



City Council Memorandum

To: Mayor Fasbender & City Councilmembers
From: Phil Vargas, Sports & Recreation Coordinator
Date: April 14, 2020
Item: Minnesota Umpires Inc. Independent Service Agreement

Council Action Requested:

Approve the Independent Service Agreement with Minnesota Umpires Inc.

Background Information:

The Parks & Recreation Department would like approval to enter into an Independent Service Agreement with Minnesota Umpires Inc. who will provide the service of training and assigning umpires for our Spring/Summer and Fall Adult Softball Leagues, and any tournaments. Minnesota Umpires Inc. was used last year for the same purpose with good results.

Adult softball leagues in Hastings are sanctioned through USA Softball. Minnesota Umpires Inc. assigns umpires who are USA certified and provides them with proper insurance, training, and feedback to umpire in USA sanctioned leagues.

The cost of assigning umpires to games is budgeted into the registration fee that each team in our adult softball league pays to play. While the number of games is unknown this year as leagues may be shortened due to COVID-19, we played approximately 625 games of adult softball in Hastings in 2019. Games are played at Veterans park from May through October.

Financial Impact:

Approximately \$17,656.25

Advisory Commission Discussion:

None.

Council Committee Discussion:

None.

Attachments:

- Minnesota Umpires Inc. Independent Service Agreement



City of Hastings Parks & Recreation Department Independent Service Agreement

It is the intention of the City of Hastings to create a non-exclusive independent service Provider relationship with MENNESOTA UMPIRES INC. ("Service Provider") in which The City and Service Provider agree as follows:

The City of Hastings and Service Provider agree as follows:

1. **Service Provider:** This agreement shall not be construed as creating an employee/employer relationship between the parties. Service Provider acknowledges and agrees that s/he is not entitled to any benefits or protections afforded employees of the City of Hastings or bound by any obligations of the employees of the City of Hastings. Service Provider understands and fully agrees that s/he will not be covered under provisions of the unemployment compensation insurance of the City of Hastings or the workers' compensation insurance of the City of Hastings and that any injury or property damage on the job will be Service Provider's sole responsibility and not the City of Hastings's. Service Provider is not protected as an employee or as a person acting as an agent or employee under the provisions of the general liability insurance of the City of Hastings and therefore, Service Provider will be solely responsible for his/her own actions. The City of Hastings will in no way defend Service Provider in matters of liability.
2. **Non-Exclusive:** Service Provider may engage in other business activities and provide similar services to other entities and businesses provided such services do not create conflict or interfere with the performance of the services contemplated by this agreement.
3. **Background Check:** If requested by the City of Hastings, Service Provider agrees to submit to a criminal background check and that this agreement is contingent upon successfully completing a criminal background check.
4. **Services:** Service Provider agrees to provide and perform services as described in Exhibit A. Service Provider shall, in the execution of services, conform to all applicable federal, state, and local laws, codes, ordinances, and regulations. The Service Provider may not assign this Agreement to any other person unless written consent is obtained from the City.
5. **Performance:** Service Provider shall at all times have sole control over the manner, means, and methods of performing the work/services required by the agreement according to his/her own independent judgment, and is solely responsible for the direction of his/her employees and agents. Service Provider represents and warrants that Service Provider has the skills and knowledge necessary to perform the services in a safe, proper, efficient, thorough, and satisfactory manner. The Service Provider shall not perform any additional services without the express written permission of the City.
6. **Expenses:** Service Provider acknowledges and agrees that s/he is responsible for all expenses, including the provision of equipment and materials related to provision of the contracted for results, unless otherwise provided for in Exhibit A.
7. **Compensation for Services:** The City of Hastings agrees to pay Service Provider for services at the rate described in Exhibit A. Partial or full refunds given to participants at the City of Hastings discretion will adjust compensation given to Service Provider.
8. **W-9:** Service Provider must return completed W-9 to City of Hastings prior to receiving payment. Service Provider acknowledges and agrees that s/he is solely responsible to pay all applicable federal, state, and local income and withholding tax obligations or contributions imposed by social security, unemployment insurance, and worker's compensation insurance on behalf of Service Provider and those employees, if any, employed by him/her.
9. **Method of Payment:** Upon completion of the services outlined in Exhibit A, Service Provider shall submit to the City of Hastings an itemized invoice for professional services performed under this agreement. Each invoice shall include in detail the hours worked and a description of the Services performed. If the City objects to all or any portion of any invoice, the City shall notify the Service Provider of the dispute with ten (10) days from the date of receipt and shall pay that portion of the invoice not in dispute.
10. **Dispute Resolution:** The Parties shall cooperate and use their best efforts to ensure that the various provisions of the Agreement are fulfilled. The Parties agree to act in good faith to undertake resolution of disputes in an equitable and

timely manner and in accordance with the provisions of this Agreement. If disputes cannot be resolved informally by the Parties, the following procedures shall be used:

