



City Council Memorandum

To: Mayor Fasbender & City Councilmembers
From: Chris Jenkins, Parks & Recreation Director
Date: May 20, 2024
Item: Hastings Hawks Agreement

Council Action Requested: Approve Agreement with Hastings Hawks for use and operation of Vets Baseball Concessions and press box facility.

Background Information: This is a renewal and update of the 2018 agreement with the Hastings Hawks for the use and operation of the concessions facility and press-box facility at Veterans Baseball Field.

The Hawks were instrumental in raising funds and construction of both facilities and this agreement provides authorization for use of both. It does allow the Hawks a first right of refusal for concessions during games/events that are not Hawks.

This renewal and update is consistent with historic and current use, has been reviewed by legal, and staff recommend approval.

Financial Impact: No impact for City

Advisory Commission Discussion: N/A

Council Committee Discussion: N/A

Attachments:

- Agreement

HASTINGS HAWKS AGREEMENT FOR CONCESSIONS

THIS AGREEMENT (“Agreement”) is made this _____ day of _____, 2024, (“Effective Date”) by and between the City of Hastings, a Minnesota municipal corporation (“City”) and Hastings Hawks Amateur Baseball, Inc., a Minnesota nonprofit corporation (“Hastings Hawks”).

RECITALS

- A. The City owns real property and a building that is located in the Veteran’s Athletic Complex located within the City of Hastings. The building contains restrooms and a concession stand (“Facility.”)
- B. The Facility is adjacent to the baseball field (“Baseball Field”) which is used by the Hastings Hawks baseball team as well as other Hastings area baseball teams.
- C. The Hastings Hawks are willing to take on certain responsibilities regarding the operation and maintenance of the Facility in return for the opportunity to sell concessions from the Facility.
- D. The City is willing to allow the Hastings Hawks to sell concessions from the Facility, provided they maintain the Facility and otherwise comply with this terms of this Agreement.

NOW, THEREFORE for mutual consideration, which is hereby acknowledged, the parties agree as follows:

1. **TERM.** The term of this Agreement is from the Effective Date of this Agreement through December 31, 2028.
2. **NON-EXCLUSIVE USE OF FACILITY FOR CONCESSIONS.** During the Term of this Agreement, the Hastings Hawks will have the non-exclusive right to operate, sell and maintain, subject to the terms of this Agreement, concessions at the Facility during its baseball games and at other games and events if other organizations that reserved the field do not sell concessions. Hastings Hawks understands that other sports teams will be allowed to use the Facility with the prior approval of the City, however, the Hastings Hawks will have the right of first refusal for concessions sales for all events held at the Facility. Hastings Hawks shall obtain all necessary permits or licenses from the City, State of Minnesota, Department of Health or any other entity governing the operations of concessions at the Facility. Any required permits shall be provided to the City on an annual basis.
3. **RENT.** In recognition of the Hastings Hawks’ contribution to the construction of the Facility, no rent shall be charged for the use of the concessions stand or the press box.
 - a. **Concessions Stand Use.** The City agrees that Hastings Hawks will not be charged any rent for the use of the concession stand at the Facility. All revenues received by Hastings Hawks from the sale of concessions shall remain with the

Hastings Hawks. Hastings Hawks will provide the City with an annual profit/loss statement for the concessions operation.

- b. Press Box Use. The Hasting Hawks can store equipment in the press box provided the proper insurance is maintained. The Hastings Hawks maintains ownership and responsibility of/for the sound system and related items. Other parties will only be allowed to use the sound system with proper training and authorization by the Hastings Hawks.
4. APPOINTMENT OF CONTACT PERSON. Hastings Hawks will appoint a main contact person (“Contact Person”) for purposes of this Agreement and shall provide the City with his/her contact information. The Contact Person shall be responsible to open and lock up the Facility, including the restrooms, during all Hastings Hawks baseball games and other games or events as requested by the City. Hastings Hawks agree that the Contact Person, Hastings Hawks’ concession manager and other board members as identified by the contact person shall have keys to the Facility. The Hastings Hawks will provide a key holder list to the city annually and whenever the keyholders change. These individuals shall not give out the Facility keys to any other person, without the prior consent of the City. The Hastings Hawks shall be responsible for the actions or inactions of its Contact Person, concession manager and anyone acting under their direction.
5. EQUIPMENT. The Hastings Hawks shall use its own equipment in the preparation and sale of concessions from the Facility. Hastings Hawks will be responsible for all maintenance and repair of its concession equipment. Hastings Hawks shall be responsible for maintaining its own concession equipment in a condition which complies with all applicable health regulations.
6. CLEANING OF FACILITY AND EQUIPMENT. Hastings Hawks agrees to maintain the restrooms at the Facility in a clean and sanitary condition. Hastings Hawks agrees to maintain the concession area in a condition which satisfies all applicable health regulations. Hastings Hawks will be responsible to provide any special cleaning products for its food preparation and concessions equipment.
7. SUPPLIES AND MAINTENANCE. City agrees to provide the necessary paper products and appropriate cleaning supplies for the restrooms. City also agrees to be responsible for any necessary repairs to the Facility. The Contact Person agrees to notify the City when repairs are needed to the Facility. Except for reasonable wear and tear, Hastings Hawks will be responsible for the repair of any damages to the Facility caused by the actions of its employees, volunteers, agents or contractors.
8. FEES AND DEPOSIT. Hastings Hawks shall not be allowed to charge a fee to another organization to use the concession Facility. If another organization wishes to use Hastings Hawks concession equipment, Hastings Hawks will be allowed to charge a reasonable fee for the use of its concession equipment. Additionally, Hastings Hawks may require the other organization who is selling its own concessions to place a

