



# OFFICIAL NOTICE AND AGENDA

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

|                 |                                                                                                                                                          |
|-----------------|----------------------------------------------------------------------------------------------------------------------------------------------------------|
| Meeting of the: | <b>COMMON COUNCIL OF THE CITY OF WAUSAU</b>                                                                                                              |
| Date/Time:      | <b>Tuesday, March 14, 2023 at 6:30 p.m.</b>                                                                                                              |
| Location:       | <b>City Hall (407 Grant Street, Wausau WI 54403) - Council Chambers</b>                                                                                  |
| Members:        | Carol Lukens, Michael Martens, Tom Kilian, Doug Diny, Gary Gisselman, Becky McElhaney, Lisa Rasmussen, Sarah Watson, Dawn Herbst, Lou Larson, Chad Henke |

|                                                                                |                                                                                            |                                                                                                                                                                                                                          |               |
|--------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------|
| <b>Call to Order</b>                                                           |                                                                                            |                                                                                                                                                                                                                          |               |
| Pledge of Allegiance / Roll Call / Proclamations                               |                                                                                            |                                                                                                                                                                                                                          |               |
| <b>Presentation:</b>                                                           | <b>Wisconsin DNR PFAS Remediation &amp; Redevelopment Program Educational Presentation</b> |                                                                                                                                                                                                                          |               |
| Public Comment:                                                                | Pre-registered citizens for matters appearing on the agenda and other public comment.      |                                                                                                                                                                                                                          |               |
| <b>File #</b>                                                                  | <b>CMT</b>                                                                                 | <b>Consent Agenda</b>                                                                                                                                                                                                    | <b>ACT</b>    |
| 23-0201                                                                        | COUN                                                                                       | Minutes of previous meeting (2/28/23)                                                                                                                                                                                    | Place on file |
| 23-0306                                                                        | CISM                                                                                       | Ordinance Amending Section 10.20.080(a) designating no parking on south side of Summit Drive between Beechwood Drive and North 3rd Avenue                                                                                | Approved 5-0  |
| 92-1135                                                                        | FIN                                                                                        | Resolution Authorizing Joint Powers Agreement with Marathon County regarding E911/NG-911 system                                                                                                                          | Approved 5-0  |
| 18-0406                                                                        | PH&S                                                                                       | Resolution Approving Updates to City of Wausau's Americans with Disabilities Act Title II Accommodation Request Form                                                                                                     | Approved 5-0  |
| 23-0108                                                                        | PH&S                                                                                       | Resolution Approving or Denying Various Licenses as Indicated                                                                                                                                                            | Approved 5-0  |
| 10-0211                                                                        | PH&S                                                                                       | Ordinance Amending Section 9.24.050 Safety and peace nuisances.                                                                                                                                                          | Approved 5-0  |
| <b>File #</b>                                                                  | <b>CMT</b>                                                                                 | <b>Resolutions and Ordinances</b>                                                                                                                                                                                        | <b>ACT</b>    |
| 23-0303                                                                        |                                                                                            | Mayor's Appointments                                                                                                                                                                                                     |               |
| 06-0909                                                                        | CISM                                                                                       | Resolution Approving lease with The Lamar Companies for billboard signs at Bridge Street and 3rd Street                                                                                                                  | Approved 4-1  |
| 23-0304                                                                        | CISM                                                                                       | Ordinance Amending ordinance Section 12.20.080 Access management on Grand Avenue                                                                                                                                         | Failed 1-4    |
| 23-0305                                                                        | CISM                                                                                       | Ordinance Amending Section 10.20.080(a) designating no parking on east side of North 2nd Avenue between Eldred Street and Stowbridge Street                                                                              | Approved 5-0  |
| 20-0410                                                                        | ED                                                                                         | Resolution Approving First Amendment to Development Agreement with RJ Elm Properties, LLC – 1520 Elm Street                                                                                                              | Approved 4-0  |
| 22-1109                                                                        | FIN                                                                                        | Resolution Approving and Adopting the Budget for Public Works West Street Garage Design Services Amendment 5                                                                                                             | Approved 5-0  |
| 22-1109A                                                                       | FIN                                                                                        | Resolution Approving and Adopting the Budget for American Rescue Plan Coronavirus State and Local Fiscal Recovery Fund Funded Projects – Lead Service Line Replacement                                                   | Approved 5-0  |
| 22-1109B                                                                       | FIN                                                                                        | Resolution Approving and Adopting the Budget Amendment for American Rescue Plan Coronavirus State and Local Fiscal Recovery Fund Funded Projects –Year-Round Warming Center – Catholic Charities and Open Door           | Approved 5-0  |
| 23-0308                                                                        | PH&S                                                                                       | Resolution Supporting Reduction of Greenhouse Gas Emissions and Energy Security.                                                                                                                                         | Approved 5-0  |
| Suspend Rule 6(B) Filing and 12(A) Referral of Resolutions (2/3 vote required) |                                                                                            |                                                                                                                                                                                                                          |               |
| 11-0505                                                                        | COUN                                                                                       | Resolution Designating April 29, 2023 as World Migratory Bird Day                                                                                                                                                        | Pending       |
| 07-0919                                                                        | COUN                                                                                       | Resolution Approving City's Waiver of First Right of Refusal to Repurchase Property at 400 N. 72nd Avenue (Polywood Properties, LLC) and consent to lease property from Tempus Wausau, LLC to Polywood Fabrication, Inc. | Pending       |
| 16-0214                                                                        | FIN                                                                                        | Resolution Approving alleged claim for recovery of unlawful tax – Achieve Center, Inc. (520 N. 28th Avenue)                                                                                                              | Pending       |
| 23-0307                                                                        | FIN                                                                                        | Resolution Approving alleged claim for recovery of unlawful tax – Roaring Fork, LLC (2205 Stewart Avenue)                                                                                                                | Pending       |
| 22-1109                                                                        | FIN                                                                                        | Resolution Approving carryover funding of \$40,000 for the 2022 Scott Street Bridge Fencing Project to 2023                                                                                                              | Pending       |
| 23-0309                                                                        | FIN                                                                                        | Resolution Approving Fourth Amendment to Advanced Physical Therapy and Sports Medicine, S. C. On-Site Health Services Agreement                                                                                          | Pending       |
| Public Comment & Suggestions                                                   |                                                                                            |                                                                                                                                                                                                                          |               |
| Adjournment                                                                    |                                                                                            |                                                                                                                                                                                                                          |               |

Signed by Mayor Katie Rosenberg

Members of the public who do not wish to appear in person may view the meeting live on live on the Internet, 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 [kaitlyn.bernarde@ci.wausau.wi.us](mailto:kaitlyn.bernarde@ci.wausau.wi.us) with "Common Council public comment" in the subject line prior to the meeting start.

This Notice was posted at City Hall and transmitted to the Daily Herald newsroom on 3/10/23 @ 3:30 PM Questions regarding this agenda may be directed to the City Clerk.

*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](mailto: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.*

**OFFICIAL PROCEEDINGS OF THE WAUSAU COMMON COUNCIL**  
held on Tuesday, February 28, 2023 in Council Chambers, beginning at 6:30 p.m.,  
Mayor Katie Rosenberg presiding.

**Roll Call**

2/28/2023

Roll Call indicated 11 members present.

| <u>District</u> | <u>Aldersperson</u> | <u>Present</u> |
|-----------------|---------------------|----------------|
| 1               | Lukens, Carol       | YES            |
| 2               | Martens, Michael    | YES            |
| 3               | Kilian, Tom         | YES            |
| 4               | Diny, Doug          | YES            |
| 5               | Gisselman, Gary     | YES            |
| 6               | McElhaney, Becky    | YES            |
| 7               | Rasmussen, Lisa     | YES            |
| 8               | Watson, Sarah       | YES            |
| 9               | Herbst, Dawn        | YES            |
| 10              | Larson, Lou         | YES            |
| 11              | Henke, Chad         | YES            |

**Proclamation/Commendation**

Mayor Rosenberg stated Tony Earl was elected as the 41<sup>st</sup> governor of Wisconsin. He started his career as assistant district attorney in Marathon County, and served as City Attorney for City of Wausau, as well as elected to serve in the Wisconsin State Assembly. She commended Tony Earl for his service and dedication to our city, county, and state.

**Public Comment: Pre-registered citizens for matters appearing on the agenda and other public comment.**

- 1) Jason Crick, 417 Division St, commented on the supervised visitation program at Children's Wisconsin in Wausau which was defunded. Now a lot of mothers and children must travel distances for compulsory visitation in unreliable vehicles in unpredictable weather. He asked the council to work with the county board to reinstate supervised visitation at the Wausau office.

**Consent Agenda**

2/28/2023

Motion by Larson, second by Henke to adopt all the items on the Consent Agenda as follows:

*Mayor Rosenberg indicated she was removing file 22-1108 from the Consent Agenda for a separate vote.*

**23-0201** Minutes of previous meeting (2/14/23)

**04-0110** Joint Resolution of the Airport Committee and Finance Committee Authorizing Amendment to Current T-Hanger Leases for the Downtown Wausau Airport

**21-1109** Resolution of the Finance Committee Approving the Reclassification of Projects funded by the American Rescue Plan Act of 2021, Coronavirus State and Local Fiscal Recovery Funds (SLFRF) Program to the Revenue Loss Classification

**99-1020** Resolution of the Finance Committee Approving payment agreement with KOZ Holdings, LLC d/b/a Pro Players Sports Bar and Grill for parking lease invoices -- 206 Grand Avenue, Schofield

**23-0213** Resolution of the Finance Committee Approving acquisition of 144 W. Washington Street from Community Development Authority

**23-0214** Resolution of the Finance Committee Approving contract with E-Plan Exam for comprehensive commercial building and plumbing plan review.

Yes Votes: 11    No Votes: 0    Result: PASS

**22-1108 Amendment**

2/28/2023

Motion by Rasmussen, second by Diny to Amend the Resolution of the Economic Development Committee Approving termination of recorded Deed Restrictions for 110 S. 84<sup>th</sup> Avenue - to remove the deed restrictions for the commencement and completion of construction.

City Attorney Anne Jacobson explained when this first came to the ED Committee the attorney representing the developer Wausau Coated asked that we remove deed restriction 1(a) that spoke about commencing construction within one year. Subsequently the attorney requested also removing 1(b) requiring a complete construction within two years. She recommended they remove these deed restrictions.

Lisa Rasmussen commented the use of the property is a parking lot, so as the facilities needs dictate, they should be able to build on their own timeline. She indicated the ED Committee determined there was no other additional or alternative use for the property.

Yes Votes: 11    No Votes: 0    Result: PASS

**22-1108**

2/28/2023

Motion by Rasmussen, second by Herbst Resolution of the Economic Development Committee Approving termination of recorded Deed Restrictions for 110 S. 84<sup>th</sup> Avenue, as amended on Council Floor.

Yes Votes: 11    No Votes: 0    Result: PASS

**23-0203**

2/28/2023

Motion by Watson, second by Lukens to confirm the Mayor's Appointment of Arlene Kaatzto the Board of Zoning Appeals.

Yes Votes: 11    No Votes: 0    Result: PASS

**Public Comment & Suggestions:**

None

**Adjournment**

2/28/2023

Motion by Watson, second by Lukens to adjourn the meeting. Motion carried unanimously. Meeting adjourned at 6:42 pm.

Katie Rosenberg, Mayor  
Kaitlyn Bernarde, City Clerk



**ORDINANCE OF CAPITAL IMPROVEMENTS & STREET  
MAINTENANCE COMMITTEE**

Amending Section 10.20.080(a) designating no parking on south side of Summit Drive between Beechwood Drive and North 3<sup>rd</sup> Avenue

Committee Action: Approved 5-0

**Ordinance Number:**

Fiscal Impact: Minimal cost to install signs

**File Number:** 23-0306

**Date Introduced:** March 14, 2023

The Common Council of the City of Wausau do ordain as follows:

Add ( )

Section 1. That Section 10.20.080(a) of the Wausau Municipal Code is hereby amended as follows:

(a) There shall be no parking in the following locations:

...

**Summit Drive**

- **South side of the street between Beechwood Drive and North 3<sup>rd</sup> Avenue from November 1 to April 1**

Section 2. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 3. This ordinance shall be in full force and effect on the day after its publication.

Adopted:

Approved:

Published:

Attest:

Approved:

\_\_\_\_\_  
Katie Rosenberg, Mayor

Attest:

\_\_\_\_\_  
Kaitlyn A. Bernarde, City Clerk

## CAPITAL IMPROVEMENTS AND STREET MAINTENANCE COMMITTEE

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Date of Meeting: February 9, 2023, at 5:15 p.m. in the Council Chambers of City Hall.

Members Present: Lou Larson, Doug Diny, Chad Henke, Lisa Rasmussen, Gary Gisselman

Also Present: Eric Lindman, Allen Wesolowski, TJ Niksich, Tara Alfonso, Chris Barr

### **Discussion and possible action on parking restrictions on Summit Drive from Beechwood Drive to North 3<sup>rd</sup> Avenue**

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Rasmussen said this area has the same issue. The pinch point is the Beechwood/Summit Drive intersection. This request came from the plow driver and a neighbor in the 1600 block of Summit. The issue is coming from the apartments and condos along the curve. Trash pickup for the apartment and the condo has to T in on the curve and it is a tight corner to begin with. The request is for parking restrictions on one side from November to April. Discussion followed.

Stuart Mikul, 321 Summit Drive, lives in the condo. His children visit and need parking. There are no driveways up to Beechwood on the other side of the street. He checked early this morning and there were two cars in front of the apartment building and one across the street. He questioned overnight parking limitations and if the Tech parking lot would be something he could use for overnight parking if needed. Rasmussen said the private sector owns that lot and an arrangement would have to be worked out with the owner. Discussion followed on restricting parking on the south side during the winter. Mikul added that their mailboxes are out front and sometimes the mailman has to jockey in and out due to parked vehicles.

Rasmussen moved to restrict parking on the south side of Summit Drive between Beechwood and North 3<sup>rd</sup> Avenue from November 1<sup>st</sup> to April 1<sup>st</sup>. Henke seconded.

Henke noted alternative side parking overnight in the wintertime. Rasmussen said the enforcement is lacking and there is an insane number of violators.

There being a motion and a second, motion to restrict parking on the south side of Summit Drive between Beechwood and North 3<sup>rd</sup> Avenue from November 1<sup>st</sup> to April 1<sup>st</sup> carried unanimously 5-0.

| AGENDA ITEM                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Discussion and possible action on parking restrictions on Summit Drive from Beechwood Drive to North 3 <sup>rd</sup> Avenue                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| BACKGROUND                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| The Wausau PD and Engineering received a request for possible parking restrictions on Summit Drive. The request was to limit parking on Summit due to difficulties with plowing or garbage trucks in the winter months. The current roadway is 37' back of curb to back of curb which meets city standards for parking on both sides of the roadway. This segment of Summit Drive is on a curve.                                                                                                                                                                                                                                       |
| FISCAL IMPACT                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| Minimal, signs if necessary.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| STAFF RECOMMENDATION                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| Staff does not recommend marking no parking for the entire block on one or both sides. The current roadway width is adequate to support parking on both sides of the roadway. Staff would support making 'No Parking' 50 feet back from the intersection year-round to allow plow trucks and garbage trucks to make the turns. If the committee does feel this is an issue that needs further action, one accommodation could be to post 'No Parking' in the winter months in locations as shown on the attached map. One issue with this may be in pushing the parking issue further up the block or to the other side of the street. |
| Staff contact: Allen Wesolowski 715-261-6762                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |



=No parking; Nov-April



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

**RESOLUTION OF THE FINANCE COMMITTEE**

Authorizing Joint Powers Agreement with Marathon County regarding E911/NG-911 system

Committee Action: Approved 5-0

Fiscal Impact: None

File Number: 92-1135

Date Introduced: March 14, 2023

**FISCAL IMPACT SUMMARY**

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

**RESOLUTION**

**WHEREAS**, the City of Wausau and Marathon County have participated in an E911 system for several years; and

**WHEREAS**, Wis. Stats. §256.35(9)(a) through (c) mandates that public agencies participating in an E911/NG-911 system enter into a joint powers agreement; and

**WHEREAS**, your Finance Committee, at their February 28, 2023 meeting recommended approving the Joint Powers Agreement between Marathon County and the City of Wausau pursuant to the terms and provisions of Wis. Stats. §256.35(1)(a) through (c); and

**WHEREAS**, the attached Joint Powers Agreement is in conformity with the requirements of said statute.

**NOW, THEREFORE, BE IT RESOLVED** by the Common Council of the City of Wausau that the proper city officials are hereby authorized and directed to execute the attached Joint Powers Agreement.

Approved:

\_\_\_\_\_  
Katie Rosenberg, Mayor

## **FINANCE COMMITTEE**

Date and Time: Tuesday, February 28, 2023 @ 5:30 pm., Council Chambers

Members Present: Lisa Rasmussen, Michael Martens, Doug Diny, Carol Lukens, Sarah Watson

Others Present: Maryanne Groat, Anne Jacobson, Katie Rosenberg, Eric Lindman, Ben Bliven, Jeremy Kopp, Megan Neuman, Allen Wesolowski, Dustin Kraege, Kaitlyn Bernarde

### **Discussion and possible action on Joint Powers Agreement with Marathon County regarding E911/NG-911 System**

Rasmussen stated this is a standard renewal of a contract that has been reviewed by the legal department.

Motion by Martens, second by Diny to approve. Motion carried 5-0.





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Office of the City Attorney

TEL: (715) 261-6590

FAX: (715) 261-6808

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Anne L. Jacobson  
City Attorney

Tara G. Alfonso  
Assistant City Attorney

Nathan Miller  
Assistant City Attorney

## Memorandum

**From:** Anne Jacobson   
**To:** Finance Committee  
**Date:** February 22, 2023  
**Re:** Joint Powers Agreement with Marathon County for E911/NG-911 System

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Purpose: To obtain your approval of a Joint Powers Agreement with Marathon County for the E911/NG-911 system.

Facts: On October 13, 2020, Council last approved a Joint Powers Agreement with the County for one year, effective September 1, 2020. A renewal for 2022 did not occur.

The City and County would like to reaffirm the September 1, 2020 agreement and enter into an agreement effective January 1, 2023 for one year.

Section 256.35(9)(a), Wis. Stats., requires public agencies to annually enter into a joint powers agreement.

Recommendation: Approval, as this is a request for reaffirmation of an existing relationship and agreement.

**JOINT POWERS AGREEMENT  
MARATHON COUNTY E911/NG-911 SYSTEM**

IT IS HEREBY AGREED by and between Marathon County, a municipal body corporate and public agency as defined in Wis. Statutes: 256.35(9)(a) through (c), and City of Wausau, a Wisconsin municipal corporation and a public agency as defined by Wis. Statutes 256.35(9)(a) through (c) that:

1. This Joint Powers Agreement is entered into pursuant to Wis. Statutes: 256.35(9)(a) through (c), and in strict conformity therewith.
2. This agreement shall be effective January 1, 2023 and continue in full force and effect for a period of one year until December 31, 2023, unless either party notifies the other in writing of this intent to cancel or renegotiate said agreement. Said written notice must be given not less than ninety (90) days prior to the expiration date. This agreement is intended to reaffirm the intent of the parties to annually enter into a joint powers agreement, which was last reaffirmed on September 1, 2020.
3. This agreement shall be applicable on a daily basis.
4. If an emergency service vehicle is dispatched in response to a request through the E911/NG-911 system, such vehicle shall render its services to the person(s) needing the service regardless of whether the vehicle is operating outside the vehicle's normal jurisdictional boundaries.
5. The definitions of Wis. Statutes 256.35(1) are incorporated by reference as if set forth in full and shall be applicable in the interpretation of this Joint Powers Agreement.
6. A copy of this Joint Powers Agreement shall be filed with the Wisconsin Department of Justice as required by Wis. Statute 256.35(9)(c).

Dated and signed this \_\_\_\_ day of \_\_\_\_\_, 2023

MARATHON COUNTY

BY: \_\_\_\_\_

Lance Leonhard  
County Administrator

Dated and signed this \_\_\_\_ day of \_\_\_\_\_, 2023

CITY OF WAUSAU

BY: \_\_\_\_\_

Katie Rosenberg  
Mayor



## JOINT POWERS AGREEMENT MARATHON COUNTY E911/NG-911 SYSTEM

IT IS HEREBY AGREED by and between Marathon County, a municipal body corporate and public agency as defined in Wis. Statutes: 256.35(9)(a) through (c), and City of Wausau, a Wisconsin municipal corporation and a public agency as defined by Wis. Statutes 256.35(9)(a) through (c) that:

1. This Joint Powers Agreement is entered into pursuant to Wis. Statutes: 256.35(9)(a) through (c), and in strict conformity therewith.
2. This agreement shall be effective September 1, 2020 and continue in full force and effect for a period of one year until 9/1/2021, unless either party notifies the other in writing of this intent to cancel or renegotiate said agreement. Said written notice must be given not less than ninety (90) days prior to the expiration date. This agreement is intended to reaffirm the intent of the parties to annually enter into a joint powers agreement, which began in January, 1993 and has been continuous since that time. All previous versions of this agreement are hereby superseded effective September 1, 2020.
3. This agreement shall be applicable on a daily basis.
4. If an emergency service vehicle is dispatched in response to a request through the E911/NG-911 system, such vehicle shall render its services to the person(s) needing the service regardless of whether the vehicle is operating outside the vehicle's normal jurisdictional boundaries.
5. The definitions of Wis. Statutes 256.35(9)(a) through (c) are incorporated by reference as if set forth in full and shall be applicable in the interpretation of this Joint Powers Agreement.
6. A copy of this Joint Powers Agreement shall be filed with the Wisconsin Department of Justice as required by Wis. Statute 256.35(9)(c).

Dated and signed this 25<sup>th</sup> day of January, 2020 2021

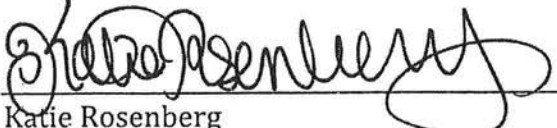
MARATHON COUNTY

BY: 

Lance Leonard  
County Administrator

Dated and signed this 14<sup>th</sup> day of October, 2020

CITY OF WAUSAU

BY: 

Katie Rosenberg  
Mayor

**RESOLUTION OF THE FINANCE COMMITTEE**

Authorizing Joint Powers Agreement with Marathon County regarding E911/NG-911 system

Committee Action: Approved 5-0

Fiscal Impact: None

File Number: 92-1135

Date Introduced: October 13, 2020

**FISCAL IMPACT SUMMARY**

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

**RESOLUTION**

**WHEREAS**, the City of Wausau and Marathon County have participated in an E911 system for several years; and

**WHEREAS**, Wis. Stats. §256.35(9)(a) through (c) mandates that public agencies participating in an E911/NG-911 system enter into a joint powers agreement; and

**WHEREAS**, your Finance Committee, at their October 13, 2020 meeting recommended approving the Joint Powers Agreement between Marathon County and the City of Wausau pursuant to the terms and provisions of Wis. Stats. §256.35(9)(a) through (c); and

**WHEREAS**, the attached Joint Powers Agreement is in conformity with the requirements of said statute.

**NOW, THEREFORE, BE IT RESOLVED** by the Common Council of the City of Wausau that the proper city officials are hereby authorized and directed to execute the attached Joint Powers Agreement.

Approved:



Katie Rosenberg, Mayor

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Office of the City Attorney

TEL: (715) 261-6590  
FAX: (715) 261-6808



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Anne L. Jacobson  
City Attorney

Tara G. Alfonso  
Assistant City Attorney

Nathan Miller  
Assistant City Attorney

## Memorandum

**From:** Anne Jacobson   
**To:** Finance Committee  
**Date:** October 7, 2020  
**Re:** Joint Powers Agreement with Marathon County for E911/NG-911 System

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Purpose: To obtain your approval of a Joint Powers Agreement with Marathon County for the E911/NG-911 system.

Facts: On November 18, 1992, pursuant to state statutes, the City and Marathon County entered into a Joint Powers Agreement for an E9-1-1 system, approved by Council, effective January 15, 1993 for a period of one year automatically renewable annually unless terminated.

Another agreement was executed on September 19, 2013; however this agreement did not receive Council approval.

The County is again requesting an agreement be entered into which would be effective September 1, 2020 and continue for a period of one year until 9/1/2021.

Recommendation: Approval, as this is a request for reaffirmation of an existing relationship and agreement.



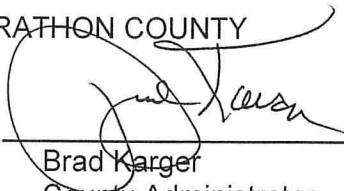
## JOINT POWERS AGREEMENT MARATHON COUNTY E-911 SYSTEM

IT IS HEREBY AGREED by and between Marathon County, a municipal body corporate and public agency as defined in Wis. Statutes: 256.35(9)(a)through(C), and City of Wausau, a public agency as defined by Wis. Statutes 256.35(9)(a)through(c) that:

1. This Joint Powers Agreement is entered into pursuant to Wis. Statutes: 256.35(9)(a)through(c), and in strict conformity therewith.
2. This agreement shall be effective October 01, 2013 and continue in full force and effect for a period of one year until September 01, 2014. This agreement shall be automatically renewed for additional one-year periods unless either party notifies the other in writing of its intent to cancel or renegotiate said agreement. Said written notice must be given not less than ninety (90) days prior to the annual expiration date.
3. This agreement shall be applicable on a daily basis.
4. If an emergency service vehicle is dispatched in response to a request through the E-911 system, such vehicle shall render its services to the person(s) needing the service regardless of whether the vehicle is operating outside the vehicle's normal jurisdictional boundaries.
5. The definitions of Wis. Statutes 256.35(9)(a)through(c) are incorporated by reference as if set forth in full and shall be applicable in the interpretation of this Joint Powers Agreement.
6. A copy of this Joint Powers Agreement shall be filed with the Wisconsin Department of Justice as required by Wis. Statute 256.35(9)(c).

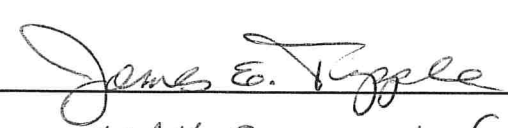
Dated and signed this 19<sup>th</sup> day of September, 2013.

MARATHON COUNTY

BY: 

Brad Karger  
County Administrator

Dated and signed this 26 day of SEPTEMBER, 2013.

BY: 

MAYOR - CITY OF WAUSAU

Official Title

MICROFILMED

JOINT POWERS AGREEMENT  
MARATHON COUNTY E9-1-1 SYSTEM

IT IS HEREBY AGREED by and between Marathon County, a municipal body corporate and public agency as defined in Wis. Stats. § 146.70(1)(f), and the City of Wausau, a public agency as defined by Wis. Stats. § 146.70(1)(f), that:

1. This Joint Powers Agreement is entered into pursuant to Wis. Stats. § 146.70(9), and in strict conformity therewith.
2. This agreement shall be effective January 15, 1993, and continue in full force and effect for a period of one year until January 15, 1994. This agreement shall be automatically renewed for additional one-year periods unless either party notifies the other in writing of its intent to cancel or renegotiate said agreement. Said written notice must be given not less than ninety (90) days prior to the annual expiration date.
3. This agreement shall be applicable on a daily basis.
4. If an emergency service vehicle is dispatched in response to a request through the E9-1-1 system, such vehicle shall render its services to the persons needing the services regardless of whether the vehicle is operating outside the vehicle's normal jurisdictional boundaries, subject to legally permissible availability and standby policies.
5. The definitions of Wis. Stats. § 146.70(1) are incorporated by reference as if set forth in full and shall be applicable in the interpretation of this Joint Powers Agreement.
6. A copy of this Joint Powers Agreement shall be filed with the Wisconsin Department of Justice as required by Wis. Stats. § 146.70(9)(c).
7. Nothing in this agreement shall have any effect on the monetary charge that the City currently makes or may make in the future to other governmental entities and/or individuals for emergency and/or non-emergency ambulance, fire, police or other services, regardless of whether those charges are made by agreement or other method.

Dated and signed this 18<sup>TH</sup> day of NOVEMBER, 1992.

MARATHON COUNTY

BY: Mort McBain

Mort McBain  
County Administrator

Dated and signed this 18<sup>th</sup> day of Nov., 1992.

CITY OF WAUSAU

BY: John D. Hess

John D. Hess, Mayor

BY: Gary Lee Klingbeil  
Gary Lee Klingbeil, Clerk

# CITY OF WAUSAU

407 Grant Street  
Wausau, WI 54401-4783

A RESOLUTION: Public Health and Safety Committee

Re: Authorizing Joint Powers Agreement with Marathon  
County

FILE NO. 92-1135

Introduced 11/17/92

Referred

Reported Back

Adopted 11-17-92

Other

Committee/Commission Action

## RESOLUTION

WHEREAS, the City of Wausau and Marathon County will be participating in an E9-1-1 system; and

WHEREAS, Wis. Stats. § 146.70(9) mandates that public agencies participating in an E9-1-1 system enter into joint powers agreements; and

WHEREAS, the your Public Health and Safety Committee has recommended adoption of a Joint Powers Agreement between Marathon County and the City of Wausau pursuant to the terms and provisions of Wis. Stats. § 146.70(9); and

WHEREAS, the attached Joint Powers Agreement is in conformity with the requirements of said statute.

NOW, THEREFORE, BE IT RESOLVED, by the Common Council of the City of Wausau, that the attached Joint Powers Agreement between Marathon County and the City of Wausau is hereby approved, and the proper City officials are hereby authorized to execute that agreement.

92-1135

**RESOLUTION OF THE PUBLIC HEALTH & SAFETY COMMITTEE**

Approving Updates to City of Wausau's Americans with Disabilities Act Title II Accommodation Request Form

Committee Action: Approved 5-0

Fiscal Impact: None

**File Number:** 18-0406

**Date Introduced:** March 14, 2023

**RESOLUTION**

**WHEREAS**, The Americans With Disabilities Act of 1990, together with the U.S. Department of Justice regulations promulgated to implement the Act and the ADA Accessibility Guidelines (collectively, "ADA"), followed the Civil Rights Act of 1964; and

**WHEREAS**, Title II of that Act, effective January 26, 1992, governs public entities and prohibits discrimination against persons with disabilities by public entities in the provision of services, programs and activities and guarantees equal access to such services, programs and activities; and

**WHEREAS**, the ADA has several administrative requirements:

- By January 26, 1993, public entities must perform a self-evaluation of their current services, policies and practices and the effects thereof that do not or may not meet the requirements of Title II, and make necessary modifications;
- Public entities must provide notice to applicants, participants and beneficiaries of their services, programs or activities, regarding the requirements of Title II and its applicability to their services, programs or activities;
- Public entities employing 50 or more persons must designate at least one employee to coordinate its efforts to comply with Title II, including investigation of complaints alleging noncompliance on the part of the public entity;
- Public entities employing 50 or more persons must adopt and publish a grievance procedure providing for the prompt and equitable resolution of complaints alleging action prohibited by Title II; and

**WHEREAS**, as part of the City's 2017-2019 Work Plan with its insurer, Cities and Villages Mutual Insurance Company, 2017 Service Activities identified in partnership with them, included Facility Safety Inspections, and ADA Title II Evaluations; and

**WHEREAS**, an internal team was assembled, representing various departments, that began meeting August 4, 2017 and continues to meet quarterly to review progress on the self-evaluation of the City's services and properties, programs and activities, and to identify and assign responsibility for various items needing action; and

**WHEREAS**, an ADA Policy, Notice, Grievance Procedure, Accommodation Request Form, and Complaint Form had been created for consideration by the full Council and was approved at its April 10, 2018 Common Council Meeting; and

**WHEREAS**, updates to the ADA Policy, Notice, Grievance Procedure, Accommodation Request Form, and Complaint Form had been created for consideration by the full Council and was approved at its June 14, 2022 Common Council Meeting; and

**WHEREAS**, the Drinking Water Treatment Facility was completed in 2022 and needs to be added to the Accommodation Request Form, as all other municipally owned buildings are listed on the form; and

**WHEREAS**, the City Clerk will be assuming the roles and duties of the ADA Coordinator and the telephone contact number is being changed to the City Clerk's number; and

**NOW THEREFORE, BE IT RESOLVED**, that the Common Council hereby approves and adopts updated versions of the following attached documents:

- City of Wausau Americans With Disabilities Act (ADA) Title II Policy,
- City of Wausau Americans With Disabilities Act (ADA) Accommodation Request Form,
- Notice Under the Americans With Disabilities Act,
- City of Wausau Americans With Disabilities Act (ADA) Complaint Form.

Approved:

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Katie Rosenberg, Mayor



## **PUBLIC HEALTH & SAFETY COMMITTEE**

Date and Time: Monday, February 20, 2023, at 5:15 pm, (Council Chambers)

Members Present: Lisa Rasmussen, Chad Henke, Doug Diny, Lou Larson, Becky McElhaney

Others Present: Tara Alfonso, Ben Bliven, Jeremy Kopp, Tracy Rieger, Kaitlyn Bernarde, Mary Goede, Andrew Lynch, Brad Lenz, Katie Rosenberg

### **Discussion and possible action approving update to City of Wausau's Americans with Disabilities Act Title II Policy, Accommodation Request Form, Notice and Complaint Form**

Rasmussen explained with the departure of Attorney Nathan Miller, the City Clerk Kaitlyn Bernarde will be taking over the ADA requirement management, so this is a housekeeping item to update the standard forms to reflect that change.

Motion by Henke, second by Diny to approve the forms. Motion carried 5-0.

| <p style="text-align: center;"><b>CITY OF WAUSAU</b><br/> <b>Americans With Disabilities Act (ADA) Title II</b><br/> <b>Policy</b></p>          |                                            |                          |
|-------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------|--------------------------|
| <b>Issue Date:</b><br>March 28, 2018                                                                                                            | <b>Revision Update(s):</b><br>May 16, 2022 | <b>Total Pages:</b><br>3 |
| <b>Policy Source:</b><br>Cities and Villages Mutual Insurance Company<br>Federal Americans with Disabilities Act, and the Department of Justice |                                            |                          |
| <b>Special Instructions:</b>                                                                                                                    |                                            |                          |

## **I. PURPOSE**

Title II of the American's with Disabilities Act (ADA) prohibits discrimination against qualified individuals with disabilities in all programs, activities, and services of public entities. Therefore, this policy outlines the provisions of Title II of the ADA, and the rights and obligations of citizens and the City under federal and state law.

## **II. POLICY**

It is the policy of the City of Wausau to ensure that all citizens have an equal opportunity to participate in and receive the benefits of the services, programs, or activities of the City of Wausau. This will be done in the most integrated setting appropriate to the needs of the qualified individual with a disability. Only where it is absolutely necessary will the City provide services, programs, or activities separately to persons with disabilities. No qualified individual with a disability shall, on the basis of said disability, be screened out of a service, program or activity. Nor, shall any individual be excluded from participation in or denied the benefits of said services, programs or activities, because of their disability.

The City is required to ensure all programs and activities are accessible, but are not required to make each and every facility accessible, as long as all programs are accessible (see "*Transition Plans*"). There are several means by which the City can make its programs readily accessible to and usable by disabled individuals, including:

- Redesigning equipment;
- Reassigning services or programs to alternative, accessible buildings;
- Assigning aides to beneficiaries;
- Providing auxiliary aids;
- Making home visits; or
- Altering existing facilities or building new facilities;

The City of Wausau is required to reasonably modify City-wide policies, practices, or procedures to avoid discrimination. However, modifications may not be required where a particular modification would fundamentally alter the nature of the service, program or activity.

**a. Reasonable Accommodation**

If a reasonable accommodation is necessary to participate in the services provided by the City of Wausau please contact: the ADA Coordinator, City Hall, 407 Grant Street, Wausau, Wisconsin 54403, 715-261-6622. Every attempt will be made to accommodate the request.

**i. Due Process**

The following procedure is intended to protect the rights of interested individuals to meet appropriate due process standards and to assure that the City of Wausau complies with the Americans with Disabilities Act (ADA) and the implementation regulations.

**ii. Complaint Procedure**

If anyone utilizing the City's facilities, programs, services or activities believes they have been discriminated against on the basis of a disability in connection with access to any City facility or programs, services or activities, they have the right to file a complaint. Complaints should be addressed to ADA Coordinator, City Hall, 407 Grant Street, Wausau, Wisconsin 54403, 715-261-6622, who has been designated to coordinate ADA compliance efforts.

1. A complaint should be filed in writing, utilizing the City's Americans With Disabilities Act (ADA) Accommodation Complaint, contain the address of the person filing it, and briefly describe the alleged violation.
2. A complaint should be filed as soon as possible but no later than 60 calendar days after the alleged violation.
3. An investigation, as appropriate, shall follow a complaint filing. The investigation shall be conducted by the ADA Coordinator or its designee, and afford all interested persons and their representatives, if any, an opportunity to submit evidence relevant to a complaint.
4. A written response to the complaint, and a description of the resolution, if any, shall be issued by the ADA Coordinator and a copy forwarded to the complainant no later than 30 calendar days after its filing.
5. The ADA Coordinator will retain the files and records of all ADA complaints filed with the City, for at least three years.
6. The complainant can request a review of the written response issued by the ADA Coordinator, by making such a request within 15 days of the date of issuance to the ADA Coordinator. If made to any other city officer, employee, head of city agency, committee, board or commission, such individual shall be responsible for timely transmission of requests for appeal to the city clerk, in accordance with Wausau Municipal Code 2.21.070. Such appeal request shall then be heard by the Administrative Review Appeals Board, in accordance with Wausau Municipal Code 2.21.040, which provides administrative review of municipal determinations.
7. The right of an individual to a prompt and equitable resolution of the complaint filed with the City shall not be impaired by the individual's pursuit of other remedies such as the filing of an ADA complaint with the responsible federal department or agency.

**b. Self Evaluation**

The City is required to conduct a *self evaluation*, which includes a comprehensive review of current policies and practices (formal written policies and procedures and actual operating practices). Any policy or practice that does not comply with the requirements of Title II must be identified and modified to bring the policy or practice into compliance. Individuals must be provided the opportunity to submit comments pertaining to the City's effort.

**c. Transition Plan**

When structural modifications to facilities are necessary in order to make a program, service, or activity accessible to people with disabilities, the City is required to develop a facility transition plan, which must include:

- The physical barriers which limit access to and use of the programs, services, and activities for people with disabilities, including communications features which are structural in nature;
- A detailed description of how the City plans to make the facilities accessible;
- The schedule for barrier removal;
- A yearly schedule, if the transition plan is more than one year long; and
- The name of the individual who is responsible for implementing the transition plan;

The City is required to maintain in operable working condition those features of facilities and equipment that are required to be readily accessible to and usable by persons with disabilities. This includes locked accessible doors, elevators, accessible routes which are obstructed by parked cars or furniture, and complaint signage which is obstructed from vision and touch. This Transition Plan was completed in October 2019 by Accessibility Consultation and Training Services, Inc. The City is currently working through the list of physical barriers and meets quarterly to monitor progress.

**CITY OF WAUSAU**  
**AMERICANS WITH DISABILITIES ACT (ADA)**  
**ACCOMMODATION REQUEST**

*Protection is afforded under the ADA to a qualified individual with a disability.*

**Instructions:** Please complete this form in its entirety and return to ADA Coordinator:  
Mail to: City of Wausau Attention ADA Coordinator, 407 Grant Street, Wausau WI 54403 (or)  
Email: [ADAServices@ci.wausau.wi.us](mailto:ADAServices@ci.wausau.wi.us) (or)  
Fax: 715-261-6626

Any questions regarding this form, please call ADA Coordinator at 715-261-6622.

|                          |       |        |
|--------------------------|-------|--------|
| Name:                    |       |        |
| Address:                 |       |        |
| Telephone Numbers: Work: | Home: | Other: |

Please identify below of the facility and/or building you are requesting an accommodation:

**Municipal Buildings:**

- ☐ City Hall – 407 Grant Street
- ☐ Community Development Authority – 550 E. Thomas Street
- ☐ Drinking Water Treatment Facility – 1801 Burek Avenue
- ☐ Fire Department (Main) – 606 E. Thomas Street
- ☐ Fire Department Station #2 – 3017 Seymour Lane
- ☐ Fire Department Station #3 – 800 E. Bridge Street
- ☐ Public Works Facility- 400 Myron Street
- ☐ Police Department – 515 Grand Avenue
- ☐ Metro Ride – 420 Plumer Street
- ☐ Wausau Municipal Airport - Woods Place
- ☐ Meter Department – 1701 N. River Drive
- ☐ Wastewater Plant- 435 Adrian Street
- ☐ Water Plant – 1801 N. River Drive

**Parks & Recreation Facilities:**

- ☐ Airport Park – 155 Lake View Drive
- ☐ Alexander Park – 625 Lake View Drive
- ☐ Anne's Tot Lot – 909 Prospect Avenue
- ☐ Athletic Park – 324 E. Wausau Avenue
- ☐ Barker-Stewart Island – 600 Stewart Island
- ☐ Big Bull Falls Park – 204 W. Scott Street
- ☐ Boileau Field – 2404 N. 5<sup>th</sup> Street
- ☐ Brockmeyer Community Park – 4200 Stettin Drive
- ☐ City Hall Park – 407 Grant Street
- ☐ Eau Claire River Conservancy – 507 E. Kent Street
- ☐ Forest Park – 3100 9<sup>th</sup> Street
- ☐ Gilbert Park – 3000 N. 6<sup>th</sup> Street





**CITY OF WAUSAU**  
**AMERICANS WITH DISABILITIES ACT (ADA)**  
**COMPLAINT FORM**

**Instructions:** Please complete this form in its entirety and return to:

ADA Coordinator, City Hall, 407 Grant Street, Wausau WI 54403 (or) Email:  
[ADAServices@ci.wausau.wi.us](mailto:ADAServices@ci.wausau.wi.us) (or) Fax: 715-261-6626

Any questions regarding this form, please call ADA Coordinator at 715-261-6622.

