

**COVID 19: License and Management Agreement
for Use of Municipal Property for Sports
or Other Recreational Activities**

This License and Management Agreement (the “License”), dated for reference purposes only as of the ____ day of _____, 2020, is entered into by and between the City of Aurora, Nebraska (“Licensor”) and _____ (“Licensee”).

RECITALS

- A. Licensor owns the real estate legally described on Exhibit “A” attached hereto and incorporated herein by this reference (the “Real Property”).
- B. The Licensee desires to license a portion of the Real Property as identified on Exhibit “B” attached hereto and incorporated herein by this reference (the “Premises”).
- C. The Premises includes a playing field, court, or other grounds suitable for sports and other recreational activities, and may include associated improvements and structures included therewith, all as more particularly described on Exhibit “B”.
- D. Licensee is involved in organizing adult and/or youth team sports or other recreational activities in the municipality.
- E. Licensor recognizes the additional requirements associated with operating the Premises as a result of the ongoing COVID-19 and novel coronavirus situation and is not able to ensure that operation of the Premises during all practices, games, and other events follows the current applicable rules for safe operation.
- F. Licensee desires to utilize the Premises for adult and/or youth team sports or other recreational activities and is willing to enter into this License in order to manage the Premises in accordance with the applicable rules for safe operation.
- G. Licensor desires to enter into this License whereby Licensee shall license and manage the Premises for Licensor, subject to the following terms.

NOW THEREFORE, Licensor and Licensee agree as follows:

1. Licensed Premises. Licensor desires to license to Licensee the Premises, as defined above, consisting of approximately 8.14 acres of real property as further described on Exhibit “B”. Such area includes the municipal playing field(s), court(s), grounds, and/or the structures and improvements associated with

the playing field(s), court(s), or grounds, including, but not limited to, the bleachers, stands, restroom facilities, drinking fountain(s), and concession stand. Licensor licenses the Premises to Licensee, and Licensee licenses the Premises from Licensor, for the License Term, and to perform all of Licensee's obligations described herein. The parties agree that Licensee shall have the non-exclusive right to use the Premises and such other portions of the Real Property as is necessary for Licensee to access and use the Premises.

2. Management. The parties acknowledge and agree that Licensee shall be solely responsible for the operation and management of the Premises during the License Term when the Premises are being utilized pursuant to this License. Licensee shall be responsible for operating and managing the Premises in accordance with all applicable rules and regulations of any governmental entity with jurisdiction over the Premises, including, but not limited to, the *June 1st Statewide Sports Reopening Guidelines* issued by the State of Nebraska, attached hereto as Exhibit "C" and incorporated herein by this reference, any other comparable guidelines that may be promulgated by the State of Nebraska regarding sports or other recreational activities, and any amendments, replacements, or supplements thereto, any applicable directed health measure, and all resolutions and ordinances of Licensor (collectively the "Rules"). Licensee represents and covenants to Licensor that Licensee is familiar with the Rules and that Licensee shall operate and manage the Premises in accordance with the Rules. Licensee shall ensure that all coaches or appropriate personnel utilizing the Premises shall conduct themselves and their teams in accordance with the Rules. Licensee agrees to provide training and education as appropriate to all coaches or team managers to ensure that the Rules are followed.

3. Term. The License shall be for a term of six months commencing effective as of June 10, 2020. Either party shall have the right to terminate this License by providing the other party with no less than 30 days' prior written notice. Such notice shall specify the date that the License shall terminate. Notwithstanding the foregoing or any other provision herein, the parties acknowledge and agree that Licensor retains the right, at any time, to terminate this License by written notice to Licensee if such termination is required under the applicable Rules or any amendment, replacement, or supplement thereto, or in the event Licensor determines, in Licensor's discretion, that Licensee has failed to manage and operate the Premises in accordance with the Rules. Any such termination shall not relieve the Licensee of the obligations of Licensee hereunder that have occurred or accrued hereunder prior to the termination.

4. Acceptance of Premises. By taking possession of the Premises, Licensee accepts the Premises in its current condition. Licensee further agrees that Licensor has not provided Licensee with any warranty or representation as to the condition of the Premises and that Licensee has investigated the Premises and has determined to Licensee's satisfaction that the Premises is satisfactory for Licensee's proposed use. Licensee also acknowledges and agrees that Licensee is only utilizing

a portion of the Real Property that is described herein as the Premises and that Licensor and other parties also shall have the right to use the Real Property during the License Term, subject to the reasonable licensing discretion of Licensor. Licensee shall secure Licensor's permission prior to making any improvements or alterations of any nature to the Premises. Licensor reserves the right to withhold its consent in Licensor's sole discretion.