- refundable deposit with the Hastings Hawks to ensure that the Facility and concession equipment are returned in a clean condition.
9. **STORAGE OF EQUIPMENT.** Hastings Hawks shall be allowed to store its concession equipment at the Facility during the off-season, provided it maintains proper insurance.
 10. **WORKERS AND VOLUNTEERS.** Hastings Hawks agrees it shall be responsible for the actions of all Hastings Hawks' volunteers, agents, employees, contractors or assigns during the performance of this Agreement.
 11. **INSURANCE.** Hastings Hawks shall provide liability insurance coverage in an amount of at least one million dollars to cover damages to any person or property caused by the negligent acts of Hastings Hawks, its officers, employees, agents or volunteers. This insurance shall also name the City as an additional insured. This paragraph shall in no way be construed as waiving any statutory tort limit of the City provided by Minn. Stat. Chapter 466 or any other Minnesota law.
 12. **DEFENSE AND INDEMNIFICATION.** Hastings Hawks agree to defend, indemnify and hold harmless the City, its elected officials, officers, employees, agents and representatives, from and against any all claims, costs, losses, expenses, demands, actions or causes of action, including reasonable attorneys' fees and other costs and expenses of litigation which may be asserted against or incurred by the City or for which the City may be liable in the performance of this Agreement arising from Hastings Hawks' operation and maintenance of a concession stand at the Facility, except those which arise solely from the negligence, willfulness conduct or other fault of the City.
 13. **RISK OF LOSS, INDEMNIFICATION, HOLD HARMLESS.** Hastings Hawks agrees that the City shall in no way be responsible for the damage or loss of any Hastings Hawks concession equipment or concession inventory kept at the Facility. The risk of loss for such equipment or inventory shall be the sole risk of the Hastings Hawks. The Hastings Hawks agree to indemnify the City from third party claims and hold the City harmless for any damage to Hastings Hawks' concession equipment or concession inventory. Hastings Hawks assumes all liability for any injuries or damages to persons or property caused by its acts during its use of the Facility or from its sale of concessions at the Facility.
 14. **NO JOINT VENTURE CREATED.** Nothing in this Agreement shall be construed to create a joint venture between the City and the Hastings Hawks. Furthermore, nothing shall be construed as creating an employer-employee relationship between the City and any member of the Hastings Hawks' organization or any volunteer of the Hastings Hawks.
 15. **FIELD MAINTENANCE UNDERSTANDING.** The City will provide routine maintenance to this field. Improvements may be requested and must be authorized by

the City through its Parks and Recreation Director. It is understood and expected that, at times the Hawks will assist with some minor maintenance of the baseball field with approval of the Parks and Recreation Department.

16. **SCOREBOARD.** The City agrees to maintain and repair the scoreboard in a manner determined appropriate by the City. The City also agrees to insure the scoreboard against damage or loss.
17. **REVIEW OF AGREEMENT.** Both parties to this Agreement reserve the right to request review of this Agreement at any time, for any reason, upon thirty days written notice to the other party. Annual reviews shall take place in the fourth quarter of each year.
18. **TERMINATION OF AGREEMENT.** Both parties to this Agreement reserve the right to terminate this Agreement at any time, for any reason, upon thirty days written notice to the other party. At the beginning of each season each party agrees to give the other party the name and address of the person to whom such notice should be sent.

[remainder of page intentionally blank]

CITY OF HASTINGS

By: _____
Mary Fasbender, Mayor

By: _____
Kelly Murtaugh, City Clerk

HASTINGS HAWKS AMATEUR BASEBALL, INC.

By: _____
Printed: _____
Its: President

By: _____
Printed: _____
Its: Secretary