

*** All present are expected to conduct themselves in accordance with our City's Core Values ***



OFFICIAL NOTICE AND AGENDA

of a meeting of a City Board, Commission, Department Committee, Agency, Corporation, Quasi-Municipal Corporation or Sub-unit thereof.

Notice is hereby given that the Park and Recreation Committee of the City of Wausau, Wisconsin will hold a regular or special meeting on the date, time and location shown below.

Meeting of the: **PARKS AND RECREATION COMMITTEE OF THE CITY OF WAUSAU**
 Date/Time: **Monday, March 4, 2024 at 4:30pm**
 Location: **407 Grant St, Wausau WI 54403 - Council Chambers**
 Members: **Dawn Herbst, Carol Lukens, Tom Kilian, Lou Larson, Sarah Watson**

AGENDA ITEMS FOR CONSIDERATION (All items listed may be acted upon)

- 1 Call the Meeting to Order
- 2 Public Comment or Suggestions
- 3 Approve Minutes - February 5, 2024
- 4 Discussion and Possible Action Authorizing the Execution of Lease for Radtke Point Park and Grace Park with the City of Schofield
- 5 Discussion and Possible Action Approving the Softball Use Agreement for Athletic Park
- 6 Educational Items
 - A. Park Updates (Athletic Park, Gilbert Park, Brockmeyer Park, Oak Island Restroom, Sylvan Hill, Encampments, City Ballfields)
- 7 Future Agenda Items -
- 8 Discussion and Possible Action on the Absence of the Director for the Next Meeting Date - April 1, 2024
- 9 Adjournment

Jamie Polley, Director

Members of the public who do not wish to appear in person may view the meeting live over the internet on the City of Wausau's YouTube Channel <http://www.tinyurl.com/WausauCityCouncil>, live by cable TV, Channel 981, and a video is available in its entirety and can be accessed at <https://tinyurl.com/WausauCityCouncil>. Any person wishing to offer public comment who does not appear in person to do so, may e-mail Jamie.polley@co.marathon.wi.us with "Parks Committee public comment" in the subject line prior to the meeting start. All public comment, either by email or in person, if agendaized, will be limited to items on the agenda at this time. The messages related to agenda items received prior to the start of the meeting will be provided to the Chair.

In accordance with the requirements of Title II of the Americans with Disabilities Act of 1990 (ADA), the City of Wausau will not discriminate against qualified individuals with disabilities on the basis of disability in its services, programs or activities. If you need assistance or reasonable accommodations in participating in this meeting or event due to a disability as defined under the ADA, please call the ADA Coordinator at (715) 261-6622 or ADAServices@ci.wausau.wi.us to discuss your accessibility needs. We ask your request be provided a minimum of 72 hours before the scheduled event or meeting. If a request is made less than 72 hours before the event the City of Wausau will make a good faith effort to accommodate your request.

This Notice was posted at City Hall and transmitted to the Daily Herald newsroom on 02/29/24 @ 4:10 p.m. Questions regarding this agenda may be directed to Jodi Luebbe, Park Office (715) 261-1560.

Distribution List: City Website, Media, WSD-Admin, Alderpersons, Mayor, Polley, Dept. Staff, Maryanne Groat, Brad Lenz, Eric Lindman, Lance Leonhard, Wisconsin Woodchucks, Wausau Events, Public Access, Wausau River District

4. Discussion and Possible Action Authorizing the Execution of Lease for Radtke Point Park and Grace Park with the City of Schofield

The lease between the City of Wausau and the City of Schofield for Radtke Point Park and Grace Park expires on March 11, 2024. The City Attorney's office has been working with the City of Schofield to renew the leases. The City of Schofield approved the lease agreements on February 13, 2024. The leases were approved by the Airport Committee on February 14, 2024. The Parks and Recreation Committee is asked to recommend to the City Council the authorization of the execution of the lease. Once recommended by the Parks Committee the lease will go to the City Council for approval on March 12.

5. Discussion and Possible Action Approving the Softball Use Agreement for Athletic Park

The Parks and Recreation Committee has been made aware that Mr. Mark Macdonald, owner of the Wausau Woodchucks, is interested in bringing a college level softball team to Wausau beginning in 2025. The Park Committee and City Council previously approved the installation of turf on the infield of Athletic Park. The turf is a requirement to accommodate the field use by softball in addition to baseball. The college level softball team will be a long-term user of Athletic Park like the Wausau Woodchucks which calls for a long-term agreement vs the annual agreement that we have with most other users. The proposed facility use agreement is for 10 years beginning January 1, 2025. It is being brought forward now for approval so that Mr. Macdonald has confirmation to complete his commitment with the league to bring a softball team to Wausau and to coordinate the installation of the turf.

Staff and Mr. Macdonald have agreed upon the proposed use agreement and the agreement has been reviewed by both Mr. Macdonald's attorney as well as the City Attorney. The Parks and Recreation Committee is asked to recommend approval of the Softball Use Agreement for Athletic Park to the City Council.

6A. Park Updates

Athletic Park Bull Pen Blacktop Renovation: We do have some fence install work to do before the opener. DPW will be paving the area for us. Our work is dependent on when DPW can get asphalt.

Gilbert Park: Questions have arisen regarding the red pine, the red pine is not leaning more.

Brockmeyer Park: Quotes on a new backstop are still coming in. New doors and windows have been ordered for the press box renovation.
-Infested ash tree has been removed.

Oak Island: The building is up and construction is completed for the most part. We are still working on electrical. France Plumbing should be in soon to start the finish plumbing. Items that we still have to do: parking lot modification, new light pole with lights and possible camera, and concrete work around the building.

Sylvan Hill: Despite the weather we have had a very successful season. Our staff worked extremely hard to keep the hill in usable condition and open when it needed to be. Kudos to all the staff involved and for their willingness to put in extra time to make the hill available. Sunday, March 3rd is the last rental and will be the last day that the tubing hill is open.

Encampments: We once again have removed encampments following the proper notice at Riverside Park, Ilse of the Ferns and the 400 Block.

City Ballfields: We will start to work on City ballfields next week in anticipation of an early spring.

DRAFT
CITY OF WAUSAU – PARKS AND RECREATION COMMITTEE MEETING MINUTES

Date/Time: February 5, 2024 at 4:30 p.m. Location: Council Chambers, City Hall
Parks and Recreation Committee Members Present: Dawn Herbst (c), Tom Kilian, Carol Lukens, Sarah Watson, Lou Larson
Others Present: Jamie Polley-Parks Director, REI Representative – Matthew Michalski

1. In accordance with Chapter 19, Wisc. Statutes, notice of this meeting was posted and sent to the Daily Herald in the proper manner. A quorum was present and the meeting was called to order at 4:30pm.
2. Public Comment or Suggestions – Gary Gisselman, 319 Park Avenue, Alderperson 5th District – regarding remediation in Riverside Park that good work has been done already and he hopes any additional work that needs to be done in the park is completed.
3. Approve Minutes – December 4, 2023 – **Motion** by Watson, second by Larson to approve the Park and Recreation Committee draft December 4, 2023 minutes. Motion **carried** by voice vote, vote reflected as 5-0.
4. Discussion and Possible Action Reviewing the Results from the Riverside Park Remediation Project – Presentation by REI – Michalski summarized some of the remedial actions that were completed in 2023. 1829.03 tons of contaminated soil was excavated and hauled to the landfill. Two sidewall samples from a small hand excavation done near the bike polo court continued to show exceedances so that area will require additional investigation. Additionally, there were two samples along a residential property and one additional sample that would have been part of the low spot that fed into the culvert right on the property boundary that continued to show exceedances. REI’s report was submitted to the DNR on January 24th. Part of the request to the DNR is to make a determination on responsible party for any samples at the top of the hill that showed exceedances as previously identified as an upgradient area. That will be part of their final review and determination on potentially either additional investigation of those areas or submitting responsible party letters to other parties. Michalski discussed the two sidewall samples in the park. Kilian asked about the ash that was noted nearby the samples with exceedances along the residential backyard property boundaries. Michalski said one of the potential sources of dioxins is incomplete combustion so something like ash from potentially a grill or fireplace could be contributing dioxins to at least a small area right around the ash. He had removed some potential yard waste on the park side of the fence and that’s when he saw what appeared to be ash. It wasn’t collected and analyzed by a lab it was just an observation he made, there was some other waste found on the hill while they were doing the excavation. Kilian felt, unless he was misunderstanding, if the thought was that could be a contributing source then it should have been collected, analyzed and the profile in the ash compared to the profile in the soil which would have been a scientific valid way of drawing a conclusion. Michalski said at that time he was looking more at defining it and wasn’t worried about identifying potential additional sources. The soil sample is taken from 2 to 3 inches below that grade and the material is still there so it still can be sampled. Kilian discussed some results from a previous aerial deposition study. He again stressed how important congener profiles were to have to be able to analyze and compare. Kilian had a question about the S29 sample that in the report it’s mentioned most of the contamination in the park was apparently from stormwater that came from the culvert and dispersed into the park. Michalski said that’s the current theory based on just the concentrations from the outfall of the culvert. The DNR was initially considering the culvert to be the point source discharge. That was why the City was listed as the responsible party and that S29 still would have been taken in but would have historically more than likely been the depression that at least was right adjacent to that culvert. The property line and fence was three to four feet off the end of the culvert where that S29 sample was. There’s been changes to the topography so it’s hard to say exactly how that continued but it was a lower spot than either side of it. Kilian thought the topography sloped down west to east so historically the stormwater was flowing east toward the park. Michalski said he didn’t have any historic topography of that area that he has reviewed at this time and that was partially why he put it up to the DNR to make the determination as it was on the property boundary with the park and again what was considered upgradient of what was initially identified by the DNR as the source area. Kilian discussed what had been west of the culvert historically. He said he had looked at 1974 aerial imagery and it appeared to show stacking of industrial materials with discolored or stained soil around it. He thought it would be helpful for Committee and Council to also see that, to overlay REI’s excavation and the former culvert location over that 1974 aerial imagery. Lastly, depending on how this unfolds he

would like to see park neighbor's concerns recognized that were given to him about wanting to make sure this hasn't migrated to their backyards.