5. Quiet Enjoyment. Upon Licensee's paying the license fee and other expenses provided in this License and observing and performing all of the terms, covenants and conditions to be observed and performed by Licensee hereunder, Licensee shall have possession of the Premises for the entire term hereof, subject to all of the provisions of this License.

6. Real Estate Taxes. If applicable during the License Term, Licensor shall pay all real property taxes and assessments, improvement bonds, and other governmental levies ("Taxes") imposed on or with respect to the Premises, if any exist. Licensee shall pay all personal property taxes imposed on or with respect to Licensee's equipment and personal property located on the Premises, if any exist.

7. Utilities. The cost of the utilities applicable to the Premises shall be paid by Licensor.

8. Maintenance. Licensee shall, during the term of this License, and at its sole expense, keep the Premises in good order and repair, reasonable wear and tear excepted. Licensee shall be responsible to maintain the Premises in accordance with the Rules so that the Premises may be utilized for the purposes set forth in this License. Such obligation shall include, but not be limited to, cleaning and disinfecting restroom facilities regularly while players and fans are present, and placing markings on the ground to ensure individuals waiting to use the restroom are spaced six (6) feet apart, if any such restroom facilities are included and open for use on the Premises. Licensee shall also ensure that the concession stand, if any, is only allowed to open if all requirements set forth in the Rules are followed. Licensee shall ensure that the stands, bleachers, or other facilities are only utilized in accordance with the applicable Rules and that any spectators are those permitted to be in attendance at the Premises in accordance with the Rules. Licensor shall be responsible for any mowing, irrigation, or application of fertilizer or weed control on the Premises in accordance with past practices of Licensor. Provided, however, Licensee shall be responsible for any of the same if they are caused by Licensee's misuse or damage to the Premises. Licensee agrees to promptly notify Licensor of any maintenance or repair that is the responsibility of Licensor hereunder.

9. Insurance. During the License Term, Licensee shall, at its own cost and expense, procure and continue in force such insurance policies as are required by Licensor. Such insurance shall, at a minimum include commercial general liability insurance with a combined policy limit of at least \$1,000,000 or such other amount as is reasonably agreed to by the parties. Licensor shall be named as an

additional named insured on all such policies of insurance. A renewal policy shall be procured not less than ten (10) days prior to the expiration of any policy. Each original policy or a certified copy thereof, or a satisfactory certificate of the insurer evidencing insurance carried with proof of payment of the premium, shall be deposited with Licensor prior to the commencement date of the term hereof and within ten (10) days of the each anniversary date thereafter. If possible and financially feasible, Licensee shall endeavor to have the foregoing insurance policy provide coverage for issues related to COVID-19, novel coronavirus, or similar issues. Licensee shall provide workers' compensation and employer liability coverage as may be required by the State of Nebraska.

10. Licensee's Indemnification. Licensee agrees to indemnify and hold Licensor harmless from and against any and all claims, damages, or causes of action and all liability, cost or expense specifically including court costs and all reasonable attorney fees to the extent the same arise out of or in any way connected with Licensee's or Licensee's agents' use of the Premises during the term hereof. Whether the same are raised during the term hereof or after. Without limiting the foregoing, the parties acknowledge and agree that the foregoing indemnification specifically includes any claims, damages, or causes of action and all liability, cost or expense specifically including court costs and all reasonable attorney fees for any COVID-19, novel coronavirus, or related issues.

11. Assignment. Licensee shall not assign, sub-license, or otherwise transfer, by operation of law or otherwise, this License or any interest herein without the prior written consent of Licensor, which consent may be withheld in Licensor's sole discretion.

12. No Re-license. Licensor's consent to any assignment, encumbrance, sub-license, occupation, or other transfer shall not release Licensee from any of Licensee's obligations hereunder or be deemed to be a consent to any subsequent assignment, sub-license, or occupation unless Licensor agrees in writing. The collection or acceptance of the license fee or other payment by Licensor from any person other than Licensee shall not be deemed the acceptance of any assignee or sub-licensee as the Licensee hereunder or a release of Licensee from any obligation under this License.

