

**THIRD AMENDMENT TO THE USE AGREEMENT FOR
THE WARNER PARK STADIUM**

Between the City of Madison, Madison Mallards LLC and Northwoods League Inc.

THIS AGREEMENT, made and entered into by and between the City of Madison, a Wisconsin municipal corporation (“City”), the Madison Mallards LLC, a Wisconsin limited liability company (“Mallards”), and Northwoods League Inc., a for profit corporation created and existing under the laws of the State of Florida (“League”), is effective as of the date by which all parties have signed hereunder.

WHEREAS, on November 4, 2010, the City, the Mallards, and the League (the “Parties”) entered into the “Use Agreement Between the City of Madison, Madison Mallards LLC And Northwoods League, Inc. For the Use of Warner Park Stadium During the 2011-2020 Baseball Seasons” (the “Original Agreement”) which Original Agreement set forth the terms and conditions upon which the Mallards could use the City’s baseball stadium located at Warner Park (the “Ballpark”) for Northwoods League (NWL) summer collegiate baseball; and,

WHEREAS, the Original Agreement had an initial term of 10-years that expired on December 31, 2020, with three one-year renewals (through 2023) available upon the Mallards’ request; and,

WHEREAS, pursuant to the November 4, 2010 “Agreement to Undertake Improvements to Warner Park Stadium Between the City of Madison and Madison Mallards LLC” (the “Improvement Agreement”), the Mallards and the City have made significant capital improvements to the Ballpark which improvements have benefited the facility and the City, and which Agreement expired on February 12, 2021; and,

WHEREAS, on November 7, 2017, the Parties entered into the First Amendment to the Agreement (the “First Amendment”), under which, among other things, the City allowed the Mallards to use the renovated Duck Blind area of the Ballpark for public and private uses year-round; and,

WHEREAS, on February 12, 2021, the Parties entered into the Second Amendment to the Agreement (the “Second Amendment”), which, among other things, added five additional one-year renewals (extending the agreement through 2028), adjusted the annual Game Rental Fee to account for the impacts of the COVID-19 pandemic, and updated the capital improvement provisions; and,

WHEREAS, under the Original Agreement, the Improvement Agreement, the First Amendment, and the Second Amendment, the Ballpark has been greatly improved and its use by the Mallards and the League for summer baseball and other events has provided a family-friendly and community oriented entertainment option that has been very successful, drawing over 6,000 fans to Warner Park and the Ballpark for each game, and over 200,000 fans each year of the Use Agreement, allowing the Mallards to lead the League in annual attendance every year; and,

WHEREAS, in the summer of 2024, the League will be starting Northwoods League Softball (NWLS), the first for-profit women's summer collegiate softball league, with the purpose of the League being to develop women softball players for their college, Olympic and future professional play, similar to the experiences available to college baseball players through the NWL; and,

WHEREAS, the Mallards will operate one of the founding teams in the NWLS, which will necessitate certain improvements to the Ballpark, including the installation of an artificial turf infield, a portable mound, and a state-of-the-art movable outfield fence, and other adjustments to the Use Agreement; and,

WHEREAS, the City is supportive of the expanded use of the Ballpark and the introduction of women's college summer softball to the area and desires to continue its successful relationship with the League and the Mallards at the Ballpark; and,

WHEREAS, given the additional investments to be made by Mallards at the Ballpark to enable NWLS use of the facility and the expanded use of the Ballpark, the Parties find it necessary to amend the Use Agreement.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby mutually acknowledged, the Parties agree as follows:

1. Purpose. The purpose of this Third Amendment to the Use Agreement for the Warner Park Stadium ("Third Amendment") is to set forth the terms and conditions upon which the Original Agreement, the First Amendment and Second Amendment (collectively, the "Agreement") will be altered to enable the use of the Ballpark for women's summer collegiate softball. Among the changes being made are the following:
 - The term of the Agreement will be extended another seven years, through 2035, with corresponding adjustments to the annual rental fee;
 - Mallards will agree to fund the furnishing and installation of a new turf infield, with the City providing other portable equipment needed to facilitate the dual use of the playing surface;
 - The existing rent credit provisions will be adjusted upward to account for the additional capital investment being provided by Mallards under this Amendment, while also accounting for future City capital investments;
 - Mallards will be taking over scheduling and operational responsibility of the Ballpark from the City, and will agree to provide for at least eight free community days at the Ballpark annually, as well as suites to the City for up to two City staff recognition dates; and,
 - Mallards will now present the fan access plan to the Board of Parks Commissioners bi-annually, instead of annually.