5. Discussion and Possible Action on Presentation of 2023 Year in Review – Polley gave highlights on some of the work done in the City and County which included tree removals and plantings mainly dealing with Emerald Ash Borer, trees planted in Marathon Park, added activities to recreation programming, offered 200 swim lesson classes for 673 students, increased swim lesson revenue, served approximately 10,000 patrons at Sylvan Tubing Hill, replaced watermain and laterals at Marathon Park, sold timbersales above the \$305,000 evenflow budgeted amount. Some specific projects included installed Lincoln Tot Lot playground, two rounds of goat vegetation management, helped with Athletic Park video scoreboard installation, continued to partner with the Fire Department for a pop-up splashpad, worked with Wausau School District to build a new kiosk at Scholfield Park boat launch, worked on new Oak Island Park restroom, worked with Highway and Public Works Departments on paving projects, installed new docks, put in a self-service kayak launch at DC Everest Park, updated plans, increased camping revenue, and much more.

6. Discussion and Possible Action on the 2024 Parks, Recreation & Forestry Department Work Plan – County Capital Improvement projects approved using ARPA funds include Eastgate Hall renovation, dump station installation at Dells of Eau Claire campground, Nine Mile septic system replacement. County small projects include DC Everest Park restroom completion, Dells of the Eau Claire manager cabin update and group campground well. At Riverlife the concession fence will be replaced and the leaper jet will be repaired/replaced. A push button will be installed at the 400 Block fountain to reduce water usage. Other work includes Department consolidation plan, ice arena feasibility study, Memorial and Schulenberg slide restoration, Stewart Park wall cap and tuckpointing, build skatepark, complete Oak Island restroom, 400 Block safety bollards, work on Rib Falls master plan, AED/Save Station grant, Athletic Park Clubhouse review and more.

7. Educational Items

A. Park Updates – Brockmeyer Park – JoJo's Jungle – working with volunteer group on plant replacement and design with the work to be done in spring 2024, repairs are being made to the ballfield shed door. Oak Island Restroom – The new restroom construction continues; the exterior is mostly complete, and staff will begin to work on the interior installing fixtures and partitions. Kaiser Pool – Contracting company, Fisher, continues work on slide stairs and repairs to play features. These are planned small projects. Scholfield Park – The boat launch kiosk is installed. This was a joint project between our department and the Wausau School District. Schulenberg Pool – Contracting Company, Fisher continues work on play feature slide repair. 400 Block – Ice rink was up and running however with the unseasonably warm temperatures the rink is now closed. The 400 Block is the only outdoor rink that was able to be built this year. Sylvan Hill – The tubing hill is up and running currently with both hills available. We are watching the conditions of the hill daily as the warm temperatures and rain are melting the snow. We plan to keep at least one hill open as long as possible. Staffing has been a bit of a challenge at times. Snow Removal – The crews are completing snow removal and brining at various location as needed.

8. Future Agenda Items – contract for City services

9. Next Meeting Date – March 4, 2024 at 4:30pm in the Council Chambers at City Hall.

8. Adjournment – **Motion** by Larson, second by Watson to adjourn at 5:10pm. Motion **carried** by voice vote, vote reflected as 5-0.

CITY OF WAUSAU, 407 Grant Street, Wausau, WI 54403

**JT. RESOLUTION OF AIRPORT COMMITTEE AND
PARKS AND RECREATION COMMITTEE**

Authorizing execution of lease for Radkte Point Park and Grace Park with the City of Schofield

Committee Action: Airport Committee Approved 6 - 0
 Parks and Recreation Committee Approved _____

Fiscal Impact: Annual amount equivalent to the annual operations and maintenance costs of the Premises to be paid by in kind operations and maintenance services performed by the City of Schofield.

File Number: 82-0526

Date Introduced:

FISCAL IMPACT SUMMARY

| | | | | |
|---------------|---|---|--|--|
| COSTS | <i>Budget Neutral</i> | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | |
| | <i>Included in Budget:</i> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | <i>Budget Source:</i> |
| | <i>One-time Costs:</i> | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | <i>Amount:</i> |
| | <i>Recurring Costs:</i> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | <i>Amount:</i> |
| SOURCE | <i>Fee Financed:</i> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | <i>Amount:</i> |
| | <i>Grant Financed:</i> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | <i>Amount:</i> |
| | <i>Debt Financed:</i> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | <i>Amount</i> <i>Annual Retirement</i> |
| | <i>TID Financed:</i> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | <i>Amount:</i> |
| | <i>TID Source: Increment Revenue</i> <input type="checkbox"/> <i>Debt</i> <input type="checkbox"/> <i>Funds on Hand</i> <input type="checkbox"/> <i>Interfund Loan</i> <input type="checkbox"/> | | | |

RESOLUTION

WHEREAS, the City of Wausau is the owner of certain premises which are a part of the City of Wausau Downtown Airport (“Airport”); and

WHEREAS, these premises have been developed and maintained for park purposes and are named Radtke Point Park (“Radtke Park”) and Grace Park (“Grace Park”); and

WHEREAS, these premises are not presently used by the Airport for airport purposes, and have not been in use for airport purposes since 1968 in the case of Radtke Park and 1982 in the case of Grace Park; and

WHEREAS, the premises immediately adjoin the municipal boundaries of the City of Schofield; and

WHEREAS, the City of Schofield has used the premises for city parks for its residents and desires to continue to do so; and

WHEREAS, the premises have been the subject of a lease between the City of Wausau and the City of Schofield to comply with State of Wisconsin Bureau of Aeronautics and Federal Aviation Administration regulations and guidelines for the non-aeronautical use of airport property; and

WHEREAS, the lease has expired and it is necessary to renew it to keep the current use of the property in compliance with these regulations and guidelines; and

WHEREAS, the lease provides for a two (2) year term to commence retroactively on March 12, 2024, subject to a ninety (90) day termination provision by either party and a rent in an annual amount equivalent to the annual operations and maintenance costs of the premises to be paid by in kind operations and maintenance services performed by the City of Schofield, such services having been valued at \$4,775.00, and which will vary on an annual basis depending upon changing operational needs and costs; and

WHEREAS, your Airport Committee, at their February 14, 2024, meeting recommended that the lease, a copy of which is attached hereto and incorporated herein as “Exhibit 1” be approved; and

WHEREAS, your Parks and Recreation Committee, at their March 4, 2024, meeting recommended that the lease, a copy of which is attached hereto and incorporated herein as “Exhibit 1” be approved; and

WHEREAS, the City of Schofield has executed the copy of the attached lease.

NOW THEREFORE, BE IT RESOLVED, by the Common Council of the City of Wausau, that the Mayor is hereby authorized and directed to execute the two (2) year agreement for lease of Radtke Park and Grace Park, a copy of which is attached hereto and incorporated herein as “Exhibit 1.”

Approved:

Katie Rosenberg, Mayor

**LEASE AGREEMENT
RADTKE POINT PARK/GRACE PARK**

THIS AGREEMENT OF LEASE, made this ____ day of _____ 2024 (“Lease”), between the City of Wausau, a municipal corporation, located in Marathon County, Wisconsin, hereinafter referred to as “LESSOR,” and the City of Schofield, a municipal corporation, located in Marathon County, Wisconsin, hereinafter referred to as “LESSEE;”

RECITALS

WHEREAS, LESSOR and LESSEE enter into this Lease pursuant to the intergovernmental cooperation provisions of Wis. Stat. §66.0301; and

WHEREAS, LESSOR is the owner of certain premises further described on Exhibit A (“Premises”) attached hereto and incorporated herein which is part of the Wausau Downtown Airport; and

WHEREAS, said Premises are presently not in use for airport purposes; and

WHEREAS, said Premises have been developed and maintained for park purposes since at least 1968 and 1982 respectively and have been named Radtke Point Park and Grace Park since their dedication as park land; and

WHEREAS, LESSOR desires to maintain and preserve these Premises for the future needs and development of the Wausau Downtown Airport; and

WHEREAS, the parties for the benefit of the residents of their respective community wish to more fully express their intent as to the maintenance, improvements, and responsibilities associated with said park land.

NOW, THEREFORE, for good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, it is covenanted and agreed, between the parties as follows:

1. Term/Commencement. Subject to the termination provisions contained in paragraph 11 of this Lease, LESSOR hereby leases to LESSEE the “Premises,” for a term of two (2) years. This Lease shall retroactively commence on March 10, 2024.

2. Fees. LESSEE shall be liable to LESSOR, for rent in an annual amount equivalent to the annual operations and maintenance costs of the Premises, such amount to be paid by in kind operations and maintenance services performed by LESSEE. Such services are valued at \$4,775.00 and will vary on an annual basis depending on changing operational needs and costs. It being the express intent of the parties that LESSEE shall not pay monies at any time to LESSOR for fees or rent during the term of the Lease.

