



CITY OF RAPID CITY

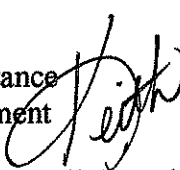
RAPID CITY, SOUTH DAKOTA 57701-2724

Risk Management
300 Sixth Street
605-394-6620

MEMORANDUM

DATE: November 13, 2012

TO: City Council

FROM: Keith L'Esperance
Risk Management 

SUBJECT: Special City Council Agenda Item

For the special City Council meeting on November 14, 2012, this is specifically for the bleacher rental agreement with Chadron State College (CSC). CSC didn't find out until Sunday November 11, 2012, that they had been selected to host the prestigious NCAA DII National Championship first round football game. One of the requirements is adequate stadium seating. CSC has used the City's bleachers in the past and, in fact, has two permanently mounted units at their stadium that are the exact same sets as those owned by the City so they are very familiar with these units.

As per the rental agreement, bleacher use outside the city limits requires City Council approval. Typically, these straightforward agreements go through Legal and Finance and City Council on the consent calendar. This was a unique set of circumstances.



EQUAL OPPORTUNITY EMPLOYER

**TRAILER MOUNTED HYDRAULIC MOBILE BLEACHER
SYSTEM APPLICATION AND AGREEMENT**

APPLICATION FEES ARE NON-REFUNDABLE

The City of Rapid City has available eight 234 seat capacity mobile bleacher units for lease within city limits to governmental entities and non-profit organizations. The City will transport, setup, and takedown the leased units. Priority will be given first to the City of Rapid City, next to the Rapid City School District, and then will be on a first come first serve basis based on the date the application is received by the City. The City must receive the application, agreement, certificate of insurance, deposit and payment at least 30 days prior to the event, but not more than 365 days prior to the event.

The area in which the bleacher units will be setup must be smooth and level and the ground must be dense enough to support the 9400 pound units. An open area approximately 22 feet deep and longer than the 39 foot bleacher units must be available to allow for pedestrian traffic. Additionally, approximately 15 feet of open area is needed to the side of the trailer, and at least 16 feet of overhead clearance is needed. Also, the area above the bleachers must be free from electric power lines or other obstructions that might cause a problem or be hazardous. The City reserves the right to decline an application due to the site not meeting the above-described conditions or due to any other reason that makes the transport, setup, use, or takedown unsafe including but not limited to weather conditions.

A \$150.00 setup/takedown fee per unit will apply. A \$50.00 extended use fee will apply per unit per day for use over five days. In the event that special permission is granted by the Rapid City Common Council for use of the bleachers outside the city limits, an additional fee based per mile will apply. Additionally, a \$500.00 damage deposit per unit must be received by the City before delivery of the bleachers. The above-described fees and deposit are not applicable to the City of Rapid City or the Rapid City School District.

APPLICATION

Date: November 17, 2012

Name of governmental entity or non-profit organization:

Chadron State College

Address: 1000 Main Street Chadron Nebraska

Phone Number: 308-430-3555 (c) 308-432-6345 (O)

Contact person: Brad Smith , Director of Athletics Chadron State College

Please describe the event:

The Chadron State College Football team has been selected to host the first round play-off of the NCAA National Championship Football series. Your group has been so kind to allow us use of the bleachers at 5 different times when our football team has qualified for this National

Championship series. I contacted Paul Sterling from the Rushmore Civic Center as he is the gentleman we have always worked with in the past. We found out today (Sunday 11/11/12) that we made the play-offs thus I apologize for the late request. If at all possible to allow CSC to rent these bleachers it would be appreciated greatly. The dates needed would be November 17, 2012 and we would return them on the following Monday. The men who would pick them up and return them are from an implement dealership and have been the ones who picked them up in the five previous usages. I will attach the college's insurance coverage. Again I realize this is a late notice and I apologize but I was not aware of the policy to rent or the time frame needed. I appreciate all you can do to help us with this matter.

