

Exhibit 1

**WADE STADIUM USE AGREEMENT  
BETWEEN THE CITY OF DULUTH,  
NORTHWOODS LEAGUE, INC.  
AND RPK BASEBALL, LLC**

THIS WADE STADIUM USE AGREEMENT (this “Use Agreement”) is by and between the CITY OF DULUTH, a municipal corporation created and existing under the laws of the State of Minnesota (“City”), RPK BASEBALL, LLC, a limited liability company created and existing under the laws of the State of Minnesota (“RPK”), and NORTHWOODS LEAGUE, INC., a corporation created and existing under the laws of the State of Florida (the “League”).

WHEREAS, City is the owner of a baseball stadium facility located generally at 34th Avenue West and Second Street in Duluth, St. Louis County, Minnesota, commonly known as “Wade Stadium” (the “Stadium”), which includes a walled baseball field, dugouts, bullpens, parking lot, and a grandstand that contains public seating, washrooms, ticketing facilities, vending areas and other amenities (collectively, the “Grandstand”). The Stadium is depicted on the attached Exhibit A.

WHEREAS, the League is an organized collegiate baseball league with 22 teams located in the United States and Canada, including the team operated by RPK known as the “Duluth Huskies.”

WHEREAS, RPK is an affiliate member of the League and desires to play its home baseball games at the Stadium as an affiliate of the League, as well as use the Stadium for other baseball related purposes and events to promote the Duluth Huskies and the League.

WHEREAS, City desires to have RPK use the Stadium subject to the terms and conditions of this Use Agreement, and to provide concessions services for certain events at the Stadium.

WHEREAS, the League desires to continue providing an affiliate team of the League in Duluth in the event that RPK should be unable or unwilling to continue its operations as an affiliate of the League in Duluth.

NOW, THEREFORE, in consideration of the mutual promises and agreements made in this Use Agreement, as well as other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, City, RPK and the League agree as follows:

I. Use and Access.

A. Non-Exclusive Use.

1. RPK’s use of the baseball field at the Stadium (the “Field”) for games and practices shall be reserved and scheduled by RPK through City’s Parks and Recreation permits (collectively, the “Permits”). RPK shall pay the council-approved rates and deposits for use of the Field, which rates are subject to change from time to time.

2. City grants to RPK the non-exclusive use of the following portions of the Stadium during each of its permitted uses of the Fields for games and practices (collectively, the “Non-Exclusive Use Areas”): (i) one stationary batting cage, one portable batting cage and the electronic scoreboard and public address sound system (collectively, the “Equipment”); (ii) the public washrooms/toilet facilities, aisles, corridors, and public walkways and seating areas of the Grandstand; and (iii) the dugouts, bullpens and the adjacent parking lot. The Visitor Team Clubhouse shown on Exhibit A is intentionally and expressly omitted from the Non-Exclusive Use Areas.

B. Exclusive Use.

1. City grants to RPK exclusive use of the following portions of the Stadium as shown on Exhibit A (collectively, the “Exclusive Use Areas”): (i) the Home Team Clubhouse, and (ii) the Office Space. The Home Team Clubhouse may only be used between May 15<sup>th</sup> and September 5<sup>th</sup> of each year of the Term (i) during permitted use of the Fields for their intended purpose; and (ii) during other times for storage purposes only. The Office Space may only be used once the water for the Stadium has been turned on for each season, and in no event before April 15<sup>th</sup>. Use of the Office Space must cease by September 5<sup>th</sup> during each year of the Term. RPK and the League shall not use any portion of the Stadium for their business offices, and shall not access the Non-Exclusive Use Areas or the Exclusive Use Areas for any reason between September 6<sup>th</sup> and April 14<sup>th</sup> of each year of the Term, except with the prior written permission of the PFM Manager (defined below).

2. Between April 1<sup>st</sup> and October 31<sup>st</sup> of each year of the Term, City grants to RPK exclusive use of the Concession Areas show on Exhibit A (the “Concession Areas”) for the purposes set forth in Section V below.

C. As-Is.

RPK and the League accept the Stadium and the Equipment “as is” in their present physical conditions, and City makes no warranty, either express or implied, that the Stadium or the Equipment are suitable for any purpose. City is not obligated to make any alterations or improvements on or to the Stadium or the Equipment, or to provide any maintenance of the Stadium or the Equipment except as expressly required by Section VII below.

D. Parking.

On days when RPK has games at the Stadium, attendees will be allowed to park in the public parking facility adjacent to the Stadium; provided, however, City retains control of the parking facilities and reserves the right to charge attendees and any other person using the Stadium’s parking facilities for the privilege of parking. Notwithstanding the foregoing, City will not charge attendees of the League’s baseball games without the consent of RPK. Should RPK wish to use the Stadium parking facility for holding “tailgate” type picnic events, RPK shall secure a permit from City’s Parks and Recreation Department.

E. City Access.

1. City shall have the right to access all areas of the Stadium at all times for the purposes of inspection, maintenance and, if necessary, cleaning. RPK and the League shall not change the locks or otherwise prohibit or inhibit City's access to any portion of the Stadium.

2. City shall have the right to use all areas of the Stadium, except the Exclusive Use Areas, for any purpose during the Term.

F. Keys.

1. City's Property and Facilities Manager or their designee (the "PFM Manager") shall be exclusively responsible for the design and designation of keying systems, lock changes, key fabrication and key distribution. RPK shall comply with City's Key Control Policy, a copy of which shall be provided to RPK, and is subject to unilateral change by City during the Term.

2. RPK shall not make copies of any keys. All keys shall be promptly returned to the PFM Manager upon termination or expiration of this Use Agreement.

3. The League shall not possess any keys for the Stadium unless and until it undertakes all obligations of this Use Agreement pursuant to Section X.A. below.

G. Safety and Operations Plan.

RPK shall submit a written safety and operations plan (the "Safety and Operations Plan") to City's Parks and Recreation Department Manager, or their designee (the "Parks Manager") for approval prior to using the Stadium, which plan shall outline specific processes and procedures, including but not limited to cleaning and sanitization of the Stadium, to ensure the health, safety, and welfare of all users of the Stadium, including but not limited to the Stadium's employees, participants and volunteers. Notwithstanding the Term, RPK may not use any portion of the Stadium until the Safety and Operations Plan has been approved by the Parks Manager. The Safety and Operations Plans shall be updated during the Term at City's request. RPK shall use the Stadium consistent with the Safety and Operations Plan, and shall enforce the Safety and Operations Plan. A failure to do so shall be deemed a material breach of this Use Agreement.