3. Use. LESSEE shall use the Premises exclusively as a public park. LESSEE agrees to cooperate with LESSOR in coordinating scheduled uses of the Premises with LESSOR'S airport management activities to avoid or minimize disruption to the operations of the airport. LESSEE shall further permit LESSOR occasional use and occupancy of the Premises, including the use and occupancy of the Premises for City of Wausau public events, LESSOR's airport management activities, and in the event of an emergency. LESSOR agrees to notify LESSEE of such airport management activities and associated requirements or its intention to use and occupy the Premises no less than 60 days in advance of the activity or use and occupancy except in the cases of aeronautical safety and security concerns in which case LESSOR shall give such notice as is practicable under the circumstances. In the case of actual use and occupancy of the Premises by LESSOR, LESSOR shall be responsible for the associated costs of such use and occupancy by LESSOR including repair of damage occurring as a result of its use and occupancy of the Premises.

4. Improvements. LESSEE shall not be allowed to make any improvements to the Premises without the prior written consent of the LESSOR. LESSEE shall be solely responsible for all expenses related to the construction and maintenance of the improvements and shall not engage in any use or development of the Premises which would conflict with normal airport operations or impede development or operation of airport maintenance access ways. LESSEE shall provide the LESSOR with 60 days advance written notice of its requested improvements, together with a statement of the costs of such improvements.

5. Restrictions on Use.

A. LESSEE expressly agrees to prevent any use of, or activities on the Premises which would interfere with or be a hazard to the flight of aircraft over the Premises, or to and from the airport, or interfere with air navigation and communication facilities presently or in the future serving the airport and specifically agrees not to permit the height of any structure, object of natural growth, or other obstruction to exceed height limits established in Title 49, Part 77 of the Code of Federal Regulations as shown on the map attached as Exhibit B, which is hereby incorporated herein by reference as if set forth at length. All costs of complying with said height limits shall be borne by LESSEE.

B. LESSEE shall not create any hazard which would interfere with the use of or the safety of air traffic at the Wausau Downtown Airport or which is contrary to the regulations of the Federal Aviation

Administration, the laws and regulations of the State of Wisconsin, and/or ordinances of the City of Wausau.

C. All use, occupancy, maintenance and operation of the Premises by LESSEE and LESSOR shall be in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, - Nondiscrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said regulations may be amended; and pursuant to Section 30, Civil Rights (49 U.S.C. 1730) of the Airport and Airway Development Act Amendments of 1976, as well as all other applicable federal, state and local laws.

6. Maintenance. LESSEE shall protect, maintain and operate the Premises, including any improvements, in good condition and in accordance with all applicable federal, state and local laws, including but not limited to the provisions of the ordinances of the City of Wausau pertaining to the maintenance of any such Premises, at the sole cost of LESSEE. LESSOR will inspect the Premises with a representative of LESSEE each year to identify any possible maintenance issues.

With respect to Radtke Point Park, LESSEE shall take such steps as are reasonable and prudent to protect the shoreline of the Premises at Radtke Point Park from further soil erosion by users of such Premises.

7. Right of Entry. LESSOR shall have free access and the right of entry to the Premises at all reasonable times for the purpose of examining or investigating the condition thereof, in order to exercise any right or power reserved to LESSOR under the terms and provisions of this Lease.

8. Assignment. LESSEE shall not sell or assign this Lease or sublet the Premises or any part thereof. This non-assignment provision does not prohibit LESSEE from renting portions of the Premises on short-term basis (one day or less) to individuals for special events, i.e., weddings, family reunions, and other events.

9. RISK ALLOCATION.

A. Immunity. Both parties are governmental entities entitled to governmental immunity under law, including Wis. Stats. § 893.80. Nothing contained herein shall waive the rights and defenses

to which each party may be entitled under law, including all of the immunities, limitations, and defenses under Wis. Stats. § 893.80 or any subsequent amendments thereof.

B. Responsible for Own Actions. LESSOR and LESSEE shall bear the risk of its own actions, as it does with its day-to-day operations.

C. Employee Claims. The employees of LESSOR and LESSEE shall be covered by his or her employing municipality for purposes of worker's compensation, under Wis. Stats. Ch. 102, unemployment insurance, and benefits under Wis. Stats. Ch. 40. Both parties waive subrogation rights each may have against the other party for claim payments under Wis. Stats. Ch. 102.

D. Insurance. LESSOR and LESSEE shall each maintain an insurance policy or maintain a self-insurance program that covers activities that it may undertake by virtue of this Agreement.

E. Survival of Obligations. The obligations set forth in this paragraph shall survive the termination or expiration of this Agreement.

10. Indemnification and Release. LESSEE shall defend, indemnify and hold harmless LESSOR, its employees, agents, and elected and appointed officials from and against all liabilities, losses, judgments, actions, suits, obligations, debts, demands, damages, penalties, claims, costs, charges and expenses, including reasonable attorneys' fees, of any kind or of any nature whatsoever which may be imposed, incurred, sustained or asserted against LESSOR, its employees, agents, and/or elected or appointed officials by reason of any injury or death to any person, or loss, damage, or destruction of any property or loss of use thereof, or otherwise arising as a result of the acts or omissions of LESSEE under this Lease.

LESSOR shall defend, indemnify and hold harmless LESSEE, its employees, agents, and elected and appointed officials from and against all liabilities, losses, judgments, actions, suits, obligations, debts, demands, damages, penalties, claims, costs, charges and expenses, including reasonable attorneys' fees, of any kind or of any nature whatsoever which may be imposed, incurred, sustained or asserted against LESSEE, its employees, agents, and/or elected or appointed officials by reason of any injury or death to any person, or loss, damage, or destruction of any property or loss of use thereof, or otherwise arising as a result of the acts or omissions of LESSOR under this Lease.

LESSEE hereby releases LESSOR, its employees, agents, and elected and appointed officials from and against all liabilities, losses, judgments, actions, suits, obligations, debts, demands, damages,

penalties, claims, costs, charges and expenses, including reasonable attorneys' fees, which may arise as a result of the acts or omissions of LESSEE under this Lease.

LESSOR hereby releases LESSEE, its employees, agents, and elected and appointed officials from and against all liabilities, losses, judgments, actions, suits, obligations, debts, demands, damages, penalties, claims, costs, charges and expenses, including reasonable attorneys' fees, which may arise as a result of the acts or omissions of LESSOR under this Lease.

11. Termination of Lease. Either party shall have the right to terminate this Lease upon ninety (90) days written notice to the other party, which will allow LESSEE sufficient opportunity to remove any improvements it may have made, at any time during the term of this Lease and for any reason whatsoever, including but not limited to LESSOR's determination, at its sole discretion, that the Premises are required for airport purposes. Upon expiration of this period, any improvements not removed by LESSEE shall remain the property of LESSOR without any cost to or further action by LESSOR. Upon such removal, LESSEE shall repair and restore the Premises to a safe and sightly condition. Any physical alterations or improvements to the land itself, such as landscaping, changes in topography or the like shall not be removed by LESSEE.

12. Grant Assurance and State Aid. LESSEE shall comply or take all steps necessary to enable LESSOR to comply with the requirements of current and future federal grant assurances and conditions of state aid.

13. Amendments. This Lease constitutes the entire agreement and understanding of the parties, and supersedes all offers, negotiations, and other agreements of any kind. There are no representations or understandings of any kind not set forth herein. Any modification of or amendment to this Lease must be in writing and executed by both parties.

14. Notices. All notices required by this Lease shall be in writing and personally delivered or sent First Class Mail to LESSOR, in care of the City Clerk, City Hall, 407 Grant Street, Wausau, Wisconsin 54403, and to LESSEE in care of the City Clerk, City Hall, 200 Park Street, Schofield, Wisconsin 54476.

15. Survival. All representations, indemnifications, warranties, and guarantees made in, required by, or given in accordance with this Lease, as well as all continuing obligations, will survive termination or expiration of this Lease.

16. Severability. If any portion of this Lease shall become illegal, null or void or against public policy, for any reason, or shall be held to be invalid or unenforceable by any court of competent jurisdiction, the remaining portions of this Lease shall not be affected thereby and shall remain in full force and effect to the fullest extent permissible by law.

17. Waiver. The failure of either party to enforce any of the provisions of this Lease shall not be construed as a waiver of such provision or of the right of the party thereafter to enforce each and every such provision.

IN WITNESS WHEREOF, the parties have caused this Lease to be executed on the date first above written.

CITY OF WAUSAU (LESSOR)

Witness

BY _____
Katie Rosenberg, Mayor

Attest:

Witness

Kaitlyn Bernarde, City Clerk

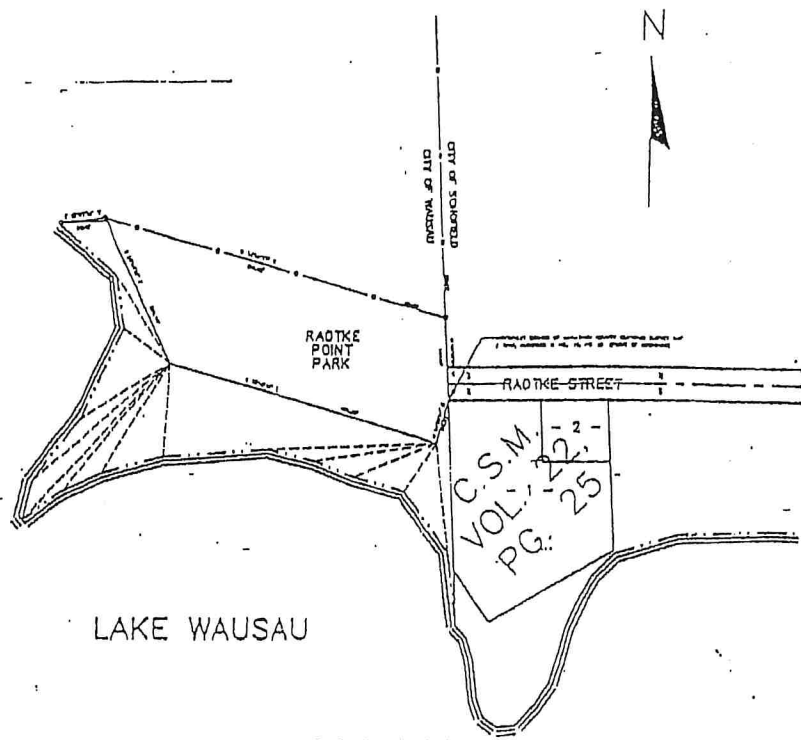
CITY OF SCHOFIELD (LESSEE)