2. Sec. 1.a. of the Agreement is amended as follows:

“a. Game. A game is a baseball or softball game which shall be considered played when one pitch is thrown in the first inning.”

3. Sec. 3(intro) of the Agreement is amended as follows:

“3. Renewal. This Agreement may be renewed for ~~eight-fifteen~~ one (1) year term(s) upon written notice from the Mallards to the City (through 2035). Except as set forth in this paragraph, the renewal shall be on the same terms and conditions of this Agreement. If Mallards desires to renew this Agreement, Mallards must give notice in writing to the City a minimum of three months prior to the expiration of the initial term of this Agreement, and a minimum of six months prior to the expiration of any renewal term of this Agreement, by the mailing of a notice by certified mail, return receipt requested, or by personal delivery to the Superintendent of Parks at the address specified in Paragraph 18. The notice shall contain an unequivocal and unconditional agreement to renew the lease for the renewal term, which shall be effective to renew the lease for one (1) year.”

4. Sec. 3.b. of the Agreement is amended as follows:

“b. Change in Annual Game Rental Fee. If Mallards renew this Agreement, the annual Game Rental Fee set forth in Paragraph 8.a. of this Agreement for each renewal period shall be as follows:

2021: \$1, with a \$1 per ticket payment to the City for all tickets sold in calendar year 2021 in excess of 125,000 tickets for games at the Ballpark.

2022: \$65,000

2023: \$65,000

2024: \$70,000

2025: \$74,000 ~~70,000~~

2026: \$76,000 ~~75,000~~

2027: \$81,000 ~~75,000~~

2028: \$84,000 ~~80,000~~

2029: \$87,000

2030: \$90,000

2031: \$93,000

2032: \$96,000

2033: \$99,000

2034: \$102,000

2035: \$105,000”

5. Sec. 4 of the Agreement is amended as follows:

“4. Ballpark Use. Subject to the terms and conditions set forth in this Agreement, Mallards shall have the nonexclusive use of Ballpark for athletic, recreational, musical, culinary, and other special event purposes, as well as catering and concession operations, including, specifically, the operation of a baseball and

~~softball team and. Mallards shall also have~~ the nonexclusive use of the Duck Blind area in right-field year-round for private or public events. The entirety of the Ballpark is as set forth in Attachment A, which is herein incorporated by reference. Mallards has expressed an interest in producing outdoor concert events in the Ballpark. Blanket Authority to produce such events is not granted by this Agreement. However, Mallards may annually produce up to seven (7) outdoor concert events without further approval of the City. In the event Mallards wishes to produce ~~such additional~~ in excess of seven (7) outdoor concert events in any given year, Mallards shall submit a written proposal detailing the event to the Superintendent of Parks or designee at least seven (7) days prior to the date of the proposed event, subject to the schedule provided in Paragraph 5 and delivered to the address specified in Paragraph 18. The Superintendent or designee will review each proposed event in the same manner that it reviews all requests for the use of the Ballpark.”

