

**AGREEMENT TO UNDERTAKE IMPROVEMENTS TO WARNER PARK STADIUM  
BETWEEN THE CITY OF MADISON AND MADISON MALLARDS LLC**

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This Agreement to Undertake Improvements to Warner Park Stadium (“Improvement Agreement”), made and entered into by and between the City of Madison, a Wisconsin municipal corporation (“City”), and the Madison Mallards LLC, a Wisconsin limited liability company (“Mallards”), is effective as of the date by which both parties have signed hereunder.

WHEREAS, the City and the Mallards (the “Parties”) entered into a Use Agreement dated as of March 23, 2006 governing the Mallards’ use of the City’s Warner Park Stadium and facilities (the “Ballpark”) through 2010 for the operation of a baseball team; and

WHEREAS, the Parties intend to enter into a new Use Agreement concurrently with this Improvement Agreement, to have a term of ten (10) years commencing on January 1, 2011; and

WHEREAS, the Parties agree that certain improvements to the Ballpark should be made, including, specifically, a replacement of the bleachers; and

WHEREAS, the Parties agree that during the term of the new Use Agreement, that the Mallards may, from time to time, desire additional improvements to be made to the Ballpark, and that since 2001 the Mallards have made such improvements to the Ballpark, said improvements being approved by the Board of Parks Commissions and becoming the property of the City upon construction; and

WHEREAS, this Improvement Agreement is intended to provide for certain duties and responsibilities of the Parties for design, development, approval, funding and construction of improvements to the Ballpark during the life of the new Use Agreement, in accordance with the City’s adopted 2008 and 2009 Capital Budget, the City’s Standard Specifications for Public Works Construction, and the practice of the City and Mallards since 2001; and

WHEREAS, in order to achieve the public purpose of providing recreation and encouraging economic development and tourism for its citizens, the City proposes to design and construct certain improvements at the Ballpark, and review, reject or approve, and accept certain improvements at the Ballpark, which will be made available to the Mallards for the purpose of operating a baseball team thereon; and

WHEREAS, the City believes the improvements to the Ballpark facility pursuant to this Improvement Agreement and the fulfillment generally of this Improvement Agreement and the corresponding Use Agreement are in the vital and best interests of the City and its residents and in accordance with the public purposes and conditions of the applicable state and local laws and requirements under which these improvements will be being carried out.

NOW, THEREFORE, in consideration of the promises and mutual obligations of the parties hereto, each of them does hereby covenant and agree with the other as follows:

1. Definitions.

- a. Bleacher Replacement Project. The City sponsored and directed project consisting of a replacement of the bleachers and seating in the Ballpark.
  - b. Future Ballpark Improvements. Stadium and facility improvements to the Ballpark, other than the Bleacher Improvement Project, approved by the Board of Park Commissioners as set forth below in Section 6, made by the Mallards during the course of this Improvement Agreement that, upon construction or installation, become the property of the City.
  - c. Letter of Credit. An irrevocable letter of credit provided by the Mallards for the benefit of the City to secure the Mallards' payment to the City for the Bleacher Replacement Project as provided under this Improvement Agreement.
  - d. Plans and Specifications. The construction ready plans and specifications for any stadium improvements subject to this Agreement, and as approved by the Board of Public Works and/or the Board of Park Commissioners.
  - e. Use Agreement. The Agreement dated even with the date of this Agreement by and among the City, the Mallards and the Northwood League, Inc., as amended and supplemented from time to time.
2. Term. This Improvement Agreement shall expire upon the satisfaction of all terms and conditions of this Agreement, the written agreement of all Parties to this Agreement, or June 30, 2021, whichever occurs first.
  3. Obligations of the Parties. In addition to those obligations and responsibilities set forth elsewhere in this Improvement Agreement, the Parties' obligations under this Improvement Agreement are as follows:
    - a. City. The City shall direct the Bleacher Replacement Project as set forth below in Section 5, including, but not limited to, formulating Project plans, submitting for approval, obtaining any permits, opening for public bidding, and overseeing the project. Pursuant to Subsection 4.a., the City shall contribute up to \$800,000 of the cost of the Bleacher Replacement Project. The City shall also timely act on any Plans and Specifications submitted by Mallards for Future Stadium Improvements.
    - b. Mallards. Mallards shall contribute financially to the Bleacher Replacement Project as set forth below in Subsection 4.a. In addition, during the lifetime of this Improvement Agreement, Mallards shall also fund a minimum of \$500,000 in Future Stadium Improvements, following the procedures and requirements set forth below in Section 6.
  4. Financing of Ballpark Improvements Subject to this Improvement Agreement. Parties agree that the following improvements to the Ballpark, including the facilities serving the Ballpark, are subject to this Improvement Agreement, and will be financed as follows:
    - a. Bleacher Replacement Project. The estimated cost of this project is \$1.3 million. City agrees to contribute up to, and no more than, \$800,000 toward this project, while Mallards agrees to contribute \$500,000 plus any additional costs over the estimated \$1.3 million. If the actual costs are less than \$1.3 million, the cost savings shall be