Witness

BY _____
Kregg Hoehn, Mayor

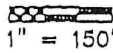
Witness

Paula Brummond, City Clerk



Detail Sketch

Scale



1" = 150'

Legal Description for Parcel of Land

A parcel of land located in Government Lot 2, Section 12, Township 28 North, Range 7 East, City of Wausau, Marathon County, Wisconsin, described as follows:

Beginning at the Northwest corner of Marathon County Certified Map # 5947, recorded in Volume 22, of Marathon County Certified Maps on page 25; thence N 02° 56' 00" W along the East line of said Government Lot 2, 124.15 feet to a fence corner; thence N 73° 59' 07" W along a fence line 518.82 feet to a fence corner; thence S 83° 57' 54" W along the fence line 64.00 feet to the low water line of Lake Wausau; thence Southwesterly along the said low water line to its intersection with the East line of said Government Lot 2; thence N 02° 56' 00" W, 324 feet more or less to the point of beginning.

EXHIBIT A - RADTKE POINT PARK

BOCK'S WAUSAU SCHOFIELD ADD.

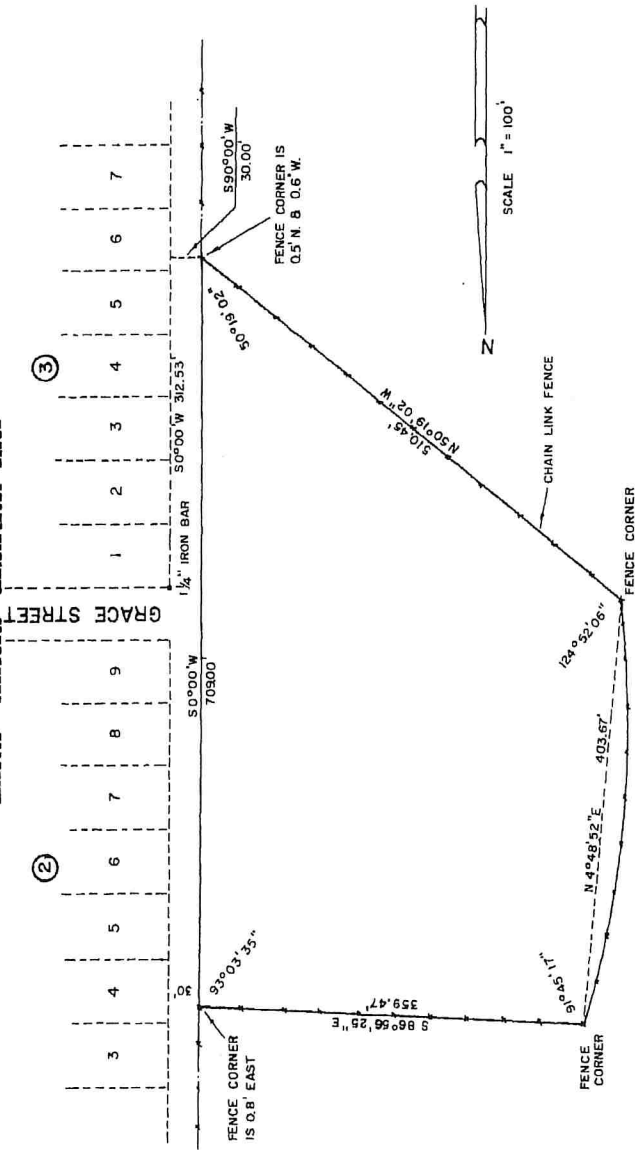


EXHIBIT A - GRACE PARK

2025

747479

300 City
City Engineer

REGISTER'S OFFICE
Marathon County, Wis.

Received for Record this
day of A.D. 19
at o'clock M and recorded
in Vol. of County, Wis.
on page
Robert J. Stumpe
Register

MAR 2 11 00

7479

CERTIFIED SURVEY MAP FOR CITY OF WAUSAU

I, Gordon Cary Bush, Surveyor, hereby certify: that I have surveyed and mapped a parcel of land located in Government Lot 2 and the SE $\frac{1}{4}$ of the NW $\frac{1}{4}$, all in Section 12, Township 28 North, Range 7 East, City of Wausau, Marathon County, Wisconsin, described as follows:

Commencing at the Northwest corner of Block 3 of Bock's Wausau-Schofield Addition; thence S0°00'W along the West line of said Block 3, 312.53 feet; thence S90°00'W, 30.00 feet to the point of beginning; thence N50°19'02"W, 510.45 feet; thence along the arc of curve to the right, said curve having a radius 1054.32 feet, a central angle of 22°04'24", and a long chord of 403.67 feet which bears N4°48'52"E; thence S86°56'25"E, 359.47 feet to the East line of the said SE $\frac{1}{4}$ of the NW $\frac{1}{4}$; thence S0°00'W along the East lines of the said SE $\frac{1}{4}$ of the NW $\frac{1}{4}$ and Government Lot 2, 709.00 feet to the point of beginning.

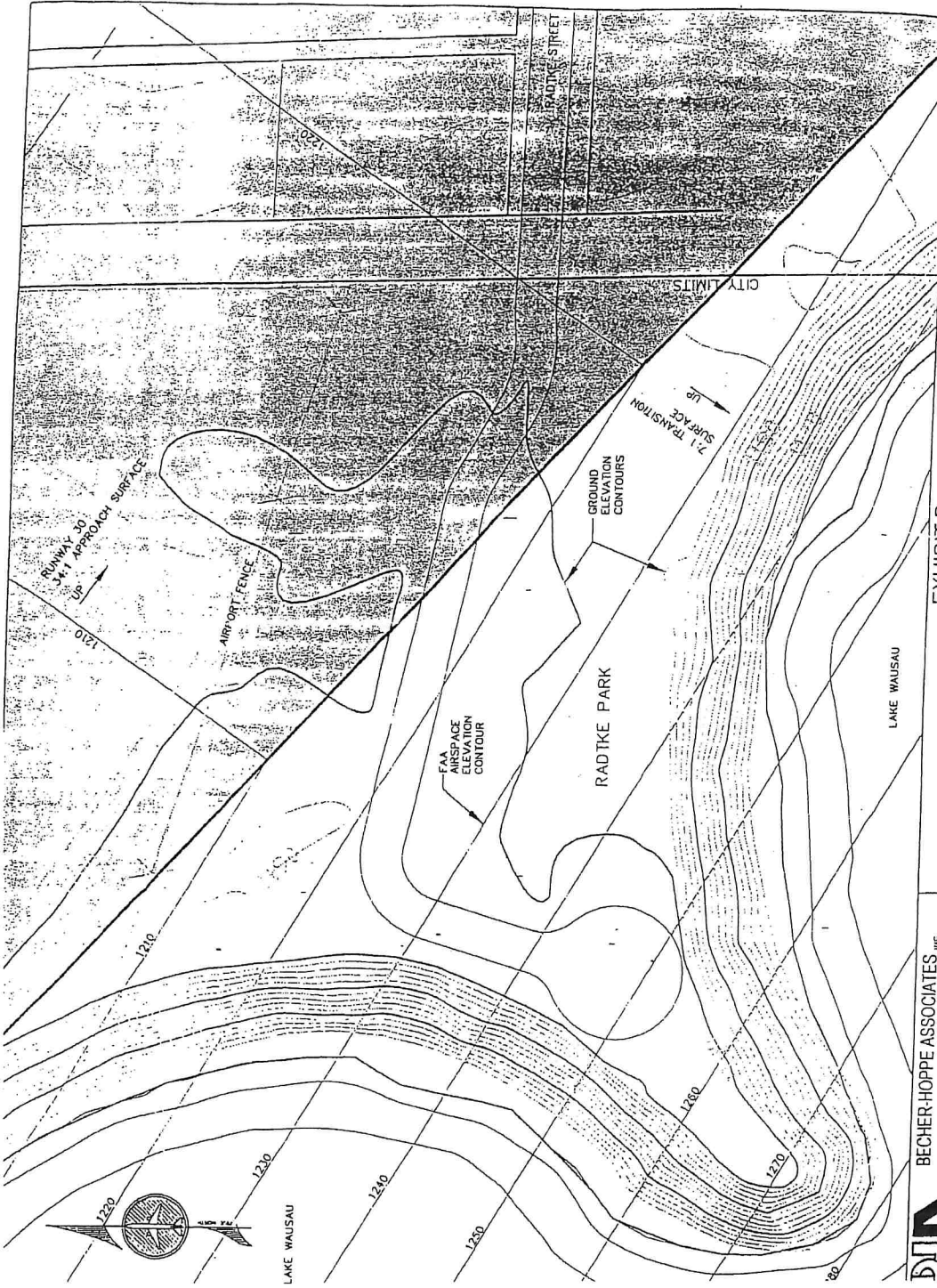
That such plat is a correct representation of all exterior boundaries of the land surveyed.

That I fully complied with the provisions of Chapter 236.34 of the Wisconsin Statutes.