- A. Whenever there is a failure between the Parties to resolve a dispute on their own, the Parties shall first attempt to mediate the dispute. The parties shall agree upon a mediator, or if they cannot agree, shall obtain a list of court-approved mediators from the Dakota County District Court Administrator and select a mediator by alternately striking names until one remains. The City shall strike the first name, followed by the Service Provider, and shall continue in that order until one name remains.
- B. If the dispute is not resolved within thirty (30) days after the end of mediation proceedings, the Parties may pursue any legal remedy.

- 11. **Termination:** The duration of this independent service Provider agreement is outlined in Exhibit A. The City of Hastings may terminate this agreement in the event of contract breach or if the program did not meet the minimum number of participants. Either party, without cause, may terminate this agreement by seven (7) day's written notice delivered to the other party. After termination, the City of Hastings shall have no further obligation to Service Provider except to compensate Service Provider for services performed prior to termination. Service Provider shall have financial responsibility to the City of Hastings for reasonable costs incurred by the City of Hastings including the cost of obtaining replacement services.
- 12. **Indemnification:** Service Provider agrees to defend, indemnify, and hold the City of Hastings, its officers, and employees harmless from any liability, claims, damages, costs, judgements, or expenses, including reasonable attorney's fees, resulting directly or indirectly from an act or omission (including without limitation professional errors or omissions) of Service Provider, its agents, employees, or subservice Providers in the performance of the services provided by this agreement and against all losses by reason of the failure of said Service Provider fully to perform, in any respect, all obligations under this agreement. The Service Provider's policies shall be the primary insurance to any other valid and collectible insurance available to the City with respect to any claim arising out of Service Provider's performance under this Agreement.
- 13. **Data Privacy:** The Service Provider agrees to abide by the applicable provisions of the Minnesota Government Data Practice Act, Minnesota Statutes, Chapter 13, HIPAA requirements, and all other applicable state or federal rules, regulations, or orders pertaining to privacy or confidentiality. The Service Provider understands that all of the data created, collected, received, stored, used, maintained, or disseminated by the Service Provider in performing those functions that the City would perform is subject to the requirements of Chapter 13, and the Service Provider must comply with those requirements as if it were a government entity. This does not create a duty on the part of the Service Provider to provide the public with access to public data if the public data is available from the City, except as required by the terms of this Agreement.
- 14. **Nondiscrimination:** In the hiring of employees to perform work under this Agreement, the Service Provider shall not discriminate against any person by reason of any characteristic or classification protected by state or federal tax.
- 15. **Governing Law:** This agreement shall be controlled by the laws of the State of Minnesota.

Service Provider Representative:

DALLAS APFELBAHER

Print Name

Dallas J. Apfelbacher

Signature

MARCH 27, 2020

Date

City of Hastings:

Print Name

Signature

Date

Exhibit A

- Service Provider:** Minnesota Umpires, Incorporated
1850 Eagle Ridge Drive
Hastings, MN 55033
- Program:** Adult Softball Leagues
- Program Fee(s):** Men's \$740/team; Women's \$590/team; Co-Rec \$510/team; Fall Teams \$360/team
- Min/Max:** 4/16 in each league
- Reg. Deadline:** April 26th, 2020
- Description:** Adult Softball for men and women 16 years and older. Men's, women's, and co-rec leagues are offered. Leagues include regular season games and a double elimination tournament.
- Location:** Veterans Park, 2500 Millard Ave, Hastings, MN 55033
- Service:** Umpire Assigner
- Assign certified USA umpires to umpire every scheduled game provided by the City of Hastings including regular season games, tournament games, and rescheduled or make up games
 - Assigned umpires will use the official USA Slow Pitch Rules and City of Hastings League Rules
 - Assigned umpires will arrive a minimum of ten (10) minutes prior to game time
 - Assigned umpires will report scores to the City of Hastings by completing score sheets provided by the Hastings Parks & Recreation Department
 - Send invoices via mail, email, or fax to the City of Hastings every two (2) weeks until the completion of the season
- Expenses:** None.
- Compensation:** \$28.50 per game assigned
- Time Frame:** The time frame and duration of this agreement is as follows:
- Games may be scheduled on Monday, Tuesday, Wednesday, and Thursday nights
 - Duration of agreement is May 1st – October 31st, 2020