II. Term.

Notwithstanding the date of execution of this Use Agreement, this Use Agreement shall be deemed to commence on April 1, 2021 and shall expire on December 31, 2023, unless otherwise earlier terminated as provided for herein (the "Term").

III. Termination.

A. Without Cause. City, the League, or RPK may terminate this Use Agreement without cause by providing at least one-hundred eighty (180) calendar days' written notice to all other parties. Notwithstanding the forgoing, any termination of this Use Agreement without cause may not cause this Use Agreement to terminate during the months of April through September of any year of the Term without the mutual written agreement of all parties.

B. For Cause. City may terminate this Use Agreement for the breach by the League or RPK of any provision of the Permits or this Use Agreement, including its exhibits, after the occurrence of the following events:

1. City has delivered a written notice to RPK and the League identifying the breach and necessary actions to remedy the breach;

2. The breach is not cured to the reasonable satisfaction of City within fourteen (14) calendar days, or such longer period set forth in the notice, of City sending notice of breach to RPK and the League.

C. Immediately By City. City may terminate this Use Agreement immediately on notice to RPK and the League if City believes in good faith that the health, welfare, or safety of the Stadium, its occupants, users or neighbors would be placed in immediate jeopardy by the continuation the League's or RPK's use.

D. Surrender Possession. Upon termination of this Use Agreement, RPK and the League shall surrender possession of the Stadium and the Equipment to City in as good condition and state of repair as on the date of this Use Agreement.

E. Vacation of the Stadium.

1. No later than October 31st of each year of the Term, the League and RPK shall cease all use of and occupancy of the Stadium until April 1st of the following year of the Term, except for storage of vending and concessions equipment, which may be stored (but not accessed) at the Stadium throughout the Term. No office supplies/materials, food or merchandise may be stored at the Stadium between November 1st and April 1st during each year of the Term. As of October 31st of each year of the Term, RPK shall have completed performance of all of its cleaning and maintenance responsibilities for the season.

2. Personal property of the League and/or RPK remaining at the Stadium after October 31st of each year of the Term, other than vending and concessions equipment, shall be deemed to have been abandoned and City shall have the right, but not the obligation, to use or dispose of such property. Storage of vending and concession equipment at the Stadium shall be at the option and sole risk of RPK and the League and City shall not, at any time, be responsible for the protection or preservation of such equipment. The League and/or RPK, as applicable, shall be responsible to provide any insurance that the League and/or RPK, as applicable, determines is necessary to protect its interests in and to its equipment.

3. Any equipment or other personal property remaining at the Stadium after the termination of this Use Agreement for any reason shall be deemed to have been abandoned and City shall have the right, but not the obligation, to use or dispose of such equipment or personal property as it deems necessary.

IV. Discretionary Improvements and Alterations; Annual Contribution.

A. RPK may, at its sole expense, make improvements or alterations to the Stadium only with the advance written approval of the PFM Manager based on the process set forth in this subparagraph. All improvements and alterations shall become the property of City. Prior to commencing any improvements or alterations, RPK shall submit to City a Project Proposal Request, in form acceptable to City, along with detailed plans. A copy of City's current form of Project Proposal Request is attached to this Use Agreement as Exhibit B. The required documents must be submitted to City at least forty-five (45) days before the planned commencement of the work. No work may begin on any approved project until all necessary building permits are secured. All construction shall conform to state law and the Duluth City Code. Not less than thirty (30) days prior to commencement of any construction, alteration, or improvement at the Stadium, RPK will provide City with sufficient proof of required insurance, including worker's compensation. Such proof of insurance must be approved by the City Attorney before the commencement of any work at the Stadium.

B. RPK shall pay Five Thousand and no/100ths dollars (\$5,000) to City no later than December 1 of each year of the Term (the "Annual Contribution"), for a total of Fifteen Thousand and no/100ths dollars (\$15,000) during the Term. The Annual Contribution shall be deposited into City's Special Leagues Fund 210-030-3190-4625-04 and specifically earmarked for capital improvements at the Stadium. City shall use the Annual Contribution for capital improvement project(s) at the Stadium, in its sole discretion. The Annual Contribution does not have to be used in the calendar year that it was paid or during the Term.

V. Concessions and Vending.

A. Generally.

1. RPK shall have the sole and exclusive right to provide concession and vending services at the Stadium from April 1st through October 31st during each year of the Term. No person shall be permitted to bring novelty items into the Stadium for sale without the consent of RPK.

2. RPK shall provide concession services at the Stadium during the Term for all third-party events, as requested by City from time to time, where the anticipated number of attendees is expected to be fifty (50) or greater. RPK may, at its option, provide concession services at third party events at the Stadium during the Term where the anticipated number of attendees is less than fifty (50).

3. RPK shall be entitled to retain all revenues generated at the Stadium from concession and vending services.

4. RPK may provide the concession services through employees of RPK or may subcontract with a concessionaire knowledgeable and able to provide such services. Provided, however, in the event of a subcontract, the choice of subcontractor and the subcontract agreement shall be subject to the prior written approval of the Parks Manager, which approval shall not be unreasonably withheld. RPK, or their subcontractor may sell all items of food and

beverage normally sold at professional baseball parks and may sell souvenirs and memorabilia of RPK, the League, the Stadium, or City. Sale of items displaying City's trademarked logo(s) shall be subject to the prior written approval of City.

5. All food and beverages must be sold in paper containers, wrappers, or reusable or recyclable plastic beverage containers, unless approved in writing by the Parks Manager. No food or beverages may be sold in metal, glass, or Styrofoam containers without the prior written approval of the Parks Manager.

6. RPK may install and operate, or have installed and operated on its behalf, vending machines at any location within the Stadium that is under its control pursuant to this Use Agreement, and to collect and retain the income from such vending machines. RPK shall keep all vending machines at the Stadium fully stocked, maintained, and operational and available for patronage by the general public between April 1st and October 31st during each year of the Term.

7. RPK shall comply with all requirements of the health departments of the State of Minnesota and County of St. Louis when operating concessions. RPK shall be responsible for all costs relating to the operation of the concessions and vending services, including paying all applicable taxes, license and permit fees. If required to do so by applicable laws or regulations and RPK shall provide specialized disposal receptacles and related pick-up services through a competent vendor for the handling of liquid, oil, fatty, or other materials disposed of and requiring special and/or separate handling before, during, or after operation of the concessions.