apportioned proportionally between City and Mallards as follows:  $\frac{8}{13}$  to the City and  $\frac{5}{13}$  to Mallards. Mallards agrees to follow the provisions of Section 5 regarding the payment of its share of these costs to the City.

- b. Future Ballpark Improvements. During the lifetime of the Use Agreement, Mallards agrees to make at least \$500,000 in additional Future Ballpark Improvements pursuant to the provisions of Section 6. Once made, Mallards agree that said improvements will be considered donations to the City and will become the property of the City upon completion.
5. Bleacher Replacement Project. The Parties' obligations with respect to the Bleacher Replacement Project are as follows:
- a. Plans and Specifications. The City shall be responsible for preparing the Plans and Specifications necessary for undertaking the Bleacher Replacement Project. The Plans and Specifications shall be submitted to the Mallards, for their review and approval, which approval shall not be unreasonably withheld.
  - b. Budget. The estimated cost of the Project is \$1.3 million, with the City contributing \$800,000 and the Mallards contributing \$500,000 of that estimated cost. The actual cost of the project shall be apportioned between the City and the Mallards as set forth above in Subsection 4.a.
  - c. Letter of Credit. Within 10 days of the execution of this Improvement Agreement, Mallards shall supply the City with an irrevocable Letter of Credit, with terms approved by the City, for the benefit of the City, to secure the Mallards' payment to the City for its share of the Bleacher Improvement Project. The Letter of Credit shall be in the amount of \$575,000 to account for Mallard's initial contribution of \$500,000 and up to 15% (\$75,000) of any overage costs that may be imposed upon Mallards under Section 4.a. The Letter of Credit shall be reduced to \$75,000 upon payment by Mallards to City of the initial \$500,000 as set forth below in Subsection 5.e. The Letter of Credit shall expire on December 31, 2011 or, pursuant to Section 5.f., if the parties agree to extend the deadline for the Project to April 30, 2012, the Letter of Credit shall expire on December 31, 2012. The Letter of Credit will be released once the final costs of the Project are computed, and either Mallards are refunded Mallards' share of cost savings pursuant to Subsection 4.a., or Mallards make payment to the City of the actual costs over \$1.3 million within thirty (30) days of written notification of actual costs over \$1.3 million by the City.
  - d. Public Bidding. The City shall bid the Project as a public works project subject to applicable state and local laws. If the City determines, upon receipt of construction bids for the Project, that the lowest responsive bid exceeds the estimated cost of the Project, the City, in its sole discretion, may do any of the following: accept the bid; adjust the bid pursuant to alternative bids to be within the estimated cost of the Project; redesign and rebid the Project; cancel this Project and return to the Mallards the Mallards payment under Subsection 5.e.; or obtain additional upfront funding from Mallards. The City will consult with the Mallards prior to taking any action pursuant to this paragraph, but Mallards is bound by the City's decision and the provisions of Subsection 4.a.