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_ (indicate type)

Location of Alleged Violation: \_\_\_\_\_

Date of Alleged Violation: \_\_\_\_\_

Accommodation Request for Response: \_\_\_\_\_

Description of Alleged Violation (use additional sheets if  
necessary): \_\_\_\_\_

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Signed: \_\_\_\_\_

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

## NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT

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.

**Employment:** The **City of Wausau** does not discriminate on the basis of disability in its hiring or employment practices and complies with all regulations promulgated by the U.S. Equal Employment Opportunity Commission under Title I of the ADA.

**Effective Communication:** The **City of Wausau** will generally, upon request, provide appropriate aids and services leading to effective communication for qualified persons with disabilities so they can participate equally in the **City of Wausau's** programs, services, and activities, including qualified sign language interpreters, documents in Braille, and other ways of making information and communications accessible to people who have speech, hearing, or vision impairments.

**Modifications to Policies and Procedures:** The **City of Wausau** will make all reasonable modifications to policies and programs to ensure that people with disabilities have an equal opportunity to enjoy all of its programs, services, and activities. For example, individuals with service animals are welcomed in **City of Wausau** offices, even where pets are generally prohibited.

Anyone who requires an auxiliary aid or service for effective communication, or a modification of policies or procedures to participate in a program, service, or activity of the **City of Wausau**, should contact the **ADA Coordinator, City Hall, 407 Grant Street, Wausau, Wisconsin 54403, 715-261-6622** as soon as possible but no later than 48 hours before the scheduled event.

The ADA does not require the **City of Wausau** to take any action that would fundamentally alter the nature of its programs or services, or impose an undue financial or administrative burden.

Complaints that a program, service, or activity of the **City of Wausau** is not accessible to persons with disabilities should be directed to the **ADA Coordinator, City Hall, 407 Grant Street, Wausau, Wisconsin 54403, 715-261-6622**.

The **City of Wausau** will not place a surcharge on a particular individual with a disability or any group of individuals with disabilities to cover the cost of providing auxiliary aids/services or reasonable modifications of policy, such as retrieving items from locations that are open to the public but are not accessible to persons who use wheelchairs.

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

**RESOLUTION OF THE PUBLIC HEALTH & SAFETY COMMITTEE**

Approving or Denying Various Licenses as Indicated

Committee Action:   Approved 5-0

Fiscal Impact:       None

**File Number:**       23-0108

**Date Introduced:**   March 14, 2023

**FISCAL IMPACT SUMMARY**

|               |                                                                                                                                                                                                 |                                                                     |                                        |
|---------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------|----------------------------------------|
| <b>COSTS</b>  | <i>Budget Neutral</i>                                                                                                                                                                           | Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> |                                        |
|               | <i>Included in Budget:</i>                                                                                                                                                                      | Yes <input type="checkbox"/> No <input type="checkbox"/>            | <i>Budget Source:</i>                  |
|               | <i>One-time Costs:</i>                                                                                                                                                                          | Yes <input type="checkbox"/> No <input type="checkbox"/>            | <i>Amount:</i>                         |
|               | <i>Recurring Costs:</i>                                                                                                                                                                         | Yes <input type="checkbox"/> No <input type="checkbox"/>            | <i>Amount:</i>                         |
| <b>SOURCE</b> | <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**, your Public Health and Safety Committee considered certain license applications at its February 20, 2023 meeting, and has made recommendations that are attached hereto in the meeting minutes and recommends these actions to the Council for its approval, now therefore

**BE IT RESOLVED** by the Common Council of the City of Wausau that the City Clerk be hereby authorized to issue the licenses on the attached list, incorporated as part of this resolution, according to recommendations made by the Public Health & Safety Committee and upon successful completion and acceptable proof that all applicable state and municipal regulations and requirements have been met by the applicants.

Approved:

\_\_\_\_\_  
Katie Rosenberg, Mayor

## **PUBLIC HEALTH & SAFETY COMMITTEE**

Date and Time: Monday, February 20, 2023, at 5:15 pm, (Council Chambers)

Members Present: Lisa Rasmussen, Chad Henke, Doug Diny, Lou Larson, Becky McElhaney

Others Present: Tara Alfonso, Ben Bliven, Jeremy Kopp, Tracy Rieger, Kaitlyn Bernarde, Mary Goede, Andrew Lynch, Brad Lenz, Katie Rosenberg

### **Consider approval or denial of various license applications**

Lisa Rasmussen indicated there were five denial recommendations, two for Operator/Bartender and three for Public Transport Driver licenses. Operators: Abedalraham Sughayer, Stacie Edgren; and Transport Drivers: Michael Campobello, David Vargas, Darrius Williams.

Abedalraham Sughayer, 1757 Cty Rd X, Kronenwetter, addressed the committee stating the record was correct but he felt he has learned from the mistake of the past and was hoping to get the license. Rasmussen stated he can still work without a license if there is another licensed person present to supervise.

Chief Bliven stated he stood by his denial recommendation and that the battery conviction was an exempt offense which does not allow for evidence of rehabilitation. He noted after the battery conviction were drug and OWI convictions in 2018.

It was noted that no other individuals recommended for denial present to appeal.

Rasmussen stated the Liquor License Review Subcommittee met and approved the license applications of 628 Diner LLC (Tyler Vogt) and Honest J's LLC (new owners of the Ugly Mug).

Rasmussen stated unless the committee moved to pull Mr. Sughayer from the list to vote on separately, he would remain a denial.

Motion by Larson, second by Henke to approve or deny licenses as recommended by staff. Motion carried 5-0.

# ***CLERK'S REPORT TO PUBLIC HEALTH & SAFETY COMMITTEE***

**February 20, 2023 Meeting**

## **AGENDA ITEM # 2**

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Approve or deny various licenses as indicated on the attached summary report of all applications received.

## **ADDITIONAL INFORMATION**

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Applications as listed have or will have a background check run by staff and reviewed by the Police Chief or his designee. Applications marked pending will have a status update at the meeting. In accordance with city ordinance, all permits approved are held for debts owed to the city until the debt is paid in full.

**1. Denial Recommendations:**

**Operator/Bartender:** **Abedalrahman Sughayer** - Battery conviction 2013, exempt offense. Cocaine and OWI misdemeanor convictions in 2018; 2) **Staci Edgren** – Two OWI convictions within the past five years.

**Public Transport Drivers:** 1) **Michael Campobello** - There is a pending child abuse charge (948.03) which is an exempt offense. In addition, there are 2 misdemeanor drug convictions and 1 pending drug case; 2) **David Vargas** - Convicted felon with exempt substantial battery conviction in 2006. In addition, has multiple drug convictions as recent as 2017, some of which were felony drug convictions; 3) **Darrius Williams** - Aggravated Battery, Felon in Possession of Firearm, and False Imprisonment convictions. All felonies and exempt crimes. Also, multiple THC and OWI convictions in the last 10 years.

**2. Regular Class B Beer & Liquor License:** The Liquor License Review Subcommittee will meet at 4:45pm before the PH&S meeting to review the application from 628 Diner, LLC, owner Tyler Vogt, at 628 N 3<sup>rd</sup> Avenue; and Honest J's Wausau, LLC, owners Devon Marx-Salzman & Arthur Wood III, at 300 N 3<sup>rd</sup> St, Ste 103 (formerly The Ugly Mug)

**3. Class I Special Events:** (O'Malley's) Car Show – 6/10/23; and Boogie on the Block – 9/01/23. **Class II** - Bull Falls Honor Flight 5K – 4/15/23, and Jazz on the River – Sundays.

**\*Note:** Links to the Special Events applications will be emailed to the committee.

## **STAFF RECOMMENDATION**

---

Approve or deny as indicated on the summary report including those that may be introduced at the meeting. Please let me know if you have any question regarding any license applications listed.

Mary Goede, Deputy Clerk

Date of Report: February 17, 2023 (715) 261-6621



## PHS Date 02/20/2023

| License ID | License Typ                         | Name                      | Address                                          | Details                                                                                                                                                     | Business       | Begin Dt   | End Dt     | Police | PHS | Council |
|------------|-------------------------------------|---------------------------|--------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|------------|------------|--------|-----|---------|
| 179671     | 9010 -<br>Bartender/Operator<br>New | EDGREN, STACI             | 725 GILBERT ST,<br>APT 5 WAUSAU<br>WI 54403      |                                                                                                                                                             | KWIK TRIP #735 | 02/01/2023 | 06/30/2023 | No     | No  |         |
| 179334     | 9010 -<br>Bartender/Operator<br>New | SUGHAYER,<br>ABEDALRAHMAN | 1757 COUNTY<br>RD X<br>KRONENWETTE<br>R WI 54455 |                                                                                                                                                             | DENMAR         | 01/11/2023 | 06/30/2023 | No     | No  |         |
| 179376     | 9026 - Class I                      | HOGAN, CINDY              | 227824 GROUSE<br>LN WAUSAU WI<br>54401           | BOOGIE ON<br>THE BLOCK on<br>FRIDAY,<br>SEPTEMBER 1,<br>2023 Organized<br>by CINDY<br>HOGAN                                                                 |                |            |            |        |     | Yes     |
| 179791     | 9026 - Class I                      | WOLFERT, CODY             | 3405 W<br>STEWART AVE<br>WAUSAU WI<br>54401      | CAR SHOW on<br>SATURDAY,<br>JUNE 10, 2023<br>Organized by<br>O'MALLEY<br>AUTOMOTIVE,<br>INC                                                                 |                |            |            |        |     | Yes     |
| 179374     | 9027 - Class II                     | WEINSCHENK,<br>PETER      | 625 N 4TH ST<br>EDGAR WI 54426                   | JAZZ ON THE<br>RIVER on<br>EVERY<br>SUNDAY<br>Organized by<br>RIVERY<br>VALLEY JAZZ<br>SOCIETY                                                              |                |            |            |        |     | Yes     |
| 179457     | 9027 - Class II                     | ZAMZOW, MIKE              | 901 E THOMAS<br>ST WAUSAU WI<br>54403            | BULL FALLS<br>BREWERY<br>NEVER<br>FORGOTTEN<br>HONOR<br>FLIGHT 5K on<br>4/15/23<br>Organized by<br>Brittani Hamilton<br>/ Mike Zamzow /<br>BullFalls Brewey |                |            |            |        |     | Yes     |





## PHS Date 02/20/2023

| License ID | License Typ                        | Name                 | Address                                | Details | Business             | Begin Dt   | End Dt     | Police | PHS | Council |
|------------|------------------------------------|----------------------|----------------------------------------|---------|----------------------|------------|------------|--------|-----|---------|
| 179916     | 9064 - Class B Beer & Liquor       | MARX-SALZMAN, DEVON  | 225780 RIB MOUNTAIN DR WAUSAU WI 54401 |         | HONEST J'S           |            |            | Yes    | Yes |         |
| 179847     | 9064 - Class B Beer & Liquor       | VOGT, TYLER          | 145824 IMPATIENS DR WAUSAU WI 54401    |         | TBD (DINER)          |            |            | Yes    | Yes |         |
| 179776     | 9076 - Tavern Entertainment        | ,                    | 201 JEFFERSON ST WAUSAU WI 54403       |         | JEFFERSON STREET INN | 02/06/2023 | 06/30/2023 |        | Yes |         |
| 179477     | 9080 - Public Transport Driver New | CAMPOBELLO, MICHAEL  | 608 ADAMS ST WAUSAU WI 54403           |         | NORTHWOODS CAB       | 01/17/2023 | 06/30/2023 | No     | No  |         |
| 179772     | 9080 - Public Transport Driver New | DAWSON, MADISON      | 180432 STATE HWY 52 ANIWA WI 54408     |         | NORTHWOODS CAB       | 02/06/2023 | 06/30/2023 | Yes    | Yes |         |
| 179453     | 9080 - Public Transport Driver New | KOWALSKI, AMANDA     | 526 MCCLELLAN ST WAUSAU WI 54401       |         | NORTHWOODS           | 01/13/2023 | 06/30/2023 | Yes    | Yes |         |
| 179687     | 9080 - Public Transport Driver New | LOKA, VINCENT        | W4466 POPE RD MERRILL WI 54452         |         | NORTHWOODS CAB       | 02/01/2023 | 06/30/2023 | Yes    | Yes |         |
| 179428     | 9080 - Public Transport Driver New | PICKENS , BENJAMIN   | 3110 SPRINGDALE AVE WAUSAU WI 54401    |         | NORTHWOODS CAB       | 01/12/2023 | 06/30/2023 | Yes    | Yes |         |
| 179620     | 9080 - Public Transport Driver New | SCHULTZ, CHRISTOPHER | 1715 N 2ND ST WAUSAU WI 54403          |         | NORTHWOODS CAB       | 01/27/2023 | 06/30/2023 | Yes    | Yes |         |
| 179583     | 9080 - Public Transport Driver New | Springer, Charles    | 505 E Union St. Wausau WI 54403        |         | NORTHWOODS CAB LLC   |            |            |        |     |         |
| 179377     | 9080 - Public Transport Driver New | VARGAS, DAVID        | 2600 RICE ST STEVENS POINT WI 54481    |         | NORTHWOODS CAB LLC   | 01/09/2023 | 06/30/2023 | No     | No  |         |
| 179520     | 9080 - Public Transport Driver New | WILLIAMS, DARRIUS    | 205 S 6TH AVE WAUSAU WI 54401          |         | UNKNOWN              |            |            | No     | No  |         |



## PHS Date 02/20/2023

| License ID | License Typ | Name | Address | Details | Business | Begin Dt | End Dt | Police | PHS | Council |
|------------|-------------|------|---------|---------|----------|----------|--------|--------|-----|---------|
|------------|-------------|------|---------|---------|----------|----------|--------|--------|-----|---------|

Total Licenses

13

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

**ORDINANCE OF THE PUBLIC HEALTH & SAFETY COMMITTEE**

Amending Section 9.24.050 Safety and peace nuisances.

Committee Action: Approved 5-0

**Ordinance Number:**

Fiscal Impact: None

**File Number:** 10-0211

**Date Introduced:** March 14, 2023

The Common Council of the City of Wausau do ordain as follows:

Add ( )

Delete ( )

Section 1. That Section 9.24.050 Safety and peace nuisances, is hereby amended to read as follows:

The following acts, omissions, places, conditions and things are declared to be public nuisances affecting peace and safety, but such enumeration shall not be construed to exclude other nuisances affecting public peace or safety coming within the provisions in section 9.24.020:

...

- (j) ~~All loud, discordant and unnecessary noises or vibrations of any kind;~~ Any noise or vibration tending to unreasonably disturb the peace and quiet of persons in the vicinity thereof unless the making and continuing of the same cannot be prevented and is necessary for the protection or preservation of property or the health, safety, life or limb of some person.

...

Section 2. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 3. This ordinance shall be in full force and effect on the day after its publication.

Adopted:

Approved:

Published:

Attest:

Approved:

Katie Rosenberg, Mayor

Attest:

Kaitlyn A. Bernarde, Clerk

## **PUBLIC HEALTH & SAFETY COMMITTEE**

Date and Time: Monday, February 20, 2023, at 5:15 pm, (Council Chambers)

Members Present: Lisa Rasmussen, Chad Henke, Doug Diny, Lou Larson, Becky McElhaney

Others Present: Tara Alfonso, Ben Bliven, Jeremy Kopp, Tracy Rieger, Kaitlyn Bernarde, Mary Goede, Andrew Lynch, Brad Lenz, Katie Rosenberg

### **Discussion and possible action regarding an Ordinance Amending Section 9.24.050 Safety and Peace Nuisances**

Attorney Tara Alfonso explained she was asked to do some research concerning our noise ordinances. There two ordinances, one is Section 9.04.030 Loud and unnecessary noises prohibited, which is typically used when police are called for a noise complaint. The other is Section 9.24.050(j) which is a part of our nuisance ordinance. The language didn't match up between the two ordinances or was somewhat vague, so this a housekeeping item to clarify the language.

Motion by Larson, second by Diny to approve the amendment. Motion carried 5-0.



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Office of the City Attorney

TEL: (715) 261-6590  
FAX: (715) 261-6808

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Anne L. Jacobson  
City Attorney

Tara G. Alfonso  
Assistant City Attorney

Nathan Miller  
Assistant City Attorney

To: Public Health & Safety Committee

From: Tara G. Alfonso, Asst. City Attorney

Date: February 14, 2023

Re: Comments on amending W.M.C. §9.24.050 Safety and peace nuisances

Subsection (j) of W.M.C. §9.24.050 Safety and peace nuisances is proposed to be amended so that its language more closely mirrors that of W.M.C. §9.04.030 Loud and unnecessary noise prohibited. The language of the latter ordinance is more specific than the current language of W.M.C. §9.24.050(j) and the use of the term “unreasonable” provides a better standard so that a person of ordinary intelligence has a reasonable opportunity to know what is prohibited. The Wisconsin Supreme Court in *City of Madison v. Baumann*, 162 Wis.2d 660, 681, 470 N.W.2d 296 (1991) has upheld language similar to that which is proposed to be included in W.M.C. §9.24.050(j) as language that “on its face passes constitutional muster.”

## RESOLUTION OF THE CAPITAL IMPROVEMENTS & STREET MAINTENANCE COMMITTEE

Approving lease with The Lamar Companies for billboard signs at Bridge Street and 3<sup>rd</sup> Street

Committee Action:      Approved 4-1

Fiscal Impact:            Proposed \$10,000 per year revenue from new lease with 2% increase each year

**File Number:**            06-0909

**Date Introduced:**      March 14, 2023

### FISCAL IMPACT SUMMARY

|               |                                                                                                                                                                                                 |                                                                     |                                        |
|---------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------|----------------------------------------|
| <b>COSTS</b>  | <i>Budget Neutral</i>                                                                                                                                                                           | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> |                                        |
|               | <i>Included in Budget:</i>                                                                                                                                                                      | Yes <input type="checkbox"/> No <input type="checkbox"/>            | <i>Budget Source</i>                   |
|               | <i>One-time Costs:</i>                                                                                                                                                                          | Yes <input type="checkbox"/> No <input type="checkbox"/>            | <i>Amount:</i>                         |
|               | <i>Recurring Costs:</i>                                                                                                                                                                         | Yes <input type="checkbox"/> No <input type="checkbox"/>            | <i>Amount:</i>                         |
| <b>SOURCE</b> | <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**, a lease between the City of Wausau and The Lamar Companies (Lamar) regarding two, double-faced signs located at the southwest corner of Bridge Street and 3<sup>rd</sup> Street terminated on December 31, 2022; and

**WHEREAS**, the City notified Lamar by letter to advise them the lease expired and requested the billboards be removed by February 9, 2023 and that payment of holdover rent would be required; and

**WHEREAS**, Lamar notified the City that they were interested in a new five year lease beginning January 1, 2023 for five years with an increase in rent from \$9,000 to \$10,000 annually with a 2% increase each year thereafter; and

**WHEREAS**, your Capital Improvements and Street Maintenance Committee, at their February 9, 2023 meeting, discussed and recommended approving the request.

**NOW, THEREFORE, BE IT RESOLVED** the Common Council of the City of Wausau does hereby approve entering into a five year lease with The Lamar Companies for billboard signs at the southwest corner of Bridge Street and 3<sup>rd</sup> Street, in substantial compliance with the recently expired lease except for the increased annual rent of \$10,000 with a 2% increase each year thereafter.

Approved:

\_\_\_\_\_  
Katie Rosenberg, Mayor

## CAPITAL IMPROVEMENTS AND STREET MAINTENANCE COMMITTEE

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Date of Meeting: February 9, 2023, at 5:15 p.m. in the Council Chambers of City Hall.

Members Present: Lou Larson, Doug Diny, Chad Henke, Lisa Rasmussen, Gary Gisselman

Also Present: Eric Lindman, Allen Wesolowski, TJ Niksich, Tara Alfonso, Chris Barr

### **Discussion and possible action on lease with Lamar Advertising for billboard signs at Bridge Street and 3<sup>rd</sup> Street**

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Wesolowski stated Lamar is asking for a 5-year lease. Last time the lease was approved for one year.

Rasmussen believes the Planning Department has been trying to get rid of this billboard for a number of years. Every time this comes up, staff recommends getting rid of it and then there is an uprising from the businesses that utilize the sign for advertising. Last time, Lamar was willing to negotiate the lease that if the parcel needed to be reclaimed for a legitimate commercial development, we would be able to exit the lease arrangement and get the billboard removed. In the meantime, we generated revenue from the lease. If the exit clause in the lease is such that we could accommodate development with reasonable notice to Lamar to remove the billboard, it seems silly not to continue to lease the land.

Gisselman asked if there was an exit clause in the existing agreement. If we can get out of the lease in a reasonable amount of time and its not doing any harm, why should we give up the income. Alfonso stated the lease is in the packet. Paragraph 5 indicates Lessor may terminate this lease upon 60 days written notice if the intention by the lessor is to redevelop this premises either through a lease or sale. It envisions we would only terminate it if we were developing it; we could not arbitrarily end it.

Rasmussen feels that is a fair exit clause and added that there is a robust list of advertisers that use the sign. Gisselman also believes marketing individuals have appeared in the past stating it is a great advertising/marketing tool.

Larson is not for this as he believes there is not a place for billboards in the city anymore. With internet, tv and radio advertising, he believes this is an eyesore.

Diny asked if there have been any formal complaints or efforts by others to remove the sign other than compliance with non-conformance. Wesolowski is not aware of any complaints. Rasmussen said we received a hail of complaints from people who wanted to keep it when we planned to get rid of it.

Rasmussen moved to renew the lease for 5 years using the terms outlined in the sample lease in the packet. Motion was seconded and carried 4-1 with Larson the dissenting vote.



| AGENDA ITEM                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Discussion and possible action on lease with Lamar Advertising for billboard signs at Bridge Street and 3 <sup>rd</sup> Street                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| BACKGROUND                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <p>Lamar Central Outdoor, LLC lease has expired for the billboard located at the southwest corner of Bridge Street and 3<sup>rd</sup> Street. The lease agreement is attached. The lease expired on December 31, 2022. City Attorney Anne Jacobsen sent a letter to Lamar notifying them of the lease expiring, a copy of this letter is attached. Lamar in return sent a letter to City staff requesting a 5-year lease, this request is also attached.</p> <p>The billboards would not be permitted from a zoning perspective as they are considered off-premise advertising signs. (They are able to be maintained as nonconforming signs but would not be permitted as a new use.)</p> <p>The billboards are located in a small-scale residential and commercial area and are not appropriate for this environment. By their nature, the billboards are not built at a human scale. These particular signs have upward-shining lights, which do not follow the city standard of using full cutoff light fixtures.</p> |
| FISCAL IMPACT                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| The proposal from Lamar would pay the City \$10,000 in 2023 with a 2% increase per year after that for 5 years.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| STAFF RECOMMENDATION                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| Staff recommends denying the lease with Lamar and requiring removal of the structures, as per the original court order. The billboards are not compatible with current zoning regulations or development patterns. The signs also inhibit future redevelopment of the area, which could more than offset, through future taxes, the proposed lease payments.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| Staff contact: Allen Wesolowski 715-261-6762                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |

## RESOLUTION OF THE CAPITAL IMPROVEMENTS AND STREET MAINTENANCE COMMITTEE

Approving lease with The Lamar Companies for billboard signs at Bridge Street and 3<sup>rd</sup> Street

Committee Action: Failed 2-3

Fiscal Impact: Proposed \$9,000 per year revenue from new lease, versus potentially much higher tax revenue when parcels are redeveloped

File Number: 06-0909

Date Introduced: April 13, 2021

### FISCAL IMPACT SUMMARY

|               |                                                                                                                                                                                                 |                                                                     |                                                                           |
|---------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------|---------------------------------------------------------------------------|
| <b>COSTS</b>  | <i>Budget Neutral</i>                                                                                                                                                                           | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> |                                                                           |
|               | <i>Included in Budget:</i>                                                                                                                                                                      | Yes <input type="checkbox"/> No <input type="checkbox"/>            | <i>Budget Source</i>                                                      |
|               | <i>One-time Costs:</i>                                                                                                                                                                          | Yes <input type="checkbox"/> No <input type="checkbox"/>            | <i>Amount:</i>                                                            |
|               | <i>Recurring Costs:</i>                                                                                                                                                                         | Yes <input type="checkbox"/> No <input type="checkbox"/>            | <i>Amount:</i>                                                            |
| <b>SOURCE</b> | <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> <span style="float: right;"><i>Annual Retirement</i></span> |
|               | <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**, a lease between the City of Wausau and The Lamar Companies (Lamar) regarding signs located at the southwest corner of Bridge Street and 3<sup>rd</sup> Street terminated on December 31, 2020; and

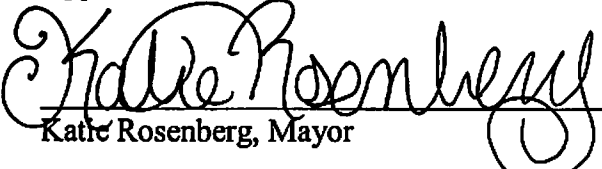
**WHEREAS**, the City notified Lamar by letter to advise them the lease expired and requested the billboards be removed by February 7, 2021 and that payment of holdover rent would be required; and

**WHEREAS**, Lamar notified the City that they were interested in a new lease beginning January 1, 2021 for five years with an increase in rent from \$8,000 to \$9,000 annually; and

**WHEREAS**, your Capital Improvements and Street Maintenance Committee, at their March 11, 2021 meeting, discussed the request which was denied.

**NOW, THEREFORE, BE IT RESOLVED** the Common Council of the City of Wausau does hereby approve entering into a two year lease with The Lamar Companies for billboard signs at the southwest corner of Bridge Street and 3<sup>rd</sup> Street, in substantial compliance with the recently expired lease except for the increased annual rent of \$9,000.

Approved:

  
 Katie Rosenberg, Mayor

**SIGN LOCATION LEASE BETWEEN THE CITY OF WAUSAU  
AND THE LAMAR CENTRAL OUTDOOR, LLC**

**THIS LEASE AGREEMENT, made, effective this 1st day of January, 2021, by and between City of Wausau, 407 Grant Street, Wausau, WI 54403, hereinafter referred to as "Lessor" and Lamar Central Outdoor, LLC, with its principal office at 5321 Corporate Boulevard, Baton Rouge, LA 70808 and mailing address at 9237 Heritage Drive, Marshfield WI 54449, hereinafter referred to as "Lessee," provides:**

**WHEREAS, The Lamar Companies/The Lamar Company, L.L.C. have previously constructed and maintained outdoor advertising structures on a portion of the property located in the City of Wausau, County of Marathon, State of Wisconsin, more particularly described as the southwest corner of Bridge Street and 3<sup>rd</sup> Street, City of Wausau, Wisconsin, effective since January 1, 2004 through December 31, 2015, from Corliz, LLC; and**

**WHEREAS, the City of Wausau subsequently succeeded to LESSOR Corliz LLC's interest when it purchased 209 E. Bridge Street and 1415 N. 3<sup>rd</sup> Street on December 22, 2006, for future road purposes, and entered into an Amendment of Lease #1435, extending the term of the original Lease to five years, effective January 1, 2016 through December 31, 2020, for an annual rental of \$8,000 total for four sign faces, payable monthly in advance; and**

**WHEREAS, on April 13, 2021, the Common Council approved a two-year lease with The Lamar Companies, effective January 1, 2021 through December 31, 2022, for a total annual rental of \$9,000, payable monthly in advance; and**

**For valuable consideration received, the LESSOR hereby agrees to lease to LESSEE, as much of the hereinafter described lease premises as may be necessary for the repair and maintenance of the two existing outdoor advertising structures ("signs"), with double faces, with the right of access to and egress from the signs by LESSEE's employees, contractors, agents and vehicles and the right to survey, illuminate and maintain advertisements on the signs.**

**WITNESSETH**

**LESSOR hereby leases to LESSEE, its successors or assigns, as much of the hereinafter described lease premises as may be necessary for the repair and maintenance of outdoor advertising structures ("signs"), including necessary structures, advertising devices, utility service, power poles, communications devices and connections, with the right of access to and egress from the signs by LESSEE'S employees, contractors, agents and vehicles and the right to survey, post, illuminate and maintain advertisements on the signs, and to modify the signs to have as many advertising faces, including changeable copy faces or electronic faces, as are allowed by local and state law, and to maintain telecommunications devices or other activities necessary or useful in LESSEE'S use of the**

signs. Any discrepancies or errors in the location and orientation of the signs are deemed waived by LESSOR upon LESSOR'S acceptance of the first rental payment due after the construction of the signs.

The premises are a portion of the property located in the City of Wausau, County of Marathon, State of Wisconsin, more particularly described as the southwest corner of Bridge Street and 3<sup>rd</sup> Street, City of Wausau, Wisconsin, and more commonly known as 1514 N. 3<sup>rd</sup> Street.

1. This lease shall be for a term of two (2) years commencing on January 1, 2021 and ending on January 1, 2023.
2. LESSEE shall pay to LESSOR an annual rental of \$9,000, payable monthly in advance. Rent shall be considered tendered upon due mailing or attempted hand delivery during reasonable business hours at the address designated by LESSOR, whether or not actually received by LESSOR. Should LESSEE fail to pay rent or perform any other obligation under this lease within thirty (30) days after such performance is due, LESSEE will be in default under the lease. In the event of such default, LESSOR must give LESSEE written notice by certified mail and allow LESSEE thirty (30) days thereafter to cure any default.
3. LESSOR agrees not to erect or allow any other off-premise advertising structure(s), other than LESSEE'S, on property owned or controlled by LESSOR within two thousand (2,000) feet of LESSEE'S sign. LESSOR further agrees not to erect or allow any other obstruction of highway view or any vegetation that may obstruct the highway view of its signs. LESSEE is hereby authorized to remove any such other advertising structure, obstruction or vegetation at its option.
4. LESSEE may terminate this lease upon thirty (30) days written notice in the event that the signs become entirely or partially obstructed in any way or in LESSEE'S opinion the location becomes economically or otherwise undesirable. If LESSEE is prevented from constructing or maintaining signs at the premises by reason of any final governmental law, regulation or building restriction, order or other action, LESSEE may elect to terminate this lease. In the event of termination of this Lease prior to expiration, LESSOR will return to LESSEE any unearned rentals on a pro rata basis.
5. LESSOR may terminate this lease upon sixty (60) days written notice under the following circumstances, at the conclusion of which LESSEE shall remove its signs, structures and equipment:
  - (a) Intention by the LESSOR, to redevelop this premises, either through a lease or sale of the affected premises or by the LESSOR for roadway expansion purposes and dedication of public right-of-way.

6. All structures, equipment and materials placed upon the premises by the LESSEE or its predecessor shall remain the property of LESSEE and may be removed by LESSEE at any time prior to or within a reasonable time after expiration of the term hereof or any renewal. At the termination of this Lease, LESSEE agrees to restore the surface of the premises to its original condition.
7. LESSOR represents that they are the owner of the premises and has the right to make this Agreement and to grant LESSEE free access to the premises to perform all acts necessary to carry on LESSEE'S business activities related to the signs. LESSEE agrees to be bound by and will comply with all applicable local, state and federal laws in its activities related to the signs.
8. In the event of any change of ownership of the property herein leased, LESSOR agrees to notify LESSEE promptly of the name, address, and phone number of the new owner, and LESSOR further agrees to give the new owner formal written notice of the existence of this Lease and to deliver a copy thereof to such new owner at or before closing. LESSEE shall not assign this Lease.
9. LESSEE agrees to defend, hold harmless, indemnify, release and forever discharge LESSOR 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, sustained by LESSOR or third parties by reason of damage to any property or damages or injury to any person, caused by the installation, operation, maintenance or dismantling of LESSEE's signs during the term of this Lease and through the dismantling of LESSEE's signs. Specifically included within this hold harmless are attorneys fees and other costs of defense which may be sustained by and/or occasioned to LESSOR and/or any of LESSOR's employees, agents, officers and designees, whether appointed, hired or elected.
10. LESSEE shall maintain insurance coverage throughout the duration of this LEASE, and to cover dismantling activities, to protect against claims, demands, actions and causes of action, arising from any act or omission on the part of LESSEE, its employees, agents, officers and designees, which may arise from operations under this Lease. Certificates of insurance by a company authorized to transact business in the State of Wisconsin shall be supplied to the City Attorney's Office, naming the LESSOR as an additional insured. All insurance coverage shall contain a 30-day advance notice of cancellation to LESSOR. The LESSEE shall timely pay all insurance premiums. Limits of liability shall not be less than:

**Worker's Compensation - Statutory Coverage**

**Comprehensive General Liability - \$1,000,000 per occurrence and in aggregate for bodily injury and property damage**

Automobile Liability - \$1,000,000 per occurrence and in aggregate for bodily injury and property damage  
Excess Liability Coverage - \$1,000,000 over the General Liability and Automobile Liability Coverages

11. All notices to be given under the terms of this Lease shall be in writing and signed by the person giving the notice and shall be sent registered or certified mail, return receipt requested, postage prepaid, or hand delivered to the addresses of the parties listed below:

LESSOR:  
City Clerk  
407 Grant Street  
Wausau WI 54403

LESSEE:  
9237 Heritage Drive  
Marshfield WI 54449

12. If required by LESSEE, LESSOR will execute and acknowledge a Memorandum of Lease suitable for recording.

13. This lease is NOT BINDING UNTIL ACCEPTED by the General Manager of a Lamar Advertising Company.

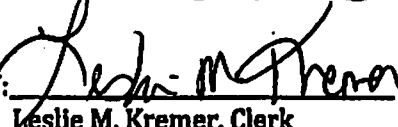
LAMAR CENTRAL OUTDOOR, LLC, LESSEE:

BY:   
Vice President/General Manager

Date 5/19/21

CITY OF WAUSAU, LESSOR

BY:   
Katie Rosenberg, Mayor

BY:   
Leslie M. Kremer, Clerk

Date 5/21/21

Lessor's Telephone Number  
715-261-6590

Lessor's Employer ID Number  
39-6005648

Tax ID Parcel # (for land which  
sign is located)  
291-2907-252-0299



Office of the City Attorney

TEL: (715) 261-6590

FAX: (715) 261-6808

Anne L. Jacobson  
City Attorney

Tara G. Alfonso  
Assistant City Attorney

Nathan Miller  
Assistant City Attorney

January 10, 2023

Mr. Dave Curtin  
Lamar of Central WI  
9237 Heritage Drive  
Marshfield WI 54449

Re: Sign Lease #1435 - Bridge and 3<sup>rd</sup> Streets

Dear Mr. Curtin:

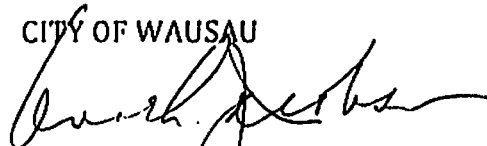
Pursuant to the Amendment of Lease #1435 between the City of Wausau and the Lamar Companies for the billboards located at the corner of Bridge and 3<sup>rd</sup> Streets in Wausau, the subject lease expired on January 1, 2023.

According to paragraph 5 of the original lease dated December 16, 2004, structures, equipment and materials placed upon the premises may be removed by Lessee at any time prior to or within a reasonable time after expiration of the term.

The City is requesting that the subject billboards be removed no later than February 9, 2023. If you are not able to remove the structure by the due date, please contact my office to discuss the matter further and to make arrangements for payment of holdover rent.

Very truly yours,

CITY OF WAUSAU



Anne L. Jacobson  
City Attorney

ALJ:lp

cc Eric Lindman Brad Lenz  
Bill Hebert

City of Wausau - City Hall - 407 Grant Street - Wausau, WI 54403-4783



City of Wausau Staff,

Lamar is requesting continuing our relationship with the City of Wausau with our signs at Bridge and 3<sup>rd</sup> Street. We would propose the following terms:

- Renew the existing lease for a term of 5 years.
- Revise the existing yearly lease payment to the City of Wausau from \$9000 to \$10,000 per year.
- Each year the lease payment would increase by 2%.
- Continue to display the City of Wausau banner installed on our sign in 2021. Photos attached
- Lamar will provide new banners in 2023 upon renewal of this lease.
- Attached existing artwork, for your review and possible changes. Lamar can create new art if needed.

We welcome the opportunity to discuss this proposal at any time.

Thanks again for the opportunity!

David Curtin

Lamar Central Outdoor LLC

9237 Heritage Drive

Marshfield WI 54449

715-387-3449

dcurtin@lamar.com

## Bridge & 3rd 2022 Customer List

Marathon Cheese

Planet Fitness

Feldco Windows & Siding

Rasmussen College

Eye Clinic of Wisconsin

TDS Telecom

Heartland Hospice

Badger State Games

Wisconsin Dept. of Children & Family

Stine Eye Center

Wausau Area Property Management

CoVantage Credit Union

Bone & Joint Clinic

Peoples State Bank

Mizgalski Property Group

Omni Glass

Cloverbelt Credit Union

Golden Harvest Market

Hemophilia Outreach Center

Greenheck Group

Bigby Coffee

Nami Wisconsin

Alzheimer's Association

Culver's







1419

LAMAR

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with us all  
year long!



[www.celebratewausau.org](http://www.celebratewausau.org)





**1Gig INTERNET**  
FOR BUSINESS  
**TDS**

LAMAR

31419

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year long!

**150**  
Celebrate  
WAUSAU  
1873-2023

[www.celebratewausau.org](http://www.celebratewausau.org)

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REGULAR  
UNLEADED **3.948**

AC 84785 500-488 30  
"MONEY" FOR ESCROW/STOCK  
REWARDS: 20% OFF 10000  
24 HOUR 1-800-455-4545

YOUNG'S  
DRUG STORE

**Biggys**  
COFFEE

**SUBWAY**





31419

LAMAR

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year long!*



[www.celebratewausau.org](http://www.celebratewausau.org)

YOUNG'S  
BIG STORE  
COFFEE  
FEEL  
AR

SUBWAY

R store  
in your store



*Come celebrate  
with us all  
year long!*



[www.celebratewausau.org](http://www.celebratewausau.org)

Live area: 7'0"x15'0"    Finished area: 8'0"x16'0"

The thin line representing the live area will not print.

SIGN LOCATION LEASE BETWEEN THE CITY OF WAUSAU  
AND THE LAMAR CENTRAL OUTDOOR, LLC

THIS LEASE AGREEMENT, made, effective this 1st day of January, 2021, by and between City of Wausau, 407 Grant Street, Wausau, WI 54403, hereinafter referred to as "Lessor" and Lamar Central Outdoor, LLC, with its principal office at 5321 Corporate Boulevard, Baton Rouge, LA 70808 and mailing address at 9237 Heritage Drive, Marshfield WI 54449, hereinafter referred to as "Lessee," provides:

WHEREAS, The Lamar Companies/The Lamar Company, L.L.C. have previously constructed and maintained outdoor advertising structures on a portion of the property located in the City of Wausau, County of Marathon, State of Wisconsin, more particularly described as the southwest corner of Bridge Street and 3<sup>rd</sup> Street, City of Wausau, Wisconsin, effective since January 1, 2004 through December 31, 2015, from Corliz, LLC; and

WHEREAS, the City of Wausau subsequently succeeded to LESSOR Corliz LLC's interest when it purchased 209 E. Bridge Street and 1415 N. 3<sup>rd</sup> Street on December 22, 2006, for future road purposes, and entered into an Amendment of Lease #1435, extending the term of the original Lease to five years, effective January 1, 2016 through December 31, 2020, for an annual rental of \$8,000 total for four sign faces, payable monthly in advance; and

WHEREAS, on April 13, 2021, the Common Council approved a two-year lease with The Lamar Companies, effective January 1, 2021 through December 31, 2022, for a total annual rental of \$9,000, payable monthly in advance; and

WHEREAS, on March 14, 2023, the Common Council approved a five-year lease with The Lamar Companies, effective January 1, 2023 through December 31, 2027, for an annual rental of \$10,000 for the first year payable monthly in advance, with an increase of 2% each year thereafter.

For valuable consideration received, the LESSOR hereby agrees to lease to LESSEE, as much of the hereinafter described lease premises as may be necessary for the repair and maintenance of the two existing outdoor advertising structures ("signs"), with double faces, with the right of access to and egress from the signs by LESSEE's employees, contractors, agents and vehicles and the right to survey, illuminate and maintain advertisements on the signs.

WITNESSETH

LESSOR hereby leases to LESSEE, its successors or assigns, as much of the hereinafter described lease premises as may be necessary for the repair and maintenance of outdoor advertising structures ("signs"), including necessary structures, advertising devices, utility service, power poles, communications devices and connections, with the right of access to and egress from the signs by LESSEE'S employees, contractors, agents and vehicles and the right to survey, post, illuminate and maintain advertisements on the signs,



and to modify the signs to have as many advertising faces, including changeable copy faces or electronic faces, as are allowed by local and state law, and to maintain telecommunications devices or other activities necessary or useful in LESSEE'S use of the signs. Any discrepancies or errors in the location and orientation of the signs are deemed waived by LESSOR upon LESSOR'S acceptance of the first rental payment due after the construction of the signs.

The premises are a portion of the property located in the City of Wausau, County of Marathon, State of Wisconsin, more particularly described as the southwest corner of Bridge Street and 3<sup>rd</sup> Street, City of Wausau, Wisconsin, and more commonly known as 1514 N. 3<sup>rd</sup> Street.