B. Intoxicating Beverages.

1. RPK acknowledges that all sales of intoxicating and non-intoxicating beverages are governed by Duluth City Code and Minnesota law. Alcohol may not be possessed, consumed or served at the Stadium unless and until a liquor license has been obtained by RPK, and if obtained, it must be possessed, consumed and served consistent with the terms and conditions of the liquor license and applicable law. RPK, and its third party vendors or contractors, may apply to City for permission to sell intoxicating beverages at the Stadium. RPK may only sell intoxicating beverages directly from the Stadium, and all intoxicating beverages must be consumed within the indoor perimeter of the Stadium.

2. RPK shall not permit the sale or possession of alcohol at an event at the Stadium if RPK receives notice from the Parks Manager prior to the event that the Parks Manager considers the event to be of such a nature as to cater primarily to persons under the age at which it is legal to purchase alcoholic beverages.

3. RPK shall be fully responsible and liable for preventing any rowdy, boisterous, or disorderly conduct at the Stadium and shall deny the sale of alcohol to persons who are obviously intoxicated.

4. RPK shall ensure that no one under the age of twenty-one (21) is served alcohol and ensure that no one is served alcohol in an amount to cause intoxication.

5. All applicable state laws and Duluth City Code provisions shall be followed at all times. In the event that the requirements of any license, permit, ordinance or applicable laws are inconsistent with the requirements of this Section V.B., the provisions of the license, permit, ordinance or law shall control.

VI. Revenues – Gate, Advertising, and Media.

A. Gate Revenues.

The League and/or RPK shall have the right to one hundred percent (100%) of the gate sales for the League and/or RPK games at the Stadium.

B. Signage and Advertising Revenues.

RPK shall be entitled to all revenues generated by the sale of advertising on the inside of the outfield walls of the Stadium (designated on Exhibit A as the Advertising Space) and the interior walls of the “Joint Use Facilities” designated on Exhibit A. Prior approval of the Parks Manager of the number, size, content, and location of signs displayed in the Joint Use Facilities shall be required, which approval shall not be unreasonably withheld. Any signs remaining at the Stadium at the end of the Term shall become the property of City. City may display (at no cost to City) plaques, signs or other displays within the Joint Use Facilities announcing public events or expressing appreciation to public or private entities or individuals making contributions to City for improvements to the Stadium or other public improvements, which plaques, signs or other displays shall not contain commercial advertising. The College of St. Scholastica, Inc. (“CSS”) may display: (1) a centerfield sign in the Advertising Space identifying the Stadium as the Home of the St. Scholastica Saints (the “CSS Centerfield Sign”); and (2) a sign on the visitor team dugout identifying it as the “St. Scholastica Home Dugout” or something similar (the “CSS Dugout Sign”). The CSS Centerfield Sign may remain in place year-round and the CSS Dugout Sign may remain in place only during CSS’s season of play at the Stadium as determined by its City-approved schedule. RPK shall not be responsible for the installation, maintenance, replacement, or take-down of the CSS Dugout Sign or the CSS Centerfield Sign. RPK shall not charge CSS any fee or charge whatsoever in relation to the CSS Centerfield Sign or the CSS Dugout Sign.

C. Media.

The League shall have the right to control all broadcast rights to the League’s baseball games played at the Stadium and shall have the right to retain any income derived by it as a result of said broadcasts.

VII. Maintenance and Utilities.

A. Maintenance by the League and RPK.

1. The League and RPK shall jointly and severally be responsible for providing all maintenance, including the cost of labor, to the areas shown on Exhibit A, including the public

washroom/toilet facilities; EXCEPT, the League and RPK shall not be responsible for: (i) maintenance of the Visitor Team Clubhouse, as shown on Exhibit A; and (ii) maintenance responsibilities assigned to City in Subparagraph B below.

2. In City's sole discretion, the League and RPK shall be entitled to seek and receive advice and direction from knowledgeable employees of City's Parks Maintenance and Parks and Recreation Divisions otherwise present at the Stadium or the adjacent Wheeler Field facility in performing its maintenance responsibilities. The League and RPK shall jointly and severally be responsible for cleaning and picking up all trash and debris at the Stadium, including but not limited to the Grandstand and the adjacent parking lot, after each practice or baseball game played by RPK or the League at the Stadium and to otherwise perform all cleaning and maintenance to make the Stadium suitable for future events. Post-game/practice cleaning of the Stadium shall be completed no later than the day after each baseball game/practice of RPK or the League.

3. The League and RPK shall comply with City's guidelines relating to recycling, energy efficiency and maintenance of the Stadium. A copy of the guidelines will be provided to RPK and the League upon execution of this Use Agreement.

4. RPK shall, at its sole expense, keep the Stadium free from rodents, insects, and other pests. City may require RPK to contract with a pest exterminating contractor to exterminate as may be necessary and as may be directed by City. It is further agreed that City may pay a pest exterminating contractor on behalf of RPK and immediately collect the same from RPK.

5. RPK shall maintain its own equipment in a safe, legal, and properly maintained manner. RPK shall prohibit the use of any unsafe, illegal, or deficient equipment.

6. RPK may perform cleaning activities at the Stadium during each year of the Term starting on the day that the water for the Stadium has been turned on for the season.

B. Maintenance by City.

1. City shall perform field maintenance necessary to have the Field in suitable condition for the playing of summer collegiate league baseball during times allowed by the Permits. City will be responsible for cleaning the Stadium after third-party events. City will require that any third party event occurring on the same date of a scheduled Duluth Huskies game (or other game of the League, as scheduled through the Permits) shall be concluded not less than four (4) hours prior to the scheduled commencement of the game.

2. City shall be responsible for all maintenance of the Stadium not required of the League or RPK as described herein, including, but not limited to, structural maintenance of the Grandstand and keeping the Field in a "playable" condition for baseball. City shall also be responsible for providing all cleaning and paper product supplies for the Stadium's restrooms.



C. Shared Maintenance.

RPK and the League shall pay one-half of the costs of repairing and maintaining the electronic scoreboard and sound system. City shall pay the other one-half of the costs of repairing and maintaining the electronic scoreboard and sound system. Only City may contract for necessary repair and maintenance services and, upon completion of such repair or maintenance, shall send RPK and the League a copy of the invoice for such repairs or maintenance, who shall promptly reimburse City for one-half the cost. Notwithstanding the foregoing, if the need for any repairs or maintenance arises out of the negligent or intentional acts of either party or persons using the scoreboard or sound system or both, the party whose use gave rise to the need for such maintenance or repair shall bear the entire cost of such repair or maintenance.

