

Memorandum of Understanding

City of Billings Parks and Recreation Department and Montana District #1 Little League Baseball and Softball

This Memorandum of Understanding is made and entered into the _____ ("Effective Date") by and between The City of Billings Parks and Recreation Department ("CITY"), and Montana District #1 Little League Baseball and Softball ("D1LL")

CITY and D1LL agree on the following:

Section 1 - Priority Use for Scheduling

- As a primary user, D1LL will have priority scheduling over their respective fields for practice, regular season games, and tournament play, with full expectation to complete their season in a quality manner. If there is a community need for field space by a secondary user, which does not interfere with the scheduled use during the Little League season, the parties will act in good faith to find a workable compromise within the schedule that allows for scheduling multiple use.

Section 2 - Scheduling

- D1LL will provide the CITY with their draft field use schedule for the regular season by April 15 and for the post-season tournaments by no later than June 15 of each year.
- Representatives D1LL and the CITY will meet a minimum of 1 time per year – preferably in Jan. or Feb. to collaboratively discuss scheduling and the upcoming season.

Section 3 - Usage

- Usage in terms of this MOU means D1LL scheduled and sanctioned activities at all fields permitted for use through the CITY's Park Use Permit process.
- Sanctioned activities are defined as those administered directly by D1LL.
- All other user requests including independent Travel Ball Teams will be approved/scheduled through the CITY in cooperation with D1LL through the CITY's Secondary Park Use Permit process, which includes potential compensation for D1LL's materials and equipment used.
- Use of fields by outside groups without approved secondary permit, will not have access to D1LL equipment such as rakes, shovels, hoses, batting cages, drags, scoreboards, 4-wheelers, portable toilets, etc.
- If fields are permitted to other organizations, D1LL will not be responsible for field prep, clean up, excess garbage pick-up.
- CITY will not be responsible for maintenance operations on School District #2 property.

Section 4 - Annual Reporting

- D1LL will provide the City of Billings Parks and Recreation Department with a total number of participants and total number of games played on each permitted field.

Section 5 - Fees

- Primary User Permit - \$75 per field
- Ball field fence sign advertising - \$100 per field.
- Fertilizer and weed control - \$250 per field (applicable only to fenced fields).
 - Additional requests for maintenance during the season may be assessed at direct CITY costs.

Section 6 - Maintenance of Permitted Fields

- CITY will be responsible for:
 - Irrigation and repair of the irrigation system.
 - Mowing fields weekly to standard park height.
 - One (1) Fertilizer and pesticide applications at standard Park rates.
 - Winterization of irrigations systems, restrooms, and concession building.
 - Year-round garbage removal from City owned-park garbage cans two (2) per permitted field.
 - Maintaining the City owned bathrooms, including one cleaning per day.
 - Monitor field conditions to ensure safety repairs are completed before play is allowed.
 - An annual safety inspection with a written copy provided to D1LL.
- D1LL will be responsible for:
 - Maintaining the fields for Baseball/Softball play, especially the infields, mounds, batters' boxes, and base paths.
 - Providing safe bases and portable mounds if utilized.
 - Portable toilets during their seasons. Portable toilets shall be placed on concrete pads provided by the City or in a mutually agreed upon location.
 - Garbage pick-up and disposal for clean-up days or approved field modifications. Materials cannot be stored onsite and must be removed on the day of event.
 - Maintenance of the Batting cage areas including nets.
 - Maintenance of scoreboards, storage sheds, and concession stands.
 - Maintenance and repair of all fencing and backstops, except for fencing or backstops damaged by City mowing operations.
 - Weekly dragging of infield dirt to maintain weed control through growing season (Apr-Sept).
- The following responsibilities will be shared by each party:
 - D1LL and CITY will have annual safety/maintenance "walk-throughs" in the fall to identify/agree on safety priorities.
 - Identify and inform outside groups that use of D1LL fields without approved secondary permit is prohibited.

- The following are not allowed by D1LL under this MOU.
 - Application of pesticides or fertilizers of any kind.
 - Driving vehicles on the fields without City consent.
 - Allowing known use of fields by outside groups without Secondary Use permit and insurance.
 - Turning on Irrigation valves by hand.

Section 7 - Concession Stands and/or storage sheds

- Maintenance and repair, security, right of removal, required permits and vending and other permits will be the responsibility of D1LL. The concession fee permit is waived in recognition of approved City of Billings Concession Policy for parks.

Section 8 - Prep for Games

- Infields, lining of infields, and lining outfielders will be the responsibility of D1LL for all their scheduled activities.

Section 9 - Improvements

- Improvements to fields and/or facilities used by D1LL require approval through Project Request form. Depending on the improvement, the Parks and Recreation Board may require a public process before considering approval. All items before the Parks and Recreation Board include public notification. Before improvements are implemented D1LL and the CITY will mutually agree upon any potential shared responsibility and/or cost for proposed improvement to Little League fields.
- Regular Improvements done by D1LL need to meet City standards and may be subject to public procurements/bidding laws and policies.
- The City reserves the right to reject all requests.