1. This lease shall be for a term of five (5) years commencing on January 1, 2023 and ending on December 31, 2027.
2. LESSEE shall pay to LESSOR an annual rental of \$10,000 the first year, payable monthly in advance. Rent shall increase by 2% each year thereafter. Rent shall be considered tendered upon due mailing or attempted hand delivery during reasonable business hours at the address designated by LESSOR, whether or not actually received by LESSOR. Should LESSEE fail to pay rent or perform any other obligation under this lease within thirty (30) days after such performance is due, LESSEE will be in default under the lease. In the event of such default, LESSOR must give LESSEE written notice by certified mail and allow LESSEE thirty (30) days thereafter to cure any default.
3. LESSOR agrees not to erect or allow any other off-premise advertising structure(s), other than LESSEE'S, on property owned or controlled by LESSOR within two thousand (2,000) feet of LESSEE'S sign. LESSOR further agrees not to erect or allow any other obstruction of highway view or any vegetation that may obstruct the highway view of it signs. LESSEE is hereby authorized to remove any such other advertising structure, obstruction or vegetation at its option.
4. LESSEE may terminate this lease upon thirty (30) days written notice in the event that the signs become entirely or partially obstructed in any way or in LESSEE'S opinion the location becomes economically or otherwise undesirable. If LESSEE is prevented from constructing or maintaining signs at the premises by reason of any final governmental law, regulation or building restriction, order or other action, LESSEE may elect to terminate this lease. In the event of termination of this Lease prior to expiration, LESSOR will return to LESSEE any unearned rentals on a pro rata basis.
5. LESSOR may terminate this lease upon sixty (60) days written notice under the following circumstances, at the conclusion of which LESSEE shall remove its signs, structures and equipment:
  - (a) Intention by the LESSOR, to redevelop this premises, either through a lease or sale of the affected premises or by the LESSOR for roadway expansion purposes and dedication of public right-of-way.



6. All structures, equipment and materials placed upon the premises by the LESSEE or its predecessor shall remain the property of LESSEE and may be removed by LESSEE at any time prior to or within a reasonable time after expiration of the term hereof or any renewal. At the termination of this Lease, LESSEE agrees to restore the surface of the premises to its original condition.
7. LESSOR represents that they are the owner of the premises and has the right to make this Agreement and to grant LESSEE free access to the premises to perform all acts necessary to carry on LESSEE'S business activities related to the signs. LESSEE agrees to be bound by and will comply with all applicable local, state and federal laws in its activities related to the signs.
8. In the event of any change of ownership of the property herein leased, LESSOR agrees to notify LESSEE promptly of the name, address, and phone number of the new owner, and LESSOR further agrees to give the new owner formal written notice of the existence of this Lease and to deliver a copy thereof to such new owner at or before closing. LESSEE shall not assign this Lease.
9. LESSEE agrees to defend, hold harmless, indemnify, release and forever discharge LESSOR 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, sustained by LESSOR or third parties by reason of damage to any property or damages or injury to any person, caused by the installation, operation, maintenance or dismantling of LESSEE's signs during the term of this Lease and through the dismantling of LESSEE's signs. Specifically included within this hold harmless are attorneys fees and other costs of defense which may be sustained by and/or occasioned to LESSOR and/or any of LESSOR's employees, agents, officers and designees, whether appointed, hired or elected.
10. LESSEE shall maintain insurance coverage throughout the duration of this LEASE, and to cover dismantling activities, to protect against claims, demands, actions and causes of action, arising from any act or omission on the part of LESSEE, its employees, agents, officers and designees, which may arise from operations under this Lease. Certificates of insurance by a company authorized to transact business in the State of Wisconsin shall be supplied to the City Attorney's Office, naming the LESSOR as an additional insured. All insurance coverage shall contain a 30-day advance notice of cancellation to LESSOR. The LESSEE shall timely pay all insurance premiums. Limits of liability shall not be less than:

Worker's Compensation – Statutory Coverage

Comprehensive General Liability - \$1,000,000 per occurrence and in aggregate for bodily injury and property damage

Automobile Liability - \$1,000,000 per occurrence and in aggregate for bodily injury and property damage

Excess Liability Coverage - \$1,000,000 over the General Liability and Automobile Liability Coverages



11. All notices to be given under the terms of this Lease shall be in writing and signed by the person giving the notice and shall be sent registered or certified mail, return receipt requested, postage prepaid, or hand delivered to the addresses of the parties listed below:

LESSOR:  
City Clerk  
407 Grant Street  
Wausau WI 54403

LESSEE:  
9237 Heritage Drive  
Marshfield WI 54449

12. If required by LESSEE, LESSOR will execute and acknowledge a Memorandum of Lease suitable for recording.

13. This lease is NOT BINDING UNTIL ACCEPTED by the General Manager of a Lamar Advertising Company.

LAMAR CENTRAL OUTDOOR, LLC, LESSEE:

CITY OF WAUSAU, LESSOR

BY: \_\_\_\_\_  
Vice President/General Manager

BY: \_\_\_\_\_  
Katie Rosenberg, Mayor

Date \_\_\_\_\_

BY: \_\_\_\_\_  
Kaitlyn A. Bernarde, Clerk

Date \_\_\_\_\_

Lessor's Telephone Number  
715-261-6590

Lessor's Employer ID Number  
39-6005648

Tax ID Parcel # (for land which  
sign is located)  
291-2907-252-0299



**ORDINANCE OF CAPITAL IMPROVEMENTS & STREET  
MAINTENANCE COMMITTEE**

Amending ordinance Section 12.20.080 Access management on Grand Avenue

Committee Action: Failed 1-4

**Ordinance Number:**

Fiscal Impact: None

**File Number:** 23-0304

**Date Introduced:** March 14, 2023

The Common Council of the City of Wausau do ordain as follows:

Add ( )

Delete (——)

Section 1. That Section 12.20.080 Access management on Grand Avenue is hereby amended to read as follows:

12.20.080 Access management on Grand Avenue.

In order to protect the public safety and improve the traffic carrying efficiency of Grand Avenue from its intersection with Kent Street south to the south City limits, the following motor vehicle access control criteria are established for this section of Grand Avenue:

...

- (e) No driveways other than those shown on the map entitled, Grand Avenue Access Management Plan, dated January 24, 1996, shall be allowed on Grand Avenue unless separate action by the Common Council approves said additional driveway. **Approved additional driveway locations are as follows:**

**2201 Grand Avenue – Across from Eau Claire Blvd.; “entrance-only” access for north bound traffic only, no-exit permitted.**

...

Section 2. All provisions of City ordinances not specifically altered by this ordinance shall remain in effect.



Section 3. This ordinance shall be in full force and effect on the day after its publication.

Adopted:

Approved:

Approved:

Published:

Attest:

---

Katie Rosenberg, Mayor

Attest:

---

Kaitlyn A. Bernarde, Clerk



## CAPITAL IMPROVEMENTS AND STREET MAINTENANCE COMMITTEE

---

Date of Meeting: February 9, 2023, at 5:15 p.m. in the Council Chambers of City Hall.

Members Present: Lou Larson, Doug Diny, Chad Henke, Lisa Rasmussen, Gary Gisselman

Also Present: Eric Lindman, Allen Wesolowski, TJ Niksich, Tara Alfonso, Chris Barr

### **Discussion and possible action on driveway request for 2201 Grand Avenue**

---

A request was received to add a driveway at 2201 Grand Avenue. Wesolowski explained that under Wausau Municipal Code Section 12.20.080 there is an access management plan for Grand Avenue that would prohibit an additional driveway. He noted that this parcel has driveways off Kent Street.

Dan Higginbotham, 2625 Northwestern Avenue, appeared on behalf of the owner of the property. The access management plan was created in 1996. At that time there was no need for driveway access as K-Mart was still there and there was a stop light on the south side of K-Mart for access. The access management plan is quite limited; it goes from the city limits to Kent Street. The only properties on the east side of Grand are Brickner's, the former K-Mart parcel which is now apartments, and the shopping center. Brickner's has access at the stop light. The party that purchased the shopping center is looking to revitalize. He is getting kickback from potential tenants. Those wanting to go to the south end of the shopping center have to go north on Grand Ave, east on Kent Street, and back south to get to the southernmost building of the shopping center. They are requesting an access only driveway, similar to what Kwik Trip has in Weston where there is an angle entrance only on the north side of their building and an entrance/exit on the east end of the building. The owner is trying to be a good neighbor and trying to do some lighting, parking lot, and building façade fixups.

Wesolowski pointed out the requested driveway location, which is across from Eau Claire Boulevard. There are no driveways for this parcel off of Grand Avenue. There are three driveways on Kent Street. Kent Street is a signalized intersection with good access. The proposal is for a right-in only driveway. Wesolowski is not sure how we would keep people from exiting. Higginbotham stated the driveway could be moved north to where there is a median. It could be a 45-degree angle similar to Kwik Trip and clearly marked. The owner is willing to give up the first driveway on Kent Street.

Because we do not have a non-mountable median in that area, Rasmussen feels it would be almost impossible to enforce no exit from the driveway. With Grand Avenue's width and traffic flow, it is dangerous enough at times. It appears that the approaches on Kent Street were reconstructed when the road was done. Three entry points from a signalized intersection is robust access to the site. She is hard-pressed to cut into the curb that close to the corner when it is not that much of an effort for someone to go around the corner to get into the site. This access has been this way for a long time and the public is used to going around the corner to get in and out.

Diny feels that 90% of the traffic on Kent Street is for the Kwik Trip on the north side. He asked if an entrance on the southern part would make it less congested. It would be hard for Wesolowski to guess how much traffic would take the entrance. Grand and Kent is a big intersection and more than capable of handling the traffic that is there.

Henke questioned why the access management plan was created in 1996. Wesolowski indicated that was when reconstruction started on Grand Avenue from Kent to the city limits. The access management plan was developed to call out driveways that would and would not be allowed in the future.

Larson will not be supporting this. He sees it as a hazard and an unpoliceable situation. People will make left turns there and will try to go across.

Higginbotham stated retail businesses have been degrading since 2000. This has not been a robust shopping center by any means and has slowly gone into disrepair. The person that has purchased it is trying to revitalize it. He does not think this will create a precedence for the city. 17<sup>th</sup> Avenue has almost the same traffic count as this street, but there is no management plan on 17<sup>th</sup>. There are some businesses that have two or three accesses onto 17<sup>th</sup>, both in and out. If we move the driveway north, the median will block people from going across to Eau Claire Boulevard. Rasmussen believes if the driveway is moved north, it would create a pinch point between



people parking and navigating the parking lot. If moved too far north, it would be too close to the signals creating a totally different problem. Higginbotham would want to move it just north enough to where there is a median.

Lindman feels if it is moved any further north, it would encroach on the right turn lane and create conflicts. Anytime a new driveway is put onto Grand, it creates conflicts and there is no way to police them. Consideration was given to what access is there now. Staff's perspective is that there is adequate access to the site and would not recommend another access onto Grand.

Deb Ryan, 702 Elm Street, goes to this shopping center quite often. She believes there are a number of residents in the apartments nearby that walk over. She feels one of the new owner's first priorities should be the inside of Family Dollar.

Gisselman is torn as he is looking at it from the business part of Grand Avenue. Some people on the southeast side are concerned about the lack of business on Grand Avenue. He encourages business development there, but this may open up some traffic congestion. He does not see where there could be a compromise without causing more issues.

Diny moved to approve the driveway as requested. Seconded by Henke and the motion failed 1-4 with Henke, Rasmussen, Gisselman, and Larson the dissenting votes.



| AGENDA ITEM                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Discussion and possible action on driveway request for 2201 Grand Avenue                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| BACKGROUND                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| <p>The Engineering Department received a request for a driveway entrance at 2201 Grand Avenue. The request is attached.</p> <p>This section of Grand Avenue between Kent Street and Lakeview Drive is controlled by an access management plan which is under Section 12.20.080 of the Wausau Municipal Code. This section of the code is attached for reference. Under this code, any additional driveway would need to be approved by Council.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| FISCAL IMPACT                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| None, the owner would be responsible for any driveway cost.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| STAFF RECOMMENDATION                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <p>Staff has reviewed the request for a driveway opening on Grand Avenue and does not support the addition of a driveway. The access management plan was put in place when this segment of Grand Avenue was reconstructed to minimize the conflict points of cars entering and exiting driveways to minimize crashes and increase safety. The ordinance makes it clear that a parcel with access on a side street is not to have a driveway on Grand Avenue. This parcel has 3 driveways on East Kent Street with good access. Also, the intersection of East Kent Street is a signalized intersection with turn lanes, allowing very good access to Kent Street for vehicles on Grand Avenue. The addition of a driveway on Grand Avenue at this location would introduce another point of conflict for drivers and a higher likelihood of additional crashes. The current proposal is for an entrance only, staff is also concerned this would not be enforceable and there is a strong chance drivers would use this as an exit.</p> |
| Staff contact: Allen Wesolowski 715-261-6762                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |





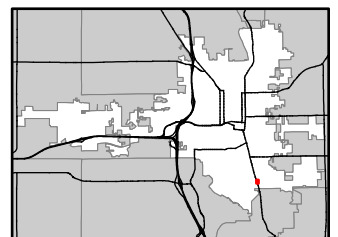
## ArcGIS Web Map

### City of Wausau / DPW

Date Printed: 1/25/2023

0 0.01 0.01  
mi

- Municipal Boundaries
- Parcel



#### NOTES:

1. Duplication of this map is prohibited without the written consent of the City of Wausau DPW / GIS Dept.
2. This map was compiled and developed by the City of Wausau and Marathon County GIS. The City and County assume no responsibility for the accuracy of the information contained herein.
3. City of Wausau  
Public Works / GIS Division  
407 Grant St  
Wausau, WI 54403  
[www.ci.wausau.wi.us](http://www.ci.wausau.wi.us)

Requested  
Driveway location

Ayres Associates Inc  
Geospatial Division  
5201 E Terrace Dr, Suite 200  
Madison, WI 53718  
(608) 443-1200  
[www.ayresassociates.com](http://www.ayresassociates.com), City of Wausau  
407 Grant St  
Wausau, WI 54403  
(715) 261-6740  
[www.ci.wausau.wi.us](http://www.ci.wausau.wi.us)



## ***Request for entrance-only driveway at 2201 Grand Avenue***

**Location of driveway:** On the east side of Grand Avenue across from Eau Claire Boulevard as shown on Exhibit A.

**Reasoning for requesting the new entrance:** Feedback from potential tenants have suggested that the direct vehicular access from Grand Avenue is important to them. To shop at the southernmost store within the Shopping Center a person travelling North on Grand Avenue currently must pass the 400 foot width of the Shopping Center and then turn East on Kent Street roughly 200 feet and then South 400 feet through the parking lot of the Shopping Center. If the entrance-only access were permitted on Grand Avenue, the person would simply turn into the Shopping Center at the South end of the parking lot and immediately be at the southernmost shop. This is an important consideration for some tenants. The easier it is for the owner to lease the shops the more desire there will be to make more substantial improvements to the facility which is in the best interest of everyone in the area. The owner is already planning exterior power washing, repairing and painting the front of the building, revamping site lighting, new parking striping and limited interior remodeling. The improvements to this site mirror other recent re-development initiatives along this area of Grand Avenue.

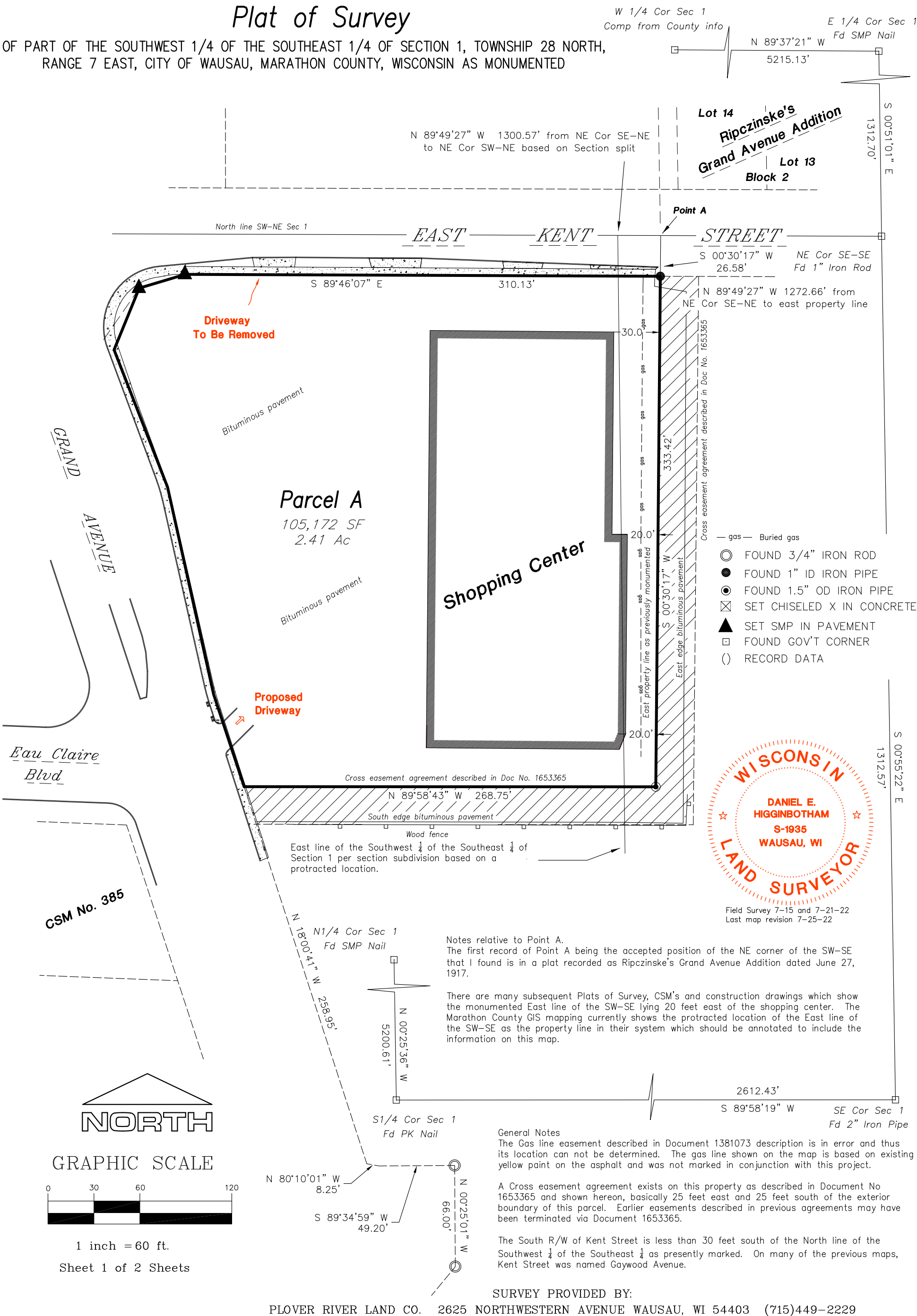
**Information relevant in decision making:** This would be an entrance-only driveway entering the property to the east from north bound Grand Avenue. The driveway will be built so that exits will not occur at this location. Many pictures of existing businesses with multiple driveways along Grand Avenue and 17<sup>th</sup> Avenue are included with this packet. All of the businesses shown on the attached photos have driveways permitting both ingress and ingress at multiple locations on a single lot. The driveway being requested (Exhibit A) is an angled access-only driveway which would not require a significant slowing of traffic to prepare for angling right into the parking lot.

**Safety upgrade:** If he is permitted to build this entrance, then the owner would eliminate the westernmost driveway on the South side of Kent Street which is only 76 LF from the Grand Avenue R/W. The next driveway to the east is directly across the street from the Westerly Kwik Trip driveway and will be enhanced as the main driveway into the Shopping Center.



# Plat of Survey

OF PART OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 1, TOWNSHIP 28 NORTH,  
RANGE 7 EAST, CITY OF WAUSAU, MARATHON COUNTY, WISCONSIN AS MONUMENTED





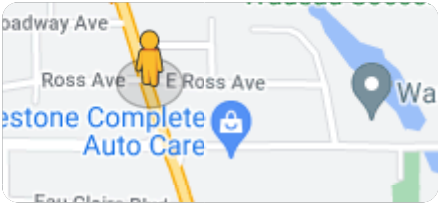


101 E Ross Ave  
Payday Loans Multiple Drives

Wausau, Wisconsin  
Google  
Street View - Oct 2011



Image capture: Oct 2011 © 2023 Google





Google Maps

1898 Grand Ave

Wausau, Wisconsin

Google

Street View - Sep 2019



Image capture: Sep 2019 © 2023 Google





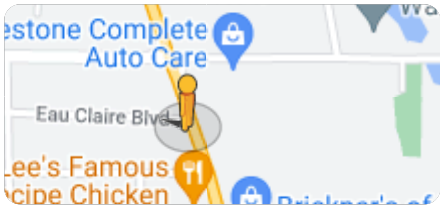


2301 Grand Ave  
Shopping Center across from subject Property

Wausau, Wisconsin  
Google  
Street View - Sep 2019



Image capture: Sep 2019 © 2023 Google







924 S 17th Ave  
Health in Motion



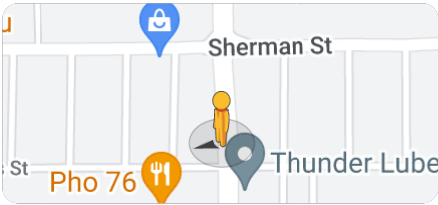
Wausau, Wisconsin



Street View - Sep 2019



Image capture: Sep 2019 © 2023 Google





## 12.20.080 - Access management on Grand Avenue.

In order to protect the public safety and improve the traffic carrying efficiency of Grand Avenue from its intersection with Kent Street south to the south City limits, the following motor vehicle access control criteria are established for this section of Grand Avenue:

- (a) Each parcel of land as identified by a separate tax key number in existence at the time of adoption of the ordinance codified in this section is entitled to one access onto Grand Avenue except if access is available to the property by an adjacent City street, then no additional access shall be provided directly onto Grand Avenue by way of a drive approach. The property will have access to Grand Avenue via the adjacent City street.
- (b) Driveway widths for commercial land uses shall be 20 feet for one-way traffic and 30 to 36 feet for two-way traffic.
- (c) Where an alley abuts a property and junctions with Grand Avenue, a driveway access to Grand Avenue may be installed in conjunction with the alley totaling 36 feet in order to provide improved ingress into the alley if a vehicle is waiting to exit.
- (d) No opening other than at street intersections shall be provided in the nonmountable median on Grand Avenue with the following exceptions:
  - (1) An opening to allow northbound traffic only to cross the median and enter the north driveway at Lee's Famous Recipe Chicken Restaurant at 2412 Grand Avenue; vehicles exiting the property shall be prohibited from using this median opening;
  - (2) An opening to allow only traffic which is exiting from the driveway centered on the public alleyway between 2303 and 2312 Grand Avenue to cross the median to travel north; northbound traffic on Grand Avenue shall be prohibited from making a left turn at this median opening.
- (e) No driveways other than those shown on the map entitled, Grand Avenue Access Management Plan, dated January 24, 1996, shall be allowed on Grand Avenue unless separate action by the Common Council approves said additional driveway.
- (f) Nonconforming driveways or access. Driveways or other access to Grand Avenue existing on the date of adoption of the ordinance codified in this section may be continued in their present use, but shall conform to this section following reconstruction of Grand Avenue. These existing driveways may not be expanded in width or otherwise modified without a permit.
- (g) Any person who violates this section shall, upon conviction thereof, forfeit not less than \$50.00 nor more than \$500.00 together with the cost of prosecution.

(Ord. 61-4936 §1, 1996.)



**ORDINANCE OF CAPITAL IMPROVEMENTS & STREET  
MAINTENANCE COMMITTEE**

Amending Section 10.20.080(a) designating no parking on east side of North 2<sup>nd</sup> Avenue between Eldred Street and Strowbridge Street

Committee Action: Approved 5-0

**Ordinance Number:**

Fiscal Impact: Minimal cost to install signs

**File Number:** 23-0305

**Date Introduced:** March 14, 2023

The Common Council of the City of Wausau do ordain as follows:

Add ( )

Section 1. That Section 10.20.080(a) of the Wausau Municipal Code is hereby amended as follows:

(a) There shall be no parking in the following locations:

...

North 2<sup>nd</sup> Avenue

- East side of the street between Eldred Street and Strowbridge Street from November 1 to April 1

Section 2. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 3. This ordinance shall be in full force and effect on the day after its publication.

Adopted:

Approved:

Published:

Attest:

Approved:

\_\_\_\_\_  
Katie Rosenberg, Mayor

Attest:

\_\_\_\_\_  
Kaitlyn A. Bernarde, City Clerk



## CAPITAL IMPROVEMENTS AND STREET MAINTENANCE COMMITTEE

---

Date of Meeting: February 9, 2023, at 5:15 p.m. in the Council Chambers of City Hall.

Members Present: Lou Larson, Doug Diny, Chad Henke, Lisa Rasmussen, Gary Gisselman

Also Present: Eric Lindman, Allen Wesolowski, TJ Niksich, Tara Alfonso, Chris Barr

### **Discussion and possible action on parking restrictions on North 2<sup>nd</sup> Avenue between Eldred Street and Strowbridge Street**

---

Wesolowski explained there are apartment buildings from Strowbridge to Eldred. People from the apartments have been parking on the street. The road is 37' back-to-back. Typically, if a roadway is 37' back-to-back, we do not restrict parking. They do park close to the intersections so it may make sense to restrict parking 50' back from the intersections.

Larson did not see a petition in the packet and asked how this was brought forward to committee. Rasmussen received feedback from the plow driver. 2<sup>nd</sup> Avenue between Eldred and Strowbridge is a hill. The driver gets to the crest of the hill and there are cars everywhere causing issues getting through. By the time he gets up and over the hill, he is committed. This apartment complex has ample parking for everyone that lives in the building; the residents just do not want to park there. People are parking on 2<sup>nd</sup> Avenue from the corner all the way to the crest of the hill. With the wing up, the plow driver can barely make it through and cannot clean the road properly. In other areas we have put parking restrictions on one side from November to April, which solves the winter problem.

Diny asked why people are not parking in the parking lot. Rasmussen guesses they want to make entry into the building by the front door versus the back door to have a shorter walk when they are carrying bags. This complex has existed in this neighborhood since 1975. Parking has become an issue only within the last few years. There are a number of buildings, and each unit contains 8 apartments. Even if each unit has two cars, there is still enough room to park off street. She believes it is a matter of convenience for the tenant.

If parking is restricted here, Larson asked if Rasmussen would foresee a problem with people parking on other streets. Rasmussen guesses they would move around the corner onto Eldred. If they park on Eldred, they would most likely only park on one side. The goal should be that they park in the parking lot.

Chris Barr explained the problem is when you come off Eldred Street, south onto 2<sup>nd</sup> Avenue. He slides across the street because it goes from a flat area to a hill. He suggested restricting parking on the east side because he does not turn left off of Eldred with the plow.

Rasmussen moved to restrict parking on the east side for the entire block from November 1<sup>st</sup> to April 1<sup>st</sup>. Seconded by Diny and the motion carried unanimously 5-0.



| AGENDA ITEM                                                                                                                                                                                                                                                                                                                                                                                          |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Discussion and possible action on parking restrictions on North 2 <sup>nd</sup> Avenue between Eldred Street and Strowbridge Street                                                                                                                                                                                                                                                                  |
| BACKGROUND                                                                                                                                                                                                                                                                                                                                                                                           |
| The Wausau PD and Engineering received a request for possible parking restrictions on N. 2 <sup>nd</sup> Avenue to limit parking. The complaint is based on parking on both sides of the roadway and difficulties with plowing or garbage trucks in the winter months. The current roadway is 37' back of curb to back of curb which meets city standards for parking on both sides of the roadway.  |
| FISCAL IMPACT                                                                                                                                                                                                                                                                                                                                                                                        |
| Minimal, signs if necessary.                                                                                                                                                                                                                                                                                                                                                                         |
| STAFF RECOMMENDATION                                                                                                                                                                                                                                                                                                                                                                                 |
| Staff does not recommend marking no parking for the entire block on one or both sides. The current roadway width is adequate to support parking on both sides of the roadway. Staff would support making 'No Parking' 50 feet back from the intersection to allow plow trucks and garbage trucks to make the turns but yet allow residents parking on the majority of the street. A map is attached. |
| Staff contact: Allen Wesolowski 715-261-6762                                                                                                                                                                                                                                                                                                                                                         |



No Parking on both sides of the road;  
50' from the intersections





**RESOLUTION OF THE ECONOMIC DEVELOPMENT COMMITTEE**

Approving First Amendment to Development Agreement with RJ Elm Properties, LLC – 1520 Elm Street

Committee Action:      Approved 4-0

Fiscal Impact:          None

**File Number:**            20-0410

**Date Introduced:**      March 14, 2023

**FISCAL IMPACT SUMMARY**

|               |                                                                                                                                                                                                 |                                         |                             |                                        |
|---------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------|-----------------------------|----------------------------------------|
| <b>COSTS</b>  | <i>Budget Neutral</i>                                                                                                                                                                           | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> |                                        |
|               | <i>Included in Budget:</i>                                                                                                                                                                      | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | <i>Budget Source</i>                   |
|               | <i>One-time Costs:</i>                                                                                                                                                                          | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | <i>Amount:</i>                         |
|               | <i>Recurring Costs:</i>                                                                                                                                                                         | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | <i>Amount:</i>                         |
| <b>SOURCE</b> | <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 entered into a Development Agreement with RJ Elm Properties, LLC on August 26, 2020, with respect to property located at 1520 Elm Street, formerly a part of the real property that was located at 201 N. 17<sup>th</sup> Avenue; and

**WHEREAS**, after the execution of the Development Agreement, the scope and timing of the project changed which triggered several other changes as follows:

1.      The Effective Date shall be December 31, 2022.
2.      Reference to the Property shall mean the real property described on Exhibit A attached to the First Amendment.
3.      The Project is a single-phase project.
4.      Project Completion Deadline is changed from December 31, 2022 to May 31, 2023.

**WHEREAS**, your Economic Development Committee, at their March 7, 2023 meeting, discussed and recommended approval of the First Amendment to Development Agreement.

**NOW, THEREFORE, BE IT RESOLVED** by the Common Council of the City of Wausau that it approves the attached First Amendment to Development Agreement between the City of Wausau and RJ Elm Properties, LLC, and authorizes the property city officials to execute such Amendment.



Approved:

---

Katie Rosenberg, Mayor



# MINUTES

## Economic Development Committee Meeting

**Date / Time:** Tuesday, March 7, 2023, at 5:15 P.M. | **Meeting called to order by** Watson at 5:16 P.M.

In Attendance

**Members Present:** Sarah Watson (C), Chad Henke (VC), Tom Kilian, Lisa Rasmussen

**Members Absent:** Carol Lukens

**Others Present:** Randy Fifrick, Shannon Graff, Tammy Stratz, Mayor Rosenberg, Atty. Anne Jacobson, Blake Opal-Wahoske (River District), Michael Loy, Alder Gary Gisselman, Mark Craig (Compass Properties)

*In accordance with Chapter 19, Wisc. Statutes, notice of this meeting was posted and sent to the Daily Herald in the proper manner.*

**Agenda Item 1** – Approval of Minutes from 2/7/23

*Henke motioned to approve minutes from 2/7/23, seconded by Kilian **Approved Unanimously 4-0***

**Agenda Item 4** – Discussion and possible action approving First Amendment to Plaza Multi-family Phase 1 Development Agreement at 1520 Elm Street with RJ Elm Properties, LLC (Brodek, Loy)

Brodek stated the First Amendment to Plaza Multi-family Phase 1 Development Agreement is to modify the completion date from 12/31/22 to 5/31/23 noting this is a conditioned precedent of every TIF payment this development is set to receive. Brodek noted other minor items the amendment does is deletes the term proposal in the original development agreement because it referenced a TIF application that wasn't reflective of the project built in order to eliminate confusion and contradiction. Brodek said the amendment also amends the demolition grant amount from \$450,000 down to \$350,000 which has already been paid. She commented that most of the documents requested in the original development agreement have been provided and the final cost breakdown will be provided upon completion, but the construction spend has already exceeded what was expected.

*Rasmussen moved to approve revisions, seconded by Henke.*

Kilian asked if these amendments are made if this deal is then done. Brodek replied yes.

**Motion passes unanimously 4-0**



**FIRST AMENDMENT TO  
DEVELOPMENT AGREEMENT  
(Bantr – 1520 Elm Street)**

**THIS FIRST AMENDMENT TO DEVELOPMENT AGREEMENT** (this “Amendment”) is made as of the \_\_\_\_ day of \_\_\_\_\_, 2023 (the “Execution Date”), by and between the CITY OF WAUSAU, a Wisconsin municipal corporation (the “City”), and RJ ELM PROPERTIES, LLC, a Wisconsin limited liability company (“Developer”).

**RECITALS**

WHEREAS, the City and Developer entered into a certain Development Agreement with an Effective Date of August 26, 2020 (the “Development Agreement”), with respect to certain property located at 1520 Elm Street, formerly a part of the real property that was located at 201 N. 17th Ave., in the City of Wausau, County of Marathon, State of Wisconsin, as more particularly described in the Development Agreement; any capitalized term used in this Amendment but not defined herein shall have the meaning assigned to that term in the Development Agreement; and

WHEREAS, after the execution of the Development Agreement, the scope and timing of Developer's project at the Property has changed, including changing from a two-phase project (as was contemplated in the Development Agreement) to a single-phase project; and

WHEREAS, subject to the terms and conditions herein, the City and Developer desire to amend the Development Agreement as set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained in this Amendment, the parties agree as follows:

1. Effective Date. The parties are signing this Amendment as of the Execution Date in the introductory paragraph to be effective as of December 31, 2022 (the “Effective Date”), subject to the terms and conditions of this Amendment.
2. The Property. The “Property” referred to in the Development Agreement shall mean the real property legally described on Exhibit A attached hereto. The parties agree that the certified survey map referenced within such legal description is the Parent Parcel CSM contemplated by Section 2.a of the Development Agreement. All references to the “Developer's Parcel” or to the “Phase I Property” in the Development Agreement are hereby revised to the “Property”.
3. Single-Phased Project. The parties agree that the Project is no longer the first of a two-phase project but is, instead, a single-phase project. Accordingly, the following revisions to the Development Agreement are hereby made:
  - a. The subtitle of the Development Agreement is revised from “(Plaza Hotel Multifamily – Phase 1)” to “(Bantr – 1520 Elm Street)”.
  - b. The third recital of the Development Agreement is amended and restated in its entirety as follows:



WHEREAS, Developer proposed to build a multifamily residential complex on the Property.

- c. The fourth and the fifth recitals of the Development Agreement are deleted.
- d. The definition of the “Project” in Section 1 of the Development Agreement is amended and restated in its entirety as follows:

“Project” means the demolition of existing improvements on the Property and the construction of a mixed-use multifamily residential complex on the Property consisting of approximately 247,005 gross square feet, including, but not limited to, the construction of all improvements as may be required in order to comply with applicable laws, rules, regulations, codes and ordinances in the use of the Property.

- e. The definitions of the following terms are hereby deleted from Section 1 of the Development Agreement: Developer's Parcel; Developer's Parcel CSM; Phase 1 Project; Phase 2 Development Agreement; Phase 2 Property; Phase 2 Project.

- f. The text of Section 2.b of the Development Agreement (regarding the division of the Property to accommodate multiple phases of development) is deleted in its entirety and replaced with “[Intentionally Deleted]” text.

4. Updates to the Project. Based on updates to the scope and timing of the Project, the following revisions to the Development Agreement are hereby made:

- a. *Plans.* The parties agree that the Plans as approved by the City shall mean those plans referenced on Exhibit B attached hereto.

- b. *Project Completion Deadline.* The Project Completion Deadline is changed from December 31, 2022, to May 31, 2023.

- c. *Project Cost Breakdown.* Developer represents and warrants to the City that Developer's current sources and uses information for the Project is attached hereto as Exhibit C-1 (the “Sources and Uses”) and that the current detailed Project Cost Breakdown is attached hereto as Exhibit C-2. Upon Project Completion, Developer shall promptly provide the final Project Cost Breakdown to the City

- d. *Proposal.* The definition of the term “Proposal” in Section 1.cc. of the Development Agreement is hereby deleted in its entirety and replaced with “[Intentionally Deleted]” text, and all references to the term “Proposal” throughout the Development Agreement are hereby deleted.

Developer shall not, without the City's prior written consent, materially change any of the following: the scope of the Project, the Plans, the Sources and Uses, or the Project Cost Breakdown, the provisions of such consent of the City is hereby delegated to the appropriate City staff.



5. Tax Increment Grant and Grant. Due to the revised Project scope, the following revisions to the Development Agreement are hereby made:

a. Section 3.b. of the Development Agreement is hereby deleted in its entirety and replaced with the following:

*Tax Increment Grant by the City.* Subject to the terms and conditions of this Agreement, the City agrees to make, and Developer agrees to accept, the Tax Increment Grant as partial reimbursement for the construction of the Project. The Tax Increment Grant shall be made in up to five (5) annual installments on or before November 1 of each year in the amount of the Tax Increment Grant Amount for the prior calendar year up to the cumulative maximum amount of the Tax Increment Allocation; provided, however, that the amount of the Tax Increment Grant in each year is further limited to the amount of the Tax Increment actually appropriated for use as the Tax Increment Grant by the City Council for such year. The first annual payment of the Tax Increment Grant shall be in 2025 for payment of the Tax Increment Grant Amount for calendar year 2024, and the final scheduled annual payment of the Tax Increment Grant shall be in 2029 for payment of the Tax Increment Grant Amount for calendar year 2028. In the event that Developer fails to meet all conditions precedent for an installment of the Tax Increment Grant for a given year, such installment shall be forfeited for such year. The City makes no representation or covenant, express or implied, that any non-zero Tax Increment Grant Amount will be generated and/or appropriated in any given year or that, in the aggregate, all such installments will be sufficient to total the Tax Increment Allocation. Any Tax Increment which is not appropriated and allocated toward the Tax Increment Grant Amount may be used by the City for any legally permitted purpose, in its sole discretion. The City reserves the right to accelerate payments of the Tax Increment Grant.

b. The amount of the Grant shall be revised to \$350,000.00. Developer hereby confirms that the City has disbursed \$350,000 to Developer with respect to the Grant.

6. Additional Amendments to Development Agreement. The Development Agreement is further amended as follows:

a. Regarding Section 7 of the Development Agreement, after Project Completion is achieved, City consent shall not be required for any such transfer, unless the Property is being transferred to an entity which is exempt from real estate taxes.

b. Regarding Section 10.a of the Development Agreement, the address for notices to Developer is hereby updated as follows:

Notices to Developer:

RJ Elm Properties, LLC  
c/o Rolly Lokre  
P.O. Box 215  
Plover, WI 54467

*with a copy to:*  
James Frings  
1450 Don's Way  
Kronenwetter, WI 54458



7. Recorded Memorandum. Reference is made to that certain Memorandum of Development Agreement by and between the City and Developer, which was dated as of October 23, 2020 and recorded on November 3, 2020 with the Register of Deeds for Marathon County, Wisconsin as Document Number 1818932 (the “Recorded Memorandum”), which gives record notice of the Development Agreement. Developer and the City agree that the subtitle of the Recorded Memorandum (and references therein to such subtitle) is hereby revised from “(Plaza Hotel Multifamily – Phase 1)” to “(Bantr – 1520 Elm Street)”. At present, the parties do not believe this change requires a recorded amendment to the Recorded Memorandum; provided, however, at the request of either party, a recordable instrument shall be executed (subject to such instrument being acceptable in form and content to each party) to evidence this change and to give notice of the existence of this Amendment, which instrument may then be recorded in the real estate records at the expense of the requesting party.

8. Conditions Precedent in Development Agreement.

a. The text of Section 4.a.xi of the Development Agreement (regarding the Parent Parcel CSM) is deleted in its entirety and replaced with “[Intentionally Deleted]” text.

b. Throughout the entire section 4 of the Development Agreement, “Conditions Precedent to the City's Obligations”, if the City’s approval, consent, or acceptance is required, such approval, consent, or acceptance is hereby delegated to the appropriate City staff, except that the consent required by Section 4.a.xii. may only be given by the City Council.

9. Conditions Precedent to this Amendment. The effectiveness of this Amendment is conditioned upon the satisfaction of each and every one of the following conditions:

a. The City, through its City Council, shall have approved or authorized this Amendment and the transactions contemplated herein, and all the conditions to such approval shall have been satisfied.

b. No uncured default of Developer, or event which with the giving of notice or lapse of time or both would be a default of Developer, shall exist under the Development Agreement. Developer shall not be in default (beyond any applicable period of grace) of any of its obligations under any other agreement or instrument with respect to the Project to which Developer is a party or an obligor.

c. Developer shall cause each Guarantor to consent to this Amendment and to ratify the Guaranty in the form attached hereto or in a form otherwise reasonably acceptable to the City.

d. Developer shall obtain a consent to this Amendment from each of its mortgage lenders with a mortgage on the Property in the form attached hereto or in a form otherwise reasonably acceptable to the City.

e. Developer shall provide the City with all documentation reasonably requested by the City with respect to the Project and as required by the Development Agreement.



10. Reaffirmation of Development Agreement. The Development Agreement, as modified by this Amendment, remains in full force and effect, and all terms of the Development Agreement, as modified hereby, are hereby ratified and reaffirmed by Developer. The provisions of the Development Agreement not affected by this Amendment remain in full force and effect.