D. Utilities.

City shall pay for the cost of the following utilities at the Stadium: electricity, steam, water, sewer, gas, garbage and recycling. The League and RPK shall use best efforts to avoid wasteful or excessive use of the Stadium's utilities. RPK shall pay any and all charges for telephone and/or internet services and any other utilities deemed necessary or desirable by RPK, including but not limited to hook-up charges and assessments. It is anticipated that utilities for the Stadium will be turned on by April 15<sup>th</sup> during each year of the Term, but City, in its sole discretion, shall determine when utilities are turned on and off at the Stadium.

VIII. Reporting.

RPK and the League shall comply with the reporting requirements in Minn. Stat. § 16C.05, subd. 5 related to the use of the Stadium and this Use Agreement.

IX. Liability Insurance.

A. Liability Policy.

During the Term, the League or RPK shall procure and maintain continuously in force Public Liability Insurance written on an "occurrence" basis under a Comprehensive General Liability Form in limits of not less than One Million Five Hundred Thousand and No/100s (\$1,500,000.00) Dollars aggregate per occurrence for personal bodily injury and death, and limits of not less than One Million Five Hundred Thousand and No/100s (\$1,500,000.00) Dollars for leased premises damage liability. If person limits are specified, they shall be for not less than One Million Five Hundred Thousand and No/100ths (\$1,500,000.00) Dollars per person and be for the same coverages. City shall be named as an additional insured. Insurance shall cover:

1. Public liability, including premises and operations coverage;
2. Independent contractors--protective contingent liability;
3. Personal injury;
4. Owned, non-owned and hired vehicles;
5. Contractual liability covering the indemnity obligations set forth herein; and
6. Dram Shop Insurance, if applicable.

B. Workers' Compensation.

During the Term, the League and/or RPK shall procure and maintain continuously in places Workers' Compensation insurance in statutory amounts with "all states" endorsement. Employees liability insurance shall be carried in limits of no less than One Hundred Thousand and No/100 (\$100,000.00) Dollars per employee.

C. Requirements for All Insurance.

All insurance required shall be taken out and maintained in responsible insurance companies organized under the laws of the states of the United States and licensed to do business in the State of Minnesota.

D. Certifications.

City does not represent or guarantee that the required types or limits of insurance coverage are adequate to protect the League's and RPK's interests and liabilities. The League and/or RPK shall provide a Certificate of Insurance(s), in form acceptable to City, evidencing the required coverage(s) with 30-days' notice of cancellation, non-renewal or material change provisions included and shall further provide that failure to give such notice to City will render any such change or changes in said policy or coverages ineffective as against City. The use of an "Accord" form as a certificate of insurance shall be accompanied by two forms: (1) ISO Additional Insured Endorsement (CG-2010 pre-2004) and (2) Notice of Cancellation Endorsement (IL 7002), or equivalent, as approved by the Duluth City Attorney's Office.

E. Mutual Hold Harmless and Indemnification.

1. The League and RPK hereby agree to, jointly and severally, indemnify, save harmless, and defend City and its officers, agents, servants, and employees from and against any and all claims, suits, loss, judgments, costs, damage, and expenses asserted by any person by reason of injury to or death of any and all persons, including employees or agents of City, RPK or the League, and including any and all damages to property to whomsoever belonging, including property owned by, leased to, or in the care, custody, and control of the League or RPK, arising out of or related to negligent acts by RPK, the League and their respective officers, employees, participants or agents, associated with the use, management, maintenance or operation of the Stadium by the League and/or by RPK or performance of their respective obligations under this Use Agreement.

2. City hereby agrees to indemnify, save harmless, and defend RPK and the League and their respective owners, officers, agents, affiliates, servants, and employees from and against any and all claims, suits, loss, judgments, costs, damage, and expenses asserted by any person by reason of injury to or death of any and all persons, including employees or agents of RPK or League, and including any and all damages to property to whomsoever belonging, including property owned by, leased to, or in the care, custody, and control of RPK arising out of, related to or associated with negligent acts of City, its employees, agents and servants.

3. RPK shall be responsible for any damage to the Stadium or the Equipment caused by or resulting from the use by RPK or visiting teams.

X. Role of the League; Assignment and Assumption.

A. Takeover by the League. In the event RPK and the League determine that (i) RPK will no longer operate the League's affiliate baseball club in the City of Duluth, and (ii) the League wishes to take over RPK's role in operating the League's affiliate baseball team in the City of Duluth, then RPK and the League shall deliver to City written notice, signed by RPK and the League, of such determination. Immediately upon receipt of such notice, City will deem the League responsible for all future and past due obligations of RPK set forth in this Use Agreement, and the League shall be deemed the beneficiary of all rights of RPK set forth in this Use Agreement, without the need to enter into an amendment or assignment and assumption of this Use Agreement; provided that nothing herein shall, in any way, relieve RPK or the League of any of its obligations to City under this Use Agreement.

B. Sale of Affiliate. If either the League or RPK sells the affiliate baseball club assigned to play baseball in the City of Duluth to an owner who will operate the League's team in Duluth (the "Owner"), then, as part of the purchase, RPK and/or the League, as applicable, shall require the Owner to assume the future and past-due obligations of RPK and the League of this Use Agreement, in form acceptable to City, with City an intended third-party beneficiary of said assumption agreement; provided that nothing herein shall, in any way, relieve RPK or the League of any of its obligations to City under this Use Agreement. Upon the closing of any such sale, RPK and/or the League, as applicable, shall provide City with the name and address of the person to whom all notices under this Use Agreement are to be sent as provided for in Section XVI below.

C. Assignment. Except as expressly permitted above, the League and RPK will not allow this Use Agreement or any of the rights or obligations of RPK and/or the League hereunder, to be transferred or assigned in any manner whatsoever, including but not limited to by law or novation, to any third party without the prior written consent of City, which consent shall not be unreasonably withheld. For the purposes of this Use Agreement, a sale, transfer or assignment of a majority of the voting stock in RPK or the League shall constitute an assignment.