Please describe the area the unit(s) will be setup: Elliott Field Don Beebe Stadium and as I mentioned before we have utilized the 4 sets of bleachers in the past and they fit perfectly

Date and time of event: November 17, 2012 from 11:00 am until approximately 4:30 pm

Number of unit(s) being requested: 4

Certification of Insurance provided: \$2,000,000 Combined Single Limit Per Occurrence and \$2,000,000 General Aggregate

Units will be provided by the -Parks Department; -Civic Center

Release of Deposit was authorized by -Parks Department; -Civic Center on the _____ day of _____, _____. Initial _____

AGREEMENT This lease of 4 bleacher unit(s), made this 13 day of NOVEMBER, by and between the City of Rapid City, hereinafter referred to as "Lessor," and Chadron State College, hereinafter referred to as "Lessee,"

Witnesseth:

1. That Lessor hereby leases to Lessee, and Lessee leases from Lessor, subject to the terms and conditions herein set forth, the following, hereinafter referred to as the "Property": 4 bleacher units.

2. Lessee hereby acknowledges delivery and acceptance of the aforesaid Property upon the terms and conditions of this lease.

3. The term of this lease is 5 days, beginning _____ and ending 11/19/12.

4. In consideration of said lease, Lessee covenants and agrees as follows:

(a) To pay to Lessor for the setup/takedown of said Property, SIX HUNDRED dollars (\$600). {\$150 per unit}

(b) To pay to Lessor for the damage deposit of said Property, TWO THOUSAND dollars (\$2000). {\$500 per unit}

(c) To pay to Lessor for the extended use of said Property, _____ dollars (\$_____). {\$50 per day per unit}

(d) To safely keep and carefully use the Property and not sell or attempt to sell, remove or attempt to remove, the same or any part thereof.

(e) Lessee shall, during the term of this lease and until return of the Property to Lessor, abide by and conform to, and cause others to abide by and conform to, all laws and governmental rules and regulations, including any future amendments thereto, controlling or in any manner affecting operation, use or occupancy of said Property.

(f) Lessee accepts the Property in its present condition, and during the term of this lease and until return of the Property to Lessor the Lessee shall maintain it in its present condition, excluding reasonable wear and tear, and shall be responsible to pay for any needed repair to said Property caused by operation or use by Lessee or by others during the term of this lease and until return of the Property to Lessor.

(g) Lessee shall be responsible and liable for, and indemnify, defend, and hold Lessor free and harmless from any claim or claims of any kind whatsoever for or from, and promptly pay any judgment for, any and all liability for, bodily injury, death or property damage, or any of them, which arise or in any manner are occasioned by the acts or negligence of Lessee or others in the custody, operation or use of, or with respect to, said Property, during the term of this lease or until return of the Property to Lessor.

(h) Lessee will provide a certificate of insurance for Commercial General Liability insurance for the entire term of the Lease. The limit of liability must be in the amount of Lessee's Commercial General Liability coverage carried, but in no event, will be less than \$2,000,000 Combined Single Limit Per Occurrence and \$2,000,000 General Aggregate. Lessee shall name the City of Rapid City as an additional insured and provide an acceptable certificate of insurance to the City of Rapid City prior to taking possession of the Property. The certificate must show the following wording in the

"Description of Operations" section of the Certificate of Insurance: "For Lease of Trailer Mounted Hydraulic Mobile Bleachers". The City's failure to obtain from Lessee a Certificate of Insurance conforming to the foregoing requirements shall not be deemed a waiver of any of the foregoing requirements.

(i) Lessee shall return, at the expiration of the term herein granted, the whole of said Property to the Lessor in as good condition as the same is, reasonable wear and tear excepted.

(j) It is mutually agreed that in case Lessee shall violate any of the aforesaid covenants, terms and conditions Lessor may at its option without notice terminate this lease and take possession of said Property wherever found.

5. The parties hereby agree that the terms of this Agreement shall be governed by the laws of the State of South Dakota. In the event of any conflict of laws, the law of the State of South Dakota shall be controlling. Any legal action arising out of or relating to this agreement shall be brought only in the Circuit Court of the State of South Dakota, Seventh Judicial Circuit, located in Rapid City, Pennington County, South Dakota.

6. The provisions of this Agreement shall be deemed severable, and the invalidity or unenforceability of any provision shall not affect the validity and enforceability of the other provisions hereof. If any portion of this Agreement is unenforceable for any reason whatsoever, such provision shall be appropriately limited and given effect to the extent that it may be enforceable.

7. This Agreement constitutes the entire agreement between the parties, and supersedes all prior negotiations, agreements and understandings, whether oral or written. This Agreement may only be amended by a written document duly executed by all parties.

CITY OF RAPID CITY

Mayor

ATTEST:

Finance Officer

(SEAL)

Lessee

BY: BRAD SMITH

ITS: DIRECTOR OF ATHLETICS
CHADRON STATE COLLEGE