11. Representations and Warranties of Developer. Developer hereby represents and warrants to the City that:

a. After giving effect to this Amendment, all of the representations and warranties made by Developer in the Development Agreement are true and accurate in all material respects on the Effective Date of this Amendment, and no event of default under the Development Agreement has occurred and is continuing as of the Effective Date of this Amendment.

b. The making, execution and delivery of this Amendment, and performance of and compliance with the terms of the Development Agreement, as amended, have been duly authorized by all necessary action of Developer. This Amendment is the valid and binding obligation of Developer, enforceable against Developer in accordance with its terms.

c. The following list includes all of mortgage lenders with a mortgage on the Property:

i. GreenState Credit Union (which has a mortgage on the Property securing a loan for \$20,703,032.00).

ii. None other.

12. Miscellaneous. If any provision of this Amendment or the application thereof to any person or circumstance is or shall be deemed illegal, invalid or unenforceable, the remaining provisions of this Amendment shall remain in full force and effect and this Amendment shall be interpreted as if such illegal, invalid or unenforceable provision did not exist. This Amendment may be executed in multiple counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument. The parties agree that faxed and electronically scanned signatures shall be binding on all parties. This Amendment shall be governed in all respects by the laws of the State of Wisconsin.

[SIGNATURE PAGE FOLLOWS]



IN WITNESS WHEREOF, the parties are signing this First Amendment to Development Agreement as of the Execution Date in the introductory paragraph to be effective as of December 31, 2022.

**DEVELOPER:**

RJ ELM PROPERTIES, LLC

By: \_\_\_\_\_  
Name: Roland Lokre  
Title: Member

**THE CITY**

CITY OF WAUSAU

By: \_\_\_\_\_  
Katie Rosenberg, Mayor

Attest: \_\_\_\_\_  
Kaitlyn Bernarde, Clerk



**GUARANTOR CONSENT TO AMENDMENT  
AND RATIFICATION OF GUARANTY**

Reference is made to a certain Guaranty of Specific Transaction (the "Guaranty") given by Roland Lokre and James Frings (each a "Guarantor") and dated as of August 26, 2020, which guaranteed certain obligations with respect to the development project to be completed by RJ Elm Properties, LLC ("Developer") at the property described on Exhibit A attached to and made a part of this First Amendment to Development Agreement (this "Amendment").

Each Guarantor hereby consents to the following: (i) the terms of this Amendment; (ii) the terms of the Development Agreement (as defined in this Amendment) as modified hereby; and (iii) to Developer entering into this Amendment. Additionally, each Guarantor hereby ratifies, confirms and reaffirms all covenants, warranties and representations set for the Guaranty as being true in all material respects as of the date hereof (taking into account any knowledge or other qualifiers contained in such covenants, warranties, and representations). This Guarantor Consent may be executed in any number of counterparts and by the different parties hereto on separate counterparts and each such counterpart shall be deemed to be an original, but all such counterparts shall together constitute but one and the same instrument.

GUARANTOR

---

ROLAND LOKRE

---

JAMES FRINGS



## MORTGAGEE CONSENT TO AMENDMENT

Reference is made to a mortgage (the "Mortgage") given to GreenState Credit Union ("Lender") by RJ Elm Properties, LLC ("Developer") dated December 10, 2021, and recorded with the Register of Deeds for Marathon County, Wisconsin on December 15, 2021, as Document No. 1852319, under which Lender took an interest, as mortgagee, in the property (the "Mortgaged Property") described on Exhibit A attached to and made a part of this First Amendment to Development Agreement (this "Amendment").

Lender hereby consents to the following: (i) the terms of this Amendment; (ii) the terms Development Agreement (as defined in this Amendment) as modified hereby; and (iii) to Developer entering into this Amendment.

LENDER

**GREENSTATE CREDIT UNION,**  
an Iowa credit union

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_



## EXHIBIT A

### LEGAL DESCRIPTION OF THE PROPERTY

Lot two (2) of Certified Survey Map No. 18721 recorded in the office of the Register of Deeds for Marathon County, Wisconsin as Document No. 1816014; and Outlot one (1) of Certified Survey Map No. 13624 recorded in said Register's office in Volume 60 of Certified Survey Maps on page 1, as Document No. 1391257; being part of the Northeast quarter (NE 1/4) of the Southeast quarter (SE 1/4) of Section twenty-seven (27), Township twenty-nine (29) North, Range seven (7) East, in the City of Wausau, Marathon County, Wisconsin; subject to easements of record.

PINs: 291-2907-274-0929 and 291-2907-274-0952



**EXHIBIT B**

**LIST OF PLANS**

[Attached to this cover page.]



## EXHIBIT C-1

### SOURCES AND USES

**SOURCES & USES**  
bantr Wausau



| SOURCES & USES            | Amount              | % Total     |
|---------------------------|---------------------|-------------|
| <b>Sources</b>            |                     |             |
| First Mortgage Financing: | \$20,403,032        | 73.0%       |
| Demolition Grant (TIF)    | \$450,000           | 1.6%        |
| Investor Equity           | \$7,000,000         | 25.0%       |
| Borrower Equity (Land):   | \$100,000           | 0.4%        |
| <b>Total Sources</b>      | <b>\$27,953,032</b> | <b>100%</b> |
| <b>Uses</b>               |                     |             |
| Land Cost:                | \$100,000           | 0.36%       |
| Demolition Cost:          | \$350,000           | 1.25%       |
| Apartment Hard Costs:     | \$22,177,101        | 79.34%      |
| Retail Hard Costs:        | \$816,000           | 2.92%       |
| Soft Costs:               | \$3,109,931         | 11.13%      |
| Contingencies:            | \$1,400,000         | 5.01%       |
| <b>Total Uses</b>         | <b>\$27,953,032</b> | <b>100%</b> |



**EXHIBIT C-2**

**PROJECT COST BREAKDOWN**

[Attached to this cover page.]

***[NTD: Developer to provide latest Pay Application.]***



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

**RESOLUTION OF THE FINANCE COMMITTEE**

Approving and Adopting the Budget for Public Works West Street Garage Design Services Amendment 5

Committee Action:      Approved 5-0

Fiscal Impact:          \$149,895

**File Number:**          22-1109

**Date Introduced:**      March 14, 2023

**FISCAL IMPACT SUMMARY**

|               |                                                                                                                                                                            |                                                                     |                                                |
|---------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------|------------------------------------------------|
| <b>COSTS</b>  | <i>Budget Neutral</i>                                                                                                                                                      | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> |                                                |
|               | <i>Included in Budget:</i>                                                                                                                                                 | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> | <i>Budget Source:</i>                          |
|               | <i>One-time Costs:</i>                                                                                                                                                     | Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> | <i>Amount: \$148,295</i>                       |
|               | <i>Recurring Costs:</i>                                                                                                                                                    | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> | <i>Amount:</i>                                 |
| <b>SOURCE</b> | <i>Fee Financed:</i>                                                                                                                                                       | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> | <i>Amount:</i>                                 |
|               | <i>Grant Financed:</i>                                                                                                                                                     | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> | <i>Amount: \$148,295</i>                       |
|               | <i>Debt Financed:</i>                                                                                                                                                      | Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> | <i>Amount \$148,295      Annual Retirement</i> |
|               | <i>TID Financed:</i>                                                                                                                                                       | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> | <i>Amount:</i>                                 |
|               | <i>TID Source: Increment Revenue <input type="checkbox"/> Debt <input type="checkbox"/> Funds on Hand <input type="checkbox"/> Interfund Loan <input type="checkbox"/></i> |                                                                     |                                                |

**RESOLUTION**

**WHEREAS**, the City of Wausau Infrastructure and Street Maintenance Committee approved proceeding with the due diligence process to purchase the West Street site for a potential new fleet facility for the Department of Public Works; and

**WHEREAS**, as part of the due diligence it is recommended to design the facility to 30% to determine whether the property will meet the needs of the City; and

**WHEREAS**, Barrientos design and consulting is estimating the cost of 30% design to be \$148,295; and

**WHEREAS**, financing for these costs along with land acquisition, site preparation and construction will be funded through the issuance of long term debt; and

**WHEREAS**, your Finance Committee recommends the following budget modification to fund the 30% design;

| *Ledger Account/Summary            | *Fund                                     | *Cost Center                                      | Revenue Category                   | Spend Category          | Project               | Debit Amount | Credit Amount |
|------------------------------------|-------------------------------------------|---------------------------------------------------|------------------------------------|-------------------------|-----------------------|--------------|---------------|
| 60000:Capital Outlay               | 440 Capital Projects Fund - Bond Proceeds | City Highway Building Improvements Capital Outlay |                                    | 58223 Highway Buildings | Public Works Facility | \$150,000.00 | \$0.00        |
| 49100:Proceeds from Long Term Debt | 440 Capital Projects Fund - Bond Proceeds | City Highway Building Improvements Capital Outlay | 49100 Proceeds from Long Term Debt |                         | Public Works Facility | \$0.00       | \$150,000.00  |



**NOWTHERE BE IT RESOLVED**, by the Common Council of the City of Wausau that the proper City officials are hereby authorized and directed to modify the 2023 Budget as outlined above.

**BE IT FURTHER RESOLVED**, that the proper City officials are directed to enter into the amendment attached.

Approved:

---

Katie Rosenberg, Mayor



## **FINANCE COMMITTEE**

Date and Time: Tuesday, February 14, 2023 @ 5:30 pm., Council Chambers

Members Present: Lisa Rasmussen, Michael Martens, Doug Diny, Carol Lukens, Sarah Watson

Others Present: Maryanne Groat, Anne Jacobson, Katie Rosenberg, Eric Lindman, Ben Bliven, Bob Barteck, Solomon King, Liz Brodek, Randy Fifrick, Bill Hebert, Tom Kilian, Mary Goede

### **Discussion and possible action regarding Public Works West St Repair Garage Preliminary Design Architectural Services Amendment 5 (Barrientos Design & Consulting)**

Rasmussen stated this is partially related to the action recently taken by CISM Committee to move forward doing the due diligence process with the West Street site for a potential new fleet facility for DPW.

Eric Lindman explained he has been in communication with the owner of the site who is definitely interested in potentially selling the property as well. The proposal is for Barrientos to go to about a 30% design and layout to see how things will fit and provide some renderings for committee and Council to make any final decisions. While this is happening, he indicated he was working to get the cost for some additional soil investigation on the site as well as inspections of the buildings for any lead or asbestos.

Maryanne Groat stated we had included approximately \$1,150,000 for design of the facility in the 2022 budget. It was going to be wholly funded by the issuance of debt, but when we went to issue the 2022 debt, we didn't have a site yet, so we did not borrow for it given the unknowns. She stated we will need to add that budget into the 2023 budget.

Michael Martens questioned if they were still committed to having DPW at the Myron Street location. Lindman confirmed that stating only fleet motor pool would move to this new site.

Motion by Martens, second by Lukens to approve the Architectural Services Amendment 5 and the budget modification to incorporate those funds into the 2023 budget for borrowing. Motion carried 5-0.





February 1, 2023

Mr. Eric Lindman  
Public Works Director  
City of Wausau  
400 Myron Street  
Wausau WI 54401

**RE: PUBLIC WORKS WEST ST. REPAIR GARAGE PRELIMINARY DESIGN  
Architectural Services Amendment 5**

Dear Eric,

In following with our original design services Agreement for the expansion of the Myron Street Garage, Barrientos Design & Consulting, Inc. is pleased to present this amendment for Preliminary Design services. This Amendment 5 will create preliminary design documents for a relocated Fleet Repair Garage at 1100 West Street, also known as the Wausau Iron Works site.

**BACKGROUND & BUILDING PROGRAM**

Barrientos Design completed a Conceptual Design of the Fleet Repair Garage in June 2020 and explored relocating the Repair Garage to other parcels away from the Myron Street facility.

Following a Council meeting in January of 2023, the City moved to proceed with the preliminary design and purchasing effort of the 1100 West Street site. This six-acre site is adjacent to the Marathon County Highway Department, the Parks Department and various under-utilized industrial parcels

Based on the concept design effort the Iron Works site is to be partially demolished with these buildings to stay for renovation and reuse: Administration Building, the steel Storage Building, the Salt Shed and a metal Storage Building. The Myron Street facility is to remain the Streets Garage and will be renovated/expanded under a separate amendment. Please see attached Concept Plans for reference.

Overall, the development program will be:

1. Admin/Crew offices in remodeled existing Office structure
2. Fleet Repair Garage and Parts in a newly constructed wing attached to the Office structure
3. Fuel Station
4. Tempered Storage for vehicles in existing Steel structure
5. Reuse of existing Salt Shed
6. Reuse of existing Tempered Storage building



7. Paved areas for access drives and parking
8. Stormwater management
9. Demolition and environmental clean-up

The general building is a 28,000 SF Fleet Repair Garage and will have these major functions:

1. Maintenance bays, total 12
2. Machine shop area
3. Shop support areas
4. Bulk fluid storage
5. Tire shop
6. Parts storage
7. Mechanic's workstations
8. Truck Wash
9. Fleet crew amenities
10. Fleet administrative offices
11. Yard facilities

#### **SCOPE OF WORK**

In following with Council direction, Barrientos will develop Preliminary plans of the building and sitework sufficient to provide a detailed cost estimate and identify all the planning and permitting processes.

Barrientos Design will provide architectural and engineering services for the development of Preliminary plans with these tasks and deliverables.

1. Assist City with the procurement of site survey covering boundaries, topography, above grade structures and utilities
2. Assist City with the procurement of geotechnical services for a preliminary subsurface exploration
3. Assist the City in procuring environmental hazards survey of the site
4. Procure a demolition contractor's assessment and quote for structures demolition.
5. Develop a detailed base plan of the parcel and adjacent land.
6. Create base site plan documenting
  - a. Property lines and existing building footprints
  - b. Utility connections: water, sewer, storm, electric and gas.
  - c. Topography
  - d. Utility connections and capacities
  - e. Stormwater drainage patterns
  - f. Roadways, curb-cuts and sidewalks
  - g. Foundations, that may stay in place
  - h. Trees and other landscape features



- i. Soils conditions, stability and bearing capacity
  - j. Hazardous areas on site
  - k. Traffic patterns of area
  - l. Integration with neighboring land uses
  - m. Railroad constraints
  - n. Economic development and land use compatibility
- 7. Review zoning ordinances, land use conformance, Architectural Plan Commission, State Building Codes, stormwater management and City Engineering requirements.
- 8. Review with DPW staff, the facility requirements established in prior planning efforts and determine if the design program needs to be updated. Review all major elements of the program to verify items are still needed or appropriately sized.
- 9. Advance the shop equipment program to specific pieces and items to be used in the design. Select with the mechanics, equipment products, features and models to be incorporated into the plan for items such as, lifts, overhead cranes, bulk fluid reels, welders, shop equipment, truck wash and fuel station.
- 10. Update the Building and Site Plan with the above site, regulatory and staff input.
- 11. Review and select major building assembly and components such as exterior walls, roofing, structures, flooring, windows, and interior construction.
- 12. For the buildings to remain, determine extent of remodeling and upgrading required for new uses.
- 13. Review and select major building engineering systems such as HVAC, electrical, and plumbing
- 14. Similarly, for the sitework, review and select major systems for items such as parking, fueling station, fencing and paving.
- 15. Conduct meetings with City engineering for traffic, roadway and utilities impact and conformance.
- 16. Correspond with Utilities representatives for location, capacity, condition and ability handle loads required by the new facility.
- 17. Conduct meetings with City planning staff for architectural review commission requirements and any aesthetic building and site requirements.
- 18. Develop Preliminary Design documents, an equivalent of 30% of a Final Design. Design documents to include plans and technical narratives for:
  - a. Architecture
  - b. Maintenance Equipment
  - c. Truck wash and Fueling Station
  - d. Foundation and superstructure
  - e. Grading
  - f. Pavement
  - g. Drainage and Stormwater
- 19. Develop system description narratives for these systems:
  - a. HVAC
  - b. Electrical



- c. Plumbing
- d. 3D rendering of the building and site
- 20. Create a sustainability package of methodologies to be employed in the Garage. Assess their green impact and return on investment.
- 21. Develop cost estimate based on quantity take-off from plans. Barrientos Design will engage Miron Construction to develop cost estimates and they will selectively soft-bid out key construction packages.
- 22. Develop a probable Final Design schedule identifying design phase timelines, milestones, permitting submittals and client reviews. Prepare a preliminary construction schedule. Identify bid items that are long-lead and recommend an early bid package list.
- 23. Submit final Preliminary Design package to the City in a report format. Provide pdf's of the document.
- 24. Prepare a PowerPoint presentation and conduct a presentation summarizing the Preliminary Design scope, assembly, materials, equipment, costs, schedule a permitting timeline. Provide up to two technical presentations of the Preliminary Design.
- 25. During the Preliminary Design process we will meet onsite up to six times and provide via video conferencing on a weekly basis, if required.

Our services do not include; survey ( including CSM's or ALTA ) , geotechnical, environmental, traffic engineering, landscape design, and zoning variances.

#### **SCHEDULE**

Barrientos Design will complete the Preliminary Design over a six-month's time period. We are assuming that RFP's for survey, geotechnical and environmental clean-up will be issued and awarded within a five weeks of notice to proceed.

#### **FEE**

Barrientos Design proposes to provide this Amendment 4 for a lump-sum fee of \$148,295. Reimbursables will include travel to the site and reproductions distributed to the City.

We look forward to advancing this project effort to explore these two viable site options.

Sincerely,

BARRIENTOS DESIGN & CONSULTING, INC.



Norman Barrientos, AIA, LEED AP, President





ACCEPTANCE

**CITY OF WAUSAU PUBLIC WORK**

Eric Lindman  
Public Works Director

Date





OPTION 2: WAUSAU IRON WORKS REDEVELOPMENT  
 WAUSAU PUBLIC WORKS  
 FLEET MAINTENANCE GARAGE  
 1/23/23





# KEY

72,000 SF DEMOLISHED  
 27,000 SF REPURPOSED STRUCTURE (NEW ENCLOSURE)  
 16,000 SF REUSED AS-IS (office, storage, salt shed)  
 31,000 SF NEW CONSTRUCTION (repair, truck wash)

31,000 SF TOTAL REPAIR GARAGE / TRUCK WASH  
 32,500 SF TOTAL TEMPERED STORAGE  
 7,000 SF TOTAL ADMIN/ CREW  
 3,500 SF TOTAL SALT SHED

## REUSE PLANNING KEY

EXISTING BUILDING  
 REUSE OF STRUCTURE  
 NEW CONSTRUCTION



**BARRIENTOS**  
 design & consulting

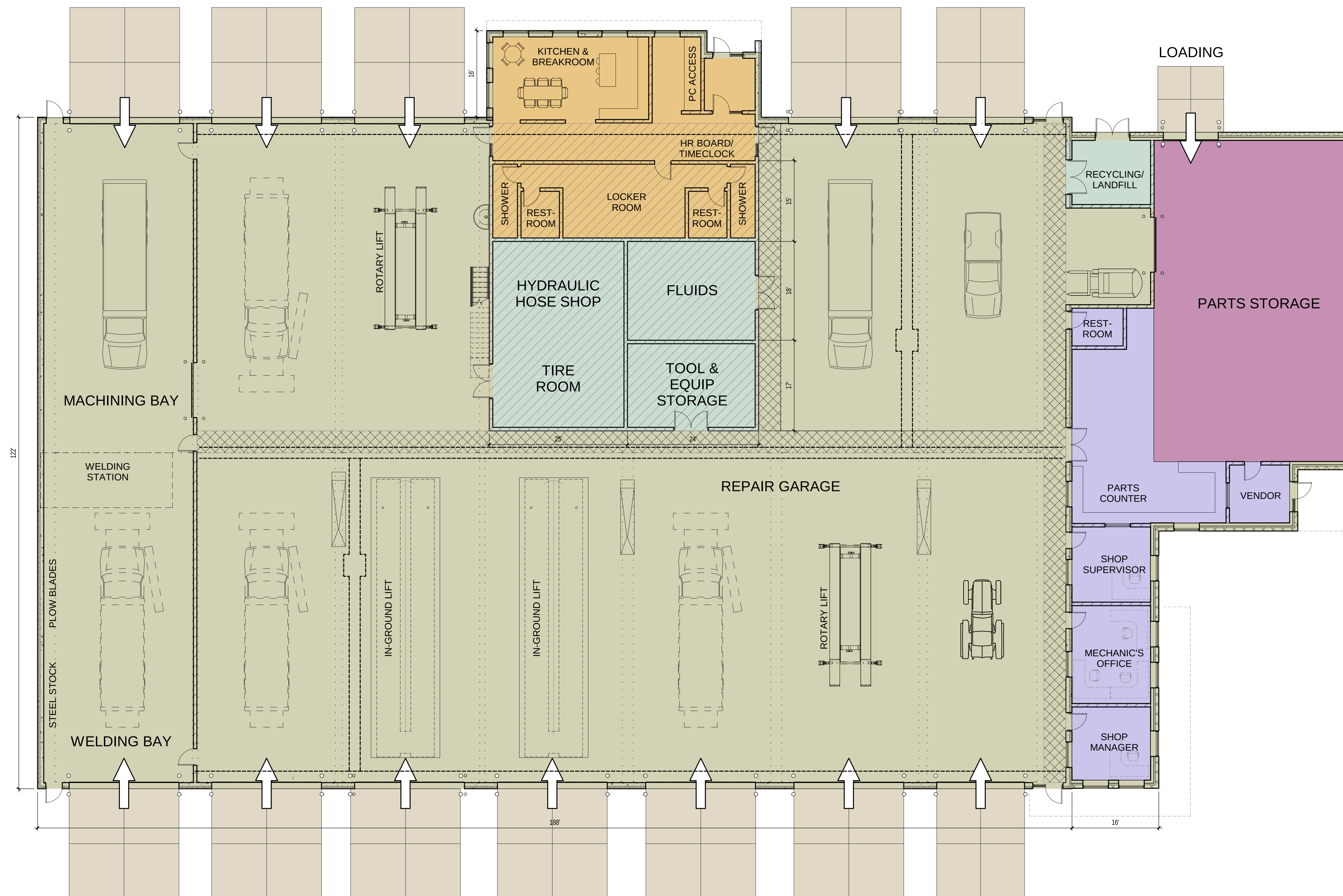
1

A-233

2. SITE WEST ST. (IRON WORKS) 2.0

1" = 80'-0"





|             |  |           |
|-------------|--|-----------|
| 20,800 S.F. |  | REPAIR    |
| 1,700 S.F.  |  | CREW      |
| 1,900 S.F.  |  | STORAGE   |
| 2,100 S.F.  |  | PARTS     |
| 1,500 S.F.  |  | OFFICES   |
|             |  |           |
| 28,000 S.F. |  | TOTAL     |
| 2,700 S.F.  |  | MEZZANINE |

1 PLAN - REPAIR GARAGE  
1" = 10'-0"

Wausau Department of Public Works

01.31.22



## **BARRIENTOS DESIGN & CONSULTING, INC., ARCHITECT**

### **CONTRACT TERMS AND CONDITIONS**

Performance of Services: Architect shall perform the services outlined in its proposal to Owner in consideration of the stated fee and payment terms.

1. **Billing and Payment:** Invoices for Architect's services shall be submitted to Owner on a monthly basis. Invoices shall be due and payable within 45 days from date of invoice. If any invoice is not paid within 45 days, Architect may, without waiving any claim or right against Owner, and without liability whatsoever to Owner, suspend or terminate the performance of services. Accounts unpaid 30 days after the invoice date will be subject to a monthly service charge of 1.5% on the unpaid balance, or the maximum rate of interest permitted by law, if less. The amount of any excise, value added, gross receipts, or sales taxes that may be imposed on payments shall be added to Architect's compensation. No deductions or offsets shall be made from Architect's compensation or expenses on account of any setoffs or back charges.
2. **Access to Site:** Owner shall furnish right-of-entry on the project site for Architect and, if the site is not owned by Owner, warrants that permission has been granted to make planned explorations pursuant to the scope of services. Architect will take reasonable precautions to minimize damage to the site from use of equipment, but has not included costs for restoration of damage that may result and shall not be responsible for such costs.
3. **Location of Utilities:** Architect shall use reasonable means to identify the location of buried utilities in the areas of subsurface exploration and shall take reasonable precautions to avoid any damage to the utilities noted. However, Owner agrees to indemnify and defend Architect in the event of damage or injury arising from damage to or interference with subsurface structures or utilities which result from inaccuracies in information or instructions which have been furnished to Architect by the Owner. Nothing contained in this Agreement is intended as a waiver of the Owner to rely upon the immunities or limitations to liability as may be contained within Wisconsin Statutes §893.80 or other applicable law.
4. **Construction Review:** Architect does not accept responsibility for the design of a construction project unless the Architect's contract includes review of the contractor's shop drawings, product data, and other documents, and includes site visits during construction in order to ascertain that, in general, the work is being performed in accordance with the construction contract documents.
5. **Construction Observation:** On request, Architect shall provide personnel to observe construction in order to ascertain that, in general, the work is being



performed in accordance with the construction contract documents. This construction observation shall not make Architect a guarantor of the contractor's work. The contractor shall continue to be responsible for the accuracy and adequacy of all construction performed. In accordance with generally accepted practice, the contractor will be solely responsible for the methods of construction, direction of personnel, control of machinery, and falsework, scaffolding, and other temporary construction aids. In addition, all matters related to safety in, on, or about the construction site shall be under the direction and control of the contractor and Architect shall have no responsibility in that regard. Architect shall not be required to verify any part of the work performed unless measurements, readings, and observations of that part of the construction are made by Architect's personnel.

6. **Hazardous Materials:** In the event that unanticipated potentially hazardous materials are encountered during the course of the project, Owner agrees to negotiate a revision to the scope of services, time schedule, fee, and contract terms and conditions. If a mutually satisfactory agreement cannot be reached between both parties, the contract shall be terminated and Owner agrees to pay Architect for all services rendered, including reasonable termination expenses.
7. **Insurance:** Architect shall maintain Workers' Compensation, General Liability, and Automobile Liability Insurance during its services for Owner. Architect shall furnish a Certificate of Insurance to Owner upon written request. Owner agrees that Architect shall not be liable or responsible to Owner for any loss, damage, or liability beyond the amounts, limits, exclusions, and conditions of such insurance.
8. **Opinions of Probable Costs:** Architect's opinions of probable project costs are made on the basis of Architect's experience, qualifications and judgment; but Architect cannot and does not guarantee that actual project costs will not vary from opinions of probable cost.
9. **Standard of Performance:** The standard of care for all professional services performed or furnished by Architect under this contract will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. Architect does not make any warranty or guarantee, expressed or implied, nor is this contract subject to the provisions of any uniform commercial code. Similarly, Architect will not accept those terms and conditions offered by Owner in its purchase order, requisition, or notice of authorization to proceed, except as set forth herein or expressly agreed to in writing. Written acknowledgement of receipt or the actual performance of services subsequent to receipt of such purchase order, requisition, or notice of authorization to proceed is specifically deemed not to constitute acceptance of any terms or conditions contrary to those set forth herein.



10. **Ownership of Documents:** All documents produced by Architect under this contract are instruments of Architect's professional service and shall remain the property of Architect and may not be used by Owner for any other purpose without the prior written consent of Architect.
11. **Independent Contractor:** It is understood and agreed that the Architect is an independent contractor for the performance of all services described within this Agreement.
12. **Assignment:** This Agreement and interests hereunder are not to be assigned.
13. **Use of Owner Name:** It is understood and agreed that the name of the Owner and the project title may not be used by the Architect or its agents in any promotional materials without prior approval of the Owner.
14. **Wisconsin Law:** This Agreement shall be governed by and construed with the laws of the State of Wisconsin.
15. **Complete Agreement:** This Agreement represents the entire of listing of the terms between the parties. This Agreement may be modified only in writing by an amendment signed by both parties.
16. **Endorsement:** By endorsing this Agreement both the Architect and the Owner indicate that each has the authority to bind to the terms of this Contract.



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

**RESOLUTION OF THE FINANCE COMMITTEE**

Approving and Adopting the Budget for American Rescue Plan Coronavirus State and Local Fiscal Recovery Fund Funded Projects – Lead Service Line Replacement

Committee Action:      Approved 5-0

Fiscal Impact:          \$500,000

**File Number:**          22-1109

**Date Introduced:**      March 14, 2023

**FISCAL IMPACT SUMMARY**

|               |                                                                                                                                                                                                 |                                                                     |                                        |
|---------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------|----------------------------------------|
| <b>COSTS</b>  | <i>Budget Neutral</i>                                                                                                                                                                           | Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> |                                        |
|               | <i>Included in Budget:</i>                                                                                                                                                                      | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> | <i>Budget Source: ARPA funding</i>     |
|               | <i>One-time Costs:</i>                                                                                                                                                                          | Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> | <i>Amount: \$500,000</i>               |
|               | <i>Recurring Costs:</i>                                                                                                                                                                         | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> | <i>Amount:</i>                         |
| <b>SOURCE</b> | <i>Fee Financed:</i>                                                                                                                                                                            | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> | <i>Amount:</i>                         |
|               | <i>Grant Financed:</i>                                                                                                                                                                          | Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> | <i>Amount: \$500,000</i>               |
|               | <i>Debt Financed:</i>                                                                                                                                                                           | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> | <i>Amount</i> <i>Annual Retirement</i> |
|               | <i>TID Financed:</i>                                                                                                                                                                            | Yes <input type="checkbox"/> No <input checked="" 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 has received approximately \$15 million in American Rescue Plan Act (ARPA) Funds in two payments, and

**WHEREAS**, the US Treasury has issued Final Rules regarding reporting and eligible uses; and

**WHEREAS**, the Rules specify that funds must be used for costs incurred on or after March 3, 2021 and obligated by December 31, 2024, and expended by December 31, 2026; and

**WHEREAS**, in 2021 the City heard testimony and conducted a listening session on potential uses for the funds; and

**WHEREAS**, your Finance Committee has developed a rolling application process and rating matrix to consider project and funding requests; and

**WHEREAS**, your Finance Committee has completed its ranking and recommends the following project:

**Lead Service Line Replacement \$500,000**



**WHEREAS**, the project is eligible for ARPA funding under the category of Revenue Loss:  
Government Services

**WHEREAS**, the funding will improve the safety of drinking water to our residents and provide financial assistance to homeowners to replace their lead line services; and

**WHEREAS**, your Finance Committee recommends the following budget modification to adopt a multi-year budget to reflect this ARPA spending plan;

| *Fund         | *Cost Center | Spend Category                       | Program                    | Grant                                                       | Debit Amount |
|---------------|--------------|--------------------------------------|----------------------------|-------------------------------------------------------------|--------------|
| 215 ARPA Fund | ARPA Grants  | 57225 Lead Line Replacement Payments | ARPA Lead Line Replacement | GR-000035 Coronavirus State and Local Fiscal Recovery Funds | \$500,000.00 |

**NOWTHERE BE IT RESOLVED**, by the Common Council of the City of Wausau that the proper City officials are hereby authorized and directed to modify the 2023 Budget as outlined above.

**BE IT FURTHER RESOLVED**, that the proper City officials are directed to encumber funds and complete the projects and purchases in accordance with the American Rescue Plan Coronavirus State and Local Fiscal Recovery Fund

Approved:

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Katie Rosenberg, Mayor



## **FINANCE COMMITTEE**

Date and Time: Tuesday, February 14, 2023 @ 5:30 pm., Council Chambers

Members Present: Lisa Rasmussen, Michael Martens, Doug Diny, Carol Lukens, Sarah Watson

Others Present: Maryanne Groat, Anne Jacobson, Katie Rosenberg, Eric Lindman, Ben Bliven, Bob Barteck, Solomon King, Liz Brodek, Randy Fifrick, Bill Hebert, Tom Kilian, Mary Goede

### **Discussion and possible action regarding ARPA funding requests and related budget modification**

Eric Lindman stated the lead service line education outreach that is happening, and awareness has really come to the forefront with the funding that is coming. He indicated the utility has been working on a lead service line replacement plan to meet the requirements of the lead and copper rule revisions that will go into effect in 2024. The plan was drafted and submitted to the DNR this week for review and approval. He explained the plan includes everything from communication to residents' education to the actual replacement of the line. The plan is a requirement of the new lead and copper rule revisions, and it is also a requirement to apply for this funding.

Lindman indicated they would like to do a pilot study this year on one or both of our streets within the city that are being reconstructed, one is on Henrietta St and the other is 10<sup>th</sup> Avenue. He stated it is approximately \$200,000 for Henrietta St for 40 lead service lines; and he estimated \$300,000 for 60 lead service lines for 10<sup>th</sup> Ave. The total request to do all of those on the private side is \$500,000. He pointed out the committee previously obligated \$200,000 to lead service line replacement in 2022 because we ran short on DNR funding, however the DNR did come up with the additional \$200,000 so they have not used the obligated ARPA funds. The net difference of \$300,000 is the ARPA request for their consideration. *Discussion continued.*

Rasmussen stated the committee will rank the request and bring back the results to the next meeting for action.

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## **FINANCE COMMITTEE**

Date and Time: Tuesday, February 28, 2023 @ 5:30 pm., Council Chambers

Members Present: Lisa Rasmussen, Michael Martens, Doug Diny, Carol Lukens, Sarah Watson

Others Present: Maryanne Groat, Anne Jacobson, Katie Rosenberg, Eric Lindman, Ben Bliven, Jeremy Kopp, Megan Neuman, Allen Wesolowski, Dustin Kraege, Kaitlyn Bernarde

### **Discussion and possible action regarding ARPA funding requests and related budget modification**

Lisa Rasmussen stated the items that were ranked for this meeting were to recapitalize funds for lead service line abatement and for the Council Chambers modernization of equipment. She indicated the average ranking for the lead service line was 75 and the Council Chambers equipment ranked 53. Maryanne Groat noted it was \$500,000 for lead abatement and \$40,000 for the Council Chambers.

Sarah Watson commented she saw value with both projects but wanted to put the Council Chambers equipment on the back burner for now. Rasmussen stated this project has been on CIP before for scoring but did not get funded last year; CIP happens again in July, and it could be brought back then. Michael Martens stated the big concern with the modernization was to get the orders in place because parts availability is still tight, but he was okay with waiting until CIP or available from surplus or other project savings because he wasn't sure it fits the mission for ARPA.

Motion by Martens, second by Lukens to fund the Lead Service Line Abatement project and hold on the Council Chambers modernization. Motion carried 5-0.



**CITY OF WAUSAU**  
**AMERICAN RESCUE PLAN - SLFRF APPLICATION**  
**Water Sewer and Broad Band Infrastructure**

Water, Sewer and Broadband infrastructure this category is available to address the consequences of deferred maintenance in drinking water systems, treatment of sewage and stormwater along with resiliency measures to adapt to climate change. In addition the funds may be used for broad band investment and cybersecurity investments. Common examples would include:

- \* Sewage and Stormwater projects must be eligible under the EPA's Clean Water State Revolving Fund
- \*Water projects must be eligible under the EPA's Drinking Water State Revolving Fund
- \*Broad band infrastructure must respond to lack of reliable service or affordable service
- \*Cybersecurity investment and modernization is eligible to new or existing infrastructure.



|                         |                                                           |               |              |
|-------------------------|-----------------------------------------------------------|---------------|--------------|
| Project Title           | Lead Service Line Replacement - Private Side Henrietta St |               |              |
| Department              | DPWU                                                      | Contact Name: | Eric Lindman |
| Priority 1-6 (low-high) | 6                                                         |               |              |

6=Emergency, 5=Urgent, 4=High Priority, 3 Medium Priority, 2 Low Priority, 1 No Priority

**Project Type (Check all that apply)**

|                                     |                           |                          |                          |
|-------------------------------------|---------------------------|--------------------------|--------------------------|
| <input type="checkbox"/>            | Sewage Infrastructure     | <input type="checkbox"/> | Broadband Infrastructure |
| <input type="checkbox"/>            | Stormwater Infrastructure | <input type="checkbox"/> | Cybersecurity Investment |
| <input checked="" type="checkbox"/> | Water Infrastructure      |                          |                          |

**PROJECT DESCRIPTION**

**Provide a description of the project, purchase or service attach additional information if needed**

Wausau has been replacing private side lead service lines through forgivable loans/grants from the WDNR since 2016. The WDNR allocated \$577,000 to Wausau in 2022 and these funds were expended. In August 2022 the utility requested an additional \$200,000 from the WDNR for 2022 to replace another 30-35 service lines before the end of the year. The WDNR at that time stated they could not commit to the additional funding but if funding was returned after the 2022 season the WDNR would be able to reallocate that funding to Wausau. In the interim the City Council approved \$200,000 as ARPA to bridge the gap in funding so work could continue. We recently received notice that the WDNR has allocated an additional \$270,000 to the Wausau to cover those additional replacements in 2022.

Lead service lines in the distribution system are the most significant risk to health we currently have in our water system. Removing the lead service lines from the system will greatly reduce potential lead risks to residents. The revised USEPA Lead and Copper Rule does not allow partial replacements of Lead Service Lines (LSL) without additional mitigation measures. The reason for this is when the LSL's are disturbed they have a tendency to leach higher levels of lead into the water for a period of time which may negatively affect the users of the household with the LSL. The utility has prepared and is submitting to the WDNR a Lead Service Line Replacement Plan (LSLRP) which will be required in 2024 to meet the USEPA revised Lead & Copper rule. These new rules become enforceable in October 2024 and implementing this Plan sooner puts us in a great position to remain compliant and take advantage of any potential grants for this initiative.

The Utility would like to perform a Pilot test of the LSLRP in 2023 for the Henrietta St reconstruction project. There is no requirement for homeowners to replace their LSL so it would be a voluntary program and hopefully with some monetary incentive for the owner to replace their LSL. The LSLRP would include public outreach to the residents along this street corridor, education about the dangers of lead, direct contact with homeowners encouraging owners to replace their LSL and with ARPA funding a monetary incentive could be offered. This is a high priority area according to the LSLRP as it is a LMI area within the city and since the area will be completely reconstructed it is the most economical time to replace the private LSL. The ARPA funding would be used to pay for the replacement of the private side LSL, either partially or fully funded. Currently the utility, with available grant funding, had provided homeowners with an amount of up to \$3,500 of principle funding for the replacement of their LSL. The utility is currently working on a grant application for the LSLRP and is currently in the process of applying for ARPA funding for the replacement of the private side LSL.

**WATER, SEWAGE AND STORMWATER PROJECT- CHECK THOSE THAT APPLY**

|                                     |                                                              |                                     |                                                                                  |
|-------------------------------------|--------------------------------------------------------------|-------------------------------------|----------------------------------------------------------------------------------|
| <input checked="" type="checkbox"/> | Addresses critical health or safety hazard.                  | <input checked="" type="checkbox"/> | This project was identified and deferred on prior years capital/operating budget |
| <input checked="" type="checkbox"/> | Required to achieve or maintain an adequate level of service | <input type="checkbox"/>            | Expands existing service into an undeveloped area.                               |
| <input type="checkbox"/>            | Provides new service, facility, system or equipment.         | <input checked="" type="checkbox"/> | Repairs, replaces or prevents a breakdown of an existing infrastructure          |

**PROJECT OR PURCHASE JUSTIFICATION**

**Describe physical condition, demand/capacity, functionality and/or safety concerns or revenue generating potential that justifies the project, purchase or acquisition**

Lead service lines were installed in the city from the late 1940's through about 1970. The city uses sodium silicate in the distribution system as a corrosion control method to prevent lead from leaching into the water. The longer the water rests in the lead pipes the more risk of lead leaching into the water. Health impacts of lead are well documented and it is a high priority of the utility to remove the lead from the distribution system responsibly and quickly as possible without creating more health risks.

**IMPACT ON DEFERRED IMPLEMENTATION/PURCHASE**

**Describe how project deferral will impact future asset maintenance, economic growth, quality of service, efficiency or effectiveness, quality of life, safety, financing or other issues.**

These are old lead service lines beyond their design life and increase potential health risks to residents. When these service lines leak it is no longer an option for repair of these service lines, they need to be replaced.

**RETURN ON INVESTMENT**

**Describe the financial benefits, cost savings or payback of the capital project such as grant funding, cost avoidance, future debt avoidance or operational cost or income benefits**

The utility is asking to reallocate the \$200,000 of ARPA previously obligated to implement this Pilot Study of the LSLRP. This project would anticipate all 40 LSL lines within the Henrietta St reconstruction area would be replaced during the 2023 construction season. This Pilot Study will allow us to evaluate out communication and outreach plan and make adjustments when we begin the full implementation of the LSLRP expected in 2024 where we expect to replace up to 600 LSL's on an annual basis for the next 15 years.