- e. Payment by Mallards. The Mallards shall transfer to the City the sum of \$500,000 for the Bleacher Improvement Project on or before the date the City issues the advertisement for bids for the Project, for use by the City on the Project. The Mallards hereby expressly waive and renounce any right to repayment of or reimbursement of this Contribution, except as is set forth in Subsection 5.i. herein. Included in this figure is the Mallards contribution toward the design costs for the Project. Within thirty (30) days of completion of the Project, City shall provide Mallards with a complete accounting of the costs incurred as a result of the Project. At that time, pursuant to Subsection 4.a., the City shall either return Mallards' proportionate share of cost savings, or provide Mallards notice that actual costs exceed \$1.3 million, and that the additional costs are due to the City within thirty (30) days. Failure to pay these costs to the City within thirty (30) days shall constitute a breach of this Improvement Agreement and will enable the City to make a demand upon the Letter of Credit to secure payment by Mallards.
  - f. Completion of the Project. The construction contractor chosen in the public bidding process shall undertake and construct the Project consistent with the Plans and Specifications, the City's Standard Specifications for Public Works Construction and the Project Budget. The City and the construction contractor will endeavor to reach substantial completion of the Project on or before April 30, 2011. However, if due to the timing of the execution of this Improvement Agreement and accompanying Use Agreement by the Parties it becomes apparent that the Project cannot be completed in time for the start of the 2011 baseball season, the Parties can agree to extend this Project deadline to April 30, 2012 so as to ensure no interference with the 2011 baseball season. This agreement shall be in writing.
  - g. Rights of Access to Project. The City shall permit the representatives of the Mallards to have access to the Project at all reasonable times during construction of the Project upon the Mallards' request. No compensation shall be payable nor shall any charge be made in any form by any party for the access provided in this Section.
  - h. Design Disputes During Construction. The City and the Mallards shall attempt in good faith to resolve any controversy or claim arising during the construction of the Project. If during the construction of the Project, the Mallards determine that the work performed substantially deviates from the Plans and Specifications, the Mallards may request that the dispute be referred to a representative of the City of Madison Superintendent of Parks, a representative of the City of Madison Engineer and a representative of the Mallards who will serve as the final arbiters of any construction disputes.
  - i. Mallards Contribution. The City agrees to use the Mallards Contribution and any interest earned thereon for the sole and exclusive purpose of funding the Bleacher Replacement Project. The City agrees to provide regular accountings, invoices and copies of construction draws to the Mallards upon their request. If, for any reason, the Project does not go forward, any unspent and unencumbered amounts of the Mallards contribution shall be returned to the Mallards.
6. Future Ballpark Improvements. Pursuant to Mallards' obligations under Section 4.b. to make at least \$500,000 in Future Ballpark Improvements during the term of the Use Agreement, the City and Mallards obligations are as follows:

- a. Plans and approval. Prior to making any Future Ballpark Improvement, Mallards must notify the Parks Superintendent, or representative, the City's Risk Manager, and the Warner Park area alderpersons in writing of the anticipated improvement. Mallards shall then present the plans for the Future Ballpark Improvement to the Board of Parks Commissioners, who shall either approve the improvement, or reject the improvement. If rejected, Mallards has no appeal rights, but may present a modified plan to the Board for reconsideration at a later date. Depending on the nature of the proposed Future Ballpark Improvement, the Board of Parks Commissioners may require, before approving or rejecting the improvement, an advisory opinion from the Board of Public Works.
  - b. Construction. The funding and construction of any Future Ballpark Improvement under this Section is entirely the responsibility of the Mallards, who shall be responsible for obtaining any required permits, licenses, and approvals for the improvement.
  - c. Donation and Acceptance of Improvements. Once constructed, Mallards shall notify the Parks Superintendent, or designee, who shall then have the improvement inspected. If the Parks Superintendent, or designee, is satisfied that the improvement is consistent with the approved plans, and there appear to be no obvious defects or deficient workmanship, the City will accept the improvement, which will be considered a donation by Mallards to the City for the use and enjoyment of City residents who use the Ballpark.
  - d. Warranties and Representations. Mallards agrees that when making Future Ballpark Improvements, it will ensure that any and all warranties and representations made to Mallards by the builder, contractor, manufacturer, etc., regarding the improvement, shall also extend to the City, who shall assume ownership of the improvement once completed.
  - e. Accounting. Mallards shall account for the costs of Future Ballpark Improvements. Upon the acceptance of the improvement, Mallards shall supply City with a final accounting of the costs of the improvement, which amount will be applied towards Mallards requirements under Subsection 4.b.
7. Ownership of Improvements. Any improvements made to the Ballpark pursuant to this Improvement Agreement shall be the property of the City upon completion and acceptance, where required, regardless of the source(s) of financial contributions for the improvement. While Mallards may use the improvements pursuant to the terms and conditions of the Use Agreement, Mallards has no ownership right in any of said improvements.
  8. General Requirements.
    - a. Nondiscrimination. In the performance of its obligations hereunder, the Mallards agree not to discriminate against any employee or applicant for employment because of race, religion, marital status, age, color, sex, handicap, national origin or ancestry, income level or source of income, arrest record or conviction record, less than honorable discharge, physical appearance, sexual orientation, political beliefs or student status. The Mallards further agree not to discriminate against any

subcontractor or person who offers to subcontract on this Agreement because of race, religion, color, age, disability, sex or national origin.