6. Section 5 of the Agreement is amended as follows:

“5. Scheduling and Use of the Ballpark.

a. Scheduling of Baseball and Softball Events at the Ballpark. The Parties agree to the following ~~time table~~ timetable for scheduling of baseball and softball only events at the Ballpark:

- 1) By January 15 of each year, the Mallards shall submit to the City a schedule of dates for the Mallards season with potential playoff dates, softball season with potential playoff dates and any other events that are planned for the season. Events may be added to the schedule after that date, but they will be subject to other restrictions in this Section. up to 40 regular season League games and up to four playoff games and one all star game. In addition, Mallards may use the Ballpark for up to three dates after March 21 and before the start of the Regular Season each year, at no cost, for Mallards team workouts only.
- 2) From January 16 – March 1 of each year, other amateur baseball and softball teams may submit their scheduling requests to the Mallards City.
- 3) After March 1 of each year the Ballpark ~~will~~ may be reserved on a first come, first served basis, ~~and subject to availability as determined by the Mallards typical approval processes by the city.~~
- 4) In taking over scheduling of the Ballpark for baseball and softball purposes from the City beginning in 2024, Mallards will provide historical users, including the Madison Metropolitan School District (including the Madison School & Community Recreation Department), and Edgewood High School and College, with the

same level of access to the Ballpark that was provided by the City, provided, that use of the Ballpark by such historical users shall be limited to days when Mallards does not have another event scheduled at the Ballpark.

b. Scheduling of Other Events at Ballpark. ~~Scheduling of all additional events at the Ballpark shall be subject to approval by the Board of Park Commissioners, which will make a good faith effort to approve any such request in as timely a manner as possible. However, events under 1,000 persons in expected attendance may be approved by Parks Division staff.~~

1) Mallards shall be responsible for the scheduling of the Ballpark by all other users.

2) When there are no other major events previously scheduled at Warner Park on the same day, Mallards may schedule event(s) which do not exceed the Ballpark's capacity. If another event is scheduled at Warner Park for the same day, Mallards may schedule an event that does not exceed 4,000 in anticipated attendees. Approval for larger events (larger than 1,000-4,000) when another event is scheduled for the same day will be subject to approval of the Parks Superintendent, or designee Board of Park Commissioners, upon recommendation of Parks staff. At the time a request is made to the Parks Superintendent staff, notification will also be provided by the Mallards to the two (2) members of the Common Council representing the neighborhoods surrounding Warner Park. Parks staff may, at their discretion, refer small event requests to the Board of Park Commissioners if there are special condition issues, e.g. amplification or music. In all cases, Mallards shall provide City with at least thirty (30) days' advance notice of any event that Mallards anticipates attendance in excess of 1,000. Events that have more than 1,000 expected attendees that are scheduled less than 30 days in advance are subject to approval by the Parks Superintendent, or designee, and are still subject to permitting requirements. The Mallards understand and agree that non-baseball events may require additional staffing from Police, Parks, Fire & other City agencies based on conditions of approval for these events and that Mallards is responsible for such additional staffing costs. Exclusive concession rights for all events scheduled by the Mallards at the Ballpark are granted to the Mallards under their existing restaurant/vending permits and licenses. The Mallards may contract to provide concessions for other groups under the Mallards' existing restaurant/vending permits and licenses, provided the food to be served has previously been approved and further provided that no alcohol beverages shall be served unless approved by Parks Department Staff.

3) Any plan by the Mallards to schedule additional events at the Ballpark must accommodate other park users.

4) In taking over scheduling of all other events at the Ballpark from the City beginning in 2024, Mallards will honor agreements with other users whose prior use of the Ballpark was authorized by the City.

c. Use of the Ballpark by Mallards. In addition to use of the Ballpark and facilities for baseball and softball events and other approved events under this Section, the Parties agree as follows:

~~1) Mallards may negotiate dates, in addition to official games and workouts, for youth baseball clinics for a negotiated fee and with prior written approval of City.~~

~~2) Mallards team shall have exclusive use of the home locker room during its regular season. Use of home locker room beyond the regular season is subject to negotiation by the parties.~~

~~3) Mallards has the option of scheduling a home game during the weekend of the City's July 4th celebration. The Mallards game for this event shall end by the start of the fireworks in Warner Park, or Mallards agrees to suspend the game, turn off all field lights, and not resume play until a minimum of fifteen (15) minutes after the conclusion of the fireworks.~~

14) Mallards may not allow spectators to enter Ballpark more than one hundred twenty (120) minutes prior to posted game time and shall clear Ballpark of all spectators within thirty (30) minutes of the completion of any game. Mallards agrees to cease all vending of food and beverages at the conclusion of each game, unless an approved Mallards event immediately follows the game, in which case all vending of food and beverages shall cease at the conclusion of the subsequent event. Mallards shall seek the approvals set out above in order to serve food or beverages at the subsequent event.