DPWU

| ONE TIME EXPENSE                                                                                                                                                              | 2022       | 2023 | 2024 | 2025 | 2026 | Total      |  |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|------|------|------|------|------------|--|
| Planning /Design                                                                                                                                                              |            |      |      |      |      | -          |  |
| LandAcquisition                                                                                                                                                               |            |      |      |      |      | -          |  |
| Construction/Maintenance                                                                                                                                                      | 200,000    |      |      |      |      | 200,000    |  |
| Equipment/Vehicle/Furnishings Purchase                                                                                                                                        |            |      |      |      |      | -          |  |
| Other(Describe)                                                                                                                                                               |            |      |      |      |      | -          |  |
| Total Costs                                                                                                                                                                   | \$ 200,000 | \$ - | \$ - | \$ - | \$ - | \$ 200,000 |  |
|                                                                                                                                                                               |            |      |      |      |      |            |  |
| FUNDING SOURCES                                                                                                                                                               |            |      |      |      |      |            |  |
| ARPA Funding                                                                                                                                                                  |            |      |      |      |      | -          |  |
| Donations                                                                                                                                                                     |            |      |      |      |      | -          |  |
| User Fees                                                                                                                                                                     |            |      |      |      |      | -          |  |
| Debt Issuance                                                                                                                                                                 |            |      |      |      |      | -          |  |
| Other Grant Income                                                                                                                                                            |            |      |      |      |      | -          |  |
| Other (Describe)                                                                                                                                                              |            |      |      |      |      | -          |  |
| Total Sources                                                                                                                                                                 | \$ -       | \$ - | \$ - | \$ - | \$ - | \$ -       |  |
|                                                                                                                                                                               |            |      |      |      |      |            |  |
| Shortfall                                                                                                                                                                     | \$ 200,000 | \$ - | \$ - | \$ - | \$ - | \$ 200,000 |  |
|                                                                                                                                                                               |            |      |      |      |      |            |  |
| ONGOING NEW OPERATIONAL EXP                                                                                                                                                   | 2022       | 2023 | 2024 | 2025 | 2026 | Total      |  |
| Staff Costs                                                                                                                                                                   |            |      |      |      |      | -          |  |
| Contractual Services                                                                                                                                                          |            |      |      |      |      | -          |  |
| Supplies/Materials                                                                                                                                                            |            |      |      |      |      | -          |  |
| Maintenance                                                                                                                                                                   |            |      |      |      |      | -          |  |
| Other (Describe)                                                                                                                                                              |            |      |      |      |      | -          |  |
| Total Costs                                                                                                                                                                   | \$ -       | \$ - | \$ - | \$ - | \$ - | \$ -       |  |
|                                                                                                                                                                               |            |      |      |      |      |            |  |
| FUNDING SOURCES                                                                                                                                                               |            |      |      |      |      |            |  |
| ARPA Funding                                                                                                                                                                  |            |      |      |      |      | -          |  |
| Donations                                                                                                                                                                     |            |      |      |      |      | -          |  |
| User Fees                                                                                                                                                                     |            |      |      |      |      | -          |  |
| Other Grant Income                                                                                                                                                            |            |      |      |      |      | -          |  |
| Other (Describe)                                                                                                                                                              |            |      |      |      |      | -          |  |
| Total Funding Sources                                                                                                                                                         | \$ -       | \$ - | \$ - | \$ - | \$ - | \$ -       |  |
|                                                                                                                                                                               |            |      |      |      |      |            |  |
| Shortfall                                                                                                                                                                     | \$ -       | \$ - | \$ - | \$ - | \$ - | \$ -       |  |
|                                                                                                                                                                               |            |      |      |      |      |            |  |
| IDENTIFY ONGOING FUNDING SOURCE FOR NEW OPERATIONAL EXPENSES AFTER THE ARPA GRANT PERIOD                                                                                      |            |      |      |      |      |            |  |
|                                                                                                                                                                               |            |      |      |      |      |            |  |
|                                                                                                                                                                               |            |      |      |      |      |            |  |
| DESCRIBE EVENTS OR CIRCUMSTANCES THAT WOULD PREVENT COSTS FROM BEING OBLIGATED BY DECEMBER 31, 2024 AND EXPENDED BY DECEMBER 31, 2026 attach additional information if needed |            |      |      |      |      |            |  |
| These funds would be expended in 2022.                                                                                                                                        |            |      |      |      |      |            |  |



**WATER, SEWER, STORMWATER AND BROADBAND INFRASTRUCTURE - CALENDAR**

[illegible]



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

**RESOLUTION OF THE FINANCE COMMITTEE**

Approving and Adopting the Budget Amendment for American Rescue Plan Coronavirus State and Local Fiscal Recovery Fund Funded Projects –Year-Round Warming Center – Catholic Charities and Open Door

Committee Action:      Approved 5-0

Fiscal Impact:            \$51,129

**File Number:**            22-1109B

**Date Introduced**            March 14, 2023

**FISCAL IMPACT SUMMARY**

|               |                                                                                                                                                                                                 |                                                                     |                                        |
|---------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------|----------------------------------------|
| <b>COSTS</b>  | <i>Budget Neutral</i>                                                                                                                                                                           | Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> |                                        |
|               | <i>Included in Budget:</i>                                                                                                                                                                      | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> | <i>Budget Source: ARPA funding</i>     |
|               | <i>One-time Costs:</i>                                                                                                                                                                          | Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> | <i>Amount: \$51,129</i>                |
|               | <i>Recurring Costs:</i>                                                                                                                                                                         | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> | <i>Amount:</i>                         |
| <b>SOURCE</b> | <i>Fee Financed:</i>                                                                                                                                                                            | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> | <i>Amount:</i>                         |
|               | <i>Grant Financed:</i>                                                                                                                                                                          | Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> | <i>Amount: \$51,129</i>                |
|               | <i>Debt Financed:</i>                                                                                                                                                                           | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> | <i>Amount</i> <i>Annual Retirement</i> |
|               | <i>TID Financed:</i>                                                                                                                                                                            | Yes <input type="checkbox"/> No <input checked="" 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 Common Council has previously authorized the ARPA funding for Catholic Charities to operate a 365 day nighttime warming center and day center with a financial allocation of \$777,991; and

**WHEREAS**, Catholic Charities has reviewed the project and recommends a partnership with Open Door operating the day center with additional costs of \$51,129; and

**WHEREAS**, your Finance Committee has reviewed and recommends the program and budget modifications necessary to put the programming in action; and

| *Ledger<br>Account/Summary                | *Fund         | *Cost Center | Revenue Category                          | Spend Category               | Program             | Grant                                                       | Debit Amount | Credit Amount |
|-------------------------------------------|---------------|--------------|-------------------------------------------|------------------------------|---------------------|-------------------------------------------------------------|--------------|---------------|
| 50250:Special Services                    | 215 ARPA Fund | ARPA Grants  |                                           | 52560 Other Special Services | ARPA Warming Center | GR-000035 Coronavirus State and Local Fiscal Recovery Funds | \$51,129.00  | \$0.00        |
| 43200:Federal Grants - General Government | 215 ARPA Fund | ARPA Grants  | 43210 Federal Grants - General Government |                              | ARPA Warming Center | GR-000035 Coronavirus State and Local Fiscal Recovery Funds | \$0.00       | \$51,129.00   |

**WHEREAS**, contracts for the programming have been drafted and provide for a reimbursement of expenses;



**NOW THERE BE IT RESOLVED**, by the Common Council of the City of Wausau that the proper City officials are hereby authorized and directed to modify the 2023 Budget as outlined above.

**BE IT FURTHER RESOLVED**, that the proper City officials are directed to encumber funds and enter into the contracts attached in accordance with the American Rescue Plan Coronavirus State and Local Fiscal Recovery Fund

Approved:

---

Katie Rosenberg, Mayor



## **FINANCE COMMITTEE**

Date and Time: Tuesday, February 28, 2023 @ 5:30 pm., Council Chambers

Members Present: Lisa Rasmussen, Michael Martens, Doug Diny, Carol Lukens, Sarah Watson

Others Present: Maryanne Groat, Anne Jacobson, Katie Rosenberg, Eric Lindman, Ben Bliven, Jeremy Kopp, Megan Neuman, Allen Wesolowski, Dustin Kraege, Kaitlyn Bernarde

### **Discussion and possible action regarding a change to the allocation of ARPA funds from Catholic Charities to Open Door and related budget modification**

Rasmussen reviewed that Finance and Council approved a 365 day per year night shelter and day center with ARPA funds to assist our unhoused population. The Police Department and our homeless advocates were working with Catholic Charities to find a way to provide those services. The night shelter was already in existence, but the day center is new and requires some work to get it up and running. In trying to roll this out a little faster it became apparent that Open Door is already conducting some day center work during extreme weather and have a core of volunteers to help. The discussion began regarding a subrecipient agreement for Catholic Charities to contract the day center obligations out to Open Door.

Police Chief Ben Bliven stated Catholic Charities indicated they have the ability to hire someone part-time, 10 – 20 hours per week, to oversee the administrative piece of that with Open Door. He felt it was fair to say this would be a large change in the organizational structure of Open Door. He stated the request from Catholic Charities is for a total of \$50,000, for that position which is \$25,000 for 2023 and \$25,000 for 20224. The Open Door piece of it would be for the programming and staffing for the day center. He noted Open Door has been in existence for over a decade and their initial mission was to be ready and open for people as they are being released from incarceration. The total amount of the Open Door request is approximately \$239,000 for 2023 and 2024.

Motion by Watson, second by Lukens to approve the change to the ARPA allocation and related budget modification. Motion carried 5-0.





# Wausau Police Department

515 Grand Ave

Wausau, WI 54403

Ph. 715-261-7800

February 20, 2023

Re: Open Door Daytime Warming Center

City Council:

Several months ago you approved ARPA expenditures for Catholic Charities to operate both a 365 nighttime warming center and a day center. The purpose of this memorandum is to request a change to the allocation of ARPA funds from Catholic Charities to Open Door. Catholic Charities will still run the 365 nighttime warming center and provide administrative oversight and support to Open Door to run the day center. Catholic Charities will provide Open Door with administrative oversight and assistance in the development of the Day Center at a cost of \$25,000 per year.

Catholic Charities explored several paths to run a day center, but ultimately ended up in discussions with Open Door to operate the day center. Open Door already has some infrastructure, including facility and a volunteer base to more quickly and efficiently get a day center up and running.

Attached to this memo is the day center operational plan written by Open Door in consultation with Catholic Charities as well as their proposed budget. Bob Grady from Open Door will be present at the Finance Committee and City Council meeting on February 28 to answer any questions.

Regarding the budget for the day center, the original budget approved by City Council was \$118,995 per year for a total of \$237,990. The approved budget by City Council for the 365 nighttime warming center was \$270,000 per year for a total of \$540,000. Combined for the two, the City Council authorized a total ARPA expenditure of \$777,990 to Catholic Charities for the 365 nighttime warming center and day center through end of year 2024.

Following is the amended request for Catholic Charities and Open Door:

## Catholic Charities

1. \$540,000 for 365 nighttime warming center
2. \$50,000 total (\$25,000 each year) for administrative oversight and support to Open Door
3. Total - \$590,000

## Open Door

1. 2023 - \$114,267.86 for day center (10 months, March – December)
2. 2024 - \$124,851.45 for day center
3. Total - \$239,119.31

Benjamin Bliven  
Chief

Matthew Barnes  
Deputy Chief

Todd Baeten  
Patrol Captain

Benjamin Graham  
Detective Captain

Melinda Pauls  
Administrative Captain





# Wausau Police Department

515 Grand Ave

Wausau, WI 54403

Ph. 715-261-7800

The total ARPA request for this initiative as adjusted is \$829,119.31. This is an increase of \$51,129.31 that would need to be allocated to cover the total costs for the Day Center.

Thank You,

Benjamin K. Bliven  
Chief of Police

Benjamin Bliven  
Chief

Matthew Barnes  
Deputy Chief

Todd Baeten  
Patrol Captain

Benjamin Graham  
Detective Captain

Melinda Pauls  
Administrative Captain



**CATHOLIC CHARITIES**  
**Income Statement - Social Services - Warming Center - Wausau**  
**For the Four Months Ending April 30, 2022**

|                                 | <i>21-22 Season Nov to April</i> | <i>Budget - 365 Night Services</i> | Comments                                                                 |
|---------------------------------|----------------------------------|------------------------------------|--------------------------------------------------------------------------|
| <b><u>Revenues</u></b>          | <b><u>Revenues</u></b>           | <b><u>Revenues</u></b>             |                                                                          |
| Gov't Grants/Contract-Federal   | \$80,807.00                      | \$41,100.00                        | Had Covid funds in 21-22 season                                          |
| Gifts/Donations                 | \$164,535.49                     | \$172,333.32                       | Majority of Donations come in December/January                           |
| Foundations                     | \$12,000.00                      | \$24,000.00                        |                                                                          |
| <b>Total Revenues</b>           | <b>\$257,342.49</b>              | <b>\$237,433.32</b>                |                                                                          |
| <b><u>Expenses</u></b>          | <b><u>Expenses</u></b>           | <b><u>Expenses</u></b>             |                                                                          |
| Salaries                        | \$74,683.96                      | \$153,887.92                       | To operate 365 days, we need 8 full time persons to cover all the shifts |
| Seasonal Salaries               | \$56,313.51                      | \$95,565.38                        |                                                                          |
| Workers Comp                    | \$802.97                         | \$1,605.94                         |                                                                          |
| Life, STD, LTD                  | \$286.58                         | \$1,146.32                         |                                                                          |
| Dental                          | \$489.07                         | \$3,708.87                         |                                                                          |
| Health                          | \$8,060.22                       | \$61,911.00                        |                                                                          |
| IRA 401K/Roth                   | \$166.36                         | \$665.44                           |                                                                          |
| FICA/Medicare                   | \$9,081.43                       | \$19,083.18                        |                                                                          |
| Unemployment Comp               | \$507.26                         | \$1,014.52                         |                                                                          |
| Cafeteria Plan Fees             | \$5.69                           | \$11.38                            |                                                                          |
| Personnel Subtotal              | \$150,397.05                     | \$338,599.95                       |                                                                          |
| Admin Personnel Allocation      | \$26,118.97                      | \$40,631.99                        |                                                                          |
| <b>Total Personnel</b>          | <b>\$176,516.02</b>              | <b>\$379,231.94</b>                |                                                                          |
| <b><u>Indirect Expenses</u></b> |                                  |                                    |                                                                          |
| Auditing Fees                   | \$0.00                           | \$1,000.00                         |                                                                          |
| Office Supplies                 | \$1,002.58                       | \$2,000.00                         |                                                                          |
| Computer Accessories            | \$1,731.13                       | \$3,462.26                         |                                                                          |
| Telephone-Local                 | \$1,303.06                       | \$2,606.12                         |                                                                          |
| ISP/Online                      | \$376.22                         | \$752.44                           |                                                                          |
| Building Rent                   | \$19,531.97                      | \$46,690.00                        |                                                                          |
| Contract Maintenance            | \$2,950.37                       | \$5,900.74                         |                                                                          |
| Heat/Utilities                  | \$3,465.70                       | \$6,931.40                         |                                                                          |
| Maintenance Supplies            | \$170.00                         | \$340.00                           |                                                                          |
| Depreciation                    | \$30.64                          | \$61.28                            |                                                                          |
| D&O&EPI Insurance               | \$237.37                         | \$474.74                           |                                                                          |
| Business Insurance              | \$2,085.07                       | \$4,170.14                         |                                                                          |



**CATHOLIC CHARITIES**  
**Income Statement - Social Services - Warming Center - Wausau**  
**For the Four Months Ending April 30, 2022**

|                           | <i>21-22 Season Nov to<br/>April</i> | <i>Budget - 365 Night<br/>Services</i> |
|---------------------------|--------------------------------------|----------------------------------------|
| Indirect Subtotal         | \$32,884.11                          | \$74,389.12                            |
| Admin Indirect Allocation | \$4,550.31                           | \$8,926.69                             |
| <b>Total Indirect</b>     | <b>\$37,434.42</b>                   | <b>\$83,315.81</b>                     |
| <b>Direct Expenses</b>    |                                      |                                        |
| Contract Services         | \$985.19                             | \$1,970.38                             |
| Computer Software         | \$104.82                             | \$209.64                               |
| Cellular Phone            | \$583.85                             | \$1,167.70                             |
| Printing                  | \$2,866.86                           | \$5,733.72                             |
| Service Fees              | \$432.22                             | \$864.44                               |
| Program Postage           | \$626.31                             | \$1,252.62                             |
| Program Materials         | \$5,800.29                           | \$11,600.58                            |
| Program Membership        | \$167.50                             | \$335.00                               |
| Gas & Mileage             | \$1,156.69                           | \$2,313.38                             |
| Licenses                  | \$0.00                               | \$0.00                                 |
| Program Licenses          | \$524.67                             | \$1,049.34                             |
| Host Meetings             | \$271.53                             | \$543.06                               |
| Travel & Lodging          | \$431.99                             | \$863.98                               |
| Professional Development  | \$109.34                             | \$218.68                               |
| Meals                     | \$362.22                             | \$724.44                               |
| Advertising-Emp           | \$63.19                              | \$126.38                               |
| Client aid - Direct       | \$4,150.00                           | \$8,300.00                             |
| Gifts/Donations           | \$268.10                             | \$536.20                               |
| Miscellaneous expense     | \$250.00                             | \$500.00                               |
| Direct Subtotal           | \$19,154.77                          | \$38,309.54                            |
| Admin Direct Allocation   | \$2,728.52                           | \$4,597.14                             |
| <b>Total Direct</b>       | <b>\$21,883.29</b>                   | <b>\$42,906.68</b>                     |
| <b>Total Expenses</b>     | <b>\$235,833.73</b>                  | <b>\$505,454.44</b>                    |
| <b>Net Income (Loss)</b>  | <b>\$21,508.76</b>                   | <b>-\$255,621.12</b>                   |

Comments



## **AMERICAN RESCUE PLAN ACT SUBRECIPIENT AGREEMENT**

### **CITY OF WAUSAU – AMERICAN RESCUE PLAN ACT FUNDS**

This Subrecipient Grant Agreement (“Agreement”) is made and entered into between the **City of Wausau**, a municipal corporation in and of the State of Wisconsin (“The City”), and **Catholic Charities, Inc. a registered 501(c)3 non-profit organization** (“Subrecipient”).

#### **WITNESSETH THAT:**

**WHEREAS**, On March 11, 2021, President Biden signed the U.S. Senate-amended H.R. 1319 (P.L. 117-2) known as the American Rescue Plan Act (hereinafter “ARPA”) and on May 10, 2021, the U.S. Treasury issued the Interim Final Rule (“IFR”) to implement ARPA in Title 31, Part 35 of the Code of Federal Regulations (“CFR”) describing eligible and ineligible uses of funds (as well as other program provisions). Under ARPA Section 603 (c)(1)(A) and (3) and the Interim Final Rule 31 CFR 35.6(b)(7) Subrecipients may use Coronavirus State and Local Fiscal Recovery Fund (“CSLFRF”) Funds to award grants to organizations that are responding to the negative impact of the COVID-19 public health emergency.

On January 6, 2022 the Treasury issued the Final Rule which took effect on April 1, 2022; and

**WHEREAS**, the United States Department of Treasury has adopted guidance regarding the use of ARPA funds to respond to the COVID-19 public health emergency and its economic impacts through four categories:

- To respond to the public health emergency or its negative economic impacts, including assistance to households, small business, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality;
- To respond to workers performing essential work during the COVID-19 public health emergency by providing premium pay to eligible workers;
- For the provision of government services to the extent of the reduction in revenue due to the COVID-19 public health emergency relative to revenues collected in the most recent full fiscal year prior to the emergency; and
- To make necessary investments in water, sewer, and broadband infrastructure; and

**WHEREAS** The City is in receipt of funding under the American Rescue Plan Act (“ARPA Act”) and wants to support local projects that will benefit neighborhoods, business and communities who have been adversely impacted by COVID-19 by making grants available for associated project costs; and,

**WHEREAS** Subrecipient has been awarded a City of Wausau – American Rescue Plan Act Funds Grant (“ARPA Grant”) in the amount of Five Hundred and Ninety Thousand Dollars (\$590,000.00); and,

**WHEREAS** The City believes it is in its best interest to award Subrecipient an ARPA Grant.

**NOW, THEREFORE**, in consideration of the foregoing promises, the parties hereto agree that the use of American Rescue Plan Funds be conveyed to Subrecipient by the City subject to the following award information, conditions, and limitations indicated in this Agreement.



**A. Award Information**

**Awarding Agency:** City of Wausau  
**Point of Contact:** Katie Rosenberg  
Mayor  
407 Grant Street, Wausau, WI 54403  
715-261-6803  
Katie.Rosenberg@ci.wausau.wi.us

**Subrecipient Name:** Catholic Charities  
**Point of Contact:** Roberto Pararrieu  
Executive Director  
3710 East Avenue South  
608-519-8001  
RPartarrieu@cclse.org

**Federal Awarding Agency:** US Department of Treasury  
**CFDA #:** 21.027 – Coronavirus State and Local Fiscal Recovery (CSLFRF)  
**Treasury Interim Final Rule Eligibility Activity:** Expenditure Categories (EC) 2.1  
Household Assistance: Food Programs; 2.2 Household Assistance: Rent, Mortgage and  
Utility Aid.  
**Treasury Final Rule Eligible Activity:** 2: Negative Economic Impacts  
2.16 Long-Term Housing Security: Services for Unhoused persons  
**Period of Performance:** January 1, 2023 to December 31, 2024  
**Amount of Award and Budget Not To Exceed:** \$590,000.00

**B. Project Description**

See *Exhibit A* for the approved Project Description.

**C. Project Budget**

Subrecipient must submit to the City a comprehensive project budget listing all proposed expenses under the Grant using the Budget vs. Actual format in the ARPA Grant **Budget Template in Attachment 1**. At a minimum, the budget must include salaries, fringe and other benefits, training, travel, rent, phone, postage, supplies, technology/equipment, marketing, and indirect costs, as applicable to Subrecipient. All expenses must be itemized, and all Grant Funds must be accounted for in this Projected Budget.

**D. Uniform Administrative Requirements**

**1. § 200.302 Financial management.**

(a) Each non-Federal entity must expend and account for the Federal award in accordance with state laws and procedures for expending and accounting for the state's own funds. In addition, the state's and the other non-Federal entity's financial management systems, including records documenting compliance with Federal statutes, regulations, and the terms and conditions of the



Federal award, must be sufficient to permit the preparation of reports required by general and program-specific terms and conditions; and the tracing of funds to a level of expenditures adequate to establish that such funds have been used according to the Federal statutes, regulations, and the terms and conditions of the Federal award. See also § 200.450.

(b) The financial management system of each non-Federal entity must provide for the following (see also §§ 200.334, 200.335, 200.336, and 200.337):

(1) Identification, in its accounts, of all Federal awards received and expended and the Federal programs under which they were received. Federal program and Federal award identification must include, as applicable, the Assistance Listings title and number, Federal award identification number and year, name of the Federal agency, and name of the pass-through entity, if any.

(2) Accurate, current, and complete disclosure of the financial results of each Federal award or program in accordance with the reporting requirements set forth in §§ 200.328 and 200.329. If a Federal awarding agency requires reporting on an accrual basis from a Subrecipient that maintains its records on other than an accrual basis, the Subrecipient must not be required to establish an accrual accounting system. This Subrecipient may develop accrual data for its reports on the basis of an analysis of the documentation on hand. Similarly, a pass-through entity must not require a subrecipient to establish an accrual accounting system and must allow the subrecipient to develop accrual data for its reports on the basis of an analysis of the documentation on hand.

(3) Records that identify adequately the source and application of funds for federally funded activities. These records must contain information pertaining to Federal awards, authorizations, financial obligations, unobligated balances, assets, expenditures, income and interest and be supported by source documentation.

(4) Effective control over, and accountability for, all funds, property, and other assets. The non-Federal entity must adequately safeguard all assets and assure that they are used solely for authorized purposes. See § 200.303.

(5) Comparison of expenditures with budget amounts for each Federal award.

(6) Written procedures to implement the requirements of § 200.305.

(7) Written procedures for determining the allowability of costs in accordance with subpart E of this part and the terms and conditions of the Federal award.

## **2. § 200.307 Program income.**

Generally, program income includes, but is not limited to, income from fees for services performed, the use or rental of real or personal property acquired under Federal awards and principal and interest on loans made with Federal award funds. Program income does not include interest earned on advances of Federal funds, rebates, credits, discounts, or interest on rebates, credits, or discounts. Subrecipients of SLFRF funds should calculate, document, and record the organization's program income. Additional controls that your organization should implement include written policies that explicitly identify appropriate allocation methods, accounting standards and principles, compliance monitoring checks for program income calculations, and records.

## **3. § 200.303 Internal controls.**

The non-Federal entity must:



- (a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in “Standards for Internal Control in the Federal Government” issued by the Comptroller General of the United States or the “Internal Control Integrated Framework”, issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
- (b) Comply with the U.S. Constitution, Federal statutes, regulations, and the terms and conditions of the Federal awards.
- (c) Evaluate and monitor the non-Federal entity's compliance with statutes, regulations and the terms and conditions of Federal awards.
- (d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.
- (e) Take reasonable measures to safeguard protected personally identifiable information and other information the Federal awarding agency or pass-through entity designates as sensitive or the non-Federal entity considers sensitive consistent with applicable Federal, State, local, and tribal laws regarding privacy and responsibility over confidentiality.

**Table 1. Internal controls best practices.**

| <b>Best Practice</b>                    | <b>Description</b>                                                          | <b>Example</b>                                                                                           |
|-----------------------------------------|-----------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------|
| <b>Written policies and procedures</b>  | Formal documentation of Subrecipient policies and procedures                | Documented procedure for determining worker eligibility for premium pay                                  |
| <b>Written standards of conduct</b>     | Formal statement of mission, values, principles, and professional standards | Documented code of conduct / ethics for subcontractors                                                   |
| <b>Risk-based due diligence</b>         | Pre-payment validations conducted according to an assessed level of risk    | Enhanced eligibility review of subrecipient with imperfect performance history                           |
| <b>Risk-based compliance monitoring</b> | Ongoing validations conducted according to an assessed level of risk        | Higher degree of monitoring for projects that have a higher risk of fraud, given program characteristics |
| <b>Record maintenance and retention</b> | Creation and storage of financial and non-financial records                 | Storage of all subrecipient payment information                                                          |

## **E. General Conditions**

1. Nothing contained in this Agreement is intended to, or shall be construed in any manner, as creating, or establishing the relationship of employer/employee between the parties. The Subrecipient shall at all times remain an “independent contractor” with respect to the services to be performed under this Agreement. The City of Wausau shall be exempt from payment of all unemployment compensation, FICA, retirement, life and/or medical insurance and Workers’ Compensation Insurance as the Subrecipient is an independent entity.
2. Subrecipient shall hold harmless and indemnify the City of Wausau from any and all claims, actions, suits, charges, and judgments whatsoever that arise out of the Subrecipient’s performance or nonperformance of the services or subject matter called for in this Agreement.



3. City of Wausau or Subrecipient may amend this Agreement at any time provided that such amendments make specific reference to this Agreement, and are executed in writing, and signed by a duly authorized representative of both organizations. Such amendments shall not invalidate this Agreement, nor relieve or release City of Wausau or Subrecipient from its obligations under this Agreement.
  - o City of Wausau may, in its discretion, amend this Agreement to conform with federal, state, or local governmental guidelines, policies and available funding amounts, or for other reasons. If such amendments result in a change in the funding, the scope of services, or schedule of the activities to be undertaken as part of this Agreement, such modifications will be incorporated only by written amendment signed by both the City of Wausau and Subrecipient.
4. Either party may terminate this Agreement at any time by giving written notice to the other party of such termination and specifying the effective date thereof at least 30 days before the effective date of such termination. In the event of any termination for convenience, all finished or unfinished documents, data, studies, surveys, reports, or other materials prepared by Subrecipient under this Agreement shall, at the option of the City of Wausau, become the property of the City of Wausau .
  - o City of Wausau may also suspend or terminate this Agreement, in whole or in part, if Subrecipient materially fails to comply with any term of this Agreement, or with any of the rules, regulations, or provisions referred to herein; and the City of Wausau may declare Subrecipient ineligible for any further participation in City of Wausau's award agreements, in addition to other remedies as provided by law. In the event there is probable cause to believe Subrecipient is in noncompliance with any applicable rules or regulations, City of Wausau may withhold funding.

#### **F. Award Assurances**

A signature on this Agreement indicates that Subrecipient is capable of and agrees to meet the following requirements, and that all information contained in this proposal is true and correct.

2. Adopt and maintain a system of internal controls which results in the fiscal integrity and stability of the organization, including the use of Generally Accepted Accounting Principles (GAAP).
3. Compliance with insurance requirements for general, professional, and automobile liability; workers' compensation and employer's liability; and, if advance funds are required, commercial crime insurance.
4. These award funds will not be used to supplant existing financial support for current programs.
5. No portion of these award funds will be subcontracted without prior written approval unless expressly identified in the award agreement.
6. Compliance with the requirements of the Civil Rights Act of 1964, as amended, and the Rehabilitation Act of 1973, P.L. 93-112, as amended, and any relevant program-specific regulations, and shall not discriminate against any employee for employment because of race, national origin, creed, color, sex, religion, age, disability, or handicap condition (including AIDS and AIDS-related conditions).



7. Compliance with the Americans with Disabilities Act of 1990 (P.L. 101-136), 42 U.S.C. 12101, as amended, and regulations adopted thereunder contained in 28 CFR 26.101-36.999 inclusive, and any relevant program-specific regulations.
8. Compliance with Title 2 of the Code of Federal Regulations (CFR) and any guidance in effect from the Office of Management and Budget (OMB) related (but not limited to) audit requirements for Subrecipients that expend \$750,000 or more in Federal awards during the Subrecipient's fiscal year must have an annual audit prepared by an independent auditor in accordance with the terms and requirements of the appropriate circular. Certifications that neither Court Appointed Advocates for Children nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. This certification is made pursuant to regulations implementing Executive Order 12549, Department and Suspension, 28 C.F.R. pt. 67 §67.510, as published as pt. VII of May 26, 1988, Federal Register (pp. 19150-19211). No funding associated with this award will be used for lobbying.
9. Disclosure of any existing or potential conflicts of interest relative to the performance of services resulting from this award.
10. Provision of a work environment in which the use of tobacco products, alcohol, and illegal drugs will not be allowed.
11. An organization receiving award funds through the City of Wausau shall not use these funds for any activity related to the following:
  - i) Any attempt to influence the outcome of any federal, state, or local election, referendum, initiative, or similar procedure, through in-kind or cash contributions, endorsements, publicity, or a similar activity.
  - ii) Establishing, administering, contributing to, or paying the expenses of a political party, campaign, political action committee or other organization established for the purpose of influencing the outcome of an election, referendum, initiative, or similar procedure.
  - iii) Any attempt to influence:
    - (1) The introduction or formulation off federal, state, or local legislation; or
    - (2) The enactment or modification of any pending federal, state, or local legislation, through communication with any member or employee of Congress, the Wisconsin Legislature or a local governmental entity responsible for enacting local legislation, including, without limitation, efforts to influence State or local officials to engage in a similar lobbying activity, or through communication with any governmental official or employee in connection with a decision to sign or veto enrolled legislation.
  - iv) Any attempt to influence the introduction, formulation, modification or enactment of a federal, state, or local rule, regulation, executive order or any other program, policy or position of the United States Government, the State of Wisconsin or a local governmental entity through communication with any officer or employee of the United States Government, the State of Wisconsin or a local governmental entity,



including, without limitation, efforts to influence state or local officials to engage in a similar lobbying activity.

v) Any attempt to influence:

- (1) The introduction or formulation of federal, state, or local legislation;
- (2) The enactment or modification of any pending federal, state, or local legislation; or
- (3) The introduction, formulation, modification or enactment of a federal, state, or local rule, regulation, executive order, or any other program, policy, or position of the United States Government, the State of Wisconsin or a local governmental entity, by preparing, distributing or using publicity or propaganda, or by urging members of the general public or any segment thereof to contribute to or participate in any mass demonstration, march, rally, fundraising drive, lobbying campaign or letter writing or telephone campaign.

vi) Legislative liaison activities, including, without limitation, attendance at legislative sessions or committee hearings, gathering information regarding legislation and analyzing the effect of legislation, when such activities are carried on in support of or in knowing preparation for an effort to engage in an activity prohibited pursuant to subsections 1 to 5, inclusive.

vii) Executive branch liaison activities, including, without limitation, attendance at hearings, gathering information regarding a rule, regulation, executive order or any other program, policy or position of the United States Government, the State of Wisconsin or a local governmental entity and analyzing the effect of the rule, regulation, executive order, program, policy, or position, when such activities are carried on in support of or in knowing preparation of an effort to engage in an activity prohibited pursuant to subsections 1 to 5, inclusive.

12. An organization receiving award funds through the City of Wausau may, to the extent and in the manner authorized in its award, use award funds for any activity directly related to educating persons in a nonpartisan manner by providing factual information in a manner that is:

i) Made in a speech, article, publication, or other material that is distributed and made available to the public, or through radio, television, cable television or other medium of mass communication; and

ii) Not specifically directed at:

- (1) Any member or employee of congress, the Wisconsin Legislature, or a local governmental entity responsible for enacting local legislation;
- (2) Any governmental official or employee who is or could be involved in a decision to sign or veto enrolled legislation; or
- (3) Any officer or employee of the United States Government, the State of Wisconsin, or a local governmental entity who is involved in introducing, formulating, modifying, or enacting a Federal, State, or local rule, regulation,



executive order, or any other program, policy, or position of the United States Government, the State of Wisconsin, or a local governmental entity.

This provision does not prohibit a Subrecipient or an applicant for the award from providing information that is directly related to the award.

13. Subrecipient proposed uses of the funds provided as payment under sections 601, 602 and 603 of the Social Security Act will be used only to cover those costs that:
  - i) Respond to the public health emergency or its negative economic impacts, including assistance to households, small businesses, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality;
  - ii) Respond to workers performing essential work during the COVID-19 public health emergency by providing premium pay to eligible workers;
  - iii) Are for the provision of government services to the extent of the reduction in revenue due to the COVID-19 public health emergency relative to revenues collected in the most recent full fiscal year prior to the emergency; and
  - iv) Are necessary investments in water, sewer, or broadband infrastructure.
14. Subrecipient understands that any funds provided pursuant to this certification cannot be used for depositing funds into any pension fund.
15. Subrecipient understands that funds received pursuant to this certification cannot be used for expenditures for which Subrecipient has received any other emergency COVID-19 supplemental funding (whether state, federal or private in nature) for that same expense.

#### **G. Notices**

All notices to be given under the terms of this Agreement shall be in writing and signed by the person serving the notice and shall be sent registered or certified mail, return receipt requested, postage prepaid, to the addresses of the parties listed below:

|                     |                                                                                                                   |
|---------------------|-------------------------------------------------------------------------------------------------------------------|
| FOR CITY OF WAUSAU: | Katie Rosenberg<br>Mayor<br>407 Grant Street, Wausau, WI 54403<br>715-261-6803<br>Katie.Rosenberg@ci.wausau.wi.us |
|---------------------|-------------------------------------------------------------------------------------------------------------------|

|                       |                                                                                                           |
|-----------------------|-----------------------------------------------------------------------------------------------------------|
| FOR THE SUBRECIPIENT: | Roberto Pararrieu<br>Executive Director<br>3710 East Avenue South<br>608-519-8001<br>RPararrieu@cclse.org |
|-----------------------|-----------------------------------------------------------------------------------------------------------|

#### **H. Compensation and Method of Payment**

The City provided the Subrecipient an ARPA Grant in the total amount of \$590,000.00 ("GrantAmount"). This grant is awarded in two equal segments of \$295,000 each



for the years 2023, and 2024 as approved by the Wausau City Council.

Subrecipient hereby acknowledges and agrees that they shall only use the ARPA Grant for Eligible Expenses, as defined herein. Any expenses incurred by Subrecipient in an amount which exceeds the Grant Amount shall be the sole responsibility of Subrecipient and Subrecipient shall not seek reimbursement of such expenses from the City.

The City will pay to Subrecipient an amount up to that specified in [Section A](#). Award Information, as full compensation for all services and work to be performed or undertaken by Subrecipient under this Agreement. Payment of funds to Subrecipient is subject to all of the following requirements, which shall be conditions precedent to payment:

- (i) that Subrecipient has expended funds for eligible approved expenditures,
- (ii) that Subrecipient is not in default of any material provision of this Agreement nor applicable law or regulation,
- (iii) that Subrecipient has timely submitted requests for payment or reimbursement detailing the eligible payment or reimbursement items in a format approved by City,
- (iv) that Subrecipient has certified with each payment or reimbursement request compliance with the requirements identified in Exhibit “A” and that all expenditures for which reimbursement is sought were made for and in furtherance of the approved Project and are an eligible use of federal assistance under ARPA and federal regulations as described in Exhibit B.

Payment hereunder is also subject to and may only be disbursed in accordance with applicable Federal regulations, as presently promulgated and as same may be revised from time to time in the future, all other terms of this Agreement, and any special provisions in the Scope of Services. All payments received by Subrecipient hereunder are subject to repayment by Subrecipient.

The aggregate of all payments made hereunder shall not exceed \$590,000.00.

**a. Reimbursements**

Subrecipient shall receive reimbursements according to the following annual schedule:

2023 – up to \$295,000

2024 – up to \$295,000

The City’s payment of reimbursements is subject to annual budgetary appropriation by the Wausau Common Council. The City shall not be obligated to provide reimbursements beyond the amounts authorized by the Common Council.

**b. Drawdown Reporting**

Subrecipient shall comply with the applicable regulations at 2 C.F.R. §200.305 for cost reimbursement agreements. See [Section J.1 Reporting Requirements](#), for the required financial reporting for the advanced grant proceeds.

**c. Funds Recapture**

The City shall recapture any unspent funds or funds for expenses that were determined to be



ineligible and/or unallowable. Subrecipients are required to cooperate with recapture requests, including any paperwork requests. See [Section J.2](#) Final Report for additional information concerning the funds recapture.

## **I. Eligible Expense**

The City and Subrecipient agree that the items identified as “Eligible Expenditures” in [Exhibit B](#), attached hereto and incorporated herein, shall be considered “Eligible Expenses” that Subrecipient may use the ARPA Grant for. The City and Subrecipient agree that the items identified as “Ineligible Expenditures” in [Exhibit B](#) are expenses that Subrecipient is not permitted to use the ARPA Grant funds on. In the event there is a question about whether an expense is an Eligible Expense, Subrecipient shall reach out to the City for clarification prior to spending any funds on the expense in question.

Subrecipient shall provide the City with supporting documentation in accordance with [Exhibit C](#) attached hereto and incorporated herein. All supporting documentation requested in [Exhibit C](#) shall be attached at the time of submission of the Financial Reports discussed in [Section J. Reporting Requirements](#) and the City retains the right to ask Subrecipient for any additional documentation as necessary to satisfy this requirement and Subrecipient agrees to comply with said request. Failure to satisfy this requirement shall be considered a breach of this Agreement and the City shall have the right to pursue Subrecipient accordingly.

## **J. Reporting Requirements**

The ARPA Grant **Annual Report in Attachment 2** is due annually by the 31<sup>st</sup> day of January following each calendar yearend as detailed in the schedule below:

| Performance Period | Report Due Date                                                           |
|--------------------|---------------------------------------------------------------------------|
| 2023               | January 31, 2024                                                          |
| 2024               | January 31, 2025                                                          |
| Final Report       | 60 days after all funds are exhausted<br>but no later than March 31, 2025 |
|                    |                                                                           |

If the Grant has been fully expended, the Subrecipient must submit a final report as described in [Section J.2 Final Reporting](#) below.

If there is no activity that quarter, the Subrecipient must submit the report with \$0 for the current quarter and the prior quarterly reports cumulative totals.

***The first report is due the first quarter following execution of this agreement unless otherwise indicated by the City.***

### **1. Financial Reports**

Subrecipients must submit the ARPA Grant **Annual Report in Attachment 2** which contains the following items.

1. Subrecipient's name, address, and Grant number as they appear on the Grant document.
2. Start and end dates of the report period.



3. Hourly rate. Identify each employee or consultant whose time/activity is being billed to the Grant, the individual's title, and the hourly billing rate used to calculate reimbursement from the City for that individual's time/activity. Explain the method used for calculating hourly rates, e.g. whether benefits are included in the rate.
4. Staff hours. Indicate for each employee the total number of hours being billed to the Grant cumulatively and for the quarter. For each individual whose work time will be reimbursed from the Grant, multiply the relevant hours by the relevant hourly rate (see item #3) and indicate the cumulative total and total for the quarter.
5. Budget vs. Actual Costs. Submit a detailed budget vs. actual report by budgetary line item for each quarter and cumulatively for the Grant period to date. At a minimum, the accounting must include the following as applicable: salaries, fringe and other benefits, training, travel, rent, phone, postage, supplies, technology/equipment, marketing, and indirect costs. The accounting must itemize the expenditure of each dollar being billed to the Grant. Any deviation between the budgeted and actual costs must be explained in detail and approved by the City.
6. Supporting Documentation. Supporting documentation discussed in **Exhibit C** must be submitted quarterly with the financial report and reconcile to the expended amount for the quarter being reported.
7. Required Certification. In accordance with 2 C.F.R. § 200.415(a), include a certification, signed by an individual who is authorized to execute the certification on behalf of the Subrecipient, which reads as follows: "By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729 – 3730 and 3801 – 3812)."

## 2. **Final Report**

A final report for the entire period of performance is due 60 days after the Subrecipient has completed all Grant activities that will be funded under the Grant, but not later than March 31, 2025.

- a. **Programmatic Report.** The final report must cover all activity conducted under the Grant. The report must be not more than five (5) single-spaced letter-sized pages using a font size of no smaller than 12 or larger than 14. In the narrative report, Subrecipient must briefly summarize the outcomes of the activities that Subrecipient proposed in the Project Description in [Section B](#). Additionally, Subrecipient should also include in this narrative report items such as problems encountered by the Subrecipient, items for which the Subrecipient needs additional guidance, and developments having a significant impact on the award supported activities, such as delays or adverse conditions which materially impair the ability to meet the objectives of the awards. The final report shall also describe any action taken or contemplated, and any assistance needed to resolve the situation.