XI. Incident Reports.

RPK shall promptly notify City in writing of any incident of injury to any person or loss or damage to property occurring on or within the Stadium during the Term. Such written report shall be in a form acceptable to City's Claims Investigator and Adjuster. A copy of City's current form of Incident Report is attached as Exhibit C.

XII. Independent Relationship.

A. Nothing contained in this Use Agreement is intended or should be construed in any manner as creating or establishing the relationship of copartners between the parties hereto or as constituting RPK and/or the League as agents, representatives or employees of City for any

purpose or in any manner whatsoever. The parties do not intend by this Use Agreement to create a joint venture or joint enterprise, and expressly waive any right to claim such status in any dispute arising out of this Use Agreement.

B. Neither RPK's nor the League's employees shall be considered employees of City, and any and all claims that may or might arise under the Workers' Compensation Act of the State of Minnesota on behalf of RPK and/or the League while so engaged, and any and all claims whatsoever on behalf of RPK arising out of employment or alleged employment, including without limitation, claims of discrimination against City, or its officers, agents, contractors or employees, shall in no way be the responsibility of City. Neither RPK nor the League, or their respective officers, agents and employees, shall be entitled to any compensation or rights or benefits of any hospital care, sick leave and vacation pay, Workers Compensation, Unemployment Insurance, disability pay or severance pay.

XIII. Records Retention.

RPK and the League shall maintain all records relating to this Use Agreement for six (6) years after this Use Agreement terminates or expires for any reason.

XIV. Government Data Practices Act.

RPK and the League shall comply with the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13, as it applies to all data provided by City under this Use Agreement, and as it applies to all data created, collected, received, stored, used, maintained or disseminated by RPK and the League under this Use Agreement. The civil remedies of Minnesota Statutes Section 13.08 apply to the release of the data referred to in this clause by RPK and the League. If either RPK or the League receives a request to release the data referred to in this clause, RPK or the League shall immediately notify City and consult with City as to how RPK and/or the League, as applicable, should respond to the request. RPK and the League agree to hold City, its officers, and employees harmless from any claims resulting from RPK's and/or the League's unlawful disclosure or use of data protected under state and federal laws.

XV. Obey All Laws.

The parties shall obey all laws, rules, and regulations and ordinances promulgated by the Government of the United States, the State of Minnesota and the City of Duluth pertinent to the exercise of their rights and obligations under this Use Agreement, including, without limitation, all obligations not to discriminate against persons by virtue of their race, creed, color, national origin, religion, sex, age, or state of disability.

XVI. Notices.

Notices to be given by the parties shall be deemed to be adequately given if mailed to said parties, postage prepaid, at the addresses set forth below, or such other addresses as the parties may from time to time request in writing to the other party:

City of Duluth  
Attn: Manager – Parks and Recreation  
411 W. First Street, Ground Floor  
Duluth, Minnesota 55802  
(218) 730-4300

Dick Radatz, Jr., Chairman  
Northwoods League  
2900 4th Street NW  
Rochester, Minnesota 55902  
dradatz@northwoodsleague.com

Michael Rosenzweig, President  
RPK Baseball, LLC  
1822 East 3rd Street  
Duluth, MN 55812  
(218) 343-5953  
dlthbroker@yahoo.com

XVII. Third Party Beneficiaries.

No provision of this Use Agreement shall inure to the benefit of any third person so as to constitute any such person as a third-party beneficiary of this Use Agreement or of any one or more of the terms hereof, or otherwise give rise to any cause of action in any person not a party hereto.

XVIII. Immunity.

Nothing in this Use Agreement is intended to or should be construed as a waiver by City of any immunities, defenses or other limitations on liability to which City is entitled by law, including, but not limited to, the liability of limits under Minnesota Statutes Chapter 466.

XIX. Severability.

If any term or provision of this Use Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, then the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if this Use Agreement did not contain the particular term or provision held to be invalid.

XX. Applicable Laws.

This Use Agreement, together with all of its covenants, terms and conditions, is made in the State of Minnesota and is to be interpreted in accordance with the laws of the State of Minnesota.

XXI. Final Agreement.

This Use Agreement shall supersede all prior negotiations, understandings, or agreement and is the final expression of the agreement of the parties and the complete and exclusive statement of the terms agreed upon. There are no representations, warranties or stipulations, either oral or written, not herein contained. This Use Agreement may be amended only by a written instrument signed by all parties.

XXII. General Provisions.

A. The parties represent to each other that the execution of this Use Agreement has been duly and fully authorized by their governing bodies or boards, that the officers of the parties who have executed this Use Agreement on their behalf are fully authorized to do so, and that this Use Agreement when thus executed by said officers of said parties on their behalf will constitute and be the binding obligation and agreement of the parties in accordance with the terms and conditions hereof.

B. The waiver by City of any default or breach of the terms and conditions of this Use Agreement on any occasion shall not be continuing waiver of said default or breach.

C. RPK shall not permit smoking or the use of tobacco or illegal drugs whatsoever at the Stadium or as otherwise prohibited by state or local laws.

D. RPK represents that it is a limited liability company in good standing under the laws of the State of Minnesota.

E. The League represents that it is a corporation in good standing under the laws of the State of Florida, and is authorized by the Minnesota Secretary of State to conduct business in the State of Minnesota.

XXIII. Taxes.

RPK shall collect and/or pay any taxes imposed by any governmental entity entitled to impose such taxes on or before the date they are due, including all taxes that arise because of, out of, or in the course of RPK or the League's use, operation, and activities under this Use Agreement. RPK shall file all required reports and forms in proper form related thereto on or before their due date. City, at its sole option, may pay any taxes on behalf of RPK or the League, as applicable, and may collect the same from RPK or the League, as applicable.

XXIII. LAWCON Compliance.

The parties acknowledge that the Stadium has been or will be acquired, developed, improved or maintained with public funds through one or more grant agreements (whether one or more, the "Grant") through the Land and Water Conservation Act (the "Act") and therefore the Stadium must be retained and used solely for outdoor recreation in perpetuity. In addition, the following provisions are included in this Use Agreement in order to satisfy the Grant and the Act:

(i) City may periodically review the performance of RPK and the League, and may terminate this Use Agreement if its terms and the provisions of the Grant, including standards of maintenance, public use, and accessibility, are not met.

(ii) RPK and the League must operate the Stadium for public outdoor recreation purposes in compliance with the provisions of the Act and its implementing guidelines (36 CFR 59). In order to eliminate the perception that the Stadium is private, in all signs, literature and

advertising, the Stadium must be identified as: (A) publicly owned and operated as a public outdoor recreation facility; and (B) operated by a lessee/concessioner.

