

Memorandum #09-48

To: Doug Russell, City Manager
From: Todd R. Larson, Director Parks and Recreation
Subject: Consideration of Concession Agreement at Fantle Memorial Park Swimming Pool
Date: March 2, 2009

Attached is a copy of the proposed agreement between the City and Ability Building Services for the operation of the concession area at the Fantle Memorial Park swimming pool for the 2009 and 2010 summer seasons. The attached lease agreement represents the arrangements that both Ability Building Services staff and City staff recommend for approval.

Ability Building Services officials will operate the facility with their clients and a job coach. We believe the potential for revenues will remain consistent from previous years and feel the yearly payment requirement of a pre-season fee of \$300.00 and then 6% of the gross revenues is fair and appropriate considering the type of operation, length of season and the investment required. These are the same amounts contracted in the previous two-year contract with this operator.

Based on the above information, it is recommended that Memorandum #09-48 be approved authorizing the Mayor to sign the attached agreement with Ability Building Services to operate the concessions area at the Fantle Memorial Park swimming pool for the 2009 and 2010 summer seasons.

Respectfully submitted,

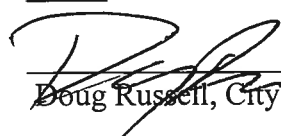


Todd R. Larson
Parks and Recreation Director

Recommendation: It is recommended that the City Commission enter into the attached agreement with Ability Building Services to operate the concessions area at the Fantle Memorial Park swimming pool for the 2009 and 2010 summer seasons.

I concur with this recommendation.

I do not concur with this recommendation.



Doug Russell, City Manager

CITY OF YANKTON

Concession Lease

Memorial Park Swimming Pool

This Agreement made and entered into this ____ day of _____, 2009, by and between the City of Yankton, South Dakota, hereinafter referred to as OWNER, and Ability Building Services, hereinafter referred to as OPERATOR. Length of Lease Agreement to begin May 1, 2009, and end November 1, 2010.

WITNESSETH:

The following terms and conditions constitute an agreement between the above named parties relative to the operation by the OPERATOR to provide concessions at the Fantle Memorial Park Swimming Pool.

A. The OWNER agrees to:

1. Permit the OPERATOR to provide concessions at the swimming pool and use City-owned furnishings therein currently existing.
2. Have the concession area in a good state of repair at the commencing period of the lease and to furnish all labor and materials necessary to keep the building and surroundings in repairs resulting from normal wear and tear.
3. Provide garbage receptacles on the premises for containing all waste and refuse as a result of said concession operations.
4. Dispose of the refuse placed in the dumpster.
5. Allow the OPERATOR to make their own arrangements with sponsors of swim meets in regards to whether or not the OPERATOR wish to share revenues gained from such events with the sponsor, or allow sponsor to sell certain concessions.
6. Have the right to cancel the lease by giving written notice. In this event, the initial payment will be retained by the City and the additional amount to be paid based on the percentage will be prorated from the pool opening date to the last date of operation of the concession area.
7. Allow the OPERATOR to have as a concession a canned pop and/or candy machine(s) to be placed at an agreed upon convenient location.
8. Allow the OPERATOR to close operations at 7:00 PM if there is low attendance and/or the weather is not favorable.

Fantle Memorial Park Pool - Concession Lease

Page 2

- B. The OPERATOR, in consideration of the above agreements on the part of the OWNER, agree to:
1. Provide an on-duty employee during hours of operation.
 2. Pay the OWNER \$300.00, due May 1, in 2009 and 2010, and 6% of the gross revenue from the season, due by November 1, in 2009 and 2010.
 3. Provide concessions which may include, but are not limited to, candy, soft drinks and related merchandise. However, no products in glass containers, chewing gum, peanuts in shells, sunflower seeds, popcorn, or similar items shall be sold. Improvements necessary to expand concession products must be approved by the OWNER and shall be the responsibility of the OPERATOR. (NOTE: permanent/fixed installations shall become the property of the OWNER).
 4. Pay all bills incurred in connection with the operation of said concession and hold the OWNER harmless from any and all claims of any kind whatsoever arising from or in connection with the operation of said concession.
 5. Provide concessions for each day the pool is open for public swimming during the years covered in this agreement and for special activities in accordance with time allowance set in A-8.
 6. Keep the concession stand and surrounding area in a clean and reasonably tidy condition at all times. Surrounding area includes an area extending from the north end of the outside wall of the building to the parking lot curb to the west and from the south outside wall of the building to the backside of the wading pool to the south. Litter is to be picked up and deposited daily in the dumpster located near the pool area and as often as required to keep the areas clean.
 7. Provide the OWNER with a complete accounting for entire concession operation upon request.
 8. Inform the OWNER of any needed repairs and/or problems that need attention.
 9. Be responsible for repairs, damages, and/or problems caused as a result of the use by the OPERATOR.
 10. Observe and comply with all State and Federal Laws and City Ordinances applying to the operation of said concession stand.

Fantle Memorial Park Pool - Concession Lease

Page 3

11. Have the right to cancel the lease by giving written notice. In this event, the initial payment will be retained by the City and the additional amount to be paid based on the percentage will be prorated from the pool opening date to the last date of operation of the concession area.

IN WITNESS WHEREOF THE OWNER AND THE OPERATOR HAVE HEREUNTO
AFFIXED THEIR SIGNATURES THIS ____ DAY OF _____, 2009.

CITY OF YANKTON, SOUTH DAKOTA

Dan Specht, Mayor
OWNER

ATTEST:

Al Viereck, Finance Officer

OPERATOR
Ability Building Services
909 W. 23rd St.
Yankton, SD 57078
605-665-2518