- b. **Financial Report.** The Subrecipient must also submit final Budget vs. Actual report by budgetary line item consistent with the approved project budget. If there are any funds not expended, they must be returned to the City along with the final report.

The Subrecipient must also submit with the final report a certification, signed by an individual who is authorized to execute the certification on behalf of the Subrecipient, which states that all applicable closeout activities required in 2 CFR § 200.343 have been completed.

### **3. Delinquent Reports**

Submission of any reports required in this Agreement beyond the stated due dates will be considered delinquent unless the City grants a written extension.

### **K. Records and Retention**

All Records, including any and all supporting documentation for invoices submitted to City, shall be retained by Subrecipient, and made available for review by City, the Auditor of the State of Wisconsin, the federal government and any of its departments and agencies, and any of their designees for a minimum of five (5) years after the termination or expiration of this Agreement. Notwithstanding the foregoing, if there is litigation, claims, audits, negotiations, or other actions that involve any of the Records pertaining to this Agreement, which commences prior to the expiration of the period of performance documentation shall be retained while such action is pending.

Subrecipient shall comply with the requirements for record retention and access to records specified in the applicable regulations 24 C.F.R. §§ 214.315, 2 C.F.R. §§ 200.333- 200.337, and other applicable record retention requirements. Subrecipient may also be subject to record retention requirements under other applicable laws and regulations, including but not limited to, the nondiscrimination regulations cited in [Section F Award Assurances](#).

### **L. Oversight and Monitoring**

Subrecipient must cooperate with all the City oversight activities, requests for access to facilities, requests for information, including, but not limited to, complete files, financial data, financial management system, and data. Oversight may include, but is not limited to, on-site or remote audit and/or review of financial records, on-site or remote review of the financial management system, and/or on-site or remote performance reviews by City staff or designee. Subrecipient must take measures to ensure that City has access to all related files, financial management system, financial records, and information for audit and oversight purposes that demonstrates to the satisfaction of City that the Subrecipient is in compliance with 24 C.F.R. Part 214 and the requirements of this Grant Agreement.

### **M. Audit Requirements**

Non-Federal entities that expend \$750,000 or more during a year in Federal awards shall have a single or program-specific audit conducted for that year in accordance with the Single Audit Act Amendments of 1996 (31 U.S.C. § 7501–7507) and 2 CFR Part 200, Subpart F , which is available at <http://www.ecfr.gov/cgi-bin/text-idx?SID=fd6463a517ceea3fa13e665e525051f4&node=sp2.1.200.f&rgn=div6>

Non-Federal entities that expend less than \$750,000 for a fiscal year in Federal awards are exempt from Federal audit requirements for that year, but records must be available for review or



audit by appropriate officials of the Federal agency, pass-through entity, and General Accounting Office (GAO).

Audits shall be made by an independent auditor in accordance with generally accepted government auditing standards covering financial audits. Additional audit requirements applicable to this agreement are found at 2 CFR Part 200, Subpart F, as applicable. Additional information on single audits is available from the Federal Audit Clearinghouse at <http://harvester.census.gov/sac/>.

**N. Representation by Subrecipient.**

Subrecipient certifies that, as of the date of execution, it does not owe any delinquent taxes to the City and/or does not owe delinquent taxes or fees for which Subrecipient is liable.

Or, if such delinquent taxes or fees are owed to the City, Subrecipient currently is paying such delinquent taxes pursuant to an undertaking enforceable by the State of Wisconsin or an agent or instrumentality thereof, or Subrecipient filed a petition in bankruptcy under 11 U.S.C. Section 101. et seq., or such a petition has been filed against Subrecipient.

**O. Disputes**

**1. Disputes**

During performance of this Agreement, disagreements may arise between the Subrecipient and the City on various issues. If a dispute concerning a question of fact arises and cannot be resolved through negotiation, the City shall prepare a written decision, taking into account all facts and documentation presented. The decision shall be mailed by return receipt requested to the Subrecipient. Subrecipient may appeal the decision within thirty (30) calendar days of receipt of the City's decision by submitting a written appeal.

Subrecipients shall submit their appeal to: Katie Rosenberg, Mayor, 407 Grant Street, Wausau WI 54403.

**2. False Statements.**

A false statement in the Subrecipient's Project Description or Grant-related documents and reports, may be grounds for denial or termination of the Grant and punishable as provided in 18 U.S.C. §1001.

**P. AUTHORITY.**

**IN WITNESS WHEREOF**, City and Subrecipient, each by a duly authorized representative, have executed this Agreement as of the date set forth below. The parties hereto have set their hands at Wausau, Wisconsin.

**CATHOLIC CHARITIES**  
a charitable non-profit organization

By:

---

Date:

---

(Print Name):

---

Title:

---

By:

---

Date:

---

(witness)



**CITY OF WAUSAU, WISCONSIN**  
a municipal corporation:

By:

---

Katie Rosenberg, Mayor

Date:

---

By:

---

Kaitlyn Bernarde, City Clerk

APPROVED AS TO FORM

By:

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Anne Jacobson, City Attorney

Date:

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## **EXHIBITS**

|           |                                                         |
|-----------|---------------------------------------------------------|
| Exhibit A | Project Description                                     |
| Exhibit B | Eligible Expenses                                       |
| Exhibit C | Supporting Documentation                                |
| Exhibit D | Treasury Final Rule Programmatic Reporting Requirements |



## **EXHIBIT A – PROJECT DESCRIPTION**

The City of Wausau is supplying funding to Catholic Charities to provide the community a nighttime shelter for unhoused individuals in our community from May 1 – October 31. Currently Catholic Charities provides a nighttime warming shelter at the Community Partners Campus from November 1 – April 30. The intention of the City of Wausau with this agreement and allocation of funds is to assure there is a nighttime shelter for unhoused individuals 365 days per year.

Following are the items Catholic Charities agrees to provide with this agreement:

1. Utilize funding for the Wausau Warming Center so that sheltering operations are 365 nights per year.
2. Provide staff or volunteers trained in safety practices and de-escalation tactics for the Wausau Warming Center at all times that guests are on site.
3. Provide administrative, payroll, and fiscal agent support in the hiring of staff for the Wausau Warming Center.
4. Provide bus passes to shelter guests and unhoused persons needing transportation.
5. Provide staffing, programming and services to guests within the Wausau Warming Center
6. Actively encourage and ensure guests utilize trash facilities located on site.
7. Provide administrative oversight and assistance to The Open Door as they expand to operate a Day Center in Wausau.

## EXHIBIT B – ELIGIBLE EXPENSES

### 1. General

The City shall pay Subrecipient, up to the Maximum Grant Amount as stated in this agreement for Allowable Costs. Subrecipient is prohibited from using any part of this Grant to satisfy a delinquent federal debt.

**2 CFR Part 200, Subpart E Allowable Costs/Principles.** As outlined in the Uniform Guidance at 2 CFR Part 200, Subpart E regarding Cost Principles, allowable costs are based on the premise that a Subrecipient is responsible for the effective administration of Federal awards, application of sound management practices, and administration of Federal funds in a manner consistent with the program objectives and terms and conditions of the award. Subrecipients must implement robust internal controls and effective monitoring to ensure compliance with the Cost Principles, which are important for building trust and accountability.

Allowable Costs are those incurred in the performance of this Grant Agreement that are determined by the City to be allowable, allocable, and reasonable in accordance with the:

- (A) Provisions of this Agreement, and
- (B) Applicable Federal cost principles as outlined in Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, [2 C.F.R. Part 200](#). Subrecipient must obtain prior written approval for certain costs as outlined in 2 C.F.R. §200.407. If these regulations are revised or clarified during the period of performance of this Agreement the most recent revision or clarification shall apply.

### 2. Indirect Cost Rates

The allowable indirect cost rate is either the Negotiated Indirect Cost Rate Agreement (NICRA) or alternatively, any non-Federal entity that has never received a negotiated indirect cost rate, except for those non-Federal entities described in Appendix VII to 2 C.F.R. Part 200 – States and Local Government and Indian Tribe Indirect Cost Proposals, paragraph D.1.b, may elect to charge a de minimis rate of 10 percent of modified total direct costs (MTDC) which may be used indefinitely.

As described in 2 C.F.R. Part 200.403, *Factors affecting allowability of costs*, costs must be consistently charged as either indirect or direct costs but may not be double charged or inconsistently charged as both. If chosen, this methodology once elected must be used consistently for all Federal awards until such time as a non-Federal entity chooses to negotiate for a rate, which the non-Federal entity may apply to do at any time.

### 3. Period of Availability of Funds

Subrecipient may charge to the Grant only Allowable Costs resulting from obligations incurred during the Period of Performance.

### 4. Profits

No fee, profit, or other increment above allowable costs shall be paid to Subrecipient.

### 5. Example of Ineligible COVID Related Expenses



The following is a list of examples of costs that may *not* be eligible expenditures of payments from the Fund.

1. Damages covered by insurance
2. Payroll or benefits expenses for employees whose work duties are not substantially dedicated to mitigating or responding to the COVID-19 public health emergency
3. Expenses that have been or will be reimbursed under any federal program, such as the reimbursement by the Federal government pursuant to the CARES Act of contributions by State-to-State unemployment funds
4. Reimbursement to donors for donated items or services
5. Workforce bonuses other than hazard pay or overtime
6. Severance Pay
7. Legal settlements.

## EXHIBIT C – SUPPORTING DOCUMENTATION

- A. **Documentation of Expenses.** Subrecipient must maintain source documentation of direct costs, such as invoices, receipts, cancelled checks, documentation of personnel expenses, and indirect cost rate agreements to support all draw requests for payment. In addition, Subrecipient must maintain a list of all clients served, if applicable.

All Subrecipients must be able to demonstrate and document the actual cost of service provision. The amount billed to the Grant cannot exceed the actual cost of providing the service. All information required to document expenses charged to the Grant must be made available to the City upon request and maintained for a period of at least three (3) years after the expiration of the Grant period or date of last payment, whichever occurs first.

- B. **Documentation of Personnel Expenses.** Charges to Federal awards for salaries and wages must be based on records that accurately reflect the work performed and meet the standards required in 2 C.F.R. Part 200.430(i). The records must support the distribution of employee's salaries and wages among specific activities or cost objectives if the employee works on more than one Federal award; a Federal award and non-Federal award; an indirect cost activity and a direct cost activity; two or more indirect activities which are allocated using different allocation bases; or an unallowable activity and a direct or indirect cost activity. Budget estimates (*i.e.*, estimates determined before the services are performed) alone do not qualify as support for charges to this Grant award. Records must reasonably reflect the total activity for which employees are compensated. Adequate documentation includes timesheets/timecards, payroll activity reports, and payroll rosters.

- C. **Standards for Financial Management Systems.** Subrecipient shall maintain and operate financial management systems that meet or exceed the federal requirements for funds control and accountability as established by the applicable regulations in 2 CFR 200, Subpart D.



## EXHIBIT D – TREASURY FINAL RULE PROGRAMMATIC REPORTING REQUIREMENTS

The following represents Subrecipient eligible activity category and the programmatic report requirements under the Treasury Final Rule. This information should be used to prepare the Final Report discussed in [Section J.2](#).



U.S. DEPARTMENT OF THE TREASURY

### Responding to Public Health and Economic Impacts of COVID-19

The Coronavirus State and Local Fiscal Recovery Funds provide resources for governments to meet the public health and economic needs of those impacted by the pandemic in their communities, as well as address longstanding health and economic disparities, which amplified the impact of the pandemic in disproportionately impacted communities, resulting in more severe pandemic impacts.

The eligible use category to respond to public health and negative economic impacts is organized around the types of assistance a recipient may provide and includes several sub-categories:

- public health,
- assistance to households,
- assistance to small businesses,
- assistance to nonprofits,
- aid to impacted industries, and
- public sector capacity.

In general, to identify eligible uses of funds in this category, recipients should (1) identify a COVID-19 public health or economic impact on an individual or class (i.e., a group) and (2) design a program that responds to that impact. Responses should be related and reasonably proportional to the harm identified and reasonably designed to benefit those impacted.

To provide simple, clear eligible uses of funds that meet this standard, Treasury provides a non-exhaustive list of enumerated uses that respond to pandemic impacts. Treasury also presumes that some populations experienced pandemic impacts and are eligible for responsive services. In other words, recipients providing enumerated uses of funds to populations presumed eligible are clearly operating consistently with the final rule.<sup>1</sup>

Recipients also have broad flexibility to (1) identify and respond to other pandemic impacts and (2) serve other populations that experienced pandemic impacts, beyond the enumerated uses and presumed eligible populations. Recipients can also identify groups or "classes" of beneficiaries that experienced pandemic impacts and provide services to those classes.

---

<sup>1</sup> However, please note that use of funds for enumerated uses may not be grossly disproportionate to the harm. Further, recipients should consult the Capital Expenditures section for more information about pursuing a capital expenditure; please note that enumerated capital expenditures are not presumed to be reasonably proportional responses to an identified harm except as provided in the Capital Expenditures section.

*Coronavirus State & Local Fiscal Recovery Funds: Overview of the Final Rule*

*U.S. Department of the Treasury*



| Step                            | 1. Identify COVID-19 public health or economic impact                                                                                                                                                                                                                                                          | 2. Design a response that addresses or responds to the impact                                                                                                                                                                                                                                        |
|---------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Analysis</b>                 | <ul style="list-style-type: none"> <li>Can identify impact to a specific household, business or nonprofit or to a class of households, businesses, or nonprofits (i.e., group)</li> <li>Can also identify disproportionate impacts, or more severe impacts, to a specific beneficiary or to a class</li> </ul> | <ul style="list-style-type: none"> <li>Types of responses can include a program, service, or capital expenditure</li> <li>Response should be related and reasonably proportional to the harm</li> <li>Response should also be reasonably designed to benefit impacted individual or class</li> </ul> |
| <b>Simplifying Presumptions</b> | <ul style="list-style-type: none"> <li>Final Rule presumes certain populations and classes are impacted and disproportionately impacted</li> </ul>                                                                                                                                                             | <ul style="list-style-type: none"> <li>Final Rule provides non-exhaustive list of enumerated eligible uses that respond to pandemic impacts and disproportionate impacts</li> </ul>                                                                                                                  |

To assess eligibility of uses of funds, recipients should first determine the sub-category where their use of funds may fit (e.g., public health, assistance to households, assistance to small businesses), based on the entity that experienced the health or economic impact.<sup>2</sup> Then, recipients should refer to the relevant section for more details on each sub-category.

While the same overall eligibility standard applies to all uses of funds to respond to the public health and negative economic impacts of the pandemic, each sub-category has specific nuances on its application. In addition:

- Recipients interested in using funds for capital expenditures (i.e., investments in property, facilities, or equipment) should review the Capital Expenditures section in addition to the eligible use sub-category.
- Recipients interested in other uses of funds, beyond the enumerated uses, should refer to the section on “Framework for Eligible Uses Beyond Those Enumerated.”

<sup>2</sup> For example, a recipient interested in providing aid to unemployed individuals is addressing a negative economic impact experienced by a household and should refer to the section on assistance to households. Recipients should also be aware of the difference between “beneficiaries” and “sub-recipients.” Beneficiaries are households, small businesses, or nonprofits that can receive assistance based on impacts of the pandemic that they experienced. On the other hand, sub-recipients are organizations that carry out eligible uses on behalf of a government, often through grants or contracts. Sub-recipients do not need to have experienced a negative economic impact of the pandemic; rather, they are providing services to beneficiaries that experienced an impact.



## **AMERICAN RESCUE PLAN ACT SUBRECIPIENT AGREEMENT**

### **CITY OF WAUSAU – AMERICAN RESCUE PLAN ACT FUNDS**

This Subrecipient Grant Agreement (“Agreement”) is made and entered into between the **City of Wausau**, a municipal corporation in and of the State of Wisconsin (“The City”), and **The Open Door a registered 501(c)3 non-profit organization** (“Subrecipient”).

#### **WITNESSETH THAT:**

**WHEREAS**, On March 11, 2021, President Biden signed the U.S. Senate-amended H.R. 1319 (P.L. 117-2) known as the American Rescue Plan Act (hereinafter “ARPA”) and on May 10, 2021, the U.S. Treasury issued the Interim Final Rule (“IFR”) to implement ARPA in Title 31, Part 35 of the Code of Federal Regulations (“CFR”) describing eligible and ineligible uses of funds (as well as other program provisions). Under ARPA Section 603 (c)(1)(A) and (3) and the Interim Final Rule 31 CFR 35.6(b)(7) Subrecipients may use Coronavirus State and Local Fiscal Recovery Fund (“CSLFRF”) Funds to award grants to organizations that are responding to the negative impact of the COVID-19 public health emergency.

On January 6, 2022 the Treasury issued the Final Rule which took effect on April 1, 2022; and

**WHEREAS**, the United States Department of Treasury has adopted guidance regarding the use of ARPA funds to respond to the COVID-19 public health emergency and its economic impacts through four categories:

- To respond to the public health emergency or its negative economic impacts, including assistance to households, small business, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality;
- To respond to workers performing essential work during the COVID-19 public health emergency by providing premium pay to eligible workers;
- For the provision of government services to the extent of the reduction in revenue due to the COVID-19 public health emergency relative to revenues collected in the most recent full fiscal year prior to the emergency; and
- To make necessary investments in water, sewer, and broadband infrastructure; and

**WHEREAS** The City is in receipt of funding under the American Rescue Plan Act (“ARPA Act”) and wants to support local projects that will benefit neighborhoods, business and communities who have been adversely impacted by COVID-19 by making grants available for associated project costs; and,

**WHEREAS** Subrecipient has been awarded a City of Wausau – American Rescue Plan Act Funds Grant (“ARPA Grant”) in the amount of Two Hundred and Thirty Nine Thousand One Hundred Nineteen Dollars and Thirty One Cents (\$239,119.31); and,

**WHEREAS** The City believes it is in its best interest to award Subrecipient an ARPA Grant.

**NOW, THEREFORE**, in consideration of the foregoing promises, the parties hereto agree that the use of American Rescue Plan Funds be conveyed to Subrecipient by the City subject to the following award information, conditions, and limitations indicated in this Agreement.

**A. Award Information**

**Awarding Agency:** City of Wausau  
**Point of Contact:** Katie Rosenberg  
Mayor  
407 Grant Street, Wausau, WI 54403  
715-261-6803  
Katie.Rosenberg@ci.wausau.wi.us

**Subrecipient Name:** The Open Door  
**Point of Contact:** Anne Drow  
Executive Director  
319 N 4<sup>th</sup> Street #2  
Wausau WI 54403  
715-848-4044  
Opendoor319@gmail.com

**Federal Awarding Agency:** US Department of Treasury  
**CFDA #:** 21.027 – Coronavirus State and Local Fiscal Recovery (CSLFRF)  
**Treasury Interim Final Rule Eligibility Activity:** Expenditure Categories (EC) 2.1  
Household Assistance: Food Programs; 2.2 Household Assistance: Rent, Mortgage and  
Utility Aid.  
**Treasury Final Rule Eligible Activity:** 2: Negative Economic Impacts  
2.16 Long-Term Housing Security: Services for Unhoused persons  
**Period of Performance:** March 1, 2023 to December 31, 2024  
**Amount of Award and Budget Not To Exceed:** \$239,119.31

**B. Project Description**

See *Exhibit A* for the approved Project Description.

**C. Project Budget**

Subrecipient must submit to the City a comprehensive project budget listing all proposed expenses under the Grant using the Budget vs. Actual format in the ARPA Grant **Budget Template in Attachment 1**. At a minimum, the budget must include salaries, fringe and other benefits, training, travel, rent, phone, postage, supplies, technology/equipment, marketing, and indirect costs, as applicable to Subrecipient. All expenses must be itemized, and all Grant Funds must be accounted for in this Projected Budget.

**D. Uniform Administrative Requirements**

**1. § 200.302 Financial management.**

(a) Each non-Federal entity must expend and account for the Federal award in accordance with state laws and procedures for expending and accounting for the state's own funds. In addition, the state's and the other non-Federal entity's financial management systems, including records



documenting compliance with Federal statutes, regulations, and the terms and conditions of the Federal award, must be sufficient to permit the preparation of reports required by general and program-specific terms and conditions; and the tracing of funds to a level of expenditures adequate to establish that such funds have been used according to the Federal statutes, regulations, and the terms and conditions of the Federal award. See also § 200.450.

(b) The financial management system of each non-Federal entity must provide for the following (see also §§ 200.334, 200.335, 200.336, and 200.337):

(1) Identification, in its accounts, of all Federal awards received and expended and the Federal programs under which they were received. Federal program and Federal award identification must include, as applicable, the Assistance Listings title and number, Federal award identification number and year, name of the Federal agency, and name of the pass-through entity, if any.

(2) Accurate, current, and complete disclosure of the financial results of each Federal award or program in accordance with the reporting requirements set forth in §§ 200.328 and 200.329. If a Federal awarding agency requires reporting on an accrual basis from a Subrecipient that maintains its records on other than an accrual basis, the Subrecipient must not be required to establish an accrual accounting system. This Subrecipient may develop accrual data for its reports on the basis of an analysis of the documentation on hand. Similarly, a pass-through entity must not require a subrecipient to establish an accrual accounting system and must allow the subrecipient to develop accrual data for its reports on the basis of an analysis of the documentation on hand.

(3) Records that identify adequately the source and application of funds for federally funded activities. These records must contain information pertaining to Federal awards, authorizations, financial obligations, unobligated balances, assets, expenditures, income and interest and be supported by source documentation.

(4) Effective control over, and accountability for, all funds, property, and other assets. The non-Federal entity must adequately safeguard all assets and assure that they are used solely for authorized purposes. See § 200.303.

(5) Comparison of expenditures with budget amounts for each Federal award.

(6) Written procedures to implement the requirements of § 200.305.

(7) Written procedures for determining the allowability of costs in accordance with subpart E of this part and the terms and conditions of the Federal award.

## **2. § 200.307 Program income.**

Generally, program income includes, but is not limited to, income from fees for services performed, the use or rental of real or personal property acquired under Federal awards and principal and interest on loans made with Federal award funds. Program income does not include interest earned on advances of Federal funds, rebates, credits, discounts, or interest on rebates, credits, or discounts. Subrecipients of SLFRF funds should calculate, document, and record the organization's program income. Additional controls that your organization should implement include written policies that explicitly identify appropriate allocation methods, accounting standards and principles, compliance monitoring checks for program income calculations, and records.

## **3. § 200.303 Internal controls.**

The non-Federal entity must:

- (a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in “Standards for Internal Control in the Federal Government” issued by the Comptroller General of the United States or the “Internal Control Integrated Framework”, issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
- (b) Comply with the U.S. Constitution, Federal statutes, regulations, and the terms and conditions of the Federal awards.
- (c) Evaluate and monitor the non-Federal entity's compliance with statutes, regulations and the terms and conditions of Federal awards.
- (d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.
- (e) Take reasonable measures to safeguard protected personally identifiable information and other information the Federal awarding agency or pass-through entity designates as sensitive or the non-Federal entity considers sensitive consistent with applicable Federal, State, local, and tribal laws regarding privacy and responsibility over confidentiality.

**Table 1. Internal controls best practices.**

| <b>Best Practice</b>                    | <b>Description</b>                                                          | <b>Example</b>                                                                                           |
|-----------------------------------------|-----------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------|
| <b>Written policies and procedures</b>  | Formal documentation of Subrecipient policies and procedures                | Documented procedure for determining worker eligibility for premium pay                                  |
| <b>Written standards of conduct</b>     | Formal statement of mission, values, principles, and professional standards | Documented code of conduct / ethics for subcontractors                                                   |
| <b>Risk-based due diligence</b>         | Pre-payment validations conducted according to an assessed level of risk    | Enhanced eligibility review of subrecipient with imperfect performance history                           |
| <b>Risk-based compliance monitoring</b> | Ongoing validations conducted according to an assessed level of risk        | Higher degree of monitoring for projects that have a higher risk of fraud, given program characteristics |
| <b>Record maintenance and retention</b> | Creation and storage of financial and non-financial records                 | Storage of all subrecipient payment information                                                          |

## **E. General Conditions**

1. Nothing contained in this Agreement is intended to, or shall be construed in any manner, as creating, or establishing the relationship of employer/employee between the parties. The Subrecipient shall at all times remain an “independent contractor” with respect to the services to be performed under this Agreement. The City of Wausau shall be exempt from payment of all unemployment compensation, FICA, retirement, life and/or medical insurance and Workers’ Compensation Insurance as the Subrecipient is an independent entity.
2. Subrecipient shall hold harmless and indemnify the City of Wausau from any and all claims, actions, suits, charges, and judgments whatsoever that arise out of the Subrecipient’s performance or nonperformance of the services or subject matter called for in this Agreement.



3. City of Wausau or Subrecipient may amend this Agreement at any time provided that such amendments make specific reference to this Agreement, and are executed in writing, and signed by a duly authorized representative of both organizations. Such amendments shall not invalidate this Agreement, nor relieve or release City of Wausau or Subrecipient from its obligations under this Agreement.
  - o City of Wausau may, in its discretion, amend this Agreement to conform with federal, state, or local governmental guidelines, policies and available funding amounts, or for other reasons. If such amendments result in a change in the funding, the scope of services, or schedule of the activities to be undertaken as part of this Agreement, such modifications will be incorporated only by written amendment signed by both the City of Wausau and Subrecipient.
4. Either party may terminate this Agreement at any time by giving written notice to the other party of such termination and specifying the effective date thereof at least 30 days before the effective date of such termination. In the event of any termination for convenience, all finished or unfinished documents, data, studies, surveys, reports, or other materials prepared by Subrecipient under this Agreement shall, at the option of the City of Wausau, become the property of the City of Wausau .
  - o City of Wausau may also suspend or terminate this Agreement, in whole or in part, if Subrecipient materially fails to comply with any term of this Agreement, or with any of the rules, regulations, or provisions referred to herein; and the City of Wausau may declare Subrecipient ineligible for any further participation in City of Wausau's award agreements, in addition to other remedies as provided by law. In the event there is probable cause to believe Subrecipient is in noncompliance with any applicable rules or regulations, City of Wausau may withhold funding.

**F. Award Assurances**

A signature on this Agreement indicates that Subrecipient is capable of and agrees to meet the following requirements, and that all information contained in this proposal is true and correct.

2. Adopt and maintain a system of internal controls which results in the fiscal integrity and stability of the organization, including the use of Generally Accepted Accounting Principles (GAAP).
3. Compliance with insurance requirements for general, professional, and automobile liability; workers' compensation and employer's liability; and, if advance funds are required, commercial crime insurance.
4. These award funds will not be used to supplant existing financial support for current programs.
5. No portion of these award funds will be subcontracted without prior written approval unless expressly identified in the award agreement.
6. Compliance with the requirements of the Civil Rights Act of 1964, as amended, and the Rehabilitation Act of 1973, P.L. 93-112, as amended, and any relevant program-specific regulations, and shall not discriminate against any employee for employment because of race, national origin, creed, color, sex, religion, age, disability, or handicap condition (including AIDS and AIDS-related conditions).

7. Compliance with the Americans with Disabilities Act of 1990 (P.L. 101-136), 42 U.S.C. 12101, as amended, and regulations adopted thereunder contained in 28 CFR 26.101-36.999 inclusive, and any relevant program-specific regulations.
8. Compliance with Title 2 of the Code of Federal Regulations (CFR) and any guidance in effect from the Office of Management and Budget (OMB) related (but not limited to) audit requirements for Subrecipients that expend \$750,000 or more in Federal awards during the Subrecipient's fiscal year must have an annual audit prepared by an independent auditor in accordance with the terms and requirements of the appropriate circular. Certifications that neither Court Appointed Advocates for Children nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. This certification is made pursuant to regulations implementing Executive Order 12549, Department and Suspension, 28 C.F.R. pt. 67 §67.510, as published as pt. VII of May 26, 1988, Federal Register (pp. 19150-19211). No funding associated with this award will be used for lobbying.
9. Disclosure of any existing or potential conflicts of interest relative to the performance of services resulting from this award.
10. Provision of a work environment in which the use of tobacco products, alcohol, and illegal drugs will not be allowed.
11. An organization receiving award funds through the City of Wausau shall not use these funds for any activity related to the following:
  - i) Any attempt to influence the outcome of any federal, state, or local election, referendum, initiative, or similar procedure, through in-kind or cash contributions, endorsements, publicity, or a similar activity.
  - ii) Establishing, administering, contributing to, or paying the expenses of a political party, campaign, political action committee or other organization established for the purpose of influencing the outcome of an election, referendum, initiative, or similar procedure.
  - iii) Any attempt to influence:
    - (1) The introduction or formulation off federal, state, or local legislation; or
    - (2) The enactment or modification of any pending federal, state, or local legislation, through communication with any member or employee of Congress, the Wisconsin Legislature or a local governmental entity responsible for enacting local legislation, including, without limitation, efforts to influence State or local officials to engage in a similar lobbying activity, or through communication with any governmental official or employee in connection with a decision to sign or veto enrolled legislation.
  - iv) Any attempt to influence the introduction, formulation, modification or enactment of a federal, state, or local rule, regulation, executive order or any other program, policy or position of the United States Government, the State of Wisconsin or a local governmental entity through communication with any officer or employee of the United States Government, the State of Wisconsin or a local governmental entity,



including, without limitation, efforts to influence state or local officials to engage in a similar lobbying activity.

v) Any attempt to influence:

- (1) The introduction or formulation of federal, state, or local legislation;
- (2) The enactment or modification of any pending federal, state, or local legislation; or
- (3) The introduction, formulation, modification or enactment of a federal, state, or local rule, regulation, executive order, or any other program, policy, or position of the United States Government, the State of Wisconsin or a local governmental entity, by preparing, distributing or using publicity or propaganda, or by urging members of the general public or any segment thereof to contribute to or participate in any mass demonstration, march, rally, fundraising drive, lobbying campaign or letter writing or telephone campaign.

vi) Legislative liaison activities, including, without limitation, attendance at legislative sessions or committee hearings, gathering information regarding legislation and analyzing the effect of legislation, when such activities are carried on in support of or in knowing preparation for an effort to engage in an activity prohibited pursuant to subsections 1 to 5, inclusive.

vii) Executive branch liaison activities, including, without limitation, attendance at hearings, gathering information regarding a rule, regulation, executive order or any other program, policy or position of the United States Government, the State of Wisconsin or a local governmental entity and analyzing the effect of the rule, regulation, executive order, program, policy, or position, when such activities are carried on in support of or in knowing preparation of an effort to engage in an activity prohibited pursuant to subsections 1 to 5, inclusive.

12. An organization receiving award funds through the City of Wausau may, to the extent and in the manner authorized in its award, use award funds for any activity directly related to educating persons in a nonpartisan manner by providing factual information in a manner that is:

i) Made in a speech, article, publication, or other material that is distributed and made available to the public, or through radio, television, cable television or other medium of mass communication; and

ii) Not specifically directed at:

- (1) Any member or employee of congress, the Wisconsin Legislature, or a local governmental entity responsible for enacting local legislation;
- (2) Any governmental official or employee who is or could be involved in a decision to sign or veto enrolled legislation; or
- (3) Any officer or employee of the United States Government, the State of Wisconsin, or a local governmental entity who is involved in introducing, formulating, modifying, or enacting a Federal, State, or local rule, regulation,

executive order, or any other program, policy, or position of the United States Government, the State of Wisconsin, or a local governmental entity.

This provision does not prohibit a Subrecipient or an applicant for the award from providing information that is directly related to the award.

13. Subrecipient proposed uses of the funds provided as payment under sections 601, 602 and 603 of the Social Security Act will be used only to cover those costs that:
  - i) Respond to the public health emergency or its negative economic impacts, including assistance to households, small businesses, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality;
  - ii) Respond to workers performing essential work during the COVID-19 public health emergency by providing premium pay to eligible workers;
  - iii) Are for the provision of government services to the extent of the reduction in revenue due to the COVID-19 public health emergency relative to revenues collected in the most recent full fiscal year prior to the emergency; and
  - iv) Are necessary investments in water, sewer, or broadband infrastructure.
14. Subrecipient understands that any funds provided pursuant to this certification cannot be used for depositing funds into any pension fund.
15. Subrecipient understands that funds received pursuant to this certification cannot be used for expenditures for which Subrecipient has received any other emergency COVID-19 supplemental funding (whether state, federal or private in nature) for that same expense.

#### **G. Notices**

All notices to be given under the terms of this Agreement shall be in writing and signed by the person serving the notice and shall be sent registered or certified mail, return receipt requested, postage prepaid, to the addresses of the parties listed below:

|                     |                                                                                                                   |
|---------------------|-------------------------------------------------------------------------------------------------------------------|
| FOR CITY OF WAUSAU: | Katie Rosenberg<br>Mayor<br>407 Grant Street, Wausau, WI 54403<br>715-261-6803<br>Katie.Rosenberg@ci.wausau.wi.us |
|---------------------|-------------------------------------------------------------------------------------------------------------------|

|                       |                                                                                                                              |
|-----------------------|------------------------------------------------------------------------------------------------------------------------------|
| FOR THE SUBRECIPIENT: | Anne Drow<br>Executive Director<br>319 N 4 <sup>th</sup> Street #2, Wausau WI 54403<br>715-848-4044<br>Opendoor319@gmail.com |
|-----------------------|------------------------------------------------------------------------------------------------------------------------------|

#### **H. Compensation and Method of Payment**

The City provided the Subrecipient an ARPA Grant in the total amount of \$239,119.31 (“GrantAmount”). This grant is awarded in the amount of \$114,267.86 for 2023, and \$124,851.45 for 2024 as approved by the Wausau City Council.



Subrecipient hereby acknowledges and agrees that they shall only use the ARPA Grant for Eligible Expenses, as defined herein. Any expenses incurred by Subrecipient in an amount which exceeds the Grant Amount shall be the sole responsibility of Subrecipient and Subrecipient shall not seek reimbursement of such expenses from the City.

The City will pay to Subrecipient an amount up to that specified in [Section A](#). Award Information, as full compensation for all services and work to be performed or undertaken by Subrecipient under this Agreement. Payment of funds to Subrecipient is subject to all of the following requirements, which shall be conditions precedent to payment:

- (i) that Subrecipient has expended funds for eligible approved expenditures,
- (ii) that Subrecipient is not in default of any material provision of this Agreement nor applicable law or regulation,
- (iii) that Subrecipient has timely submitted requests for payment or reimbursement detailing the eligible payment or reimbursement items in a format approved by City,
- (iv) that Subrecipient has certified with each payment or reimbursement request compliance with the requirements identified in Exhibit “A” and that all expenditures for which reimbursement is sought were made for and in furtherance of the approved Project and are an eligible use of federal assistance under ARPA and federal regulations as described in Exhibit B.

Payment hereunder is also subject to and may only be disbursed in accordance with applicable Federal regulations, as presently promulgated and as same may be revised from time to time in the future, all other terms of this Agreement, and any special provisions in the Scope of Services. All payments received by Subrecipient hereunder are subject to repayment by Subrecipient.

The aggregate of all payments made hereunder shall not exceed \$239,119.31.

**a. Reimbursements**

Subrecipient shall receive reimbursements according to the following annual schedule:

2023 – up to \$114,267.86

2024 – up to \$124,851.45

The City’s payment of reimbursements is subject to annual budgetary appropriation by the Wausau Common Council. The City shall not be obligated to provide reimbursements beyond the amounts authorized by the Common Council.

**b. Drawdown Reporting**

Subrecipient shall comply with the applicable regulations at 2 C.F.R. §200.305 for cost reimbursement agreements. See [Section J.1 Reporting Requirements](#), for the required financial reporting for the advanced grant proceeds.

**c. Funds Recapture**

The City shall recapture any unspent funds or funds for expenses that were determined to be ineligible and/or unallowable. Subrecipients are required to cooperate with recapture requests,

including any paperwork requests. See [Section J .2](#) Final Report for additional information concerning the funds recapture.

## **I. Eligible Expense**

The City and Subrecipient agree that the items identified as “Eligible Expenditures” in [Exhibit B](#), attached hereto and incorporated herein, shall be considered “Eligible Expenses” that Subrecipient may use the ARPA Grant for. The City and Subrecipient agree that the items identified as “Ineligible Expenditures” in [Exhibit B](#) are expenses that Subrecipient is not permitted to use the ARPA Grant funds on. In the event there is a question about whether an expense is an Eligible Expense, Subrecipient shall reach out to the City for clarification prior to spending any funds on the expense in question.

Subrecipient shall provide the City with supporting documentation in accordance with [Exhibit C](#) attached hereto and incorporated herein. All supporting documentation requested in [Exhibit C](#) shall be attached at the time of submission of the Financial Reports discussed in [Section J. Reporting Requirements](#) and the City retains the right to ask Subrecipient for any additional documentation as necessary to satisfy this requirement and Subrecipient agrees to comply with said request. Failure to satisfy this requirement shall be considered a breach of this Agreement and the City shall have the right to pursue Subrecipient accordingly.

## **J. Reporting Requirements**

The ARPA Grant **Annual Report in Attachment 2** is due annually by the 31<sup>st</sup> day of January following each calendar yearend as detailed in the schedule below:

| Performance Period | Report Due Date                                                           |
|--------------------|---------------------------------------------------------------------------|
| 2023               | January 31, 2024                                                          |
| 2024               | January 31, 2025                                                          |
| Final Report       | 60 days after all funds are exhausted<br>but no later than March 31, 2025 |
|                    |                                                                           |

If the Grant has been fully expended, the Subrecipient must submit a final report as described in [Section J.2 Final Reporting](#) below.

If there is no activity that quarter, the Subrecipient must submit the report with \$0 for the current quarter and the prior quarterly reports cumulative totals.

***The first report is due the first quarter following execution of this agreement unless otherwise indicated by the City.***

### **1. Financial Reports**

Subrecipients must submit the ARPA Grant **Annual Report in Attachment 2** which contains the following items.

1. Subrecipient's name, address, and Grant number as they appear on the Grant document.
2. Start and end dates of the report period.



3. Hourly rate. Identify each employee or consultant whose time/activity is being billed to the Grant, the individual's title, and the hourly billing rate used to calculate reimbursement from the City for that individual's time/activity. Explain the method used for calculating hourly rates, e.g. whether benefits are included in the rate.
4. Staff hours. Indicate for each employee the total number of hours being billed to the Grant cumulatively and for the quarter. For each individual whose work time will be reimbursed from the Grant, multiply the relevant hours by the relevant hourly rate (see item #3) and indicate the cumulative total and total for the quarter.
5. Budget vs. Actual Costs. Submit a detailed budget vs. actual report by budgetary line item for each quarter and cumulatively for the Grant period to date. At a minimum, the accounting must include the following as applicable: salaries, fringe and other benefits, training, travel, rent, phone, postage, supplies, technology/equipment, marketing, and indirect costs. The accounting must itemize the expenditure of each dollar being billed to the Grant. Any deviation between the budgeted and actual costs must be explained in detail and approved by the City.
6. Supporting Documentation. Supporting documentation discussed in **Exhibit C** must be submitted quarterly with the financial report and reconcile to the expended amount for the quarter being reported.
7. Required Certification. In accordance with 2 C.F.R. § 200.415(a), include a certification, signed by an individual who is authorized to execute the certification on behalf of the Subrecipient, which reads as follows: "By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729 – 3730 and 3801 – 3812)."

## 2. **Final Report**

A final report for the entire period of performance is due 60 days after the Subrecipient has completed all Grant activities that will be funded under the Grant, but not later than March 31, 2025.

- a. **Programmatic Report.** The final report must cover all activity conducted under the Grant. The report must be not more than five (5) single-spaced letter-sized pages using a font size of no smaller than 12 or larger than 14. In the narrative report, Subrecipient must briefly summarize the outcomes of the activities that Subrecipient proposed in the Project Description in [Section B](#). Additionally, Subrecipient should also include in this narrative report items such as problems encountered by the Subrecipient, items for which the Subrecipient needs additional guidance, and developments having a significant impact on the award supported activities, such as delays or adverse conditions which materially impair the ability to meet the objectives of the awards. The final report shall also describe any action taken or contemplated, and any assistance needed to resolve the situation.

- b. **Financial Report.** The Subrecipient must also submit final Budget vs. Actual report by budgetary line item consistent with the approved project budget. If there are any funds not expended, they must be returned to the City along with the final report.

The Subrecipient must also submit with the final report a certification, signed by an individual who is authorized to execute the certification on behalf of the Subrecipient, which states that all applicable closeout activities required in 2 CFR § 200.343 have been completed.

### **3. Delinquent Reports**

Submission of any reports required in this Agreement beyond the stated due dates will be considered delinquent unless the City grants a written extension.

### **K. Records and Retention**

All Records, including any and all supporting documentation for invoices submitted to City, shall be retained by Subrecipient, and made available for review by City, the Auditor of the State of Wisconsin, the federal government and any of its departments and agencies, and any of their designees for a minimum of five (5) years after the termination or expiration of this Agreement. Notwithstanding the foregoing, if there is litigation, claims, audits, negotiations, or other actions that involve any of the Records pertaining to this Agreement, which commences prior to the expiration of the period of performance documentation shall be retained while such action is pending.

Subrecipient shall comply with the requirements for record retention and access to records specified in the applicable regulations 24 C.F.R. §§ 214.315, 2 C.F.R. §§ 200.333- 200.337, and other applicable record retention requirements. Subrecipient may also be subject to record retention requirements under other applicable laws and regulations, including but not limited to, the nondiscrimination regulations cited in [Section F Award Assurances](#).