25) Mallards must submit a written request to the Superintendent of Parks, at the address listed in Paragraph 18, at least seven (7) days prior to the date of any event or promotion that requires the hours of operation at Ballpark to be extended.

36) This Agreement does not authorize firework displays of any kind. If the Mallards intends on providing a fireworks display at the conclusion of a game, Mallards shall submit a written request for such display to the Superintendent of Parks at the address listed in Paragraph 18. Board of Park Commissioners approval is required before fireworks can be discharged at the Ballpark or Warner Park. Mallards shall submit all fireworks display requests in a timely

fashion allowing time for the request to be included on the Agenda of the Madison Board of Park Commissioners at a regularly scheduled meeting. Mallards shall be responsible for determining the Board's meeting dates and times as that information is readily available on City's web site at www.cityofmadison.com. All approved fireworks displays require the payment of the Parks fireworks fee applicable at the time of the permit in addition to any other applicable City permit fees related to fireworks displays. The current fireworks fee, as approved by the Board of Parks Commissioners, is two hundred and fifty dollars (\$250). City insurance requirements for firework displays shall also apply.

- 47) The use of live performers or other amplified music or public address announcements shall comply with City of Madison noise and sound Ordinances at all times.
- 58) Mallards shall have authority to host up to seven (7) outdoor concerts per year. Any outdoor concert in excess of such annual figure at the Ballpark must receive the Parks Superintendent's Board of Park Commissioners approval, and Mallards shall not request more than three (3) outdoor concerts in a calendar year.
- 69) Mallards shall prepare a security plan for all uses of the Ballpark.
- 740) Mallards' requests to use the Ballpark for any non-NWL or NWLS purposes other than the League Regular Season, Playoffs or All-Star Game remains may be subject to any other City approvals necessary for such use.
- 844) Mallards shall be permitted to use the Duck Blind venue in right field for year-round public or private events. The approval of such events shall be subject to subsection b. above and other applicable requirements under this subsection c.
- 9) The Mallards understand and agree that non-baseball and softball events may require additional staffing from Police, Parks, Fire & other City agencies based on conditions of approval for these events and that Mallards is responsible for such additional staffing costs.
- 10) Exclusive concession rights for all events scheduled by the Mallards at the Ballpark are granted to the Mallards under their existing restaurant/vending permits and licenses. The Mallards may contract to provide concessions for other groups under the Mallards' existing restaurant/vending permits and licenses, provided the food to be served has previously been approved and further provided that no alcohol beverages shall be served unless approved by Parks Department Staff.

- 11) Mallards may charge other users reasonable rates for the use of the Ballpark and the services provided by Mallards under this Agreement.
- 12) The Mallards will have exclusive control and access to the locker room building year round. Any other user of the locker room would need to be approved by the Mallards in advance of their use. Mallards would charge no rental for such use, but the user would agree to clean the space used or be required to pay for any costs incurred by the Mallards to clean or repair the space after their departure.”

7. Section 6 of the Agreement is amended as follows:

“6. Mallards Responsibilities.