(iii) all fees charged to the public by RPK and the League must be competitive with similar private facilities.

(iv) RPK and the League must comply with all Civil Rights and accessibility legislation (e.g., Title VI of Civil Rights Act, Section 504 of Rehabilitation Act, and Americans with Disabilities Act), and compliance must be indicated by signs posted in visible public areas, statements in public information brochures, etc.

*[Remainder of this page intentionally left blank.]*

IN WITNESS WHEREOF, the parties have hereunto set their hands the day and date first shown below.

CITY OF DULUTH

RPK BASEBALL, LLC

By: \_\_\_\_\_  
Mayor

DocuSigned by:  
*Michael Rosenzweig*  
A315B0147EF84F9...  
By: \_\_\_\_\_

Its: President

Attest: \_\_\_\_\_  
City Clerk

Printed Name: Michael Rosenzweig

Dated: 3/30/2021  
\_\_\_\_\_

Dated: \_\_\_\_\_

Countersigned:

NORTHWOODS LEAGUE, INC.

\_\_\_\_\_  
City Auditor

DocuSigned by:  
*Richard Radatz Jr*  
B900E1990CCB4E6...  
By: \_\_\_\_\_

Chairman  
Its: \_\_\_\_\_

Approved as to form:

Richard Radatz Jr  
Printed Name: \_\_\_\_\_

Dated: 3/30/2021  
\_\_\_\_\_

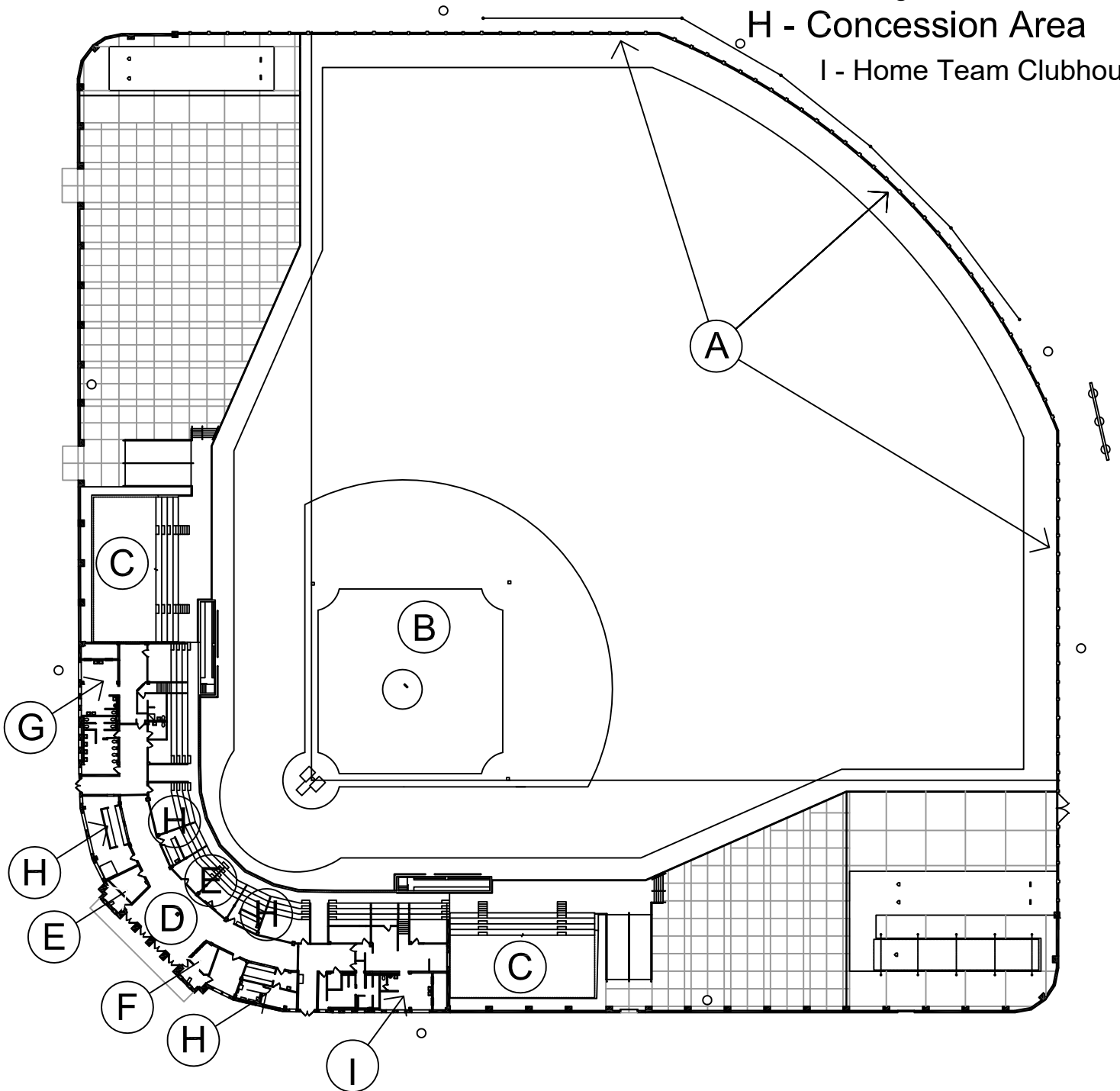
\_\_\_\_\_  
City Attorney



# EXHIBIT A

## WADE STADIUM DULUTH, MN

- KEY
- A - Advertising Space
  - B - Playing Field
  - C - Stadium Grandstand
  - D - Joint Use Facilities
  - E - Storage Area
  - F - **Office Space**
  - G - Visiting Team Clubhouse
  - H - Concession Area
  - I - Home Team Clubhouse



**Public Administration Department  
Parks and Recreation Division**

City Hall - Ground Floor • 411 West First Street • Duluth, Minnesota • 55802  
218-730-4300 • [www.duluthmn.gov/parks/index.cfm](http://www.duluthmn.gov/parks/index.cfm)



April 9, 2019

Dear Community Partner:

Thank you for your interest in proposing an improvement project for City property. We recognize that working closely with the community is an important way we can fulfill our responsibility to develop long-term strategies, plans and improvements that benefit the greatest number of constituents possible and effectively use limited resources.