### **L. Oversight and Monitoring**

Subrecipient must cooperate with all the City oversight activities, requests for access to facilities, requests for information, including, but not limited to, complete files, financial data, financial management system, and data. Oversight may include, but is not limited to, on-site or remote audit and/or review of financial records, on-site or remote review of the financial management system, and/or on-site or remote performance reviews by City staff or designee. Subrecipient must take measures to ensure that City has access to all related files, financial management system, financial records, and information for audit and oversight purposes that demonstrates to the satisfaction of City that the Subrecipient is in compliance with 24 C.F.R. Part 214 and the requirements of this Grant Agreement.

### **M. Audit Requirements**

Non-Federal entities that expend \$750,000 or more during a year in Federal awards shall have a single or program-specific audit conducted for that year in accordance with the Single Audit Act Amendments of 1996 (31 U.S.C. § 7501–7507) and 2 CFR Part 200, Subpart F , which is available at <http://www.ecfr.gov/cgi-bin/text-idx?SID=fd6463a517ceea3fa13e665e525051f4&node=sp2.1.200.f&rgn=div6>

Non-Federal entities that expend less than \$750,000 for a fiscal year in Federal awards are exempt from Federal audit requirements for that year, but records must be available for review or



audit by appropriate officials of the Federal agency, pass-through entity, and General Accounting Office (GAO).

Audits shall be made by an independent auditor in accordance with generally accepted government auditing standards covering financial audits. Additional audit requirements applicable to this agreement are found at 2 CFR Part 200, Subpart F, as applicable. Additional information on single audits is available from the Federal Audit Clearinghouse at <http://harvester.census.gov/sac/>.

**N. Representation by Subrecipient.**

Subrecipient certifies that, as of the date of execution, it does not owe any delinquent taxes to the City and/or does not owe delinquent taxes or fees for which Subrecipient is liable.

Or, if such delinquent taxes or fees are owed to the City, Subrecipient currently is paying such delinquent taxes pursuant to an undertaking enforceable by the State of Wisconsin or an agent or instrumentality thereof, or Subrecipient filed a petition in bankruptcy under 11 U.S.C. Section 101. et seq., or such a petition has been filed against Subrecipient.

**O. Disputes**

**1. Disputes**

During performance of this Agreement, disagreements may arise between the Subrecipient and the City on various issues. If a dispute concerning a question of fact arises and cannot be resolved through negotiation, the City shall prepare a written decision, taking into account all facts and documentation presented. The decision shall be mailed by return receipt requested to the Subrecipient. Subrecipient may appeal the decision within thirty (30) calendar days of receipt of the City's decision by submitting a written appeal.

Subrecipients shall submit their appeal to: Katie Rosenberg, Mayor, 407 Grant Street, Wausau WI 54403.

**2. False Statements.**

A false statement in the Subrecipient's Project Description or Grant-related documents and reports, may be grounds for denial or termination of the Grant and punishable as provided in 18 U.S.C. §1001.

**P. AUTHORITY.**

**IN WITNESS WHEREOF**, City and Subrecipient, each by a duly authorized representative, have executed this Agreement as of the date set forth below. The parties hereto have set their hands at Wausau, Wisconsin.

**The Open Door**  
a charitable non-profit organization

By:

---

Date:

---

(Print Name):

---

Title:

---

By:

---

Date:

---

(witness)



**CITY OF WAUSAU, WISCONSIN**  
a municipal corporation:

By:

---

Katie Rosenberg, Mayor

Date:

---

By:

---

Kaitlyn Bernarde, City Clerk

APPROVED AS TO FORM

By:

---

Anne Jacobson, City Attorney

Date:

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## **EXHIBITS**

|           |                                                         |
|-----------|---------------------------------------------------------|
| Exhibit A | Project Description                                     |
| Exhibit B | Eligible Expenses                                       |
| Exhibit C | Supporting Documentation                                |
| Exhibit D | Treasury Final Rule Programmatic Reporting Requirements |



**EXHIBIT A – PROJECT DESCRIPTION**

# **The Open Door of Marathon County**

**A Day Services Program for the Homeless Community  
Wausau Wisconsin  
(ARPA Funded)**

# NARRATIVE OVERVIEW

## Founding Mission Statement (2010) & Added Scope of Services

### Intention

“The Open Door is organized to provide charitable and educational services to meet the immediate and long term needs of individuals who are incarcerated and/or who have been released from jail or prison.”

Over the past year The Open Door of Marathon County Board of Directors, while keeping its Original Vision intact has embraced the actual statistics of those, we are already serving on a daily basis to include the unhoused and/or homeless populations of the Wausau Community regardless of whether or not the individual has a criminal justice history.

To this end, The Open Door is seeking funding to operate a Day Services Program (with non-mandated ancillary programming) for all individuals who fall into **ANY** of these categories.

The guidelines of operation will be consistent, and shall not exclude entry based upon any prohibited reason under Federal Guidelines provided for the operation of a low barrier shelter or warming center

## Property Description

### Location

Open Door’s physical address is 319 4<sup>th</sup> Street, Wausau, WI 54403

### Description & Capacity

We are in the back of the parking lot for St. Paul’s United Church of Christ. the entrance to the parking lot is on 5<sup>th</sup> Street. Based on the total square footage proposed we are able to facilitate up to 40 guests at any given time. This is subject to having an adequate amount of paid & volunteer staffing.

### Zoning

Commercial

### Miscellaneous

See provided floor layout!

## Amended Hours of Operation:

Monday through Friday: 5:00AM- 11:00 AM. and then 1:00PM – 6:00 PM.

Saturday and Sunday: 5:00AM to 2:00 PM.



## **NUMBERS OF PEOPLE SERVED:**

- In 2022 we had 8586 visits from 574 unduplicated guests. In the first 6 weeks of 2023, we already have had 1670 visits comprised of 270 different individuals.
- In 2022, we provided clothing 1243 times (797 the last 6 months of the year).
- In the first 6 weeks of 2023 we have already provided clothing 282 times.
- The distribution of personal hygiene products to individuals continues to soar though the precise data cannot be properly expressed.

## **History:**

Open Door is a non-profit based in downtown Wausau and serves Marathon County. Our focus when we first began in November of 2010 was to provide an initial safe haven (out of the elements) for those being released from incarceration at 5 AM. In many cases, simultaneous with their release, these individuals became the newest members of the Wausau Homeless population.

In addition to providing a safe environment with coffee and food available we are able to provide weather appropriate clothing, personal hygiene products, directions, and initial referrals to services and shelters if needed.

Further we provide access to preliminary things necessary to move forward in their journey with dignity. These services include access to Bus Tokens, accompaniment in applying for Foodshare & Badger Care, obtaining State Id's, Social Security Cards, & Government issued phones. We also offer free of charge, a place for their mail to be sent as well as (on an individual basis) limited storage of their belongings if clearly unfeasible to navigate around with.

Our current staffing consists of only one paid position (Executive Director), and a combination of Guest Volunteers (15) and Community Volunteers (20)

## **OVERVIEW OF PAST/ CURRENT LONG-TERM PROGRAMMING:**

### **Case Management 2019 – Present**

We work(ed) with people either currently incarcerated (letters) and/or recently released from incarceration. This included those defined as being homeless but presented with a justice involved history. (A current study showed this to be 83.4% of the demographic) The team consisted of a Certified Case Manager, a Certified Peer Specialist, Case Manager Assistants, and Resource Specialists. Initial contact was often established while the client was still incarcerated. The Team met monthly to discuss clients and any challenges they may have found. Consistent with current trends in the community, the biggest challenge in achieving lowered recidivism rates and housing retention was one of sustainability. The largest number of clients served was in 2021,

between July & December, when 103 clients provided with Case Management. *(see Case Management under “Growth” section of this document.*

### **Family Support Group 2018 – 2021**

The Family Support Group was created to provide for the family and friends of incarcerated persons and met twice per month in the evening. Childcare was available. Facilitators and Counselors were paid through a Community Development Block Grant (CDGB)

### **Challenge Program 2017 – 2018**

The Challenge Program was facilitated by a volunteer from the Community and was a program for men only utilizing a Cognitive Thinking model.

### **What’s Next 2017- 2019**

This was a program just for women just coming out of incarceration as well as anyone from the community who were still justice involved. We met for 8 consecutive weeks & childcare was provided. This program was run a total of 4 times. The focus of the group centered around supporting participants in finding housing and employment as well as addressing both acute and chronic health concerns. The facilitators and Childcare Person were paid a stipend from a CDGB Grant. Participants also received a stipend if they attended at least 7 of the 8 classes.

### **Life Skills and Job Readiness 2014 - 2017**

This was a highly structured course taught by professionals in the community during the evening. The curriculum was based on life skills and getting ready to become employed. It was how to dress for success, how to act in an interview, etc. This was all on a volunteer basis.

### **Partner Project 2011 – 2013**

Partner Project was a program pairing people in the community with guests to act as mentors. We had as many as 8 pairs of people working together during a given cycle. Each cycle ran for a six-month duration. Many of the participants built lasting relationships beyond the program end date.

## **GROWTH:**

Based on the still unmet needs of both guests as well as the Wausau community this past year has been one of tremendous growth and expansion!

In August of 2022, Open Door became a participant in HMIS (Homeless Management Information System) enabling access to both Clarity and the BOS/COC (Balance of State and Continuum of Care systems) thus allowing us to converse with other providers with an implied ROI as well as making and assisting in referrals to the Housing Prioritization List.



In the Fall of 2022, we coordinated with Catholic Charities as they prepared to move into the CPC, transferring over all but a skeletal amount of their clothing to Open Door. We have more than doubled the amount of in-kind donations we have available as well as tripling the amount of clothing and hygiene distributions made in the 4<sup>th</sup> quarter of 2022 from the same period the year prior.

In response to a sharp increase in the number of individuals being released from jail in the afternoon, plus the gap between when lunch programs at the Salvation Army & Bridge Street close and overnight sheltering services open, The Open Door increased weekday hours of operation by 4 hours per day and weekend hours by 4 hours on Saturday & Sunday. (In the event of severe cold these hours are further expanded by yet another 4 hours).

### **Future Case Management:**

In addition to providing a Day Services Program Open Door is continually writing new Grants in the hopes of being able to partner with other agencies as well as the Community Outreach Specialist of the WPD in being able to provide future longer term “boots on the ground” styles of Case Management. The target population will be for those who have been recently released from incarceration, the chronically homeless who have been moved from being unhoused. The intent will be one of achieving greater sustainability and reducing the overall numbers of individuals returning to being unhoused and to achieve lower recidivism.

## **Policies & Procedures: Safety Rules for Open Door Guests**

Open Door strives to create an environment which is safe for guests, volunteers and staff. We are trying to create a positive environment that is respectful of one another without too many rules. Guests are encouraged to ask a staff member for clarification of any rule which they do not understand Most are common sense. We have implemented the following RULES, which is not an exhaustive list and shall not be limited to:

1. Alcohol, Illegal Drugs, Weapons, and Pornography are not allowed inside the building, or to be brought on the Church Property.
2. Beginning on March 1<sup>st</sup>, 2023 (or sooner) Guests will be required to check in their coats, backpacks and any other hand carried bags, and under no circumstances are guests allowed in any of the bathrooms before checking these items or after they have received them back prior to leaving for the day. Check-in frequency will be monitored, and guests should limit the # of in/outs to no more than two times on any given day.
3. Due to liability, The Open Door will not allow these items to be stored overnight. On an individual basis to be determined by management arrangements may possibly be made to temporarily hold a client's belongings in a secured area of the basement. Open Door shall be held harmless of any responsibility for these belongings, and this privilege may be rescinded in the event of a client violating rules in a chronic manner.
4. Guests will be allowed to get clothing during their visit and bathrooms will be provided to try things on. Only **TWO** of any items may be given out per visit. Exceptions are coats, gloves, hats, shoes and winter footwear (**One only**) Guests may receive like kind items every 30 days

but may receive different items as needed if they have not received the same item in the past 30 days. (Exceptions may be made at the direction of the Executive Director or the Program Manager. Or, in their absence a paid staff member only!)

5. The use of tobacco products, including smoking, chewing, or vapor/e-cigs is prohibited inside the building and may only occur outside the building, and then only in a designated area. Clients are required to dispose of their cigarettes butts in the receptacle provided. Throwing butts on the ground may result in the guest being asked to leave for the day, and subsequent infractions may lead to a ban of up to 30 days. No rolling of cigarettes is permitted inside the building.
6. Guests who act in a manner which is threatening, combative, dangerous or disruptive to other guests, volunteers or staff will be asked to leave for the day. Chronic infractions will be handled on an individual basis and could result in a ban of up to 30 days for repeated violations of this or other rules outlined herein.
7. Unless in a structured group supervised by a facilitator talk about religion, politics, sex, drugs or crimes is prohibited. Out of respect for our neighbors this policy includes the designated smoking area and parking lot. This shall also include the use of profanity either inside or outside the building.
8. No fighting or horseplay (just 'goofing around') will be tolerated.
9. To avoid potential theft Secured charging stations for phones, laptops, tablets will be provided and using wall outlets is strongly discouraged. See a staff person or volunteer if you have any questions.
10. Guests will keep the walkway through the upper kitchen from becoming over crowded or congested to allow for the safe movement of guest & donor traffic.
11. Bathrooms on the lower level shall always remain locked and access must be obtained from a staff person or designated volunteer.
12. Kitchen rules will be clearly posted in the kitchen dining area, and at NO TIME may a guest have food or a beverage at any of the computer workstations designated for guests.
13. Guest are asked to not openly display taking of their medications in view of other guests as this can be triggering or result in medications being stolen. Medications should be checked in the tote room and must be taken with every day and never stored overnight, or longer.
14. NO SLEEPING or putting your feet up on chairs or tables. No laying on the floor.
15. Guests shall store their bikes in designated area(s) and away from the front door.
16. Listening of music on any of your personal devices should be done with earbuds.

## **Professional In-Services & Staff/Volunteer Retention**

Open Door currently partners with The United Way, The Community Outreach Task Force, local churches, social media, and local news outlets to broaden our volunteer and staffing base. We are also undertaking an initiative actively recruiting community volunteers with professional backgrounds in areas of mental health or social services.

Considering the sharp uptick in the number of guests who present with untreated Mental Health issues and/or Methamphetamine addiction, Open Door is developing in-services to more adequately, appropriately & safely address potentially volatile or dangerous situations. These will include AODA Sensitivity & Recognition Training, Narcan Training through Vivent, online modules on de-escalation strategies, as well as our staff participating in the Crisis Intervention Training (CIT) being offered this Spring by the Marathon County Sheriff's Office and NCTC.



## EXPANSION

Over the past year The Open Door of Marathon County Board of Directors, while keeping its Original Vision intact has embraced the actual statistics of those, we are already serving daily to include the unhoused and/or homeless populations of the Wausau Community regardless of whether the individual has a criminal justice history.

To this end, The Open Door is seeking funding to operate a Day Services Program (with non-mandated ancillary programming) for all individuals who fall into ANY of these categories.

The guidelines of operation will be consistent and shall not exclude entry based upon any prohibited reason under Federal Guidelines provided for the operation of a low barrier shelter or warming center.

We are seeking funding to provide low-barrier behavioral based day services. This will necessitate increasing our rental footprint, revamping and repurposing of our existing space, and hiring paid staff to efficiently operate the program with optimal levels of safety for staff, volunteers and guests.

The desired environment will be one which embraces principles of truth, moral goodness, and a sense of spiritual belonging and unity It will also be one allowing for self-expressions of a variety of creative artistic beauty.

The proposed would additionally allow for providing four workstations for clients with access to the internet and phones for the purposes of job searches, seeking out housing and other goal-oriented opportunities empowering our guests as they are motivated to do so.

Staffing will be comprised of paid staff, community volunteers, and guest volunteers.

Revamping of both existing and expanded space will include:

- Repurposing our current entrance area (kitchen) as a more inviting lobby space with an initial reception station for guests, donors, and other visitors to initially check in. (Currently this is a very small, cramped space that rapidly becomes overly congested with guests congregating right inside the entrance way making it at times impossible to navigate one's way through.
- The build out of a coat-tote room for guests to check their coats backpacks and other items they have with them.
- Additional office space for staff to work in as well as meet with clients affording them dignity and privacy.
- Creating a more spacious kitchen and the adding of a dining area with tables and chairs allowing for communal dining and interaction.
- Buildout of previously noted workstations.
- Development of areas for hosting parallel optional programming including semi-weekly job-fairs and a weekly SMART recovery group to name just a couple (this will be an ongoing process to see what works and what doesn't always work but being mindful of partnering with other agencies in the community so as to not duplicate services.
- Creating areas for artistic expression

- Designating space for recreational activities, games, watching movies/TV promoting guests to stay engaged and active.

### **Program Sustainability:**

While Open Door is including in this Proposal the inclusion of several of the one-time startup costs, we are also currently pursuing writing other Grants, Foundation Endowments and in-kind donations to re-direct these monies, in compliance with the ARPA Grant Stipulations into the third year of the program or beyond.

Open Door is creating marketing strategies utilizing social media ,a more robust website, and overall community awareness as a result of our efforts to garner increased cash donations.

To improve the favorable outcomes of our grant writing efforts, Open Door is developing a larger, more diversified grant writing team. We are also analyzing the value of Professional Grant Writing Services.

Open Door is engaged in qualifying for federal funding through The Second Chance Act (SCA ) which supports state, local, and tribal governments and nonprofit organizations in their work to reduce recidivism and improve outcomes for people returning from state and federal prisons, local jails, and juvenile facilities.

### **Participation in Upcoming RFP's and Grant Writing Cycles Include:**

- CDBG Grants
- Community Foundation Funding
- Alkermes Inspiration Grant
- Impact 100j
- Greenheck
- United Way of Marathon County (for 2024 funding)
- EFSP Phase 40 Funds (due 2/17/23)



## EXHIBIT B – ELIGIBLE EXPENSES

### 1. General

The City shall pay Subrecipient, up to the Maximum Grant Amount as stated in this agreement for Allowable Costs. Subrecipient is prohibited from using any part of this Grant to satisfy a delinquent federal debt.

**2 CFR Part 200, Subpart E Allowable Costs/Principles.** As outlined in the Uniform Guidance at 2 CFR Part 200, Subpart E regarding Cost Principles, allowable costs are based on the premise that a Subrecipient is responsible for the effective administration of Federal awards, application of sound management practices, and administration of Federal funds in a manner consistent with the program objectives and terms and conditions of the award. Subrecipients must implement robust internal controls and effective monitoring to ensure compliance with the Cost Principles, which are important for building trust and accountability.

Allowable Costs are those incurred in the performance of this Grant Agreement that are determined by the City to be allowable, allocable, and reasonable in accordance with the:

- (A) Provisions of this Agreement, and
- (B) Applicable Federal cost principles as outlined in Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, [2 C.F.R. Part 200](#). Subrecipient must obtain prior written approval for certain costs as outlined in 2 C.F.R. §200.407. If these regulations are revised or clarified during the period of performance of this Agreement the most recent revision or clarification shall apply.

### 2. Indirect Cost Rates

The allowable indirect cost rate is either the Negotiated Indirect Cost Rate Agreement (NICRA) or alternatively, any non-Federal entity that has never received a negotiated indirect cost rate, except for those non-Federal entities described in Appendix VII to 2 C.F.R. Part 200 – States and Local Government and Indian Tribe Indirect Cost Proposals, paragraph D.1.b, may elect to charge a de minimis rate of 10 percent of modified total direct costs (MTDC) which may be used indefinitely.

As described in 2 C.F.R. Part 200.403, *Factors affecting allowability of costs*, costs must be consistently charged as either indirect or direct costs but may not be double charged or inconsistently charged as both. If chosen, this methodology once elected must be used consistently for all Federal awards until such time as a non-Federal entity chooses to negotiate for a rate, which the non-Federal entity may apply to do at any time.

### 3. Period of Availability of Funds

Subrecipient may charge to the Grant only Allowable Costs resulting from obligations incurred during the Period of Performance.

### 4. Profits

No fee, profit, or other increment above allowable costs shall be paid to Subrecipient.

### 5. Example of Ineligible COVID Related Expenses

The following is a list of examples of costs that may *not* be eligible expenditures of payments from the Fund.

1. Damages covered by insurance
2. Payroll or benefits expenses for employees whose work duties are not substantially dedicated to mitigating or responding to the COVID-19 public health emergency
3. Expenses that have been or will be reimbursed under any federal program, such as the reimbursement by the Federal government pursuant to the CARES Act of contributions by State-to-State unemployment funds
4. Reimbursement to donors for donated items or services
5. Workforce bonuses other than hazard pay or overtime
6. Severance Pay
7. Legal settlements.



## EXHIBIT C – SUPPORTING DOCUMENTATION

- A. Documentation of Expenses.** Subrecipient must maintain source documentation of direct costs, such as invoices, receipts, cancelled checks, documentation of personnel expenses, and indirect cost rate agreements to support all draw requests for payment. In addition, Subrecipient must maintain a list of all clients served, if applicable.

All Subrecipients must be able to demonstrate and document the actual cost of service provision. The amount billed to the Grant cannot exceed the actual cost of providing the service. All information required to document expenses charged to the Grant must be made available to the City upon request and maintained for a period of at least three (3) years after the expiration of the Grant period or date of last payment, whichever occurs first.

- B. Documentation of Personnel Expenses.** Charges to Federal awards for salaries and wages must be based on records that accurately reflect the work performed and meet the standards required in 2 C.F.R. Part 200.430(i). The records must support the distribution of employee's salaries and wages among specific activities or cost objectives if the employee works on more than one Federal award; a Federal award and non-Federal award; an indirect cost activity and a direct cost activity; two or more indirect activities which are allocated using different allocation bases; or an unallowable activity and a direct or indirect cost activity. Budget estimates (*i.e.*, estimates determined before the services are performed) alone do not qualify as support for charges to this Grant award. Records must reasonably reflect the total activity for which employees are compensated. Adequate documentation includes timesheets/timecards, payroll activity reports, and payroll rosters.

- C. Standards for Financial Management Systems.** Subrecipient shall maintain and operate financial management systems that meet or exceed the federal requirements for funds control and accountability as established by the applicable regulations in 2 CFR 200, Subpart D.

## EXHIBIT D – TREASURY FINAL RULE PROGRAMMATIC REPORTING REQUIREMENTS

The following represents Subrecipient eligible activity category and the programmatic report requirements under the Treasury Final Rule. This information should be used to prepare the Final Report discussed in [Section J.2](#).



U.S. DEPARTMENT OF THE TREASURY

### Responding to Public Health and Economic Impacts of COVID-19

The Coronavirus State and Local Fiscal Recovery Funds provide resources for governments to meet the public health and economic needs of those impacted by the pandemic in their communities, as well as address longstanding health and economic disparities, which amplified the impact of the pandemic in disproportionately impacted communities, resulting in more severe pandemic impacts.

The eligible use category to respond to public health and negative economic impacts is organized around the types of assistance a recipient may provide and includes several sub-categories:

- public health,
- assistance to households,
- assistance to small businesses,
- assistance to nonprofits,
- aid to impacted industries, and
- public sector capacity.

In general, to identify eligible uses of funds in this category, recipients should (1) identify a COVID-19 public health or economic impact on an individual or class (i.e., a group) and (2) design a program that responds to that impact. Responses should be related and reasonably proportional to the harm identified and reasonably designed to benefit those impacted.

To provide simple, clear eligible uses of funds that meet this standard, Treasury provides a non-exhaustive list of enumerated uses that respond to pandemic impacts. Treasury also presumes that some populations experienced pandemic impacts and are eligible for responsive services. In other words, recipients providing enumerated uses of funds to populations presumed eligible are clearly operating consistently with the final rule.<sup>1</sup>

Recipients also have broad flexibility to (1) identify and respond to other pandemic impacts and (2) serve other populations that experienced pandemic impacts, beyond the enumerated uses and presumed eligible populations. Recipients can also identify groups or "classes" of beneficiaries that experienced pandemic impacts and provide services to those classes.

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<sup>1</sup> However, please note that use of funds for enumerated uses may not be grossly disproportionate to the harm. Further, recipients should consult the Capital Expenditures section for more information about pursuing a capital expenditure; please note that enumerated capital expenditures are not presumed to be reasonably proportional responses to an identified harm except as provided in the Capital Expenditures section.

*Coronavirus State & Local Fiscal Recovery Funds: Overview of the Final Rule*

*U.S. Department of the Treasury*





| Step                            | 1. Identify COVID-19 public health or economic impact                                                                                                                                                                                                                                                          | 2. Design a response that addresses or responds to the impact                                                                                                                                                                                                                                        |
|---------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Analysis</b>                 | <ul style="list-style-type: none"> <li>Can identify impact to a specific household, business or nonprofit or to a class of households, businesses, or nonprofits (i.e., group)</li> <li>Can also identify disproportionate impacts, or more severe impacts, to a specific beneficiary or to a class</li> </ul> | <ul style="list-style-type: none"> <li>Types of responses can include a program, service, or capital expenditure</li> <li>Response should be related and reasonably proportional to the harm</li> <li>Response should also be reasonably designed to benefit impacted individual or class</li> </ul> |
| <b>Simplifying Presumptions</b> | <ul style="list-style-type: none"> <li>Final Rule presumes certain populations and classes are impacted and disproportionately impacted</li> </ul>                                                                                                                                                             | <ul style="list-style-type: none"> <li>Final Rule provides non-exhaustive list of enumerated eligible uses that respond to pandemic impacts and disproportionate impacts</li> </ul>                                                                                                                  |

To assess eligibility of uses of funds, recipients should first determine the sub-category where their use of funds may fit (e.g., public health, assistance to households, assistance to small businesses), based on the entity that experienced the health or economic impact.<sup>2</sup> Then, recipients should refer to the relevant section for more details on each sub-category.

While the same overall eligibility standard applies to all uses of funds to respond to the public health and negative economic impacts of the pandemic, each sub-category has specific nuances on its application. In addition:

- Recipients interested in using funds for capital expenditures (i.e., investments in property, facilities, or equipment) should review the Capital Expenditures section in addition to the eligible use sub-category.
- Recipients interested in other uses of funds, beyond the enumerated uses, should refer to the section on “Framework for Eligible Uses Beyond Those Enumerated.”

<sup>2</sup> For example, a recipient interested in providing aid to unemployed individuals is addressing a negative economic impact experienced by a household and should refer to the section on assistance to households. Recipients should also be aware of the difference between “beneficiaries” and “sub-recipients.” Beneficiaries are households, small businesses, or nonprofits that can receive assistance based on impacts of the pandemic that they experienced. On the other hand, sub-recipients are organizations that carry out eligible uses on behalf of a government, often through grants or contracts. Sub-recipients do not need to have experienced a negative economic impact of the pandemic; rather, they are providing services to beneficiaries that experienced an impact.

Open Door of Marathon County  
2 Year Day Services  
Proposal  
02/16/2023

|                                    |    | 2022 income  |                                    |    | 2023 full year | 2024 full year | 2023 ten months | Comments                                                 |
|------------------------------------|----|--------------|------------------------------------|----|----------------|----------------|-----------------|----------------------------------------------------------|
| Revenues                           |    |              |                                    |    |                |                |                 |                                                          |
| Donations - In-Kind                | \$ | 94,000.00    | Donations - In-Kind                | \$ | 100,000.00     | \$ 100,000.00  |                 | includes one time absorption from CC                     |
| United Way                         |    |              | United Way                         |    |                |                |                 |                                                          |
| Gov't Grants/Contracts             | \$ | 6,000.00     | Gov't Grants/Contracts             | \$ | 6,000.00       | \$ 6,000.00    |                 |                                                          |
| Donations (General Funds Revenues) | \$ | 57,910.74    | Donations (General Funds Revenues) | \$ | 63,701.00      | \$ 70,071.00   |                 | Increased General funds revenues by 10% each year        |
| Special Events                     |    |              | Special Events                     | \$ | 1,100.00       | \$ 1,100.00    |                 | Increased by \$1100 from original proposal               |
| Foundation                         | \$ | 600.00       | Foundation Endowments              | \$ | 1,500.00       | \$ 1,500.00    |                 | Increased by \$1500 from original proposal               |
| Total Revenues (cash)              |    | \$ 64,510.74 | Total Revenues (cash)              |    | \$ 72,301.00   | \$ 78,671.00   | \$ 60,250.84    |                                                          |
| Payroll Expenses                   |    |              |                                    |    | Expenses       | Expenses       |                 |                                                          |
| Salaries                           | \$ | 35,000.00    | Salaries ( see below)              | \$ | 119,250.00     | \$ 119,250.00  |                 | increase of \$84,250.00 (unchanged)                      |
| Seasonal Salaries                  | \$ | -            | Seasonal Salaries                  | \$ | -              | \$ -           |                 |                                                          |
| Workers Comp                       | \$ | 335.00       | Workers Comp                       | \$ | 335.00         | \$ 335.00      |                 |                                                          |
| Life, STD, LTD                     |    | n/a          | Life, STD, LTD                     |    | n/a            | n/a            |                 |                                                          |
| Dental                             |    | n/a          | Dental                             |    | n/a            | n/a            |                 |                                                          |
| Health                             |    | n/a          | Health                             |    | n/a            | n/a            |                 |                                                          |
| IRA 401K/Roth                      |    | n/a          | IRA 401K/Roth                      |    | n/a            | n/a            |                 |                                                          |
| FICA/Medicare                      | \$ | 9,443.88     | FICA/Medicare                      | \$ | 31,063.88      | \$ 31,063.88   |                 | increase of \$21,620.00 (unchanged from original budget) |
| Unemployment Comp                  |    |              | Unemployment Comp                  |    |                |                |                 |                                                          |
| Cafeteria Plan Fees                |    |              | Cafeteria Plan Fees                |    |                |                |                 |                                                          |
| Personnel Subtotal                 | \$ | 35,000.00    | Personnel Subtotal                 | \$ | 119,250.00     | \$ 119,250.00  | \$ 99,375.00    | increase of \$84,250.00 Unchanged from original budget   |
| Total Personnel                    | \$ | 44,778.88    | Total Personnel                    | \$ | 150,648.88     | \$ 150,648.88  | \$ 125,540.73   | unchanged from original budget                           |



Open Door of Marathon County  
2 Year Day Services  
Proposal  
02/16/2023

| 2022 income                      |    | 2023 full year                                        |                                  | 2024 full year | 2023 ten months                        | Comments |           |                                                             |           |
|----------------------------------|----|-------------------------------------------------------|----------------------------------|----------------|----------------------------------------|----------|-----------|-------------------------------------------------------------|-----------|
|                                  |    |                                                       |                                  |                |                                        |          |           |                                                             |           |
|                                  |    | ONE TIME BUILDOUT                                     |                                  |                |                                        |          |           |                                                             |           |
|                                  |    | Opportunity Center                                    |                                  |                |                                        |          |           |                                                             |           |
|                                  |    | Phones, wi-fi Booster                                 | \$                               | 1,000.00       |                                        |          |           |                                                             |           |
|                                  |    | Security Cameras                                      | \$                               | 400.00         |                                        |          |           |                                                             |           |
|                                  |    | Supplies for Tote Room                                | \$                               | 1,000.00       |                                        |          |           |                                                             |           |
|                                  |    | Four Modular Work Stations                            | \$                               | 2,700.00       | \$                                     | 2,000.00 |           |                                                             |           |
|                                  |    | Dining Room/Kitchen Furnishings                       | \$                               | 1,300.00       | shifted one time expense into year two |          |           |                                                             |           |
|                                  |    | Computer Hardware/Software                            | \$                               | 750.00         |                                        |          |           |                                                             |           |
|                                  |    | Misc Expenses                                         | \$                               | 750.00         |                                        |          |           |                                                             |           |
|                                  |    | Total one time expenses 2023                          | \$                               | 7,900.00       | \$                                     | 6,583.33 |           |                                                             |           |
|                                  |    | one time expenses repropotioned over two years \$9900 |                                  |                |                                        |          |           |                                                             |           |
| Auditing Fees/accounting         | \$ | 49.99                                                 | Accounting services Contracted   | \$             | 10,000.00                              | \$       | 10,000.00 | (Increased by \$7500.00 from origial budget                 |           |
| Office Supplies                  | \$ | 342.49                                                | Office Supplies                  | \$             | 342.49                                 | \$       | 342.49    | based on bid accepted by City from Spencer LLC)             |           |
| Computer Accessories             |    |                                                       | Computer Accessories             | \$             | 2,500.00                               | \$       | 2,500.00  |                                                             |           |
| Telephone-Local/internet         | \$ | 2,305.52                                              | Telephone-Local/internet         | \$             | 3,061.52                               | \$       | 3,061.52  | increase of \$756.00                                        |           |
| extended Internet                |    |                                                       | extended Internet                |                |                                        |          |           |                                                             |           |
|                                  |    |                                                       |                                  | \$             | 720.00                                 | \$       | 720.00    | increase of \$720.00                                        |           |
| Security Cameras                 | \$ | 1,491.03                                              | Security Cameras                 | \$             | 1,278.48                               | \$       | 1,278.48  |                                                             |           |
| ISP/Online                       |    |                                                       | ISP/Online                       |                |                                        |          |           |                                                             |           |
| Building Rent/[parking utilities | \$ | 8,089.00                                              | Building Rent/[parking utilities | \$             | 24,000.00                              | \$       | 24,000.00 |                                                             |           |
| Facility Maintenance             | \$ | 1,322.50                                              | Facility Maintenance             | \$             | 1,322.50                               | \$       | 1,322.50  |                                                             |           |
| Bank Service Fees                | \$ | 280.00                                                | Bank Service Fees                | \$             | 280.00                                 | \$       | 280.00    |                                                             |           |
| Heat/Utilities (included)        |    |                                                       | Heat/Utilities (included)        |                |                                        |          |           |                                                             |           |
| Other types of Expenses          | \$ | 199.80                                                | other types of Expenses          | \$             | 199.80                                 | \$       | 199.80    |                                                             |           |
| Maintenance Supplies             |    |                                                       | Maintenance Supplies             |                |                                        |          |           |                                                             |           |
| Depreciation                     |    |                                                       | Depreciation                     |                |                                        |          |           |                                                             |           |
| D&O&EPI Insurance                |    |                                                       | D&O&EPI Insurance                |                |                                        |          |           |                                                             |           |
| Liability Insurance              |    |                                                       | Liability Insurance              | \$             | 905.00                                 | \$       | 905.00    | increased by \$570.00                                       |           |
| Admin Indirect Allocation        | \$ | 337.75                                                | Admin Indirect Allocation        | \$             | 337.75                                 | \$       | 337.75    |                                                             |           |
|                                  |    |                                                       | Admin Indirect Allocation CC     |                |                                        |          |           | Increase of \$50,000 Catholic Charities Administrative Fees |           |
|                                  |    |                                                       | Second Year one time expenses    |                | \$                                     | 2,000.00 |           | one time expenses repropotioned over two years \$9900       |           |
| Total Indirect                   | \$ | 14,418.08                                             | Total Indirect                   | \$             | 44,947.54                              | \$       | 46,947.54 | \$                                                          | 37,456.28 |

Open Door of Marathon County  
2 Year Day Services  
Proposal  
02/16/2023

| 2022 income               |                      | 2023 full year            |                        | 2024 full year         | 2023 ten months        | Comments                                                                              |
|---------------------------|----------------------|---------------------------|------------------------|------------------------|------------------------|---------------------------------------------------------------------------------------|
| HMIS Fees                 | \$ 600.00            | HMIS Fees                 | \$ 600.00              | \$ 600.00              |                        |                                                                                       |
| staff training            | \$ 200.00            | staff training            | \$ 200.00              | \$ 200.00              |                        |                                                                                       |
| volunteer appreciation    | \$ 60.00             | volunteer appreciation    | \$ 60.00               | \$ 60.00               |                        |                                                                                       |
| Contract Services         | \$ 111.23            | Contract Services         | \$ 111.23              | \$ 111.23              |                        |                                                                                       |
| Computer Software         |                      | Computer Software         |                        |                        |                        |                                                                                       |
| Cellular Phone            |                      | Cellular Phone            |                        |                        |                        |                                                                                       |
| Printing, copier expenses | \$ 554.55            | Printing, copier expenses | \$ 554.55              | \$ 554.55              |                        |                                                                                       |
| Service Fees              |                      | Service Fees              |                        |                        |                        |                                                                                       |
| Program Postage           | \$ 200.00            | Program Postage           | \$ 200.00              | \$ 200.00              |                        |                                                                                       |
| Program Materials         |                      | Program Materials         | \$ 1,200.00            | \$ 1,200.00            |                        |                                                                                       |
| Host Meetings             |                      | Host Meetings             |                        |                        |                        |                                                                                       |
| Travel & Lodging          | \$ 270.00            | Travel & Lodging          | \$ 270.00              | \$ 270.00              |                        |                                                                                       |
| dues/ subscriptions       |                      | dues/ subscriptions       |                        |                        |                        |                                                                                       |
| Honorariums               | \$ 5,600.31          | Honorariums               | \$ -                   | \$ -                   |                        | CM Honoraiums eliminated these 2 years                                                |
| Advertising-Emp           | \$ 1,980.25          | Advertising-Emp           | \$ 1,980.25            | \$ 1,980.25            |                        |                                                                                       |
| Miscellaneous expense     |                      | Miscellaneous expense     | \$ 750.00              | \$ 750.00              |                        |                                                                                       |
| <b>Total Direct</b>       | <b>\$ 9,576.34</b>   | <b>Total Direct</b>       | <b>\$ 5,926.03</b>     | <b>\$ 5,926.03</b>     | <b>\$ 4,938.36</b>     |                                                                                       |
| <b>TOTAL EXPENSES</b>     | <b>\$ 68,773.30</b>  | <b>TOTAL EXPENSES</b>     | <b>\$ 234,422.45</b>   | <b>\$ 228,522.45</b>   | <b>\$ 195,352.04</b>   |                                                                                       |
| <b>Net Income (Loss)</b>  | <b>\$ (4,262.56)</b> | <b>Net Income (Loss)</b>  | <b>\$ (137,121.45)</b> | <b>\$ (124,851.45)</b> | <b>(\$135,101.20)</b>  | <b>\$311,972.90 (this is \$45,224.56 over budget using a 12 month 2023)</b>           |
|                           |                      |                           | <b>(\$137,121.00)</b>  | <b>(\$124,851.45)</b>  | <b>\$ (114,267.86)</b> | <b>\$ 261,972.45 ( this is \$4775.89 below budget using a 12 month 2023</b>           |
|                           |                      |                           |                        |                        |                        | <b>**** since the amount of money alloocated for 2023 remains intact If Open Door</b> |
|                           |                      |                           |                        |                        |                        | <b>adjusts 2023 to a 10 month buget this decreases deficit by \$27,020 suggestion</b> |
|                           |                      |                           |                        |                        |                        | <b>to use these funds to pay Catholic Charities first year Administrative Fees.</b>   |
| Payroll Ncrease of        |                      |                           |                        |                        |                        |                                                                                       |
|                           |                      |                           |                        |                        |                        | <b>Payroll Increase of \$84,250. per year:</b>                                        |
|                           |                      |                           |                        |                        |                        | Program Director: \$30,000 (full time)                                                |
|                           |                      |                           |                        |                        |                        | Office Administrator/ program staff \$18,000 (partime)                                |



Open Door of Marathon County  
2 Year Day Services  
Proposal  
02/16/2023

| 2022 income | 2023 full year | 2024 full year | 2023 ten months | Comments                                      |                      |
|-------------|----------------|----------------|-----------------|-----------------------------------------------|----------------------|
|             |                |                |                 | Volunteer coordinator/ office admin           | \$12,000 (part time) |
|             |                |                |                 | 31 hours/ week of parttime staff @ 15.25/hour | \$24,250 ( 3 people) |

## Open Door Day Center

[illegible]



**CITY OF WAUSAU**  
**AMERICAN RESCUE PLAN - SLFRF APPLICATION**  
**Public Health c Impacts of COVID 19**  
**SPENDING ON RESPONDING TO NEGATIVE ECONOMIC IMPACT**

While the pandemic impacted millions of American households and businesses it caused disproportionate impacts or more severe impacts to certain communities and populations. These severe and disproportionate households, communities, small businesses and nonprofits are presumed eligible for services that respond to the impact they experience.



|                         |                                                                              |               |            |
|-------------------------|------------------------------------------------------------------------------|---------------|------------|
| Project Title           | Catholic Charities Warming Center Year Round Expansion and Open Door Support |               |            |
| Department              | Police Department                                                            | Contact Name: | Ben Bliven |
| Priority 1-6 (low-high) | 5 - Urgent                                                                   |               |            |

6=Emergency, 5=Urgent, 4=High Priority, 3 Medium Priority, 2 Low Priority, 1 No Priority

**Program Administration (Check all that apply)**

|                          |                         |                                     |                                              |
|--------------------------|-------------------------|-------------------------------------|----------------------------------------------|
| <input type="checkbox"/> | Internal Administration | <input checked="" type="checkbox"/> | Subrecipient (Identify) - Catholic Charities |
|--------------------------|-------------------------|-------------------------------------|----------------------------------------------|

**Impacted Households Small Business, Nonprofit and Impacted Industries (Check all that Apply)**

|                                     |                                                 |                          |                                         |
|-------------------------------------|-------------------------------------------------|--------------------------|-----------------------------------------|
| <input checked="" type="checkbox"/> | Assistance to Low or Moderate income households | <input type="checkbox"/> | Assistance to Small Business (describe) |
| <input checked="" type="checkbox"/> | Assistance in a Qualified Census Tract          | <input type="checkbox"/> | Aid to Impacted Industries (Describe)   |
| <input checked="" type="checkbox"/> | Assistance to Nonprofits (Describe)             |                          |                                         |

**PROGRAM DESCRIPTION**  
**attach additional information if needed**

Community leaders have been in discussions regarding the ongoing crisis of homelessness in the Wausau community. One of the items regularly discussed is the gap in housing / shelter that exists in the Wausau community for homeless individuals from May 1 - October 31 annually when the Catholic Charities Warming Center is closed for business. Both Eau Claire and Lacrosse have year round warming centers for homeless individuals. City leaders have approached Catholic Charities to gauge their interest and ability to open the Warming Center on a year-round basis. Leadership of Catholic Charities has indicated their willingness and interest in opening that shelter on a year-round basis, however they have a revenue shortfall of \$270,000 annually to run a year-round shelter. This ARPA request would cover the gap in funding for 2023 and 2024 for Catholic Charities to operate a 12 month overnight Warming Center. In addition, Catholic Charities has agreed to provide administrative oversight and support to The Open Door as they expand to operate a Day Center. This is a cost of \$25,000 per year. The total Catholic Charities ARPA request is \$590,000.