13. Events of Default. The occurrence of any one or more of the following events shall constitute an Event of Default: (i) the failure by Licensee to make any payment of the license fee or any other payments required to be made by Licensee under this License when due; and (ii) the failure by Licensee to observe or perform any of the provisions of this License to be observed or performed by the Licensee if such failure continues for a period of ten (10) days, or such other period if this License specifically provides a different period for a particular failure, after written notice by Licensor to Licensee of such failure; provided, however, that with respect to any failure which cannot reasonably be cured within ten (10) days, an Event of Default shall not be considered to have occurred if Licensee commences to cure such

failure within such ten (10) day period and continues to proceed diligently with the cure of such failure.

14. Remedies. On the occurrence of an Event of Default, Licensor may at any time thereafter, with or without notice or demand and without limiting Licensor in the exercise of a right or remedy which Licensor may have by reason of such default or breach, exercise any rights or remedies Licensor may have at law or in equity, including, but not limited to, one or more of the following:

- A. declare the License at an end and terminated;
- B. sue for the license fee due and to become due under the License;
- C. sue for any damages sustained by Licensor;
- D. cure any breaches of Licensee's obligations to pay utilities, provide insurance, or properly maintain the Premises.

15. Non-Exclusive Remedies. The remedies of Licensor set forth in Section 15 shall not be exclusive, but shall be cumulative and in addition to all rights and remedies now or hereafter provided or allowed by law or equity, including, but not limited to, the right of Licensor to seek and obtain an injunction and the right of Licensor to damages in addition to those specified herein.

16. Default by Licensor. Licensor shall not be liable to Licensee if Licensor is unable to fulfill any of its obligations under this License, if Licensor is prevented, delayed, or curtailed from so doing by reason of any cause beyond Licensor's reasonable control. Licensor shall not be in default unless Licensor fails to perform obligations required of Licensor within a reasonable time, but in no event later than thirty (30) days after written notice by Licensee to Licensor, specifying Licensor's failure to perform such obligation; provided, however, that if the nature of Licensor's obligation is such that more than thirty (30) days are required for performance, then Licensor shall not be in default if Licensor commences performance within such thirty (30) day period and thereafter diligently prosecutes its efforts to satisfy such obligation.

17. Entry by Licensor. Licensor and its agents and employees shall have the right to enter the Premises at all reasonable times and during normal business hours, to examine the same, to make such maintenance and repairs of the Premises and such maintenance, repairs, alterations, decorations, additions, and improvements to other portions of the Premises as Licensor requires.

18. Notices. Any notices required or permitted to be given under this License shall be in writing and may be delivered personally or by certified mail to the other party at the address set forth below. Any notice given by mail shall be

deemed received two (2) business days following the date such notice is mailed as provided in this Section. Any notice given by electronic mail or personally delivered shall be effective upon receipt. Either party may change its address for purposes of this Section by giving the other party written notice of the new address in the manner set forth above.

a. Licensor's Address: _____

b. Licensee's Address: _____

19. Applicable Laws. This License shall be governed by and construed in accordance with the laws of the State of Nebraska.

20. Modification. This License contains all of the terms and conditions agreed upon by the Licensor and Licensee with respect to the Premises. All prior negotiations, correspondence, and agreements are superseded by this License and any other contemporaneous documents. This License may not be modified or changed except by written instrument signed by Licensor and Licensee.

21. Relationship of Parties. Neither the method of computation of the license fee nor any other provisions contained in this License nor any acts of the parties shall be deemed or construed by the parties or by any third person to create the relationship of principal and agent or of partnership or of joint venture or of any association between Licensor and Licensee, other than the relationship of Licensor and Licensee.

22. Waiver. Failure to insist on compliance with any of the terms, covenants, or conditions hereof shall not be deemed a waiver of such terms, covenants, or conditions, nor shall any waiver or relinquishment of any right or power hereunder, at any one time or more times, be deemed a waiver or relinquishment of such rights and powers at any other time or times or under any other circumstance(s).

23. Partial Invalidity. If any term or provision of this License or the application thereof to any person or circumstances shall to any extent be invalid or unenforceable, the remainder of this License or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby, and each term and provision of this License shall be valid and enforced to the fullest extent permitted by law.

24. Interpretations. Any uncertainty or ambiguity existing herein shall not be interpreted against either party because such party prepared any portion of this

License, but shall be interpreted according to the application of rules of interpretation of contracts generally.

