. CITY agrees to provide for the scheduling of all league matches and tournaments and to provide the CONTRACTOR with a schedule of events at least two weeks prior to any event held at the Premises. The CITY further agrees to provide the following:

- (a) Safe and adequate plumbing, irrigation and electrical systems;
- (b) Secure windows and doors;
- (c) Protective roofing;
- (d) Relamp field lighting;
- (e) Inspection and repair of fencing;
- (f) Provide netting and corner flags;

- (g) Maintenance of electronic scoreboards and video display units;
- (h) Office space for CONTRACTOR's employees;
- (i) debris and trash removal from the dumpsters;
- (j) Park and Recreation Department staff contact during all uses of the Premises.

7. TERMINATION OF MAINTENANCE AGREEMENT AND DEFAULTS BY CONTRACTOR. This Agreement shall terminate upon expiration of the Agreement term. This Agreement may be terminated prior to expiration of the Agreement term, as follows:

- (a) By mutual agreement of the parties.
- (b) Upon default of the CONTRACTOR of the terms and provisions of this Maintenance Agreement, the CITY at its option may cancel and forfeit this Agreement; provided, however, before any such cancellation and forfeiture, the CITY shall give the CONTRACTOR written notice specifying the default, or defaults, and stating that this Agreement will be cancelled and forfeited thirty (30) days after the giving of such notice, unless such default, or defaults, are remedied within said 30-day period.

8. CONDITION OF PREMISES AT TERMINATION. The CONTRACTOR agrees that upon the termination of this Maintenance Agreement, it shall leave the Premises and improvements thereon in good repair and clean condition, in at least as good a condition as on the effective date of this Agreement, except for the effects or of ordinary wear and tear and depreciation arising from lapse of time or damage without fault or liability of the CONTRACTOR.

9. ASSIGNMENT. The CONTRACTOR shall not assign its interest under this Agreement or sublet the responsibilities of the CONTRACTOR for the Premises without the prior written consent of the CITY.

10. NOTICES. 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 Recreation Manager, Park and Recreation Department, City of Des Moines, 1551 East Martin Luther King Jr. Parkway, Des Moines, Iowa 50317. Notices as provided for in this Maintenance Agreement to the CONTRACTOR shall be deemed sufficient if sent by certified mail with return receipt requested to CONTRACTOR, Casey Scheidel, Iowa Sports Turf Management, 742 NE 47<sup>th</sup> Place, Des Moines, IA 50313.

11. ENTIRE AGREEMENT. This Maintenance Agreement including attachments hereto and incorporated herein constitutes the entire understanding between the parties

and cannot be modified or terminated orally, but only by agreement in writing signed by both parties.

12. INDEPENDENT CONTRACTOR. The relationship between the CITY and the CONTRACTOR shall be that of independent contractor and not one of employer/employee.

13. OTHER. If any provision of this Agreement shall be declared invalid, or unenforceable, the remainder of the Agreement shall continue in force and effect. This Agreement shall be governed by, construed and enforced in accordance with the laws of the state of Iowa.

IN WITNESS WHEREOF, the parties to this Agreement have hereunto set their hands on this day and year as first above written.

IOWA SPORTS TURF MANAGEMENT, INC      CITY OF DES MOINES, IOWA

By \_\_\_\_\_  
Casey Scheidel, President

By \_\_\_\_\_  
T.M. Franklin Cownie, Mayor

ATTEST:  
\_\_\_\_\_  
P. Kay Cmelik, City Clerk

APPROVED AS TO FORM:  
/s/ Glenna K. Frank  
Glenna K. Frank, Assistant City Attorney

State Of Iowa            )  
                                  ) ss:  
County Of Polk            )

On this \_\_\_\_ day of \_\_\_\_\_, 2022 before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared T. M. FRANKLIN COWNIE and P. KAY CMELIK, to me personally known, and, who, being by me duly sworn, did say that they are Mayor and City Clerk, respectively of the CITY OF DES MOINES, IOWA; that the seal affixed to the foregoing instrument is the corporate seal of the corporation, and that the instrument was signed and sealed on behalf of the corporation, by authority of its City Council, as contained in the Resolution adopted by the City Council, under Roll Call No. 22-\_\_\_\_\_ of the City Council on the \_\_\_ day of \_\_\_\_\_, 2022, and that T. M. FRANKILN COWNIE and P. KAY CMELIK acknowledged the execution of the instrument to be their voluntary act and deed and the voluntary act and deed of the corporation by it voluntarily executed.