- a. Mallards shall provide all staff for the Ballpark, including, but not limited to, players, coaches, managers, ushers, ticket sellers, scorekeepers, public address announcers, concession staff, security staff, field maintenance crew, parking attendants and cleaning crew. Mallards agrees to employ staff adequate to provide outstanding customer service.
- b. Mallards ushers shall wear a uniform, at a minimum a Mallards shirt, identifiable by color, logo or some other measure, as agreed to by the parties.
- c. Except for the portable outfield fence and pitching mound, Mallards shall supply all equipment related to field use including all bases, a batting cage and a pitcher’s screen. Mallards acknowledges that if it requires an infield tarp, it will supply the tarp and will place and remove the tarp as needed. Mallards may use areas of the adjacent football field, as designated by the Parks Division, to store the portable outfield fence and pitching mound when not in use, and shall ensure that these items are secured when not in use.
- d. Mallards agrees to prepare and mark the field for all Mallards games, and all other games scheduled ~~by the City~~ under Sec. 5.a. of this Agreement no later than two (2) hours prior to game time, weather permitting.
- e. Mallards shall be responsible for all field maintenance and all daily operation expenses at the Ballpark, to specifically include, but not be limited to, the costs of mowing, landscaping, fertilization, turf repair, irrigation, dragging and lining the field during scheduled dates, field grooming between innings or after batting practice, the application of drying agents to get a scheduled game completed, electricity and water use, telephone service, internet access, and other similar costs. Moreover, all equipment and supplies necessary to perform these responsibilities, and the costs to run and maintain said equipment, shall be the Mallards.

- f. Mallards shall provide all necessary cleaning supplies and labor to maintain in a clean and sanitary condition seating areas, space beneath bleachers, the concourse, concession stand and adjacent area, public restrooms, locker rooms, adjoining parking lots, press box, office area, and any other area within the Ballpark used for Mallards activities. Any custodial services, and any chemicals, trash-liners, soap and paper used by the Mallards pursuant to its obligations under this provision, are required to be in accordance with the City's Green Cleaning Program and comply with the green product standards, specifications and practices of this Program. Mallards is required to be familiar with the applicable standards of the City's Policy for a Sustainable Green Cleaning Program. These standards are set forth in the City of Madison's Administrative Procedure Memorandum No. 4-6, available at <http://www.cityofmadison.com/mayor/apm/4-6.pdf>, and are subject to change. The failure to abide by the requirements of this Program shall be a default subject to Section 13 of this Agreement.
- g. Mallards shall deposit all trash from Ballpark use in dumpsters provided by the Mallards, and provide for all trash removal services. Mallards agrees to complete post game clean up by 10:00 a.m. on the day following each Mallards game or other Mallards scheduled use.
- h. Mallards shall not exceed the patron capacity established by City for the Ballpark. Patron capacity for ball games and similar sporting events is six-thousand seven-hundred and fifty (6,750). Patron capacity for outdoor concert events is fifteen thousand (15,000). These capacity amounts may only be amended by approval of the Board of Parks Commissioners.
- i. Mallards shall be responsible for public safety and shall coordinate with the City of Madison North Police District to ensure public safety requirements are adequately met.
- j. Mallards shall ~~annually, by March 1 of each year,~~ submit its alcohol beverage policy to the Alcohol License Review Committee for approval by the ALRC as required by the ALRC. The alcohol beverage policy shall address how the Mallards will prevent underage drinking and over consumption at Mallards games and stadium events. A failure to have the alcohol beverage policy approved by the Alcohol License Review Committee will not be a default under this Agreement, but the matter may be resolved in the alcohol licensing process.
- k. Mallards shall submit, by March 1 of each year, an annual neighborhood impact plan to the Board of Park Commissioners addressing how the Mallards will address its impacts on the neighborhood surrounding the Ballpark, including pedestrian safety, fireworks, noise, litter and other neighborhood impacts. The Mallards shall notify all stakeholders identified

by the Parks Superintendent of this submission to the Board of Park Commissioners.