Section 10 - Term

- The Parties agree that this MOU and its terms shall be revisited annually in Jan. or Feb.
- If no changes are made to the current agreement, the MOU will be mutually agreed upon for the upcoming year.

Section 11 - Insurance Requirements

- D1LL will be responsible for providing the CITY with Proof/Certificate of Insurance providing liability insurance coverage for their season that identifies the City of Billings as Additionally Insured on the Certificate of Insurance. Insurance coverage limits shall provide liability insurance in accordance with Montana State Statute, (Section 2-9-108 MCA), of at least \$750,000 for each claim and \$1.5 million for each occurrence. The Certificate shall also provide that the insurance coverage shall not be amended, altered, canceled, or reduced without providing at least ten (10) days advance written notice to both the insured as well as to the City of Billings.

Section 12 - Indemnification

- D1LL shall indemnify and hold harmless the CITY, its employees, and agents, their heirs, successors, and assigns, from all claims, demands, liabilities, suites, causes of actions, judgments, costs and expenses, including attorney's fees, and including loss of use, economic loss, or otherwise, due in any manner to the negligence or intentional acts, including the failure to act, as a result of D1LL activities or volunteer performance of duties per the terms of this agreement.
- The CITY agrees to indemnify, defend, and hold harmless D1LL, its officers, directors, employees, and agents, from and against any and all claims, demands, actions, liabilities, losses and damages, including costs and reasonable attorney's fees, arising from the CITY or the CITY's designees' performance or non-performance of this MOU.

Section 13 - Governing Law/Prevailing Party

- This MOU will be governed by and construed in accordance with the laws of the State of Montana, without reference to its conflicts of law principles. The parties agree that the federal and state courts in the State of Montana will have jurisdiction over the parties with respect hereto, the venue will be in Billings, Yellowstone County, Montana.
- In the event any litigation is filed by either party relating to this MOU, the non-prevailing party in such litigation will pay the prevailing party's costs resulting from the litigation, including reasonable attorneys' fees and costs.

Section 14 - Representations and Warranties

- Each party represents and warrants to the other party that (a) it has the full power and authority to enter into and perform this MOU; (b) the execution, delivery and performance of this MOU has been duly authorized by all necessary action on its part and (c) this MOU is a valid and binding obligation of such party, enforceable against such party in accordance with its terms.

Section 15 - Assignment

- M1LL may not assign any of its rights, benefits, or other obligations hereunder or delegate any of its duties hereunder in whole or in part without the prior written consent of CITY. Any attempted assignment in violation of this paragraph will be null and void and of no force or effect.

Section 16 - Cumulative Right and Remedies

- All rights and remedies of the parties will be cumulative, and none will exclude any other right or remedy at law and or equity. No waiver by either party of any covenant or condition of this MOU will constitute a waiver by the waiving party of any subsequent breach of such covenant or condition or authorize the breach or non-observance on any other occasion of the same or any other covenant or condition of this MOU.

Section 17 - Partial Invalidity

- If any term of this MOU or the application thereof to any person or circumstances is invalid or unenforceable, the remainder of this MOU will not be affected thereby, and



each term and provision of this MOU will be valid and enforceable to the fullest extent permitted by law.

Section 18 - Modifications

- No agreement shall be effective to change, supplement, modify, waive, release, discharge, terminate or effect an abandonment of this MOU in whole or in part, unless such agreement is in writing, refers to this MOU and is signed by all Parties.

Section 19 - Notices

- All notices, requests, demands and other communications hereunder will be deemed to have been duly given if the same is in writing and either (a) personally delivered or (b) sent by U.S. Certified Mail, Return Receipt Requested, Postage Prepaid to the address set forth below. Any party may change the address to which notices are to be addressed by giving the other party notice in the manner set forth herein.

If to CITY:
City of Billings
P.O. Box 1178
Billings, MT 59103
Attn: Chris Kukulski, City Administrator

If to D1LL:
Montana District #1 Little League Base
Attn: Jim Sommerville, District Administrator

Section 20 - Entire Agreement

This Agreement constitutes the entire and complete agreement of the Parties. All prior or contemporaneous agreements, understandings, arrangements, representations negotiations, or commitments between the Parties, whether oral or written, are merged, and integrated within this MOU and are no longer of any force or effect. There are no oral understandings, terms or conditions not contained in this Agreement and neither Party has relied on any representation, express or implied, outside of this MOU.



IN WITNESS WHEREOF, the parties hereto have executed this instrument the day and year first above written.

CITY OF BILLINGS, MONTANA

WILLIAM A. COLE
MAYOR

SIGNATURE

APPROVED AS TO FORM:

PRINT NAME

By _____
CITY ATTORNEY'S OFFICE

PRINT TITLE

ATTEST:

DENISE BOHLMAN, CITY CLERK

BY: _____
Boulder/Arrowhead Little League

BY: _____
Burlington/Central Little League

BY: _____
Big Sky Little League

BY: _____
Heights Little League

BY: _____
Riverside Little League