Each year there are numerous requests for projects on City property. To better respond to the requests, the City has developed a system that will result in better communications, tracking and processing of project proposals. It establishes Parks and Recreation as the City entity that will: (1) accept and review all submitted parks related Project Proposal Forms; (2) conduct an internal review to determine compatibility with all parks planning documents, industry best practices, and standards set by the Division, (3) pending preliminary approval by parks review staff, forward to appropriate city staff in other divisions, (4) if approved, facilitate the process to project completion. Once your project proposal request is received, staff will initiate the review process, with the intent to provide a response within sixty (60) days.

The intent of this process is to expedite decision making, properly evaluate proposals against existing plans, standards, and uses; clarify the approval process, reduce confusion and miscommunication, and provide a central point of contact to respond to questions and concerns. At any point in the process, Parks and Recreation can be contacted to respond to questions or concerns.

In past years, this process has seen a number of projects completed for the betterment of our community, including installation of park benches, playfield renovations and community beautification projects. Proposals may be submitted by individuals and community organizations, as well as City staff.

Please note that acquiring funds for a project through CDBG, a DNR grant, fundraising, donations or other means does not guarantee project acceptability. Any project on City property must also receive recommendation and approval by the appropriate City officials. It is strongly recommended that City approval should occur in advance of, or at least concurrent with, pursuing funding.

If you have any questions, please contact Jessica Schoonover at (218) 730-4325.

Sincerely,

A handwritten signature in black ink, appearing to read "Jessica Peterson".

Jessica Peterson  
Parks and Recreation Manager  
City of Duluth  
411 W First Street  
Duluth, MN 55802



# CITY OF DULUTH - PARKS AND RECREATION PROJECT PROPOSAL FORM



Use this form to propose a City of Duluth improvement project on park property. This form is to be used by external community groups, organizations and individuals, as well as internally generated requests. You or your organization will receive a response to the project proposal request within sixty (60) days of submission. **Please submit completed form, along with attached map to: [projectproposal@duluthmn.gov](mailto:projectproposal@duluthmn.gov).**

## APPLICANT CONTACT INFORMATION

Date of Application:

Name:

Organization:

Address:

City/State/Zip:

Park Location:

E-mail:

Primary Phone:

Secondary Phone:

IS YOUR PROJECT RELATED TO

**PUBLIC**

-ARTS-  
-MEMORIALS-  
-MONUMENTS-

IF SO, YOUR PROPOSAL WILL BE SHARED WITH THE DULUTH PUBLIC ARTS COMMISSION FOR REVIEW.

## PROJECT PROPOSAL

Use additional sheets if more space is needed.

### PROJECT LOCATION

Describe as best as possible the location of the proposed project. Give the park name, location within park, and GPS coordinates. If the project is City-wide, please state "City-wide."

### PROJECT DESCRIPTION

Describe the proposed project in as much detail as possible. Why is the project needed and necessary? What do you propose doing? Maps, sketches, diagrams, and/or schematic drawings are required so those reviewing the proposal have a better understanding of your project. These may include location, sizes, wording, colors, etc. **Please attach any additional information about this project.**

Attached     Not Applicable

### PROJECT JUSTIFICATION

Describe the benefit of the proposed project. Is it a safety issue? Will it provide cost savings to the City? Is it a functional improvement? Does it provide aesthetic benefit to the park?



# CITY OF DULUTH - PARKS AND RECREATION PROJECT PROPOSAL FORM



### **PROJECT COST**

*Describe the approximate cost to complete the project. This can be a "guesstimate." This is only considered to be a rough guideline.*

### **POTENTIAL SOURCE OF FUNDING**

*Describe potential funding sources for the project.*

### **NEIGHBOR SUPPORT**

*Does this project have the support of neighbors living nearby?*

Yes  No  Uncertain  Not Applicable

*Comments:*

### **ENERGY USE**

*Will this project change the use of any energy type listed below?*

Yes  No  Uncertain  Not Applicable

*If yes, check all energy types where use is expected to change.*

ELECTRICITY (kWh)  GAS (Therms)  OIL (gallons)  STEAM (Pounds)  WATER and SEWER (CCF)

### **ADDITIONAL CONSIDERATIONS**

The City of Duluth considers our long-term strategies, Master Plans, Accessibility Plan and Capital Improvement list, as well as legal requirements, in evaluating proposals. Please review the considerations below and add any comments you have.

**CONSIDERATION (A):** Project is compatible with Park Master Plan, systems plans, Strategic Plans, etc.

**COMMENT (A):**

**CONSIDERATION (B):** Project is compliant with ADA Accessibility Plans.

**COMMENT (B):**



**CITY OF DULUTH - PARKS AND RECREATION PROJECT PROPOSAL FORM**



**CONSIDERATION (C):** Project is compatible with surrounding and adjoining uses.

**COMMENT (C):**

**CONSIDERATION (D):** Project will meet standards for materials and construction practices.

**COMMENT (D):**

**CONSIDERATION (E):** Project complies with zoning code and land uses.

**COMMENT (E):**

**CONSIDERATION (F):** Project does or does not require a permit.

**COMMENT (F):**

**CONSIDERATION (G):** Increases cost to maintain or operate. *(Note: If this is the case, and the project is approved, it may need to be incorporated into the Capital Improvement Plan and be approved by City Council.)*

**COMMENT (G):**

**SUBMIT COMPLETED FORMS to:**

**JESSICA SCHOONOVER  
ADMINISTRATIVE CLERICAL SPECIALIST  
CITY OF DULUTH  
PARKS AND RECREATION  
411 WEST FIRST STREET  
DULUTH, MN 55802  
[projectproposal@duluthmn.gov](mailto:projectproposal@duluthmn.gov)  
(218) 730-4325**

## EXHIBIT C City of Duluth Incident/Injury Report

**Supervisor to complete within 24 hours of incident/injury.** If injury required treatment by a medical provider, attach medical documentation. Completed forms should be emailed to [accidentreporting@duluthmn.gov](mailto:accidentreporting@duluthmn.gov).