\_\_\_\_\_  
Notary Public in the State of Iowa

My commission expires: \_\_\_\_\_

State Of Iowa        )  
                              ) ss:  
County Of Polk        )

On this \_\_\_\_ day of \_\_\_\_\_, 2022 before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Casey Scheidel, to me personally known, and, who, being by me duly sworn, did say that he is the General Manager of the IOWA SPORTS TURF MANAGEMENT, INC., and that the instrument was signed and sealed on behalf of the organization, by authority of its board, and that Casey Scheidel acknowledged the execution of the instrument to be his/her voluntary act and deed and the voluntary act and deed of the corporation by it voluntarily executed.

\_\_\_\_\_  
Notary Public in the State of Iowa

My commission expires: \_\_\_\_\_

## ATTACHMENT 1

### CITY OF DES MOINES, IOWA STANDARD – MAJOR

#### INSURANCE & INDEMNIFICATION REQUIREMENTS

For the purposes of this Attachment and all provisions included herein, the term “CITY” shall mean the City of Des Moines, Iowa, including its elected and appointed officials, employees, agents, volunteers, boards, commissions and others working on its behalf and the term “CONTRACTOR” shall mean Iowa Sports Turf Management, Inc., including its officers, employees, agents, subcontractors, and others working on its behalf.

#### 1. GENERAL

The CONTRACTOR shall purchase and maintain insurance to protect the CONTRACTOR and CITY throughout the duration of this Contract. Said insurance shall be provided by insurance companies “admitted” or “non-admitted” to do business in the State of Iowa having no less than an A. M. Best Rating of “B+.” All policies shall be written on an occurrence basis and in form and amounts satisfactory to the CITY. Certificates of Insurance confirming adequate insurance coverage shall be submitted to the CITY prior to Contract execution or commencement of work and/or services.

#### 2. INSURANCE REQUIREMENTS

- A. COMMERCIAL GENERAL LIABILITY INSURANCE: The CONTRACTOR shall procure and maintain Commercial General Liability insurance on an occurrence basis with limits of liability not less than \$1,000,000 per occurrence and \$2,000,000 aggregate combined single limit covering Personal Injury, Bodily Injury and Property Damage. Coverage shall include: (a) Contractual Liability, (b) Premises and Operations, (c) Products and Completed Operations, (d) Independent Contractors Coverage, (e) Personal and Advertising Injury and (f) Explosion, Collapse and Underground- XCU (when applicable). The policy shall be endorsed to include an Aggregate Per Location endorsement. ***Waiver of Subrogation in favor of the CITY is required as per paragraph 2.H. below.***

Coverage shall be no less comprehensive and no more restrictive than the coverage provided by ISO standard Commercial General Liability Policy form ISO CG 0001 including standard exclusions or a non-ISO equivalent form.

- B. AUTOMOBILE LIABILITY INSURANCE: The CONTRACTOR shall procure and maintain Automobile Liability Insurance with limits of liability of not less than \$1,000,000 per occurrence combined single limit covering Bodily Injury and Property Damage. Coverage shall include all owned, non-owned, and hired vehicles. If the CONTRACTOR’S business does not own any vehicles, coverage is required on non-owned and hired vehicles. Policy shall include Contractual Liability coverage. ***Waiver of Subrogation in favor of the CITY is required as per paragraph 2.H. below.***
- C. UMBRELLA/EXCESS LIABILITY INSURANCE: The General Liability and Automobile Liability Insurance requirements above may be satisfied with a combination of primary and Umbrella or Excess Liability Insurance. If the Umbrella or Excess Insurance policy does not follow the form of the primary policies, it shall include the same endorsements as required of the

primary policies including a ***Waiver of Subrogation in favor of the CITY is required as per paragraph 2.H. below.***