Gordon Cary Bush, S778
Engineering Division
Department of Public Works
City of Wausau
March 1, 1979

G. Cary Bush





PROJECT NO. 2005 041 31
 SCALE: 1" = 80'
 DATE: 09/17/05

EXHIBIT B
 RADTKE PARK HEIGHT LIMITS
 WAUSAU DOWNTOWN AIRPORT

BHA BECHER-HOPPE ASSOCIATES, INC.
 ENGINEERS ARCHITECTS SCIENTISTS SURVEYORS
 150 WEST WISCONSIN STREET, SUITE 200, WAUSAU, WI 54980
 TEL: 715.845.8800 FAX: 715.845.8801 WWW.BECHERHOPPE.COM

ATHLETIC PARK USE AGREEMENT

THIS ATHLETIC PARK USE AGREEMENT (the “Agreement”) is made this ____ day of _____, 2023, by and between the **CITY OF WAUSAU**, a municipal corporation organized pursuant to the laws of the State of Wisconsin (hereinafter called “CITY”), **NORTHWOODS LEAGUE SOFTBALL, INC.**, a Florida corporation (hereinafter called “NORTHWOODS”), **CENTRAL WISCONSIN SPORTS & ENTERTAINMENT, LLC** (hereinafter called “CWSE”) and its subsidiary **WAUSAU COLLEGE SOFTBALL, LLC**, a Wisconsin limited liability company (hereinafter called “WCS”).

WITNESSETH:

WHEREAS, CITY owns the multiple use baseball and softball park and related facilities located at 324 East Wausau Avenue, Wausau, Wisconsin, commonly known as Athletic Park (hereinafter referred to as “Athletic Park”), and owns the neighborhood park located along North 5th Street, as it exists as of the date of this Agreement, between East Wausau Avenue and East Union Avenue in Wausau, Wisconsin (park hereinafter referred to as the “Neighborhood Park”) (Athletic Park and Neighborhood Park are referred to collectively hereafter as the “Combined Premises”), and has delegated the development, operation, and maintenance of Athletic Park and Neighborhood Park to the Wausau and Marathon County Parks, Recreation, and Forestry Department (herein called the “DEPARTMENT”); and

WHEREAS, NORTHWOODS and WCS are in a business relationship under which NORTHWOODS authorizes WCS to maintain and operate a Northwoods League softball team; and

WHEREAS, WCS desires to play scheduled softball games at Athletic Park and utilize related facilities (including Neighborhood Park) necessary to conduct a scheduled softball program with other members of NORTHWOODS, and CITY is willing to permit WCS and other NORTHWOODS affiliates to use said Athletic Park and related facilities for such purposes; and

NOW, THEREFORE, in consideration of the covenants and agreements hereinafter set forth, the parties hereto agree as follows:

ARTICLE I - TERM

CITY hereby agrees to permit WCS the use of the Combined Premises, and related facilities, on the days and times set out in the annual WCS League softball schedule; to play softball games with other NORTHWOODS-affiliated teams; and for scheduled exhibitions and playoff games, only as may be permitted by CITY. The term of this Agreement is to be for ten (10) years effective January 1, 2025, and ending December 31, 2034, unless sooner terminated as hereinafter provided.

ARTICLE II – FACILITIES

THE PARTIES AGREE THAT WCS SHALL:

1. **Northwoods Affiliation.** Maintain affiliation with NORTHWOODS and annually schedule at least twenty (20) home games at Athletic Park with teams in that league, which games shall be on a regular basis during the May through August WCS League softball season. Failure to maintain the affiliation with NORTHWOODS or to schedule the herein required amount of games shall constitute a

breach of this Agreement resulting in forfeiture of WCS's rights under this Agreement and immediate assignment of this Agreement to NORTHWOODS, provided, however, that WCS and/or NORTHWOODS shall remain liable for all obligations arising under this Agreement pursuant to the terms further outlined in Article VI, Paragraph 1.

2. Scheduling. The scheduling for WCS League games must consider the regular user as of 2024 which include Wausau East and Wausau West High Schools, American Legion Post 10 and Wausau Youth Baseball; efforts must be made to minimize conflicts with these users. A list of blackout dates will be submitted to WCS by October 15th of each year. WCS league games will utilize Athletic Park after May 15th of each year. CITY shall notify WCS by October 15th annually of potential scheduling conflicts at Athletic Park due to non-routine events such as multi-day tournaments for the following softball season. WCS shall participate in the annual December Athletic Park scheduling meeting to cooperatively schedule dates and times for the ensuing use season. WCS shall then submit its preferred Athletic Park use schedule to CITY by December 15th annually for the upcoming softball season. CITY reserves the right to make the final determination as to the scheduling of Athletic Park by April 15, but shall use its best efforts to accommodate WCS's scheduling requests that differ from the schedule submitted. Once CITY finalizes the upcoming season schedule based on the December scheduling meeting and WCS's preferred use schedule, CITY will not change that season's WCS use schedule on an involuntary basis. Scheduling priority will be as follows:

- May Prior to Memorial Day Weekend.
 - High School Teams located in Marathon County will have first priority on any dates. There will be no limits to the number of games they can request. These dates need to be presented to the scheduler prior to October 15th of the prior year.
 - Wausau Youth Baseball and Softball (WYBS) will have the next priority. These dates need to be presented to the scheduler prior to October 15th of the prior year.
- Memorial Day Weekend to August 25th.
 - American Legion (8 games) and Wausau Youth Baseball and Softball (4 games) will have first and equal priority in selecting dates in which none of the dates can be a Thursday or Friday. These dates need to be presented to the scheduler prior to October 15th of the prior year.
 - Wisconsin College Baseball (WCB) and Wausau College Softball (WCSB) have the next and equal priority. These dates need to be presented to the scheduler prior to December 15th of the prior year.
 - All other users will have ability to select dates at the December Scheduling Meeting. This will include any additional requests that American Legion and WYBS have.

3. Rental Fee. Pay an annual rental fee for each year of this Agreement; and, in addition, pay a fee per game played after the first twenty (20) WCS League softball games played at Athletic Park including, but not limited to, regular season, exhibition, all-star, playoff, and post season games and scheduled double-headers. A game shall be considered played when one pitch is thrown in the first inning. When a game that has been suspended is resumed in association with another WCS game on another day, the resumed portion of the suspended game will be considered as fifty percent (50%) of a game for fee purposes. In this event, field maintenance between the new game and the resumed game will be limited to relining if, in the opinion of CITY or DEPARTMENT, no further maintenance is needed to ensure safe field conditions for the second game. If a game that has been suspended is resumed on another day not in association with another WCS game, the resumed game will be considered to be a

full game for fee purposes. The annual rental fee and per game fee shall be adjusted annually to reflect changes in labor costs and materials costs. The adjustments will be calculated as follows:

A. **Years 2025-2034.** The annual fee for 2025 will be \$9,424.80 based on an individual game fee of \$471.24 (which individual game fee is only applicable to any WCS-sponsored WCS League softball games played at Athletic Park after the first twenty (20) games included in the annual rental fee), the annual rental fee shall increase by 3.0% each year.

4. **Rental Payments.** Payment of annual rental fees shall occur as follows:

A. The first half of the Athletic Park annual rental fee shall be payable within thirty (30) days of receipt of the invoice, not to be dated prior to June 10th of each year.

B. The second half of the Athletic Park annual rental fee, plus any individual game rental fees incurred for all games played beyond the scheduled NORTHWOODS League games, shall be payable within thirty (30) days of the receipt of the invoice, not to be dated prior to August 10th of each year.

5. **Facility Improvement Proposals.** Provide CITY written proposals for facility improvements or modifications to the Combined Premises with appropriate advance time to allow timely review and preparation of necessary plans and cost estimates within the CITY's normal planning and budgeting processes. All projects requesting DEPARTMENT project funds exceeding \$2,000 in a given year, or requesting CITY Capital Improvement Project ("CIP") funds, must have proposals completed and agreed upon by WCS and DEPARTMENT by June 1st of the year prior to the year in which the project is proposed to occur. All projects requesting CIP funds will be submitted to the CIP program through the Park and Recreation Committee.

6. **Improvements to Athletic Park prior to 2023.** Notwithstanding the provisions of the Use Agreement, all proposals for improvement to Athletic Park heretofore delivered to CITY and the DEPARTMENT and completed prior to 2023, are subject to the provisions of the Use Agreement, as amended hereby. WCS will undertake certain alterations and improvements to Athletic Park approximately commencing in August 2024, including the installation of artificial turf on the infield, and purchasing a portable mound, portable outfield fencing and turf maintenance equipment.

7. **Artificial Turf.** WCS and DEPARTMENT will select an artificial turf of agreed upon quality. WCS will provide funding for the purchase and installation of artificial turf on the infield and agrees to purchase the portable mound, portable outfield fencing, replacement turf panels and equipment needed for the maintenance of the turf. The DEPARTMENT agrees to own and maintain the artificial turf per the manufacture specifications. The DEPARTMENT will own and maintain the equipment purchased to maintain the turf.

8. **Alterations to Athletic Park.** In no way permit Athletic Park to be substantially altered without prior written consent of the CITY. Such written consent shall address the following items: (a) the design, construction, and appearance of the alteration; (b) who pays to create and maintain it; (c) who purchases, builds, installs and maintains it; (d) who owns it; (e) who has liability for it; (f) what the period of the alteration will be; (g) who removes it and performs necessary rehabilitation; (h) and who pays for removal and rehabilitation.