25. Memorandum of License. Licensee shall not be permitted to file a memorandum of the License or other documents in the real estate records of the County including the Premises.

26. Binding Effect. This License shall be binding upon and shall inure to the benefit of Licensor, Licensee, and their respective successors and assignees.

27. Counterparts. This License may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

[Execution Page Follows]

IN WITNESS WHEREOF, the parties hereto hereby execute this License as of the day and year first above written.

“LICENSEE”

By: _____

Its: _____

“LICENSOR”

By: _____

Its: _____

Exhibit "A"

Legal Description

A part of the Southeast Quarter (SE $\frac{1}{4}$), of the Southeast Quarter (SE $\frac{1}{4}$), Section Four (4), Township Ten (10) North, Range Six (6) West of the 6th P.M., City of Aurora, Hamilton County, Nebraska. Approximately 8.14 Acres.

Exhibit "B"

[Insert Diagram or Description of the Licensed Premises]

(See Attached Map)

Refshauge Field

Exhibit "B"



Location:
East of 14th Street between C Street and E Sreet

Storage Shed

Batting Cage

Restrooms

Dugout

Bleachers

Dugout

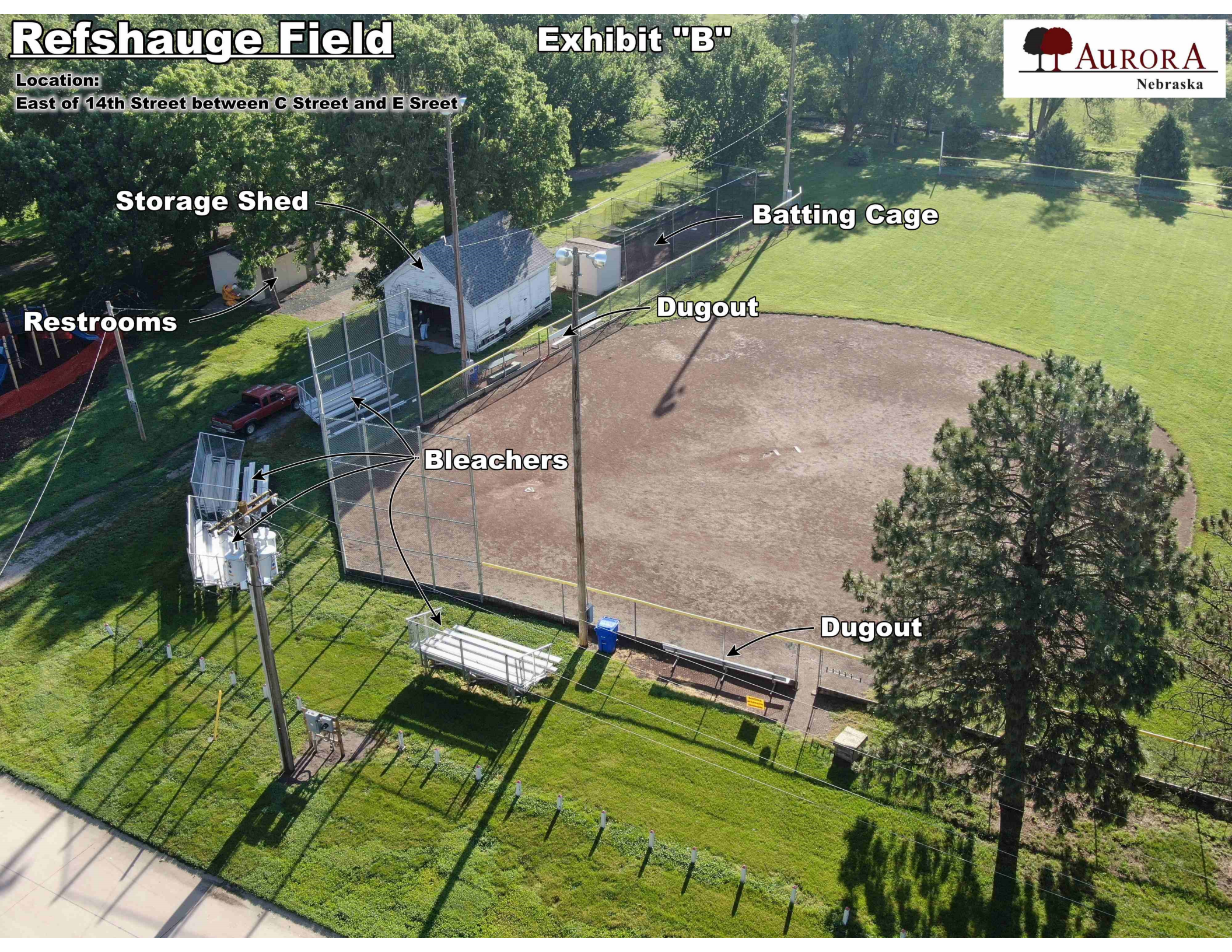


Exhibit "C"