- b. Disclaimer of Relationships. The Mallards acknowledge that nothing contained in this Agreement or any contract between the parties hereto, nor any act by the City, or any of the parties, shall be deemed or construed by any of the parties, or by third persons, to create any relationship of third-party beneficiary, principal or agent, limited or general partnership, or joint venture, or of any association or relationship involving the City.
- c. Conflict of Interest. No member, officer, employee or agent of the Mallards or any of their respective designees, or agents, or consultants, who is or has been a public official of the City and who exercises or who has exercised any function of responsibility with respect to the Project during his or her tenure as such public official, or who is in a position to formally participate in a decision-making process or gain insider information with respect to this Improvement Agreement, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, or work to be performed in connection with this Improvement Agreement, or in any activity, or benefit therefrom, which is part of this Improvement Agreement at any time during such person's tenure as such public official except as such interest may be due to or the subject of any contract, subcontract or agreement of any kind involving the City.

9. Insurance and Indemnification.

a. Insurance.

- 1) City Requirements. During and after construction of the Bleacher Replacement Project, the City shall maintain or cause to be maintained in effect property insurance against such risks with respect to the Bleacher Replacement Project as are customarily insured against by the City for public facilities of like size and character. The City shall also do likewise for any Future Ballpark Improvements once accepted by the City.
- 2) Mallards Requirements. During the construction and prior to the acceptance by the City of any Future Ballpark Improvements, Mallards will insure, and will require each subcontractor to insure, as indicated, against the following risks to the extent stated below. Mallards shall not commence the construction of any Future Ballpark Improvements, nor shall Mallards allow any Subcontractor to commence work on any Future Ballpark Improvements, until the insurance required below has been obtained and corresponding certificate(s) of insurance have been approved by the City Risk Manager.
  - a) Commercial General Liability. Mallards shall procure and maintain during the construction of any Future Ballpark Improvements, Commercial General Liability insurance including, but not limited to bodily injury, property damage, personal injury, and products and completed operations (unless determined to be inapplicable by the Risk Manager) in an amount not less than \$1,000,000 per occurrence. This policy shall also provide contractual liability in the same

amount. Mallards' coverage shall be primary and list the City of Madison, its officers, officials, agents and employees as additional insureds. Mallards shall require all subcontractors under this Improvement Agreement (if any) to procure and maintain insurance meeting the above criteria, applying on a primary basis and listing the City of Madison, its officers, officials, agents and employees as additional insureds.

- b) Automobile Liability. Mallards shall procure and maintain during the construction of any Future Ballpark Improvements Business Automobile Liability insurance covering owned, non-owned and hired automobiles with limits of not less than \$1,000,000 combined single limit per accident. Mallards shall require all subcontractors under this Improvement Agreement (if any) to procure and maintain insurance covering each subcontractor and meeting the above criteria.
- c) Worker's Compensation. Mallards shall procure and maintain during the construction of any Future Ballpark Improvements statutory Workers' Compensation insurance as required by the State of Wisconsin. Mallards shall also carry Employers Liability limits of at least \$100,000 Each Accident, \$100,000 Disease – Each Employee, and \$500,000 Disease – Policy Limit. Mallards shall require all subcontractors under this Improvement Agreement (if any) to procure and maintain such insurance, covering each subcontractor.
- d) Umbrella Liability. Mallards shall procure and maintain during the construction of any Future Ballpark Improvements Umbrella Liability coverage at least as broad as the underlying Commercial General Liability, Business Automobile Liability and Employers Liability with minimum limits of \$4,000,000 per occurrence and in the aggregate.