- D. **WORKER'S COMPENSATION & EMPLOYER'S LIABILITY INSURANCE:** As required by State of Iowa Workers' Compensation Law, the CONTRACTOR shall procure and maintain Worker's Compensation Insurance, including Employer's Liability Coverage. The Workers' Compensation Insurance shall be written with State of Iowa statutory limits. If, by Iowa Code Section 85.1A, the CONTRACTOR is not required to purchase Workers' Compensation Insurance, the CONTRACTOR shall submit a copy of the Nonelection of Workers' Compensation or Employers' Liability Coverage form filed with the Iowa Workers' Compensation Insurance Commissioner, as required by Iowa Code Section 87.22. ***Waiver of Subrogation in favor of the CITY is required as per paragraph 2.H. below.***
- E. **ADDITIONAL INSURED ENDORSEMENT:** The General Liability Insurance policy shall include the CITY as an Additional Insured. The General Liability Insurance policy shall include standard ISO endorsements CG 20 26 07 04 and CG 20 37 07 04 or their ISO/non-ISO equivalents. The CONTRACTOR'S insurance shall be primary to that of the CITY and noncontributory to any other insurance or similar coverage available to the CITY whether the other available coverage is primary, contributing or excess.
- F. **RESPONSIBILITY FOR OTHER LOSSES:** The CONTRACTOR shall assume during the life of this Agreement, full responsibility for all loss or damage from any cause whatsoever to any City-owned equipment controlled or operated by the CONTRACTOR as well as any and all property brought onto City property that is owned or rented by the CONTRACTOR, or any of the CONTRACTOR's employees, agents, subcontractors, suppliers or their employees, to the extent that such property is utilized in carrying out the provisions of this Agreement. The CONTRACTOR shall cause its insurance carrier(s) providing physical damage insurance to the CONTRACTOR to include any City-owned equipment controlled or operated by the Contractor and to provide a waiver of right of subrogation against the City of Des Moines, Iowa.
- G. **GOVERNMENTAL IMMUNITY ENDORSEMENT:** The General Liability Insurance policy shall include the CITY Governmental Immunities Endorsement language as provided below. Standard ISO or insurance carrier "Waiver of Immunity" endorsements are not acceptable.

## **CITY OF DES MOINES, IOWA**

### **GOVERNMENTAL IMMUNITIES ENDORSEMENT**

1. **Nonwaiver of Government Immunity.** The insurance carrier expressly agrees and states that the purchase of this policy and the including of the City of Des Moines, Iowa as Additional Insured does not waive any of the defenses of governmental immunity available to the City of Des Moines, Iowa under Code of Iowa Section 670.4 as it now exists and as it may be amended from time to time.
2. **Claims Coverage.** The insurance carrier further agrees that this policy of insurance shall cover only those claims not subject to the defense of governmental immunity under the Code of Iowa Section 670.4 as it now exists and as it may be amended from time to time. Those claims not subject to Code of Iowa Section 670.4 shall be covered by the terms and conditions of this insurance policy.

3. Assertion of Government Immunity. The City of Des Moines, Iowa shall be responsible for asserting any defense of governmental immunity, and may do so at any time and shall do so upon the timely written request of the insurance carrier. Nothing contained in this endorsement shall prevent the carrier from asserting the defense of governmental immunity on behalf of the City of Des Moines, Iowa.
4. Non-Denial of Coverage. The insurance carrier shall not deny coverage under this policy and the insurance carrier shall not deny any of the rights and benefits accruing to the City of Des Moines, Iowa under this policy for reasons of governmental immunity unless and until a court of competent jurisdiction has ruled in favor of the defense(s) of governmental immunity asserted by the City of Des Moines, Iowa.
5. No Other Change in Policy. The insurance carrier and the City of Des Moines, Iowa agree that the above preservation of governmental immunities shall not otherwise change or alter the coverage available under the policy.