- l. Beginning in 2024, Mallards shall submit, by March 1 of every other ~~each~~ year, an annual Fan Access Plan to the Board of Park Commissioners. This Plan will detail Mallards' plan to provide sufficient parking at or near the Ballpark, and address customer access to the Ballpark by bus, bicycle and foot. Mallards shall also provide City with a copy of offsite parking agreements. If the Mallards fail to do not provide 200 parking stalls outside of Warner Park, the Board of Park Commissioners may reduce the maximum capacity of the ~~Stadium-Ballpark~~ by up to 945 persons. The Board of Park Commissioners will consider the impact of the parking and access as detailed in the Plan on other users of Warner Park and the surrounding neighborhood in making its decision regarding the maximum capacity. Any decision on reduction of capacity at the Ballpark may be appealed to the Common Council, but will be in effect during any appeal. A set amount of parking shall be reserved at the Warner Park Community and Recreation Center for persons using the Center.
- m. Prior to the start of the Regular Season, representatives of Mallards and City will meet to discuss any special maintenance needs related to the Ballpark and the ~~baseball-playing~~ field at the Ballpark. Mallards and City will endeavor to identify appropriate times to undertake such maintenance so as to not disrupt use of the Ballpark by Mallards or others.
- n. Annually, Mallards shall provide one catered event within the Duck Blind area for up to 100 Madison parks volunteers on a non-game day that is mutually agreeable between Mallards and the City. This requirement may be waived by the Superintendent of Parks.
- o. Free Community Use Days. Mallards will allow at least eight special public events annually at the Ballpark without admission charge to the public, for up to eight hours on each night. These free community use events will be designated annually and included in the annual neighborhood impact Plan required under Sub. k above. The Madison Parks Foundation, either on its own or through the City, may request to have of the community use days be reserved for Parks Foundation related Events in the subsequent year. Each such Event shall be a "Parks Foundation Event". Mallards shall be notified of the proposed Parks Foundation Event dates before January 1 of the year in which the Parks Foundation Events are to occur. Mallards will not charge the Parks Foundation any usage, rental, or lighting fees for Parks Foundation Events.
- p. Staff Recognition Suite. The City may use one Level 2 suite at the Ballpark for up to two regular season games, one NWL and one NWLS, for the purpose of recognition of staff and teambuilding. The use of the Level 2 suite will not include food or drink. The Mallards will give the City a list of

possible game dates by April 1 each calendar year, and the City will select dates by May 1. If the City will not be using the suite, it will notify the Mallards three weeks prior to the game date, or be responsible for the cost of the suite, if the suite is not able to be rebooked for paying customers.”

8. Section 7 of the Agreement is amended as follows:

“7. City Responsibilities.

- a. City agrees not to schedule a competing baseball or softball league for use of the Ballpark, so long as Mallards continue to use the Ballpark.
- b. City agrees to provide player and coach parking, not to exceed 25 spaces, at Warner Park during the regular season when the team is out of town. City and Mallards will jointly create a method to designate those vehicles that are permitted to park overnight at Warner Park.
- c. ~~Except as to duties specifically delegated to Mallards under this Use Agreement, City agrees to be responsible for the maintenance and repair of the Ballpark, including, specifically, maintenance and repair of all structures and fixtures at the Ballpark other than in the field area, such as general building maintenance, stadium lighting, etc. City shall be responsible for the maintenance and repair of the Ballpark up to \$10,000 per year, after which any City maintenance and repair costs will be considered a City capital investment and will count towards the Capital Improvement Additional Rental Fee Credit as detailed below in Sec. 8.b.4)b). This limitation does not apply to the repairs to the Duck Blind Concession Stand, which are pre-existing identified repairs as of the execution of this Third Amendment.~~
- d. City agrees to provide Mallards with a storage shed for the storage of all maintenance and general equipment necessary for Mallards to operate the Ballpark consistent with the Mallards obligations under Section 6 of this Agreement.”

9. Section 8.a of the Agreement is amended as follows:

- “a. Game Rental Fee. The Mallards agree to pay an annual fee for use of the Ballpark (Game Rental Fee). The Game Rental Fee for each year for the term of this Agreement shall be:

2011: \$50,000	2016: \$57,963
2012: \$51,500	2017: \$59,702
2013: \$53,045	2018: \$61,493
2014: \$54,636	2019: \$63,338
2015: \$56,275	2020: \$1

~~This fee reflects the Mallards' use of the facility annually for up to 40 league regular season games and up to four playoff games and an all star game, plus up to six (6) additional events (baseball or non-baseball) with capacity limits as follows: two (2) events under 1,000, two (2) events from 1,001 to 5,000, and two (2) events from 5,001 to 15,000. The Mallards shall be responsible for the cost of any additional event related personnel required by the City (e.g., police, parks or fire staffing). If the Mallards pursue hosting more than the 6 additional events, they shall be subject to standard Park fees.~~

The Game Rental Fee does not include the use of additional fenced areas of Warner Park, including the multi-use field. If Mallards wishes to use these areas, Mallards must pay a separate fee pursuant to park policies and formally book the area through the Parks Community Services Manager.”