Acceptability of Insurers. The above-required insurance is to be placed with insurers who have an A.M. Best rating of no less than A- (A minus) and a Financial Category rating of no less than VII.

Proof of Insurance, Approval. Mallards shall provide the City with certificate(s) of insurance showing the type, amount, class of operations covered, effective dates, and expiration dates of required policies prior to commencing the construction of any Future Ballpark Improvements under this Improvement Agreement. Mallards shall provide the certificate(s) to the City's representative upon approval of the Future Ballpark Improvement by the Board of Parks Commissioners and before commencement of construction, or sooner, for approval by the City Risk Manager. Mallards shall provide copies of additional insured endorsements or insurance policies, if requested by the City Risk Manager.

Mallards and/or Insurer shall give the City thirty (30) days advance written notice of cancellation, non-renewal or material changes to any of the above-

required policies during the construction of any Future Ballpark Improvements.

- b. Indemnification. The Mallards shall be liable to and hereby agrees to indemnify, defend and hold harmless the City of Madison, and its officers, officials, agents, and employees against all loss or expense (including liability costs and attorney's fees) by reason of any claim or suit, or of liability imposed by law upon the City or its officers, officials, agents or employees for damages because of bodily injury, including death at any time resulting therefrom, sustained by any person or persons or on account of damages to property, including loss of use thereof, arising from, in connection with, caused by or resulting from the Mallards' acts or omissions in the performance of this agreement, whether caused by or contributed to by the negligence of the City, its officers, officials, agents, or its employees. The Mallards, for themselves and their successors and assigns, hereby waive all rights of recovery and causes of action as against the City and any of its officers, officials, agents, employees, invitees, consultants and contractors, for any damage to the Ballpark, whether caused by negligence or otherwise.
10. Events of Default. Any one or more of the following events is an Event of Default under this Improvement Agreement:
- a. If payment due under the Use Agreement is not paid when due and the nonpayment shall continue for fifteen (15) days after written notice to the Mallards.
  - b. Any representation of the Mallards shall prove to have been false in any material respect.
  - c. Noncompliance or breach of the performance or observance of any of the covenants, agreements or conditions on the part of the Mallards of this Improvement Agreement and the continuance thereof for a period of thirty (30) days after receipt by the Mallards of written notice from the City specifying such noncompliance or breach and requesting that it be corrected. Such period may be extended by the City, at its option and in its sole discretion, by giving written notice to the Mallards, prior to the expiration of time specified in the original notice, if the Mallards are diligently and in good faith correcting such default.
  - d. Noncompliance or breach of the performance or observance of any of the material terms or conditions of the Use Agreement after the expiration of any applicable cure period.
  - e. The Mallards shall:
    - 1) Make a general assignment for the benefit of creditors or to an agent authorized to liquidate any substantial amount of its property;
    - 2) Have a court order relief against it under the Bankruptcy Reform Act of 1978;
    - 3) File a petition under Chapter 7 or 11 of the Bankruptcy Reform Act of 1978 or to effect a plan or other arrangement with creditors;



- 4) File an answer to a creditor's petition, admitting the material allegations thereof, for liquidation, reorganization or to effect a plan or other arrangement with creditors;
- 5) Apply to a court for the appointment of a receiver for any of its assets; or,
- 6) Have a receiver appointed for any of its assets and such receiver shall not be discharged within sixty (60) days after his or her appointment.