**CANCELLATION & NONRENEWAL NOTIFICATION ENDORSEMENT:** The General Liability Insurance policy shall include a policy endorsement providing the CITY with no less than thirty (30) days Advance Written Notice of Cancellation, forty-five (45) days Advance Written Notification for Nonrenewal and ten (10) days Written Notification of Cancellation due to non-payment of premium. ***Written notifications shall be sent to: City of Des Moines, Park and Recreation Superintendent, Park and Recreation Department, 1551 East Martin Luther King, Jr. Parkway, Des Moines, Iowa 50317.***

- H. WAIVER OF SUBROGATION: To the fullest extent permitted by law, CONTRACTOR hereby releases the CITY from and against any and all liability or responsibility to the CONTRACTOR or anyone claiming through or under the CONTRACTOR by way of subrogation or otherwise for any loss without regard to the fault of the CITY or the type of loss involved including loss due to occupational injury. This provision shall be applicable and in full force and effect only with respect to loss or damage occurring during the time of this Contract. The CONTRACTOR'S policies of insurance shall contain either a policy provision or endorsement affirming the above stated release in favor of the CITY including its elected and appointed officials, agents, employees and volunteers, and others working on its behalf.
- I. PROOF OF INSURANCE: The CONTRACTOR shall provide the following proof of insurance to the CITY:
  - (1) Certificates of Insurance evidencing all insurance coverage as required in paragraphs A through H above utilizing the latest version of the ACORD form. The Certificate(s) of Insurance shall specify the Title of the Contract under "Description of Operations/Locations/Vehicle/Special Items" and indicate Waiver of Subrogation by marking the corresponding boxes on COI and/or including a statement of compliance under Description of Operations.
  - (2) If applicable as per paragraph 2.D. above, a copy of the Nonelection of Workers' Compensation or Employers' Liability Coverage form.
  - (3) A copy of the Cancellation and Nonrenewal Notification Endorsements required in paragraph 2.G. above, or its equivalent.

***Mail Certificates of Insurance to: City of Des Moines, Recreation Manager, Park and Recreation Department, 1551 East Martin Luther King, Jr. Parkway, Des Moines, Iowa 50317.***

J. AGENTS AND SUBCONTRACTORS: The CONTRACTOR shall require all its agents and subcontractors who perform work and/or services on behalf of the CONTRACTOR to purchase and maintain the types of insurance customary for the services being provided.

### 3. **INDEMNIFICATION REQUIREMENTS**

To the fullest extent permitted by law, CONTRACTOR agrees to defend, pay on behalf of, indemnify, and hold harmless the CITY against any and all claims, demands, suits, damages or losses, together with any and all outlay and expense connected therewith including, but not limited to, attorneys' fees and court costs that may be asserted or claimed against, recovered from or suffered by the CITY by reason of any injury or loss including, but not limited to, personal injury, bodily injury including death, property damage including loss of use thereof, and economic damages that arise out of or are in any way connected or associated with CONTRACTOR'S work or services under this Agreement, including that of its officers, agents, employees, subcontractors and others under the control of CONTRACTOR.

CONTRACTOR'S obligation to indemnify the CITY contained in this Agreement is not limited by the amount or type of damages, compensation or benefits payable under any workers' compensation acts, disability benefit acts, or other employee benefits acts.

The CITY shall not be liable or in any way responsible for any injury, damage, liability, claim, loss or expense incurred by CONTRACTOR arising out of or in any way connected or associated with CONTRACTOR'S work, including that of its officers, agents, employees, subcontractors and others under the control of CONTRACTOR, except to the extent caused by or resulting from the negligent act of the CITY.

CONTRACTOR expressly assumes responsibility for any and all damage caused to CITY property arising out of or in any way connected or associated with CONTRACTOR'S work or services under this Contract, including that of its officers, agents, employees, subcontractors and others under the control of CONTRACTOR.