10. Section 8.b.4) is amended as follows:

"4) Capital Improvement Rental Fee Credits.

- a) Base Credit. For any Capital Improvements to the Ballpark ~~funded exclusively by Mallards that are approved by City~~, a dollar for dollar credit against Rental Fees will be provided to the Mallards for the Mallards' capital investments, up to \$400,000 ~~\$120,000~~ of the agreed upon value of the Capital Improvements.
- b) Additional Credit. An additional credit against Rental Fees may be provided as follows: Mallards' additional capital investments beyond the base credit will credited, up to \$450,000, by reducing Mallards additional capital investments by 75% of the City's contribution to the Capital Improvement.
 - i. As an example, if Mallards invests \$700,000 into a \$1.1 mil project, with the City contribution at \$400,000, Mallards will be credited \$400,000 for the base credit, but will have no additional credit (75% of the City's contribution of \$400,000 will reduce the Mallards' additional credit from \$300,000 to zero). Examples demonstrating the Base and Additional Credit mechanics are shown on the following chart:

<u>Project Total</u>	<u>Mallards Share</u>	<u>City Share</u>	<u>Base Credit</u>	<u>Mallards Addl Invest</u>	<u>75% City Reduction</u>	<u>Additional Credit</u>	<u>Total Credit</u>
\$300,000	\$300,000	\$0	\$300,000	\$0	\$0	\$0	\$300,000
\$400,000	\$300,000	\$100,000	\$300,000	\$0	\$75,000	\$0	\$300,000
\$400,000	\$400,000	\$0	\$400,000	\$0	\$0	\$0	\$400,000
\$633,333	\$500,000	\$133,333	\$400,000	\$100,000	\$100,000	\$0	\$400,000
\$700,000	\$700,000	\$0	\$400,000	\$300,000	\$0	\$300,000	\$700,000
\$700,000	\$500,000	\$200,000	\$400,000	\$100,000	\$150,000	\$0	\$400,000
\$870,000	\$750,000	\$120,000	\$400,000	\$350,000	\$90,000	\$260,000	\$660,000
\$1,000,000	\$1,000,000	\$0	\$400,000	\$600,000	\$0	\$300,000	\$700,000
\$1,000,000	\$700,000	\$300,000	\$400,000	\$300,000	\$225,000	\$75,000	\$475,000
\$1,100,000	\$700,000	\$400,000	\$400,000	\$300,000	\$300,000	\$0	\$400,000
\$1,217,000	\$750,000	\$467,000	\$400,000	\$350,000	\$350,250	\$0	\$400,000
\$2,000,000	\$1,500,000	\$500,000	\$400,000	\$1,100,000	\$375,000	\$300,000	\$700,000

ii. No more than \$40,000 \$52,000 worth of credits can be applied per year through 2028, and no more than \$80,000 worth of credits can be applied in years 2029 through 2035 ~~in a given year, but~~. Any unused credits may be utilized in future years if this Agreement is extended beyond 2035."

11. Section 8.b.5) is created as follows:

“5) Softball Improvements. In order to allow for the use of the Ballpark for both baseball and softball, certain Capital Improvements are necessary, as follows:

1. Mallards Improvements. Mallards shall be responsible for converting the existing grass and dirt infield into an artificial turf infield. Mallards shall fund the cost of the turf infield project, including all site preparation work, furnishing and installing the materials. The turf used will be PFAS (per- and polyfluoroalkyl substances) free. The estimated time of completion of the turf infield project is May 15, 2024. Once completed, acceptance of the Capital Improvement shall proceed as set forth in para. 3) above.
2. City Improvements. The City will purchase a portable outfield fence and pitching mound for use at the Ballpark. The fence and mount are required to host softball at the Ballpark and have an anticipated cost of \$60,000.”