11. Remedies.

- a. In General. Upon the occurrence of an Event of Default, the City may make a demand upon the Letter of Credit as set forth under Section 5, or pursue any available remedy by suit at law or in equity. No remedy conferred upon or reserved to the City under this Improvement Agreement is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Improvement Agreement or now or hereafter existing at law or in equity or by statute. In the event the Mallards should default under any of the provisions of this Improvement Agreement and the City should employ or assign attorneys or incur other expenses for the collection of any payments due hereunder or the enforcement of performance of any obligation on the part of the Mallards under this Improvement Agreement, the Mallards will on demand pay to the City the reasonable costs, charges or fees of such attorneys and such other expenses so incurred.
- b. Enforced Delay in Performance for Causes Beyond the Control of the Parties. For the purpose of any provisions of this Improvement Agreement, the City shall not be considered in breach or default of its obligations with respect to the beginning and completion of construction of the Bleacher Replacement Project or progress in respect thereto in the event of enforced delay in the performance of such obligations due to unforeseeable causes beyond its control and without its fault or negligence, including, but not restricted to acts of God, judicial or administrative injunctions or challenges to the Project, acts of public enemy, acts of the Federal government, fires, floods, epidemics, quarantine restrictions, unforeseen Site or market conditions, strikes, embargos, unusually severe weather or delays of subcontractors due to such causes. It is the purpose and intent of this provision that in the event of the occurrence of any such enforced delay, the time or times of performance of any of the obligations of the City with respect to construction of the Bleacher Replacement Project shall be extended for the period of the enforced delay; provided that the party seeking the benefit of the beginning of any such enforced delay shall have first notified the other parties thereof in writing and of the cause or cause thereof and requested an extension for the period of the enforced delay.
- c. Rights and Remedies Cumulative. The rights and remedies of the parties to this Improvement Agreement, whether provided by law or provided by the Agreement, shall be cumulative, and the exercise by any party of any one or more of such remedies shall not preclude the exercise by it at the same or different times of any other such remedies for the same even to default or breach or any of its remedies for any other event of default or breach by any other party. No waiver made by either such party with respect to the performance or manner or time thereof or any

obligation of any other party or any condition to its own obligation under the Agreement shall be considered a waiver of any rights of the party making the waiver or any other obligations of any other party.

12. Special Provisions.

- a. Wisconsin Law. This Agreement shall be deemed to have been made in the State of Wisconsin and its validity, construction, performance, breach and operation shall be governed by the laws of the State of Wisconsin.
- b. Approvals. Whenever under this Improvement Agreement approvals, authorizations, determinations, satisfactions or waivers are authorized or required, such approvals, authorizations, determinations, satisfactions or waivers shall be effective and valid only when given in writing, by the officers of the City and the Mallards authorized by law to give such approval and delivered to the party to whom it is directed at the address specified hereunder. The City may reasonably rely upon actions taken by officials and employees of the Mallards purporting to act for the Mallards.
- c. Notices and Demands. A notice, demand or other communication under this Agreement by any party to any other party shall be sufficiently given or delivered if it is dispatched by registered or certified mail, postage prepaid, return receipt requested, or delivered personally to the parties at their addresses as follows, or such other addresses as the parties may designate to each other in writing from time to time:

City: Superintendent of Parks  
City of Madison Parks Division  
210 Martin Luther King, Jr. Blvd, Suite 104  
PO Box 2987  
Madison, WI 53701-2987

Mallards: Steve Schmitt  
2920 North Sherman Ave.  
Madison, WI 53704

- d. Counterparts. This Improvement Agreement may be executed in any number of counterparts, each of which shall constitute an original.
- e. Amendments, Supplements. This Improvement Agreement constitutes the entire agreement of the Parties, is not to be modified by any prior or subsequent statements of the Parties, and may be supplemented or amended only by written instrument executed by the Parties affected by such supplement or amendment.
- f. Severability. If any term or provision of this Improvement Agreement, or the application thereto to any person or circumstance, shall, to any extent, be invalid, unlawful or otherwise unenforceable, the remainder of this Agreement or the application of such term or provisions to the persons or circumstances other than those as to which it is invalid, unlawful or otherwise unenforceable shall not be affected thereby and every other term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

- g. Termination. Notwithstanding anything set forth to the contrary herein, or in any other documents evidencing or securing the obligations of the Mallards under this Agreement, this Improvement Agreement shall terminate and be of no further force and effect upon expiration or termination of the Use Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Improvement Agreement to be duly executed as of the date first above written.

CITY OF MADISON, WISCONSIN  
A municipal corporation

By: \_\_\_\_\_  
David J. Cieslewicz, Mayor  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Maribeth Witzel-Behl, City Clerk  
Date: \_\_\_\_\_

APPROVED:

\_\_\_\_\_  
Dean Brassler, City Comptroller  
Date: \_\_\_\_\_

\_\_\_\_\_  
Eric Veum, City Risk Manager  
Date: \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
Michael P. May, City Attorney  
Date: \_\_\_\_\_

MADISON MALLARDS, LLC

By:

\_\_\_\_\_  
[Title] Date: \_\_\_\_\_

\_\_\_\_\_  
[Title] Date: \_\_\_\_\_