CONTRACTOR shall ensure that its activities on CITY property will be performed and supervised by adequately trained and qualified personnel and CONTRACTOR will observe all applicable safety rules.

Exhibit A

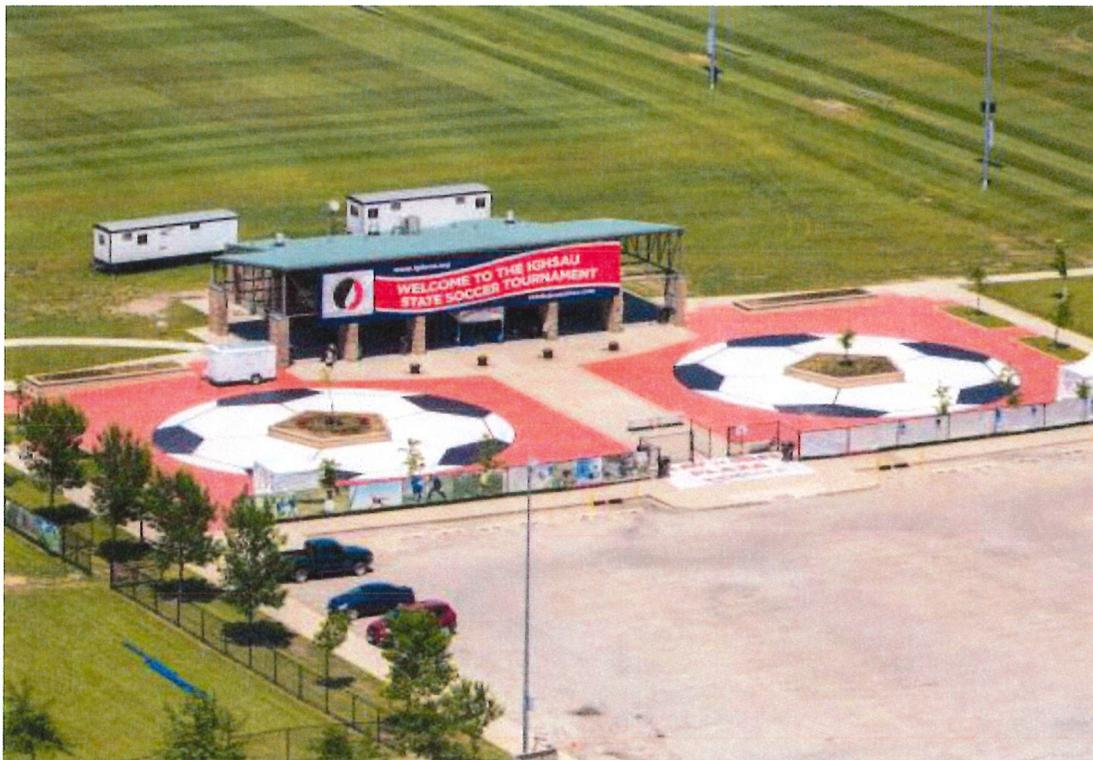
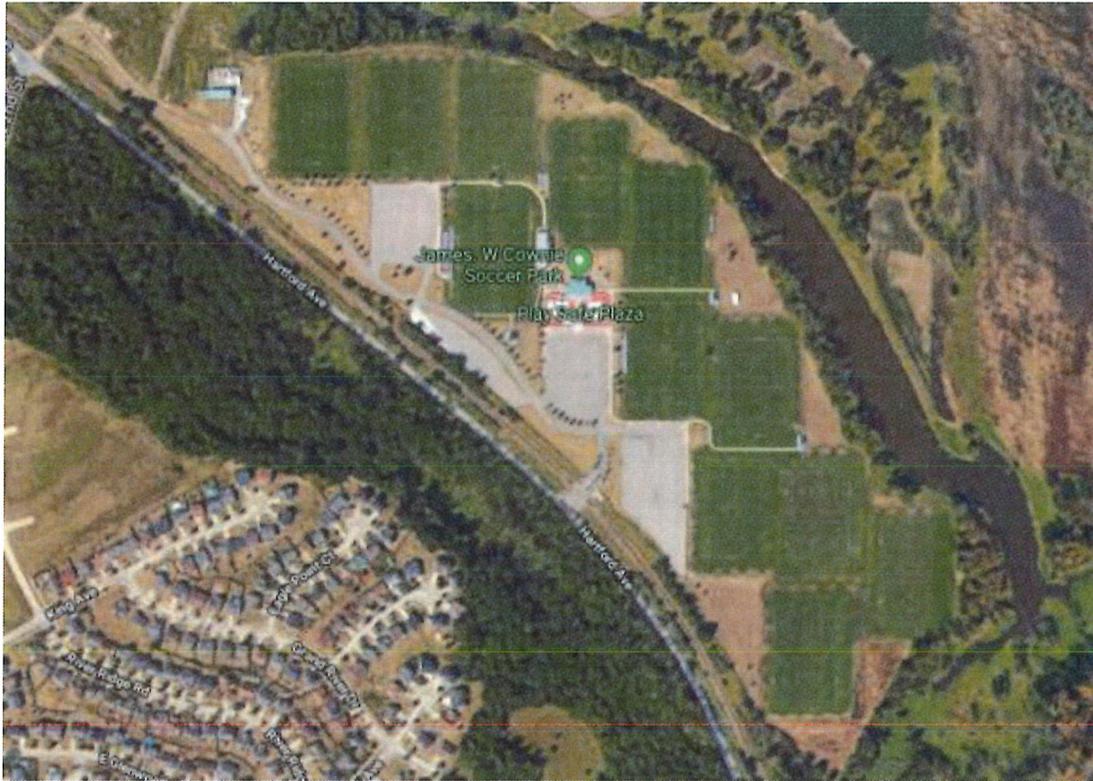
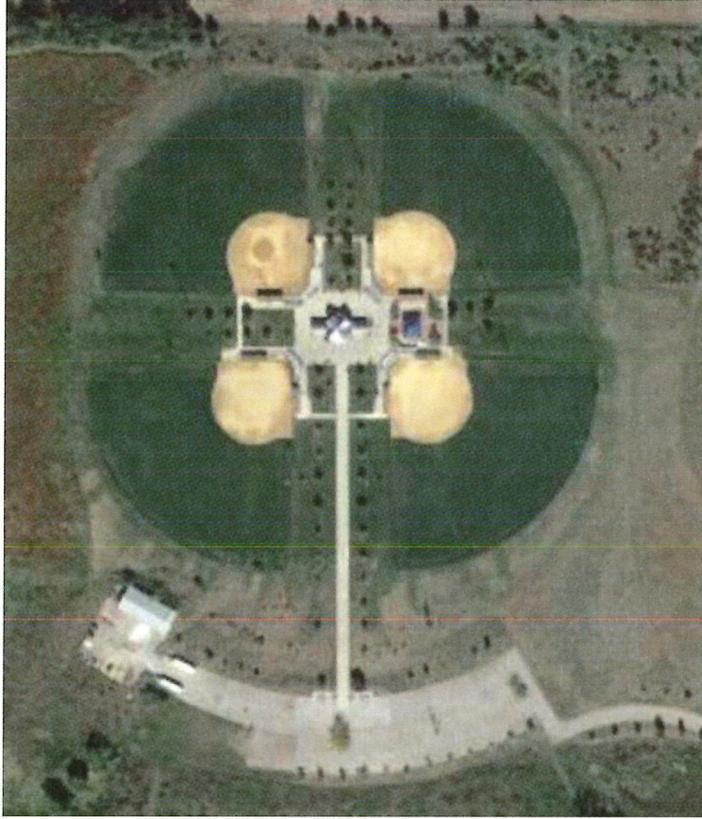