12. Section 11 is amended as follows:

“11. Home Games.

- a. Baseball. Mallards and League covenants that Mallards will play all its NWL home games in Madison, Wisconsin, and that the Mallards shall not relocate or agree to relocate or permit the relocation of the Mallards outside the boundaries of Madison, Wisconsin, during the term of this Use Agreement. The City may waive this requirement for isolated exhibition games or if the Stadium-Ballpark is not available.
- b. Softball. Mallards and League agree that a team in the NWLS will play at Warner Park, starting in 2024, playing approximately 21 home games per year, provided the softball league continues in existence, which may include double-headers with the baseball team. Mallards and the League agree that the softball team will play at least eighty percent (80%) of its future home games at the Ballpark, unless it has prior written approval of the Parks Superintendent to play less home games at the Ballpark, or if the Ballpark is not available.”

13. Section 16 is amended as follows:

- “16. Damage and Destruction at the Facility. In the case of the destruction or any Substantial Damage of the Ballpark resulting from fire or other casualty, either City or Mallards may terminate this Agreement upon written notice to the other, if the facility cannot be repaired or rebuilt by City within thirty (30) days if casualty occurs between March 1st and August 15th, or prior to the commencement of the next Mallards baseball or softball season if casualty occurs during the period from August 16th to March 1st. City retains the sole authority to determine if the Ballpark is to be repaired or rebuilt.”

14. Section 18 is amended as follows:

- “18. Notices. All notices required to be given under the terms of this Agreement shall be personally delivered or sent, postage prepaid, by depositing the same in United States mail addressed as follows:

City: Superintendent of Parks
City of Madison Parks Division
330 Lakeside Drive
Madison, WI 53715

~~210 Martin Luther King, Jr. Blvd., Room 104~~
~~PO Box 2987~~
~~Madison, WI 53701~~

League: Dick Radatz, Jr., Chairman ~~President~~
Northwoods League
2900 4th Street SW
Rochester, MN 55902

Mallards: Steve Schmitt
2920 N. Sherman Avenue
Madison, WI 53704”

15. Section 28 is amended as follows:

“28. Counterparts; Electronic Delivery. This Agreement ~~and any document executed in connection herewith may be executed signed in counterparts, each of which shall be taken together as a whole to comprise a single document~~ deemed an original, but all of which together shall constitute the same document. Signatures on this Agreement may be exchanged between the Parties by facsimile, electronic scanned copy (.pdf) or similar technology and shall be as valid as original; and this Agreement may be converted into electronic format and signed or given effect with one or more electronic signature(s) if the electronic signature(s) meets all requirements of Wis. Stat. ch. 137 or other applicable Wisconsin or Federal law. Executed copies or counterparts of this Agreement may be delivered by facsimile or email and upon receipt will be deemed original and binding upon the Parties hereto, whether or not a hard copy is also delivered. Copies of this Agreement, fully executed, shall be as valid as an original.”

IN WITNESS WHEREOF, the parties hereto have set their hands at Madison, Wisconsin.

MADISON MALLARDS, LLC

Vern Stenman, President

Date

NORTHWOODS LEAGUE, INC.

Dick Radatz, Chairman

Date

DRAFT

CITY OF MADISON

Satya Rhodes-Conway, Mayor

Date

Maribeth Witzel-Behl, City Clerk

Date

Countersigned:

David P. Schmiedicke, Finance Director

Date

Approved as to form:

Michael Haas, City Attorney

Date

Execution of this _____ Amendment by the City is authorized by Resolution Enactment No. RES-__ - ____, ID No. _____, adopted by the Common Council of the City of Madison on _____, 202__, and the Board of Parks Commissioners approval granted on _____, 202__.