9. **Non-Game Use of Athletic Park.** Use Athletic Park for college league softball game purposes and pre-season practice only. Pre-season practice shall total no more than sixteen (16) hours in total field use time per season. Practices shall be limited to no more than a total of eight (8) hours of field

use time in a given day and practices shall occur on no more than four (4) days per season. Activities other than college league softball games or practices require the prior written approval of the CITY. Fees for any non-softball activities will be determined on a per-event basis. There will be no field use fees for softball clinics that are free or have nominal fees when sponsored by WCS or when WCS players and/or coaches participate. Pre-season practices shall be closed practices with no use of spectator or concession facilities. There shall be no fee for using Athletic Park for WCS practices so long as the field lights are not used. In the event the field lights are used for WCS practices, the practice fee per practice session shall be the same as that year's high school game fee. If time is available on the schedule throughout the season, WCS may schedule practices at a cost of \$50 for two hours. It is understood that there will be no support from the DEPARTMENT in setting up the field and opening and closing the facility. All practices must be scheduled through the DEPARTMENT to not conflict with planned maintenance.

10. Allowed Combined Facility Events. For purposes of the Original Agreement, as amended hereby, an "Allowed Combined Facility Event" shall mean any non-softball event organized and conducted by WCS in the Combined Facilities. Notwithstanding any provisions of the Original Agreement, City hereby permits WCS scheduling priority for up to three (3) Allowed Combined Events provided that none of the dates fall between June 1st and August 15th. The scheduling shall be handled in the same manner as softball game scheduling. If WCS charges admission for an Allowed Combined Facility Event, WCS shall pay to City an event fee equal to the then applicable per game fee. If WCS does not charge admission for an Allowed Combined Facility Event, WCS shall pay an event fee to City in accordance with the annual adopted fee schedule; provided, however, that the event fees shall not be increased by the City by more than 3% per year (compounded annually) during the term of this Agreement. All services provided by City to WCS for softball game events shall also be provided in the same manner for any Allowed Combined Facility Event.

11. Use of Neighborhood Park. Have exclusive use of Neighborhood Park for WCS softball games and promotional events. WCS shall have the right to sell all services available inside Neighborhood Park for such games and events. WCS shall be responsible for cleaning Neighborhood Park after such uses by 10:00am the day following each game or event. There shall be no additional cost for the use of Neighborhood Park beyond those fees enumerated herein.

12. Subletting of Athletic Park. Neither sublet nor assign Athletic Park or any part thereof, without prior written consent of CITY. Such written consent shall address the purpose, party, area, time period, fees, and insurance. All rights of sublessees or assignees shall end with the termination of this Agreement and this termination provision shall be contained in all agreements between WCS and sublessees or assignees.

13. Enhancement of Image. In partnership with the CITY and the DEPARTMENT, operate the Combined Premises in such a manner that the interest and public image of the CITY and the DEPARTMENT are enhanced, not damaged.

14. Insurance. CWSE shall not commence use of premises under this Agreement until all insurance required under this paragraph is obtained, and such insurance has been approved by the DEPARTMENT, nor shall CWSE allow any subcontractor to commence use of premises until all similar insurance requirements have been obtained and approved. A certificate of insurance clearly specifying the required coverages shall be provided to the CITY on or before April 1st of each year. Beginning on January 1, 2030, and every five (5) years thereafter, CITY and CWSE shall evaluate whether the commercial general liability insurance coverage amount required above is reasonably adequate to insure

CWSE's use and enjoyment of the Combined Premises. Factors to be considered include, but are not limited to, past liability events incurred (if any), comparable insurance amounts for other NORTHWOODS affiliates, insurance industry standards, etc. Upon mutual agreement, the insurance amount provided by CWSE will be increased by no more than One Million and 00/100 Dollars (\$1,000,000.00) per evaluation event.

A. General Liability, Professional Liability and Property Damage Insurance. CWSE shall secure and maintain in force throughout the duration of the Agreement such General Liability, professional Liability, and Property Damage Insurance as shall protect him/her and any sub-user covered by this Agreement from claims for damages for personal injuries, including accidental death as well as from claims for property damage, which may arise from use under this Agreement, whether such use be by CWSE or by any sub-user or by anyone directly or indirectly employed by wither of them; and the minimum amount of such insurance shall be as follows:

- (a) Commercial General Liability at least as broad as Insurance Services Office Commercial General Liability Form, including coverage for Products Liability, Completed Operations, Contractual Liability and Explosion, Collapse, Underground coverage:
 - (i.) \$2,000,000 each Occurrence limit
 - (ii.) \$1,000,000 Personal and Advertising Injury limit
 - (iii.) \$2,000,000 general aggregate
 - (iv.) \$50,000 Fire Damage limit – any one fire
 - (v.) \$5,000 Medical Expense limit – any one person
- (b) Liquor Liability coverage of either \$1,000,000 per occurrence or \$2,000,000 in aggregate and provide coverage for CWSE activities at the Combined Premises
- (c) Umbrella Liability Coverage at least as broad as the underlying Commercial General Liability, Professional Liability, and Liquor Liability with a minimum limit of \$2,000,000 each occurrence and \$2,000,000 aggregate, and a maximum self-insured retention of \$25,000. The Umbrella Liability must be primary and non-contributory to any insurance or self-insurance carried by the CITY.
- (d) Worker's Compensation Insurance. CWSE shall obtain and maintain throughout the duration of this Agreement statutory Worker's Compensation insurance for all of its employees employed at the Facility. if required by Wisconsin State Statute or any Worker's Compensation Statutes of a different state. Must carry coverage for Statutory Worker's Compensation and an Employer's Liability with limits of:
 - (i.) \$100,000 Each Accident
 - (ii.) \$500,000 Disease-Policy Limit
 - (iii.) \$100,000 Disease-Each Employee
 - (iv.) Employer's Liability limits must be sufficient to meet umbrella liability insurance requirements
 - (v.) In case premises are sublet, CWSE shall require the sub-user similarly to provide statutory Worker's Compensation Insurance for all of the latter's employees, unless such employees are covered by the protection afforded by CWSE.

B. Certificate of Insurance. CWSE shall furnish the DEPARTMENT with a Certificate of Insurance, countersigned by a Wisconsin Resident Agent or Authorized Representative indicating

that CWSE meets the insurance requirements identified above. The DEPARTMENT, MARATHON COUNTY, the CITY OF WAUSAU, and its officers, council members, agents, employees and authorized volunteers shall be named as "Additional Insured" in respect to this Agreement. The carrier of insurance shall be approved by the DEPARTMENT and shall include a provision prohibiting cancellation of said policies except upon thirty (30) days prior written notice to the DEPARTMENT.

15. **Indemnification.** WCS will be liable and agrees to indemnify, defend and hold harmless CITY and Marathon County, their employees, agents, officers, and designees, whether appointed, hired, or elected from and against any and all judgments, damages, losses, costs, claims, expenses, suits, demands, actions, and/or causes of action of any kind or of any nature, which may be sustained by reason of damage to any property or loss of use thereof, or damages or injury to any person or persons or death to any person or persons, or by reason of any liability imposed by law or by anything or by anyone else upon the CITY arising from, in connection with, caused by or resulting from WCS's activities or anyone else's activities which are the subject of this Agreement and/or as a result of and/or due to the existence of this Agreement whether caused by or contributed to by the CITY, Marathon County, their agents or employees; and specifically included within this hold harmless are attorneys' fees and other costs of defense and liability costs which may be sustained by and/or occasioned the CITY and Marathon County and/or and of the CITY's or Marathon County's employees, agents, officers, and designees, whether appointed, hired, or elected. Notwithstanding anything contained herein to the contrary, WCS will not be liable for, nor indemnify against, any judgments, damages, losses, costs, claims, expenses, suits, demands, actions, and/or causes of action of any kind or of any nature caused by the negligent or willful misconduct of CITY and/or Marathon County, or their employees, agents, officers, and designees, whether appointed, hired, or elected.

16. **Release.** WCS hereby releases CITY and Marathon County, their employees, agents, officers, and designees, whether appointed, hired, or elected, from all judgments, damages, losses, costs, claims, expenses, suits, demands, actions, and/or causes of action of any kind or of any nature, which may result from or be due to WCS's activities or anyone else's activities (unless such damage or loss is caused by the negligent or willful misconduct of CITY and/or Marathon County, or their employees, agents, officers, and designees, whether appointed, hired, or elected) which are the subject of this Agreement and/or as a result of and/or due to the existence of this Agreement.

17. **Damages or Destruction.** In the event any damage or destruction to Athletic Park caused by WCS, its members, its employees, its patrons, or those using the facility during the times when the facility is being used pursuant to this Agreement, the person or persons causing the damage or destruction shall be primarily liable for said damage or destruction. However, WCS agrees to reimburse CITY for any and all expenses incurred in repairing and/or restoring and/or reconstructing the facility if said damage or destruction was caused by anyone using the facility pursuant to this Agreement who is a member, employee, patron, or participant in the activity sponsored by WCS and in the event said individual(s) is not financially responsible.

18. **Use of Field Lights.** Avoid using the field lights at Athletic Park before 6:00 p.m. If the field lights are turned on before 6:00 p.m. for a WCS activity, WCS shall pay One Thousand Two Hundred and 00/100 Dollars (\$1,200.00) to CITY if such use of the field lights occurs during electric utility prime time hours and causes the field light electric rate to be increased for an extended period of time.

19. **Telephone Fees.** Pay for all telephone charges and related service fees assigned to telephone lines used by WCS within the office space provided, except for elevator telephone fees, which shall be the sole responsibility of City.

20. **Game Time Limits.** Ensure that no inning of any WCS softball game shall start after 11:30 p.m.

21. **Personnel Use of Athletic Park on Game Days.** Ensure that all players, managers, coaches, trainers, owners, or any team representative shall exit Athletic Park and its facilities, including locker rooms and rest areas, no later than ninety (90) minutes following the end of a scheduled WCS game. It is recognized and agreed that employees of WCS will be working within the confines of Athletic Park, well into the early morning hours following each home game, doing laundry and other tasks deemed necessary to the successful operation of a sports franchise.