Exhibit B



## Exhibit C

George Davis Softball Park (4980 E. 46<sup>th</sup> St.)



## Exhibit D

Easttown Park (2959 Hubbell Ave.)



Savage Softball  
Fields

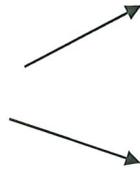


Exhibit E

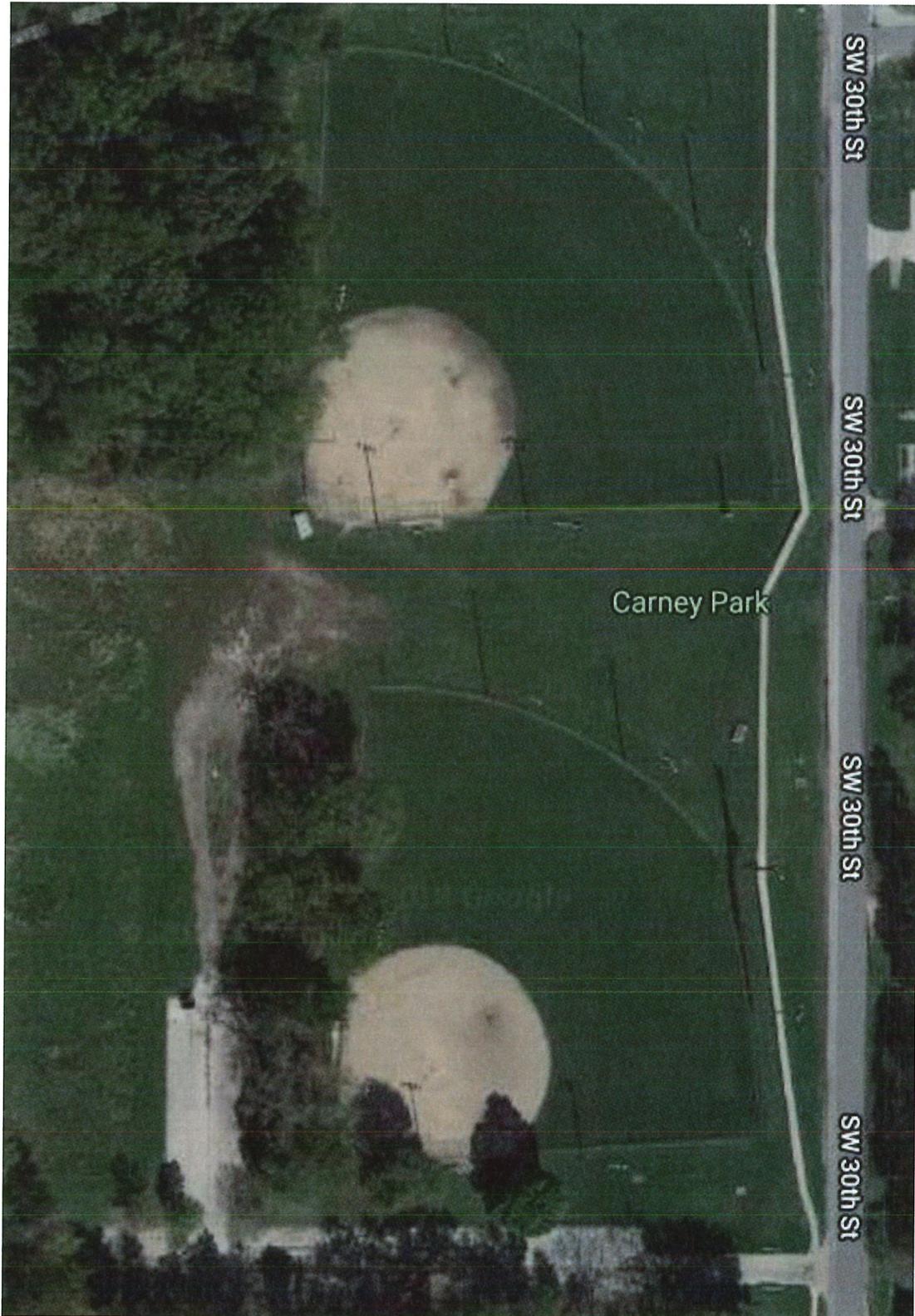


Exhibit F