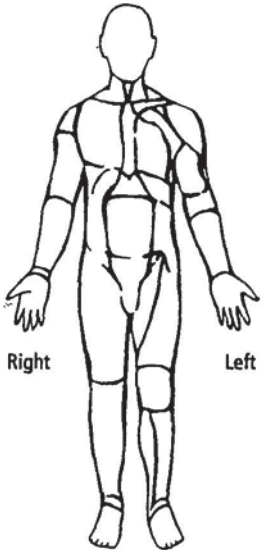
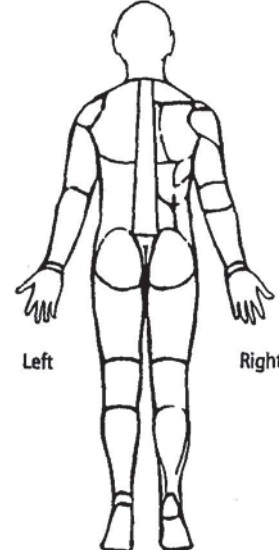
Date of incident/injury:	<input type="checkbox"/> Employee <input type="checkbox"/> Non-Employee	Department/Division:
Choose one that best describes this claim: <input type="checkbox"/> Incident only, no medical care <input type="checkbox"/> Medical only, no lost time <input type="checkbox"/> Injury includes lost time		
Initial treatment sought:	<input type="checkbox"/> Hospital ER <input type="checkbox"/> Clinic <input type="checkbox"/> Refused to see MD / None	Doctor/clinic name, address, phone number:

Last name:	First name:	MI:	SSN:
Address:			
City:	State:	Zip code:	Phone:
Date of hire:	Occupation:	Date of birth:	
			Gender: <input type="checkbox"/> Male <input type="checkbox"/> Female

Did injury occur on employer's premises? <input type="checkbox"/> Yes <input type="checkbox"/> No	Name and address of the place of the occurrence:
Time employee began work: _____ <input type="checkbox"/> a.m. <input type="checkbox"/> p.m.	Time of injury: _____ <input type="checkbox"/> a.m. <input type="checkbox"/> p.m.
Date employer notified of injury: _____	Date employer notified of lost time: _____
First date of any lost time: _____	Return to work date: _____
RTW with restrictions: <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	
Describe the nature of the illness or injury. Be specific. Include body parts affected.	
Describe the activities when injury occurred with details of how it happened.	
What tools, equipment, machines, objects and/or substances were involved?	

Incident investigation conducted: <input type="checkbox"/> Yes <input type="checkbox"/> No	Date supervisor notified: _____	Date report completed: _____
Supervisor name: _____	Supervisor phone number: _____	
Names and phone numbers of witnesses:		
Incident was a result of: <input type="checkbox"/> safety violation	<input type="checkbox"/> machine malfunction	<input type="checkbox"/> product defect
<input type="checkbox"/> motor vehicle accident	<input type="checkbox"/> N/A	
Supervisor comments:		
What actions have been taken to prevent recurrence?		

## City of Duluth Incident/Injury Report

<p><b>CAUSE</b></p> <p><input type="checkbox"/> Slip and fall</p> <p><input type="checkbox"/> Struck by equipment</p> <p><input type="checkbox"/> Lifting or moving</p> <p><input type="checkbox"/> Caught (in, on, or between)</p> <p><input type="checkbox"/> Needle puncture</p> <p><input type="checkbox"/> Object in eye (<input type="checkbox"/> Right <input type="checkbox"/> Left)</p> <p><input type="checkbox"/> Repetitive/overuse</p> <p><input type="checkbox"/> Other (specify): _____</p> <p><b>TYPE OF INJURY</b></p> <p><input type="checkbox"/> Scrape/bruise</p> <p><input type="checkbox"/> Sprain/strain</p> <p><input type="checkbox"/> Puncture wound</p> <p><input type="checkbox"/> Cut/laceration</p> <p><input type="checkbox"/> Concussion</p> <p><input type="checkbox"/> Bite</p> <p><input type="checkbox"/> Chemical burn/rash/breathing difficulties</p> <p><input type="checkbox"/> No apparent injury</p> <p><input type="checkbox"/> Other (specify): _____</p>	<p style="text-align: center;"><b>MARK AREAS OF INJURY BELOW:</b></p> <p style="text-align: center;">Areas can be marked by typing an "X" in the text box wherever needed.</p> <div style="display: flex; justify-content: space-around;"> <div style="text-align: center;"> <p><b>Front</b></p>  </div> <div style="text-align: center;"> <p><b>Back</b></p>  </div> </div>
---	---

COMPLETE FOR VEHICLE, EQUIPMENT, OR PROPERTY DAMAGE				
<p><b>For vehicle accidents:</b> Attach sketch and additional information of how vehicle accident occurred. Include street names, direction of travel, locations of vehicles, objects and traffic control devices (↑ North)</p>				
Incident Location: _____		Time of incident: _____ <input type="checkbox"/> a.m. <input type="checkbox"/> p.m.		
Police called: <input type="checkbox"/> Yes <input type="checkbox"/> No		Police Traffic Accident Report ICR #: _____		
<b>City vehicle, property, or equipment involved</b>	Description:			
	Vehicle #: _____	Make/Model: _____	Year: _____	
	Describe damage: _____			
<b>Non-city vehicle, property, or equipment involved</b>	Owner full name: _____		<input type="checkbox"/> Driver <input type="checkbox"/> Passenger <input type="checkbox"/> Other	
	Owner address: _____			
	Owner phone number: _____		Vehicle license #: _____	
	Make/Model: _____		Color: _____	Year: _____
	Describe damage: _____			
<b>Weather conditions:</b>	<b>Roadway conditions:</b>	<b>Light conditions:</b>	Approximate temperature: _____ °F	
<input type="checkbox"/> Clear <input type="checkbox"/> Wind	<input type="checkbox"/> Dry <input type="checkbox"/> Mud	<input type="checkbox"/> Night	Estimated speed: _____ mph	
<input type="checkbox"/> Rain <input type="checkbox"/> Cloudy	<input type="checkbox"/> Wet <input type="checkbox"/> Paved	<input type="checkbox"/> Day	Vehicle: <input type="checkbox"/> Loaded <input type="checkbox"/> Empty	
<input type="checkbox"/> Fog <input type="checkbox"/> Sleet	<input type="checkbox"/> Snow <input type="checkbox"/> Unpaved	<input type="checkbox"/> Good	What was load: _____	
<input type="checkbox"/> Snow	<input type="checkbox"/> Ice	<input type="checkbox"/> Poor	Drug and/or alcohol test? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	

The Incident/Injury Form should be printed and signed by supervisor and employee. Completed forms can be scanned to [accidentreporting@duluthmn.gov](mailto:accidentreporting@duluthmn.gov).

Supervisor Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Employee Signature: \_\_\_\_\_

Date: \_\_\_\_\_