22. **Cleaning and Janitorial Services.** Provide all cleaning and janitorial services for the office space, luxury suite, permanent concessions and associated equipment, and that portion of the clubhouse occupied by WCS. WCS shall provide all cleaning and janitorial services for the public restrooms from the day of the first WCS game annually through the day after the last WCS game annually except for outside special events scheduled by the DEPARTMENT. WCS shall provide all cleaning and janitorial services for all areas of the Combined Premises, other than the playing field, used by WCS for each WCS event including but not limited to grandstand, bleachers, walkways, picnic areas, press box, VIP boxes, dugouts, grandstand locker rooms, umpires locker room, batting cage and any refuse outside the Combined Premises generated by WCS events. Such services include pre-event, event, and post-event cleaning and janitorial needs. WCS shall clean Neighborhood Park by 10am of the morning following any WCS event held at the Combined Premises. WCS shall deliver all refuse to containers provided by the CITY. If such cleaning and janitorial services are not performed in a thorough or timely manner, CITY may perform such services and charge the direct costs of such services to WCS. The public areas of the Combined Premises utilized by WCS shall be kept free from accumulations of materials and supplies. The WCS portion of the clubhouse shall be put in a clean and orderly condition for the off-season by September 15th of each year.

23. **Office and Luxury Suite.** Provide and maintain all furnishings, surface treatments and heating, ventilation, and air conditioning systems for the office and luxury suite inside Athletic Park.

24. **WCS Personal Property.** Remove all WCS personal property, other than concession facilities and equipment, from the public areas of Athletic Park (except for storage areas, the retail store, office, concession stands, press box and the clubhouse) annually from November 1 through the following April 1, unless specifically exempted in writing by the City. Any WCS property remaining at Athletic Park from November 1 through April 1 shall be left in a clean and orderly condition. WCS will move their personal property as reasonably requested by City for planned maintenance activities. Except as provided for herein, WCS shall not leave or store any personal property in Neighborhood Park, unless specifically exempted in writing by the City. Any WCS personal property used or operated in Neighborhood Park during any WCS-sponsored event shall be removed from Neighborhood Park by 10:00 am the day following such event.

THE PARTIES AGREE THAT CITY SHALL:

26. **Maintenance and Cleaning of Athletic Park.** Maintain Athletic Park as a multi-use baseball and softball park. CITY will make every effort to meet applicable electrical, fire and health codes for the facility and to support the agreed upon programmatic needs of WCS. Maintenance and upkeep of Athletic Park by the City as required herein will be provided on the same schedule and frequency and at the same standard of quality as provided in 2023. DEPARTMENT shall provide all cleaning and janitorial services for the public restrooms and public areas following any outside special event scheduled by the DEPARTMENT.

27. **Maintenance of Neighborhood Park.** Maintain Neighborhood Park to meet applicable health and safety codes and to support the agreed upon programmatic needs of WCS. Maintenance and upkeep of Neighborhood Park by the City as required herein will be provided on the same schedule and frequency and at the same standard of quality as provided in 2023.

28. **Office Space at Athletic Park.** Make the existing office space at Athletic Park available to WCS for the sale of tickets and other administrative functions. WCS agrees to provide the necessary furniture, equipment, telephone service, and fixtures. If WCS wishes to heat the office from November 1st to April 1st, WCS will be responsible for utility costs and for monitoring the heating system. Any problems with the heating system should be reported to the DEPARTMENT immediately.

29. **Maintenance of Field.** Provide reasonable maintenance of the playing field at Athletic Park prior to each scheduled WCS game. CITY will make an effort to protect the field so that one (1) hour of work will prepare it for WCS games that immediately follow other games on the same day.

30. **Field Availability.** Under typical weather, field conditions, and field maintenance needs, and other scheduled activities, CITY will make the playing field at Athletic Park available to WCS two (2) hours and twenty (20) minutes prior to all scheduled WCS games. Depending upon such conditions, and other scheduled activities as determined by CITY, the playing field shall be made available to WCS no less than one (1) hour prior and no more than four (4) hours prior to scheduled WCS games. In all instances, the last twenty (20) minutes of such pre-game periods shall be used by CITY for field preparation, if needed.

31. **Outfield Fence Structure and Use.** Provide and maintain an outfield fence structure in Athletic Park adequate to support billboards and other advertising/sponsorship materials, with materials provided by CITY. Any additional fencing or advertising construction shall be subject to the prior written approval of the CITY.

32. **Scoreboard.** Provide and maintain the electronic scoreboard, except for the advertising panels. City will work with WCS to develop a use and management plan for the replacement scoreboard.

33. **Utilities.** Provide utilities, including electricity, water and sewer, except as directed elsewhere in the Agreement. The facilities will be winterized on or before November 1 of each year through the following April 1, and the parties acknowledge that all utilities will be shut off to the facilities except for electrical service for security lighting purposes.

34. **Field Lights.** Turn off as many field lights as practicable following WCS games while also allowing patrons to safely reach their vehicles and accommodating post-game field maintenance.

35. **Refuse Disposal.** Provide refuse disposal service for the entire facility, including concession operations. Refuse disposal services consists of dumpsters and garbage receptacles within the facility and regular service pickups. Recycling may be provided by WCS if desired.

36. **Cleaning Equipment and Supplies.** Provide all cleaning equipment, supplies and materials necessary for WCS to accomplish its obligations outlined in Article II, Paragraph 21 above, except for the office space, luxury suite, permanent concessions, and associated equipment and that portion of the clubhouse occupied by WCS. Such equipment, materials and supplies shall include, but not be limited to, blowers, brooms, mops, buckets, sponges, cleansers, toilet paper, trash cans, trash can liners, etc.

ARTICLE III – CONCESSIONS

THE PARTIES AGREE THAT WCS SHALL:

1. **Concession Rights and Fees.** Pay CITY an annual fee in return for the concession rights granted through this Agreement. The concession fee shall be adjusted annually and shall be due to CITY by August 10th of each year. Funds received by CITY for concession rights shall be deposited in a non-lapsing, interest bearing account maintained by CITY solely for the purpose of holding such funds and the interest earned thereon. All such concession funds and interest earned thereon (hereinafter referred to collectively as the “Concession Funds”), shall be used exclusively by CITY to perform major maintenance or make improvements that benefit all baseball users at the Combined Premises. The Concessions Funds, however, shall not be used for routine or daily maintenance of the Combined Premises. Any improvement project utilizing the Concession Funds must be jointly approved by CITY and WCS. Not later than October 30th of each year during the term of this Agreement, CITY shall provide WCS with a written account of all transactions affecting the Concession Funds balance on deposit in the foregoing account. The annual concession fee, and adjustments thereto, will be calculated as follows:

2. **Years 2025-2034.** The concession fee shall be \$125/game and increase by 3% each year.

3. **Concession Operations.** Operate exclusive food, drink, and goods concessions for all games played at the Combined Premises (including non-WCS games) that occur during the time period of this Agreement, except as allowed in Paragraph 5 below.

4. **Maintenance of Concession Areas.** Maintain and keep in good repair those portions of the Combined Premises used for concessions, and keep the facility and surrounding grounds in a clean, neat, and sanitary condition at all times. WCS shall remove all perishable foods by September 15th of each year.

5. **Personal Concession Property.** Furnish all personal property necessary to operate WCS’s concessions, which personal property may be removed or otherwise disposed of by CITY as the occasion warrants. Such removal or disposal may be done at any time during the period of this Agreement or within a reasonable time upon the termination of this Agreement provided that such removal or disposal does not damage the property or interest of WCS. Any fixtures installed by WCS in or on the premises during the term of this Agreement that cannot be removed without injury to the premises shall become the property of CITY.

6. **Concessions at Non-WCS Games.** Operate, at WCS's option and in its sole discretion, at least one concession stand during any non-WCS baseball game where game sponsors so request. Requests must be received in writing by WCS no less than seven (7) days prior to the baseball game in question. If WCS elects to not operate at least one concession stand for non-WCS baseball games, the game sponsors of such games may independently provide their own concessions as approved by the CITY.

7. **Collection of Recyclable Refuse.** Collect and segregate all recyclable refuse items from within concession stands and food preparation areas and put them in the appropriate refuse service dumpster provided by the CITY (see City Ordinance Chapter 6.44-Solid Waste Disposal, for a listing of items required to be recycled). Place used cooking oil in sealed, spill-proof containers.

8. **Liquor Sales.** Notwithstanding any agreement in the Original Agreement, as amended, to the contrary, City acknowledges that so long as Wisconsin College Baseball (WCB) maintains a liquor duly issued liquor license and is in compliance with all applicable laws and ordinances, WCB will be allowed to sell and provide liquor during any softball game events within the Group Outing areas above the 3rd base concession stand or above the 1st base dugout. During any Allowed Combined Facility Event, WCB will be allowed to sell and provide liquor within Luxury Suites or Group Outings area above the 3rd base Concession Stand or above the 1st base dugout; provided, however, that in the event an Allowed Combined Facility Event is conducted as an "invitation only" event, liquor may be sold or provided anywhere within the Combined Facilities.

ARTICLE IV – ADVERTISING

THE PARTIES AGREE THAT:

1. **Advertising at the Facilities.** Advertising at the Combined Premises is intended to be viewed by the users of the facilities and not the occupants of adjoining properties or passers-by. No advertising within Athletic Park shall be readily visible outside of the facility, except for advertising on the scoreboard, elevated billboard and advertising made in relation to the sale of naming rights for Athletic Park (which may be displayed on the outside of the facility). Advertising outside of Athletic Park or Neighborhood Park that is visible to adjoining properties or passers-by shall be allowed only for WCS games and promotional events. Said advertising is allowed no more than three hours before and one hour after WCS games or promotional events. Advertising in Neighborhood Park shall be in place only for WCS games and promotional events and shall not be mounted on the fence or gates facing outside said Neighborhood Park. Reader boards shall not be used for advertising commercial products or services other than WCS events, products or services.