[Attach a copy of the current Rules]

(See Attached Rules for Adult & Youth Baseball/Softball)

COVID-19

RULES FOR ADULT & YOUTH BASEBALL/SOFTBALL PRACTICES (Starting June 1)

Violation of these rules may mean a team is prohibited from practicing or playing games for the entire summer.

1. Players, coaches, and staff showing signs/symptoms of COVID-19 (fever over 100.4F, sudden onset of cough or sudden onset of shortness of breath) shall not participate.
2. Dugout/bench use will not be allowed. Players and their items when not on the field should be lined up against the fence/wall at least six (6) feet apart.
3. Parents must remain in their cars or drop off and pick players up afterwards.
4. Players should use their own protective equipment including gloves, helmets, and bats as much as possible.
 - A. When protective equipment is needed to be shared, it should be disinfected between players use.
 - B. Coaches are encouraged to rotate equipment when possible.
 - C. Coaches must disinfect shared equipment before and after each practice (or game).
5. Coaches are responsible for ensuring social/physical distancing is maintained between players as much as possible. This means additional spacing between players while playing catch, during drills, or while waiting to participate
6. Players must bring their own water/beverage and snacks to consume; no shared drinking fountains, coolers or snacks; the use of sunflower seeds, tobacco products, and spitting while practicing or playing is prohibited.

RULES FOR ADULT & YOUTH BASEBALL/SOFTBALL GAMES (Starting June 18)

7. **Same guidelines apply as for practices.**
8. Use of dugouts/benches are permitted during games only.
 - A. The bleachers located between the dugout and home plate also should be used to spread out players. Players should have designated spots to place their personal items.
 - B. Coaches must designate an adult who is responsible for ensuring players are seated on the benches unless they are actively participating in the game.
9. Teams to play next must be provided designated areas for player warm-ups that provide for necessary physical/social distancing.
10. Post-game handshakes or interaction between teams are prohibited.
11. When games end, the leaving team must sanitize the dugout or bench area. No post-game talks at the field are permitted. Fans and players must leave the playing area and return to their cars immediately after the game.
12. The team to play next must remain in their designated warm up area until the prior team has finished disinfecting and is completely out of the dugout or off the field.
13. **RULES FOR FANS.**
 - A. Fans for upcoming games must remain in their cars during player warm-ups. They will be permitted to come to the field once the team they are there to watch enters the playing area.
 - B. Fan attendance is limited to household members of the players on the team. For outdoor games, no use of bleachers for fans. Fans must bring their own chairs or stand. Fans should keep six (6) feet of social distancing between different household units. No fan seating or standing is allowed within six (6) feet of the teams' benches.
 - C. Games/matches held at a facility that has a capacity of 500 or more individuals (1,000 or more in counties over 500,000 population), shall follow reopening plans submitted, reviewed and approved by the Local Health Department by the facility.

C VID-19

RULES FOR RESTROOMS (Starting June 18)

Violation of these rules may mean a team is prohibited from practicing or playing games for the entire summer.

1. Restrooms must be cleaned and disinfected regularly (at least every 2 hours) while players and fans are present.
2. Markings should be placed on the ground to ensure individuals waiting to use the restroom are spaced six (6) feet apart.

C VID-19

RULES FOR CONCESSION STANDS (Starting June 18)

Violation of these rules may mean a team is prohibited from practicing or playing games for the entire summer.

Concession stands are allowed to open, if they meet the following:

1. Markings should be placed on the ground to ensure individuals are spaced six (6) feet apart.
2. Clean and disinfect high touch surfaces regularly while players and fans are present.
3. Staff must serve food directly to customers and remove self-serve condiment stations (e.g. provide customers with condiment packets upon request).
4. Whenever possible, practice social distancing between staff.
5. All employees directly interacting with customers should wear face coverings.
6. All food code regulations must still be followed.
7. Employees should wash hands frequently; provide hand sanitizer for customers.

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ADVISORY