2. **Exclusive Advertising Rights.** WCS shall have exclusive rights to sell advertising, and to retain revenues from said advertising, for the billboard fence, the elevated billboard, the advertising panels on the electric scoreboard, on top of the dugouts, on the playing field-side of the top railing of the 1st and 3rd base bleachers, the walk-ways throughout Athletic Park, the areas under the bleachers, seat backs, the 3rd base cooler, the light poles (with approved attachment system), on the 4-foot fences that form the west and south boundaries of the 1st base picnic area at Athletic Park, and in Neighborhood Park. WCS must use professionally produced advertising and all advertising must be completed prior to June 1st of each year of this Agreement. WCS shall furnish the advertising panels for the electronic scoreboard. Application methods for all advertising must be approved in advance by the CITY. WCS shall be responsible for any physical damage caused by such advertising. WCS will provide a visible 4' X

20' space on either the billboard fence, the elevated billboard or the advertising panels on the electric scoreboard to display CITY and DEPARTMENT signs. The CITY and/or DEPARTMENT will also be allowed to have their logo on the foul pole flags.

3. **Compliance with Law.** WCS agrees that all advertising shall comply with all federal, state, and municipal laws and regulations with respect to the advertising matter to be displayed. WCS shall indemnify and hold CITY and Marathon County harmless from any suits, claims, damages, costs, or expenses arising in connection with false, defamatory, obscene or otherwise unlawful advertising material which has been sold, ordered, or approved by WCS.

4. **Inspection of Advertising.** CITY and its representatives reserve the right to inspect all advertising at any time through the season, and CITY has the authority to require signs to be refurbished or removed within thirty (30) days of said inspection if they are found to be in disrepair.

5. **Termination of Advertising Rights.** All rights of advertisers shall end with the termination of this Agreement, and this termination provision shall be contained in all agreements between WCS and its advertisers.

ARTICLE V – MISCELLANEOUS

1. No Additional Fees. Except for the fees and charges imposed on WCS as set forth in the Original Agreement, as amended hereby, or as currently imposed, City will not charge, impose or levy additional fees or charges on WCS for the operations or sales activities in Athletic Park or the Neighborhood Park described in this Agreement, as amended hereby, during the Term of this Agreement.

2. No Further Amendments. The terms and conditions of the Original Agreement, except to the extent as modified and amended by this Agreement, shall continue in full force and effect.

3. Exclusive Access. Notwithstanding any agreement in the Original Agreement, as amended, to the contrary, Neither City nor Department shall allow access to any portion of the Clubhouse, Luxury Suites, 1st and 3rd base Group Outing areas, Concession Stands, Press Box, Ticket Office, Retail Store and Storage Shed in Athletic Park, except for WCS, City and Department staff without the prior, written consent of WCS.

4. Applicable Law. This Agreement and all the rights and obligations of the parties hereto with respect thereto will be construed in accordance with, and governed by, the laws of the State of Wisconsin.

5. Further Assurances. Each of the parties hereto will execute and deliver to the other party hereto such other documents and instruments as may be reasonably required by either party in connection with the performance of this Agreement.

6. Counterparts. This Agreement may be signed in one (1) or more counterpart originals, which, when taken together shall constitute the same original.

ARTICLE VI – FURTHER COVENANTS

THE PARTIES FURTHER AGREE THAT:

1. **Assumption of Agreement by NORTHWOODS.** In the event WCS shall fail, neglect, or refuse to carry out the terms of this Agreement, including the furnishing of necessary goods and services, and the payment of the rental as heretofore provided within ten (10) business days after written notice is received by WCS, then the rights of WCS shall be forfeited and NORTHWOODS shall immediately assume all rights and obligations of WCS under this Agreement. WCS shall have no rights or obligations under this Agreement on and after the effective date of the forfeiture, provided however, that WCS shall remain liable for any obligations arising under this Agreement prior to the effective date of such forfeiture. Such assumption of this Agreement by NORTHWOODS shall, at NORTHWOODS option, be either for a period of time terminating on December 31st of the second complete calendar year following the effective date of assumption (unless CITY and NORTHWOODS mutually agree to terminate this Agreement at an earlier date), or for the full term ending December 31, 2034.

2. **Compliance with Laws.** By virtue of its Agreement with CITY, a public entity, WCS agrees to comply with all federal, state and local laws, statutes, codes and ordinances, including, but not limited to because of enumeration, public health and food safety codes, the Civil Rights Act of 1964, the Wisconsin Equal Rights law, and the Americans with Disabilities Act. In connection with the performance of work under this Agreement, WCS agrees that no qualified individual with a disability, as defined by the Americans with Disabilities Act (the “ADA”), shall, by reason by such disability, be excluded from participation and the benefits of services, programs, or activities, including employment, or be subjected to discrimination. WCS is specifically notified that it is subject to all employment requirements listed under Title I of the ADA by virtue of its Agreement with CITY. WCS is specifically notified that it is subject to federal requirements to assure participation and access to public facilities, programs, and activities under Title II of the ADA by virtue of its Agreement with CITY. These requirements mandate separate or special programs or reasonable modification of existing programs, services, and activities without surcharge to disabled individuals as long as safety is not compromised. WCS shall provide a similar notice to all its subcontractors.

3. **Management of the Combined Premises.** The management and administration of the Combined Premises is wholly and exclusively under the jurisdiction of CITY or its administrative representatives, and that the interpretation of this Agreement, or questions relating thereto shall be decided by CITY, or its authorized agents, as the occasion demands.

4. **Assignment of Agreement.** This Agreement may not be assigned by WCS unless written permission is given by CITY (or its authorized agents) and NORTHWOODS. Such assignment shall be subject to the following:

- A. The assignee shall be a qualified entity as determined by CITY and NORTHWOODS based on credit history, criminal history, and past business experience in operating similar enterprises.
- B. The assignment shall be for the remaining balance of the Agreement term.
- C. Such assignment shall not impair full performance of the terms of the Agreement governing the assigned activities and responsibilities.
- D. In the event CITY and NORTHWOODS consent to the assignment of this Agreement, WCS

shall be released from any liability under this Agreement arising after the effective date of such assignment for those portions of the Agreement so assigned.

5. **Inspection Rights.** CITY and its representatives reserve the right to enter upon the premises at all reasonable times for the purpose of inspection and making such repairs and improvements as it shall deem necessary.

6. **Waiver of Renewal Options.** WCS and CITY each hereby expressly waive any and all rights to renewal options regarding fees or other terms or conditions of this Agreement.

7. **Manner of Operations.** WCS shall conduct operations in a decent orderly and business-like manner, and shall not permit any unlawful behavior on any part of the premises included in this Agreement.

8. **Non-Employee Status.** WCS is an independent agreement holder and not an employee of the CITY, and as concessionaire holds the CITY harmless and assumes full responsibility for any liability which may arise out of the operation of the concession.

9. **Cancellation Due to Inadequacy of Facilities.** CITY may cancel this Agreement at any time, upon not less than ninety (90) days prior written notice to WCS, in the event CITY is unable to provide adequate facilities which, in the reasonable opinion of CITY, are safe. CITY shall not be liable for any damages because of such cancellation. Any sums paid hereunder by WCS to CITY shall be returned to WCS, less reasonable administrative costs, upon cancellation by CITY pursuant to this paragraph. This paragraph shall not relieve WCS of its obligation to undertake periodic inspections and report to CITY any unsafe condition existing at the facilities. Notwithstanding anything contained herein to the contrary, in the event WCS agrees in writing to pay the cost of making the facilities safe within the ninety (90) day period aforesaid, CITY shall promptly undertake such action necessary to make the facilities safe and this Agreement shall not be cancelled. All sums paid by or on behalf of WCS to make the facilities safe shall be credited against amounts otherwise owing or due by WCS under this Agreement or any renewal hereof.

10. **Changes in Writing.** None of the covenants, provisions, terms or conditions of this Agreement to be kept or performed by the parties shall be in any manner modified, waived, or abandoned, except by a written instrument duly signed by the parties' authorized representatives and delivered to each of the parties hereto. This Agreement contains the entire agreement of the parties concerning the subject matter hereof.

11. **Notices and Demands.** Notices as provided for in this Agreement shall be given to each of the respective parties hereto at the addresses set forth below:

CITY City of Wausau
Attn: City Attorney
407 Grant Street
Wausau, WI 54403

WCS Wausau College Softball, LLC
2401 N 3rd Street
Wausau, WI 54403

NORTHWOODS: Richard R. Radatz, Jr., President
WCS League, Inc.
2900 4th St. SW
Rochester, MN 55902

12. **General Provisions.** Time is of the essence in the observance and performance of the terms and provisions of this Agreement. This Agreement shall be governed by the laws of the State of Wisconsin, and each party hereby consents to the exclusive jurisdiction and venue for Marathon County for the resolution of any dispute arising from or related to this Agreement. This Agreement may be executed in one or more counterparts, each of which will be deemed an original and all of which together shall constitute one instrument.

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

WITNESS:

CITY OF WAUSAU

Katie Rosenberg, Mayor

Kaitlyn Bernard, Clerk

NORTHWOODS LEAGUE SOFTBALL, LLC.

By: _____
Mark Macdonald, Owner

NORTHWOODS LEAGUE SOFTBALL, INC.

By: _____
Richard R. Radatz, President