**PROGRAM ADMINISTRATION**

**Describe how the proposed program will be administered, the recipient eligibility requirements and the outreach plan**

I have attached to this document a memo from the Catholic Charities Diocese of Lacrosse that outlines the program and budget.

**OTHER AVAILABLE FUNDING SOURCES FOR THE PROGRAM (check all that apply)**

**RESOLUTION OF THE PUBLIC HEALTH & SAFETY COMMITTEE**

Supporting Reduction of Greenhouse Gas Emissions and Energy Security.

Committee Action: Approved 5-0

Fiscal Impact: Undetermined

**File Number:** 23-0308

**Date Introduced:** March 14, 2023

**WHEREAS**, the city's Sustainability, Energy and Environment Committee (SEEC) was created to act as an advisory body to the Common Council in the development of policies, programs, and decisions that affect the relationship between the City and the environment; and

**WHEREAS**, the city of Wausau desires to be among the communities leading on critical environmental and societal issues, having approved a Resolution in support of environmental justice; and

**WHEREAS**, the city of Wausau has embraced Energy Independence, evidenced by the passing of an energy independence resolution in 2008; and

**WHEREAS**, the City declared itself an eco-municipality in 2009, and among the guidelines for sustainable practices are reducing dependence upon fossil fuels and reducing dependence upon harmful chemicals and other manufactured substances that can accumulate in nature; and

**WHEREAS**, the Wisconsin Initiative on Climate Change Impacts (WICCI) shows continued warming, increases in rain and snow, and more frequent extreme rainfall events; and,

**WHEREAS**, in 2020, the city of Wausau joined other communities in leading a healthier future as a Green Tier Legacy Community through the Wisconsin Department of Natural Resources; and,

**WHEREAS**, the Green Tier Legacy Community scorecard encourages member communities to commit to achieving a science-based, community-wide Green House Gas reduction goal, and

**WHEREAS**, The Federal legislation known the Bipartisan Infrastructure Law and the Inflation Reduction Act, have created historic opportunities for communities and individuals to transition to renewable energy sources and reduce their greenhouse gas emissions, and



**WHEREAS**, Future availability and price of fossil fuels for energy production may be volatile due to circumstances beyond the control of the City of Wausau.

**NOW THEREFORE, BE IT RESOLVED**, the city commits to...

- Determine the level of energy use and greenhouse gas emissions in City government operations
- Develop a municipal energy plan with the goal of moving City government operations to a more secure, and 100% clean energy by 2050
- Provide resources and information to residents and businesses to support them in the transition to a cleaner energy future.
- Create cost savings through efficiency upgrades and clean energy technologies that will reduce the burden of City government operations on the tax levy.

Approved:

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Katie Rosenberg, Mayor

## **PUBLIC HEALTH & SAFETY COMMITTEE**

Date and Time: Monday, February 20, 2023, at 5:15 pm, (Council Chambers)

Members Present: Lisa Rasmussen, Chad Henke, Doug Diny, Lou Larson, Becky McElhaney

Others Present: Tara Alfonso, Ben Bliven, Jeremy Kopp, Tracy Rieger, Kaitlyn Bernarde, Mary Goede, Andrew Lynch, Brad Lenz, Katie Rosenberg

### **Discussion and possible action on Resolution Supporting Reduction of Greenhouse Gas Emissions and Energy Security.**

Andy Lynch stated he would like to make one amendment to the staff memo to include that the Strategic Plan, under Innovative Public Services Objective 4: Invest in solutions to ensure environmental sustainability for generations to come; and the Performance Measure: Identifies sustainability goals and develop a plan to achieve them.

Lynch stated the Sustainability, Energy, & Environment Committee (SEEC) has been working on this resolution for some time and it asks us to set a long-term goal of 100% clean energy for municipal operations by 2050. This is a goal that is in line with the Department of Energy and various other national and international groups. Also, to direct and support staff and the committee to create the plan and determine the current city energy use and what part of that is greenhouse gas emissions; then use that information to determine what steps to take to start to lower and/or remove it. Through that process we want to be an example for other communities, residents, and businesses in the city on how to do that and provide some type of support and guidance. He provided an example of where the city changed the lights in the parking garages to LED lights which resulted in savings. This is a good example of how to incorporate efficiency upgrades and new technologies to either reduce the burden on the tax levy or invest in other upgrades and changes. Rasmussen added that the Water Utility is looking into a solar field and has a task force working on it.

Rasmussen pointed out this resolution from a policy standpoint is only relevant to municipal government operations. We don't have the power or authority to dictate to private enterprises what they do or to individuals how they operate their homes. She felt our goal is to become a little less dependent on things that damage the environment.

Doug Diny questioned what resources the city would provide to residents and businesses. Lynch stated it would be informational resources and direction to programs and/or grants to apply for to get funds.

Rasmussen questioned if grant and funding opportunities may open up for the city as part of Bipartisan Infrastructure Act if we were to pass such a resolution and formulate such a plan. Lynch responded funding opportunities may be easier to obtain and there is one grant in particular that gave an option to submit an already created plan or complete a worksheet to show what the community has done.

*Public comment was given in support of the resolution.*

Diny questioned if there was a deadline set to determine the level of energy use and greenhouse gases used in the city government and who would be directed to do it and pay for it. Lynch stated they did not have a definite timeline yet but think there is some staff time to use to gather the information and narrow it down. The WLGCC is working on providing some software and other technical assistance to help model and track it. There is also a grant from the Department of Energy called Energy Efficiency and Conservation Block Grant which as a time and staff saving measure they are offering as a voucher to use for technical assistance from the EPA.

Motion by Larson, second by McElhaney to approve the resolution. Motion carried 5-0.





## **Memorandum**

From: Andrew Lynch  
To: Public Health and Safety Committee  
Date: February 14, 2022  
Subject: Resolution Supporting Reduction of Greenhouse Gas Emissions and Energy Security

The Sustainability, Energy and Environment Committee (SEEC) has developed a Greenhouse Gas Resolution for consideration by the City Council. This resolution was mentioned when committee chair John Kroll presented to the Council in October of 2022. This is also in line with previous actions related to sustainability or energy independence taken by the City as detailed in the resolution.

The committee is seeking Council support to develop a plan that would determine the current level of energy use and greenhouse gas emissions in municipal operations. Then, using that information, a plan would be developed to move City government operations to 100% clean energy by 2050. This goal is in line with the Department of Energy and other governmental agencies. The committee discussed a more aggressive goal but felt the absence of information on current operations could make that problematic.

Moving to a greenhouse gas free future would be done with an eye on reducing the burden of City government operations on the tax levy. The committee and staff will pursue all available sources of outside funding to leverage resources, however there may be a local share or reimbursed project cost in the future. The current resolution is not a budgetary commitment or request.

## MINUTES

FEBRUARY 2, 2023

**Members Present:** John Kroll, Carol Lukens, Jay Coldwell, Mary Kluz, Ashley Lange

**Others Present:** Brad Lenz, Andrew Lynch

In compliance with Chapter 19, Wisconsin Statutes, notice of this meeting was posted and transmitted to the Wausau Daily Herald in the proper manner.

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**1. Welcome and Introductions**

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**2. Public Comment**

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Public comment was received from Joel Lewis 807 Turner St Wausau via email.

**3. Approve minutes of December 01, 2022 meeting**

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Coldwell/Lukens made a motion/second to approve the minutes of December 1, 2022. The motion carried unanimously.

**4. Update on Wisconsin Local Government Climate Coalition (WLGCC) membership**

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Lynch shared that the City was now a member of the WLGCC and listed as such on their website. While there had been some questions at the Public Health and Safety Committee and City Council about the nature of the group, staff was able to provide adequate answers and it passed City Council unanimously. On the third of February, Lenz and Lynch have an onboarding call with WLGCC and hope to get a better idea of what kind of technical assistance will be available and when.

**5. Discussion: Nomination for Sustainability Award**

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The nomination form was updated for 2023 and posted to the website. Kroll discussed nominating the Good News Project and Lange offered to contact them and assist with the application. The group discussed taking the deadline off the application and just fielding nominations year-round. Lynch will send out a link to members for the form on the website.

**6. Discussion: Energy Efficiency and Conservation Block Grant (EECBG) timeline and allowable activities**

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This item was moved up in the order by Chair Kroll. Lenz and Lynch discussed the grant options. Dept of Energy has set up a voucher system for smaller communities like Wausau that will require less paperwork and oversight. This voucher will allow communities to receive technical assistance or purchase particular items. Staff will return at subsequent meetings with more information as it is posted by the Dept of Energy.



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**7. Discussion and Possible Action: Greenhouse Gas Resolution**

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Lynch stated that after compiling the draft from the discussion at the last meeting there were some changes to the wording of the 'Be It Resolved' section that he wanted the committee to look at it again. In particular, the goal of 100% clean energy profile by 2050. Until the City can learn what their baseline energy use is currently, it is difficult to assign a more ambitious goal. However, it is felt that this goal in the resolution is very wide and given the time, likely attainable. Coldwell suggested pursuing a more ambitious goal of 40% by 2030 which would be in line with Federal standards. Lynch noted that the goal may eventually be adopted as that but as of now he would be unable to say how the City could attain 40% by 2030. Kluz also noted that greenhouse gases were not explicitly called out in this section. She suggested amending the first bullet point to read "...and greenhouse gas emissions in City government....". Kroll suggested removing the word 'profile' from the second bullet point. This would make the goal more ambitious in that it would incorporate all of the City energy use and not just the profile of energy from the power utility. These two edits were agreed upon by the committee.

***Motion by Kluz. Second by Lange. Approve of the Greenhouse Gas Resolution with discussed edits and send to the Public Health and Safety Committee.***  
***Approved unanimously.***

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**8. Discussion: Food Systems Resilience and the Municipal Role**

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Kluz started the discussion by noting her work with farmers and how the pandemic stressed the food systems in this country. She and other committee members have an interest on this topic. Kluz found a document published by Johns Hopkins that defined and explored food systems resilience and how to support it. Coldwell noted that it could be tied into the Environmental Justice resolution and work at the local and state level. Kroll noted this was the beginning of the discussion and there are some local resources we can bring in to educate the committee. Lynch will reach out to the Marathon County Health Department to see if anyone on staff is still working on this issue. Kluz will reach out to someone at USDA for more information.

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**9. Next meeting date:**

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March 2 at 5pm

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**10. Adjourn**

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Motion/Second by Kluz/Coldwell. Motion passed unanimously. Meeting adjourned at 7pm.

**RESOLUTION OF THE COMMON COUNCIL**

Designating April 29, 2023 as World Migratory Bird Day

Committee Action: *Pending*

Fiscal Impact: None

File Number: 11-0505

Date Introduced: March 14, 2023

**WHEREAS**, let it be recognized that migratory birds are one of the most easily observed wildlife species. Their beauty and song have many rejoicing when spring arrives and they return to our area; and

**WHEREAS**, the focus of World Migratory Bird Day (WMBD) 2023 is on **WATER** and its importance to migratory birds. Here in Wausau, Wisconsin we are blessed with the Wisconsin River and many other rivers, lakes and wetlands. Inland and coastal wetlands, rivers, lakes, streams, marshes, and ponds are all vital for birds feeding, drinking, or nesting, and also as places to rest and refuel during our bird's long journey back to Wausau; and

**WHEREAS**, we need to protect our local water resources and those along the bird's migration route from pollution, high demand and the effects of climate change. We don't want to lose or degrade our great water asset here in our community and vital for our birds; and

**WHEREAS**, WMBD also pays attention to the economic role that migratory birds play. Birds control both rodent and insect pests. Birds disperse seeds which helps with reforestation and spreading native plant species. Another economic benefit from protecting birds and their habitats is the money generated from bird watching activities which is in the millions of dollars; and

**WHEREAS**, migratory birds face numerous threats to their survival both here and on their wintering grounds and during their long migration journeys. By celebrating WMBD the public is made aware of these threats and can become involved in bird conservation efforts locally and globally; and

**WHEREAS**, since 1993 WMBD has been recognized by people at celebrations throughout the Americas. At these celebrations the public is involved and educated on ways to not only to appreciate birds for their beauty but to take action on preserving and protecting **WATER!**

**NOW THEREFORE, BE IT RESOLVED**, that the Common Council of the City of Wausau, Wisconsin, does hereby proclaim **SATURDAY APRIL 29, 2023** as **WORLD MIGRATORY BIRD DAY** in the City of Wausau, and urges all citizens to celebrate this observance being held at Monk Botanical Gardens and to support efforts to protect water and conserve migratory birds and their habitats here and around the world at large.



*Dated* this \_\_\_\_\_ day of \_\_\_\_\_ in the year \_\_\_\_\_

Approved:

\_\_\_\_\_  
Katie Rosenberg, Mayor

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

**RESOLUTION OF THE COMMON COUNCIL**

Approving City's Waiver of First Right of Refusal to Repurchase Property at 400 N. 72<sup>nd</sup> Avenue (Polywood Properties, LLC) and consent to lease property from Tempus Wausau, LLC to Polywood Fabrication, Inc.

Committee Action: *Pending*

Fiscal Impact: *None*

**File Number:** 07-0919

**Date Introduced:** March 14, 2023

**FISCAL IMPACT SUMMARY**

|               |                                                                                                                                                                                                 |                                                                     |                                        |
|---------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------|----------------------------------------|
| <b>COSTS</b>  | <i>Budget Neutral</i>                                                                                                                                                                           | Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> |                                        |
|               | <i>Included in Budget:</i>                                                                                                                                                                      | Yes <input type="checkbox"/> No <input type="checkbox"/>            | <i>Budget Source:</i>                  |
|               | <i>One-time Costs:</i>                                                                                                                                                                          | Yes <input type="checkbox"/> No <input type="checkbox"/>            | <i>Amount:</i>                         |
|               | <i>Recurring Costs:</i>                                                                                                                                                                         | Yes <input type="checkbox"/> No <input type="checkbox"/>            | <i>Amount:</i>                         |
| <b>SOURCE</b> | <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**, Polywood Properties, LLC ("Polywood") has received an offer to purchase the property at 400 N. 72<sup>nd</sup> Avenue in the Wausau West Industrial Park from Tempus Wausau, LLC for \$7,000,000.00; and

**WHEREAS**, pursuant to recorded deed restrictions on the property, Polywood seeks the City's consent to transfer the property and waiver of its right to exercise its option to repurchase the property as set forth in the offer, on the same terms and conditions specified in the offer; and

**WHEREAS**, the City continues to have no said interest in repurchasing the named property; and

**WHEREAS**, also pursuant to the recorded deed restrictions, Polywood is seeking the City's consent to the lease of the property by Tempus Wausau, LLC to Polywood Fabrication, Inc.

**NOW, THEREFORE, BE IT RESOLVED** by the Common Council of the City of Wausau that the City hereby consents to the transfer of the property to Tempus Wausau, LLC or its assigns and waives its right to repurchase the property at 400 N. 72<sup>nd</sup> Avenue on the same terms and conditions contained in the present offer.

**BE IT FURTHER RESOLVED** the Common Council of the City of Wausau hereby consents to the lease of the property at 400 N. 72<sup>nd</sup> Avenue from Tempus Wausau, LLC to Polywood Fabrication, Inc.



**BE IT FURTHER RESOLVED** by the Common Council of the City of Wausau that the Mayor and Clerk are hereby authorized to execute an appropriate Waiver of First Right of Refusal to Repurchase Property and execute all documents reasonably necessary to consummate the transaction contemplated by the accepted Offer.

Approved:

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Katie Rosenberg, Mayor



Anne L. Jacobson  
City Attorney, City of Wausau  
407 Grant Street  
Wausau, WI 54403

Re: Request for waiver/consent – Polywood Properties LLC/Polywood Fabrication, Inc.

Dear Ms. Jacobson,

First, thank you for your assistance in this matter. I appreciate you and your legal assistant, Lisa, helping us through this process.

This letter is written to request a waiver and consent from the City of Wausau related to the sale of the property located at 400 N. 72<sup>nd</sup> Avenue, Wausau, WI (the “Property”). The Property is owned by Polywood Properties LLC, successor to Polywood Fabrication, Inc. (“PolyFab”). PolyFab has been operating in the building since it was constructed shortly after we acquired the land. PolyFab is a privately owned S corporation that employs approximately 80 people and fabricates interior shutters (window coverings). Those shutters are sold through all Sunburst Shutters retail stores throughout the United States, as well as approximately 40 independent window covering retailers.

This transaction includes (1) sale of the property from Polywood Properties LLC to Tempus Wausau, LLC; and (2) a long term (15 year) lease of the Property from Tempus Wausau, LLC to PolyFab.

This letter requests the following:

1. Acknowledgement that construction began within one year of the original conveyance (Deed Restriction No. 1).
2. A waiver of the City’s right of first refusal as well as the 90 day time period for considering the request (Deed Restriction No. 2).
3. Consent to the lease by the proposed purchaser (Tempus Wausau, LLC) to Polywood Fabrication, Inc. (the entity that has occupied the Property since 2007).

Tempus Wausau, LLC is an Arkansas limited liability company that is also authorized to do business in the State of Wisconsin. I am attaching a copy of the Wisconsin Certificate of Authority, demonstrating that Tempus Wausau, LLC is a privately held entity that is



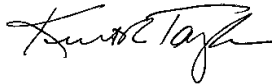
February 23, 2023

Page 2

not exempt from paying property taxes. If you need further information or documentation on that issue, please let me know.

As you requested, I am enclosing a copy of the purchase agreement for your reference. If you need any other information or documentation, please let me know.

Sincerely,

A handwritten signature in black ink, appearing to read "Kurt Taylor". The signature is fluid and cursive, with the first name "Kurt" and last name "Taylor" clearly distinguishable.

Kurt Taylor  
COO

**WAIVER OF FIRST RIGHT OF REFUSAL TO  
REPURCHASE PROPERTY**

Document Number

Document Title

The undersigned hereby waives its first right of refusal to purchase the Property located at 400 N. 72<sup>nd</sup> Avenue, Wausau, Marathon County, Wisconsin, as set forth in the Deed Restrictions recorded as "Exhibit A" in that certain Warranty Deed dated November 5, 2007, recorded November 6, 2007, with the Marathon County Register of Deeds as Document N. 1494358 for the property described below (the "Property").

Recording Area

Name and Return Address:

Kurt Taylor  
5626 Rafael Rivera Way  
Las Vegas NV 89118

PIN: 291-2906-254-0983

Lot one (1) of Certified Survey Map No. 15003 recorded in the office of Register of Deeds for Marathon County, Wisconsin, in Volume 67 of Certified Survey Maps on page 85; being part of the Northeast quarter (NE 1/4) of the Southeast quarter (SE1/4), and part of Southeast quarter (SE 1/4) of the Northeast quarter (NE 1/4) of Section twenty-five (25), Township twenty-nine (29) North, Range six (6) East, in the City of Wausau, Marathon County, Wisconsin.

The parcel conveyed pursuant to the above referenced Warranty Deed, represented by Parcel Identification No. 291-2906-254-0983 in the City of Wausau, Wisconsin and described above.

Polywood Properties, LLC has received an offer to purchase the Property from Tempus Wausau, LLC, a summary of which offer has been provided to the City of Wausau and intends to transfer title to the Property to Tempus Wausau, LLC or its assignee(s) (the "Transfer").

NOW, THEREFORE, for good and valuable consideration, the sufficiency of which is hereby acknowledged, the City of Wausau, Wisconsin, hereby waives any right to exercise its option to repurchase the Property with respect to or as a result of this Transfer, and consents to the Transfer. The City of Wausau, Wisconsin, hereby states that to the best of its knowledge there are presently no conditions related to the Property that violate any deed restriction in the Warranty Deed.

Dated this \_\_\_\_\_ day of March, 2023.

CITY OF WAUSAU

ATTEST:

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

Katie Rosenberg, Mayor

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

Kaitlyn A. Bernarde, City Clerk

STATE OF WISCONSIN       )  
                                          ) ss.  
COUNTY OF MARATHON    )

Personally came before me this \_\_\_\_\_ day of March, 2023, Katie Rosenberg, Mayor and Kaitlyn A. Bernarde, Clerk, to me known to be the persons who executed the foregoing instrument and acknowledged the same.

\_\_\_\_\_  
\*  
Notary Public, State of Wisconsin  
My Commission \_\_\_\_\_.

This instrument was drafted by:  
Anne L. Jacobson, City Attorney  
407 Grant Street  
Wausau, Wisconsin 54403



**REAL ESTATE PURCHASE AND SALE AGREEMENT**

**BETWEEN**

**POLYWOOD PROPERTIES, LLC**  
**(as Seller)**

**AND**

**TEMPUS WAUSAU, LLC**  
**(as Purchaser)**

**CONCERNING CERTAIN PROPERTY**

**LOCATED AT**

**400 NORTH 72<sup>ND</sup> AVENUE, WAUSAU, WI 54401**

### Schedules and Exhibits

|              |   |                                            |
|--------------|---|--------------------------------------------|
| Schedule 1.1 | - | Defined Terms                              |
| Schedule 3.1 | - | Deposit Escrow Provisions                  |
| Schedule 5.1 | - | Seller Deliveries                          |
| Exhibit A    | - | Description of Land                        |
| Exhibit B    | - | Form of Lease Agreement                    |
| Exhibit C    | - | Exceptions to Seller Representations       |
| Exhibit D    | - | Form of Deed                               |
| Exhibit E    | - | Form of Bill of Sale and General Agreement |
| Exhibit F    | - | Form of Assignment and Assumption          |
| Exhibit G    | - | Form of Updated Representation Certificate |
| Exhibit H    | - | List of Contracts                          |
| Exhibit I    | - | List of Warranties                         |
| Exhibit J    | - | List of Permits                            |



## **REAL ESTATE PURCHASE AND SALE AGREEMENT**

**THIS REAL ESTATE PURCHASE AND SALE AGREEMENT** (this "**Agreement**") is entered into as of the Effective Date (defined below) by and between **POLYWOOD PROPERTIES, LLC**, a Wisconsin limited liability company (the "**Seller**"), and **TEMPUS WAUSAU, LLC**, an Arkansas limited liability company, or its permitted assignee (the "**Purchaser**"), and is joined in by the Title Company (defined below) in accordance with **Schedule 3.1**.

In consideration of the mutual promises hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

### **ARTICLE 1**

#### **Definitions**

**Section 1.1. Definitions.** For purposes of this Agreement, capitalized terms not otherwise defined herein have the meaning set forth in **Schedule 1.1**.

### **ARTICLE 2**

#### **Agreement; Purchase Price; Closing Date**

**Section 2.1. Agreement to Sell and Purchase.** Subject to the terms and provisions hereof, Seller agrees to sell the Property to Purchaser, and Purchaser agrees to purchase the Property from Seller. The Property is located at 400 North 72<sup>nd</sup> Avenue, Wausau, Wisconsin 54401, as further described on **Exhibit A** attached hereto.

**Section 2.2. Purchase Price.** The Purchase Price for the Property shall be Seven Million and 00/100 Dollars (\$7,000,000.00). Subject to the adjustments and apportionments as hereinafter set forth, the Purchase Price shall be paid on the Closing Date by wire transfer of immediately available federal funds.

**Section 2.3. Lease of Property.** Effective as of the Closing Date Seller's affiliate, Polywood Fabrication, Inc., a Wisconsin corporation (the "**Tenant**"), and Purchaser shall execute a Lease Agreement for the Property in the form attached hereto as **Exhibit B** (the "**Lease**"). Pursuant to the Lease Purchaser shall lease the Property to Tenant on an absolute NNN basis, for an initial term of fifteen (15) years, and an annual initial base rental rate of Five Hundred Forty Two Thousand Sixty One Dollars and 90/100 (\$542,061.90) (\$5.38 per square foot) for the building located on the Property containing approximately 100,755 square feet of space (the "**Building**"), with such base rent to be increased three percent (3.00%) annually plus an option to renew the Lease for one additional period of ten (10) years at a rate to be increased three percent (3.0%) annually.

**Section 2.4. Closing Date.** The transaction contemplated hereby shall close on or before fifteen (15) days following the expiration of the Inspection Period, as defined below (the "**Closing Date**"), subject to extension as provided herein.

## ARTICLE 3

### Deposit

**Section 3.1. Earnest Money Deposit.** No later than the third Business Day following the Effective Date, Purchaser shall deposit Two Hundred Thousand and 00/100 Dollars (\$200,000.00) with the Title Company. The earnest money deposit made pursuant to this Section 3.1, together with all interest and earnings thereon, is referred to in this Agreement as the “Deposit.” The Deposit shall be held in a segregated account in accordance with the provisions of Schedule 3.1 hereto. The Deposit shall be applied to the Purchase Price if the Closing occurs. If the Closing does not occur or if this Agreement otherwise terminates, the Deposit shall be disbursed as provided herein.

## ARTICLE 4

### Title and Survey

**Section 4.1. Title and Survey.** Promptly upon execution of this Agreement, Purchaser shall order a title commitment or pro forma title policy (the “Title Commitment”) and an updated ALTA survey of the Real Property (the “Survey”). Purchaser shall have until the later of (i) the Inspection Period Notice Deadline or (ii) five (5) Business Days following the delivery of the later of the Title Commitment or Survey to Purchaser (but not later than forty five (45) days after the Effective Date) to give Seller a written notice that sets forth any objections that Purchaser has to title or survey matters affecting the Property and disclosed on the Title Commitment or the Survey (the “Purchaser Title Objections”). Seller shall use reasonable efforts to cure the Purchaser Title Objections before the Closing Date; provided, that, other than with respect to Voluntary Liens, Seller shall not be obligated to incur any material expense to effect any such cure. If, despite such reasonable efforts, Seller is unable to cure the Purchaser Title Objections by the Closing Date, Purchaser shall have the option (in its sole discretion) of either (y) accepting the title as it then is or (z) terminating this Agreement, in which event the Deposit shall immediately be returned to Purchaser, this Agreement shall terminate and Purchaser and Seller shall have no further obligations or liabilities hereunder other than Purchaser’s obligations under Section 5.1(b)(iv) and Section 5.3; if Purchaser elects to accept the title as it then is, any such uncured Purchaser Title Objection shall be deemed withdrawn and the objected to matter shall be deemed a Permitted Exception. Notwithstanding anything in this Agreement to the contrary, all Voluntary Liens will be satisfied by Seller on or prior to the Closing Date or, if not so satisfied, shall be satisfied at Closing out of the proceeds otherwise payable to Seller, and Purchaser shall have no obligation to give Seller any notice of objection with respect to any Voluntary Liens, all of which shall be Purchaser Title Objections.

## ARTICLE 5

### Inspection and Audit

#### **Section 5.1. Due Diligence Materials; Access.**

(a) Within ten (10) Business Days after the Effective Date, Seller shall provide to Purchaser complete copies of the documents and materials listed on Schedule 5.1, to the extent in Seller’s possession and reasonable control.

(b) During the term of this Agreement, Purchaser, personally or through its authorized agents or representatives, shall be entitled, upon reasonable advance notice to Seller, to enter upon the Property during normal business hours, and shall have the right to make such investigations, including appraisals, engineering studies, soil tests, environmental studies, inquiry of governmental officials, and underwriting



analyses, as Purchaser deems necessary or advisable, subject to the following limitations: (i) Purchaser shall give Seller written or telephonic notice at least one (1) Business Day before conducting any inspections on the Property, and a representative of Seller shall have the right to be present when Purchaser or its representatives conducts its or their investigations on the Property; (ii) neither Purchaser nor its representatives shall materially interfere with the use, occupancy or enjoyment of the Property by the Seller; (iii) neither Purchaser nor its agents shall damage the Property or any portion thereof; and (iv) Purchaser shall indemnify, hold harmless and defend the Seller against all costs (including reasonable attorneys' fees) and damage to the Property and/or any personal injury or death of any person caused by the activities of Purchaser or its agents under this paragraph, provided; however, that such indemnity shall not include any costs or damages caused by (x) the acts of the Seller or its agents or representatives, (y) any claims of diminution in the value of the Property as a consequence of the results revealed by such tests and inspections or (z) any pre-existing condition of the Property. Anything contained in this Section 5.1 to the contrary notwithstanding, Purchaser shall not conduct any phase II environmental or other invasive inspection of the Property without the prior written consent of Seller which may be withheld in Seller's sole discretion, provided if Seller withholds its consent to a phase II environmental inspection that is recommended by Purchaser's phase I environmental inspection and Purchaser elects to terminate this Agreement in accordance with Section 5.2, Seller shall reimburse Purchaser for its actual out of pocket expenses incurred in pursuit of the transactions contemplated hereby. The foregoing indemnification obligation shall survive the Closing. Prior to Purchaser entering the Property, Purchaser shall provide to Seller evidence of insurance covering any of Purchaser's personnel accessing the Property hereunder to be covered by not less than \$1,000,000 commercial general liability insurance, insuring all activity and conduct of such person while exercising such right of access and naming Seller as additional insured, issued by a licensed insurance company qualified to do business in the State of Wisconsin. Purchaser shall ensure that all of Purchaser's third party consultants and/or contractors also carry such insurance.

**Section 5.2. Inspection Period.** Purchaser shall have the period ending at 6:00 p.m. (local time in Little Rock, Arkansas) on the date that is thirty (30) days after the Effective Date (the "Inspection Period"), to physically inspect the Property, review economic data and market conditions, underwrite the Tenant, conduct appraisals, make inquiry of governmental officials, perform examinations of the physical condition of the Improvements (subject to Section 5.1), examine the Real Property for the presence of Hazardous Materials (subject to Section 5.1), and to otherwise conduct such due diligence and underwriting as Purchaser, in its sole and absolute discretion, deems appropriate. This Agreement shall terminate unless, before 6:00 p.m. on the last day of the Inspection Period (the "Inspection Period Notice Deadline"), Purchaser gives Seller written notice (the "Inspection Period Notice") that Purchaser, in its absolute and unreviewable discretion, elects to proceed with the purchase of the Property subject to and in accordance with the terms of this Agreement. In addition, at any time before the Inspection Period Notice Deadline, Purchaser may, in its absolute and unreviewable discretion, terminate this Agreement by giving written notice thereof to Seller (the "Termination Notice"). In the event that either: (a) Purchaser gives a Termination Notice before the Inspection Period Notice Deadline, or (b) Purchaser does not give a Termination Notice but fails to give the Inspection Period Notice before the Inspection Period Notice Deadline, this Agreement shall automatically terminate, the Deposit promptly shall be returned to Purchaser, and Seller and Purchaser shall have no further obligations or liabilities to each other hereunder other than Purchaser's obligations under Section 5.1(b)(iv) and Section 5.3. If Purchaser elects to purchase the Property by delivering to Seller the Inspection Period Notice, the Deposit shall be non-refundable, except in the event of a Seller default as described in Section 10.3 or the failure of any of the Purchaser conditions to Closing as set forth in Section 6.1 hereof.

**Section 5.3. Confidentiality.** Purchaser shall use the Confidential Information only for purposes of evaluating the Property in connection with its potential purchase thereof in accordance with the terms of this Agreement (and, if the Closing occurs, in connection with its ownership of the Property). Notwithstanding the foregoing, (a) Purchaser may disclose the Confidential Information to its owners, legal

counsel, accountants, actual and potential lenders, actual and potential investors, regulatory authorities and similar third parties that need to review the Confidential Information in connection with Purchaser's purchase of the Property in accordance with the terms of this Agreement, and Purchaser shall be responsible for any such recipient's unauthorized disclosure, and (b) Purchaser may disclose the Confidential Information to the extent that such disclosure is required by law or court order or by discovery rules in any legal proceeding, provided that Purchaser first shall provide written notice thereof to Seller. If this Agreement is terminated before the Closing, Purchaser promptly shall return the Confidential Information to Seller and shall not retain copies thereof. Except as otherwise provided in Subsection (b) of this Section 5.3, the parties agree that, except as may be required by applicable law (including, without limitation, the rules and regulations of the Securities and Exchange Commission and the New York Stock Exchange), prior to Closing no party shall make any public pronouncements, issue press releases or otherwise furnish information regarding this Agreement or the transactions contemplated to any third party without the consent of the other party, which consent shall not be unreasonably withheld. In addition, and notwithstanding the foregoing restrictions, Seller and Purchaser authorize each other and their respective representatives to disclose to any persons, without limitation of any kind, the tax treatment and tax structure of the transaction contemplated hereby and all materials of any kind, including tax analyses or opinions, relating to such tax treatment and tax structure. The provisions of this paragraph shall survive the Closing or termination of this Agreement.

**Section 5.4. Termination of Contracts.** Prior to the Inspection Period Notice Deadline, Purchaser shall notify Seller of which Contracts, if any, Purchaser wishes to have assigned to it at the Closing (any such contracts, the "Continuing Contracts"). Any Contract as to which Purchaser does not send such notice shall be terminated by Seller on or prior to the Closing Date to the extent that Seller has the right to effect such termination without payment of material cost. Notwithstanding the foregoing, in all events, all management and leasing agreements shall be terminated on or before the Closing at no cost or liability to Purchaser.

**Section 5.5. Cooperation.** During the term of this Agreement, the Seller shall cooperate in connection with the reasonable requests of the Purchaser to obtain information concerning the Property, including information supplementary to the information described in Schedule 5.1.

**Section 5.6. No Assumption of Employee Claims.** Seller represents and warrants to Purchaser that Seller does not have any employees. Purchaser and Seller agree that Purchaser has not assumed and shall not assume any obligations to (or regarding the employment of), any individuals previously or currently employed by Seller in the management, ownership or operation of the Property.

## ARTICLE 6

### **Conditions Precedent, Casualty Damage or Condemnation**

**Section 6.1. Conditions Precedent Favoring Purchaser.** In addition to any other conditions precedent in favor of Purchaser set forth elsewhere in this Agreement, Purchaser's obligations under this Agreement are subject to the timely fulfillment of the conditions set forth in this Section 6.1 on or before the Closing Date, or such earlier date as is set forth below. Each condition may be waived in whole or in part only by written notice of such waiver from Purchaser to Seller.

(a) Seller shall have performed and complied in all material respects with all of the terms of this Agreement to be performed and complied with by Seller prior to or at the Closing;

(b) On the Closing Date, the Seller Representations shall be true, complete and accurate in all material respects;



(c) On the Closing Date, any lease agreements or sublease agreements with respect to any portion of the Property shall be terminated effective as of the Closing;

(d) On the Closing Date, title to the Property shall be conveyed to Purchaser subject only to the Permitted Exceptions and the Title Company shall issue to Purchaser an extended coverage owner's title insurance policy (on the current ALTA Form B) in the amount of the Purchase Price, together with the Required Endorsements, insuring good and indefeasible fee simple title to the Real Property in Purchaser, subject only to the Permitted Exceptions and the standard printed exceptions, except that: (i) the exceptions for mechanic's liens, unrecorded easements and sovereign lands shall be deleted; (ii) the survey exception shall be limited to Permitted Exceptions; (iii) the exception relating to ad valorem taxes shall relate only to taxes owing for the year of closing and subsequent years; (iv) the parties-in-possession exception shall be deleted except as to the Seller, as tenant only, as provided for in the Lease; and (v) the exclusion relating to creditor's rights shall be deleted;

(e) On the Closing Date, (i) the Property shall be in the same condition that it is in now, reasonable wear and tear excepted, and free from tenants and occupants, except for the Tenant pursuant to the Lease; (ii) there shall be no judicial or administrative or condemnation proceeding pending or, to Seller's knowledge, threatened concerning the Property that was not disclosed in writing to Purchaser before the commencement of the Restricted Period; (iii) the Property and the use and operation thereof shall comply in all material respects with all Legal Requirements; (iv) the Lease shall be in full force and effect; (v) there shall be no bankruptcy proceeding pending or, to Seller's knowledge, threatened in writing with respect to the Tenant; and (vi) the Property shall be free and clear of: (y) any management or leasing agreements and any other Contracts other than any Continuing Contracts and the Lease; and (z) any collective bargaining or employment agreements;

(f) On the Closing Date, there shall be no Hazardous Materials at the Property (other than those used in the ordinary course of Tenant's operations) that have not been fully remediated in accordance with all applicable laws;

(g) If applicable, Purchaser shall have received an estoppel certificate dated no earlier than fifteen (15) days prior to the Closing Date, in form and substance reasonably acceptable to Purchaser, from all parties to any Reciprocal Easement Agreements (the "REA Estoppels"); and

(h) Purchaser shall have received a certificate of insurance evidencing the various insurance coverages required to be maintained by the Tenant pursuant to the terms of the Lease, and otherwise reasonably satisfactory to Purchaser.

**Section 6.2. Conditions Precedent Favoring Seller.** In addition to any other condition precedent in favor of Seller set forth elsewhere in this Agreement, Seller's obligations under this Agreement are expressly subject to the timely fulfillment of the conditions set forth in this Section 6.2 on or before the Closing Date, or such earlier date as is set forth below. Each condition may be waived in whole or part only by written notice of such waiver from Seller to Purchaser.

(a) Purchaser shall have performed and complied in all material respects with all of the terms of this Agreement to be performed and complied with by Purchaser prior to or at the Closing; and

(b) On the Closing Date, the representations of Purchaser set forth in Section 7.2 shall be true, accurate and complete in all material respects.

**Section 6.3. Risk of Loss.** Unless and until the Closing is completed, the risk of loss to the Property from casualty or condemnation shall be borne by Seller. If all or a portion of the Property is damaged or destroyed by fire or other casualty prior to Closing such that: (1) Purchaser's reasonable estimate of the cost to repair the same exceeds \$200,000.00; or (2) access to or egress from the Property is materially impaired (any such fire or other casualty, a "Material Casualty"), Purchaser may, at Purchaser's sole option, elect to either:

- (a) terminate this Agreement and receive back the Deposit; or
- (b) purchase the Property subject to and in accordance with the terms of this Agreement.

In the event of a fire or other casualty that is not a Material Casualty, and in connection with any Material Casualty as to which Purchaser elects to proceed pursuant to Section 6.3(b), (i) Purchaser shall purchase the Property in accordance with the terms hereof without reduction in the Purchase Price (except for any applicable deductible that will reduce the insurance proceeds assigned to Purchaser at Closing) and (ii) Seller shall assign to Purchaser at Closing all insurance proceeds paid or payable on account of such damage, including any rental or business interruption insurance applicable to periods from and after the Closing and the amount of any deductible shall be credited against the Purchase Price). Purchaser shall be deemed to have elected to terminate this Agreement under Section 6.3(a) unless, within fifteen (15) days from reasonably detailed written notice to Purchaser of such casualty, Purchaser provides Seller with written notice that Purchaser elects to proceed pursuant to Section 6.3(b); provided, that in the event of a Material Casualty, if Purchaser elects to proceed pursuant to Section 6.3(b), Seller shall have the right for ten (10) days after receipt of Purchaser's written notice to proceed to terminate this Agreement by delivery of written notice thereof to Purchaser on or before the end of such 10-day period, in which event this Agreement shall terminate, the Deposit shall be returned to Purchaser and neither party shall have any further obligation under this Agreement except for those obligations that by the express terms of this Agreement survive termination hereof. If the Closing Date would otherwise occur sooner, it shall automatically be extended as necessary to allow for the full running of the time periods described in this Section 6.3(b). If any insurance proceeds paid or payable on account of a fire or other casualty are to be assigned to Purchaser in accordance with the provisions of this Agreement, Seller shall cooperate as reasonably requested by Purchaser to effectuate such assignment (including, if necessary, cooperating, at Purchaser's cost, with prosecuting claims in Purchaser's name or for Purchaser's benefit), and Seller's obligation to so cooperate shall survive the Closing.

**Section 6.4. Condemnation.** If, at any time before completion of the Closing, a taking or condemnation (or proceeding in lieu thereof) is commenced or threatened in writing: (i) of all or substantially all of the Property; or (ii) of less than all or substantially all of the Property that: (1) would result in the Tenant having the right to terminate the Lease or abate or offset rent under the Lease; (2) causes the Property to fail to comply with Legal Requirements or any applicable Reciprocal Easement Agreements; (3) materially impairs access to or egress from the Property; (4) causes the loss of any parking that benefits the Property; or (5) otherwise, in Purchaser's reasonable business judgment, results in a loss of value in excess of \$200,000.00 (any of the foregoing, a "Material Taking"), Purchaser may, at Purchaser's sole option, elect either to:

- (a) terminate this Agreement and receive back the Deposit; or
- (b) purchase the Property subject to and in accordance with this Agreement.

In the event of condemnation or taking that does not constitute a Material Taking, or if there is a Material Taking but Purchaser elects to proceed under Section 6.4(b), (1) Purchaser shall purchase the Property in accordance with the terms hereof (without reduction in the Purchase Price), (2) Seller shall



assign to Purchaser at Closing all condemnation proceeds and rental interruption insurance paid or payable as a result of such condemnation, (3) Purchaser shall have the right to be present with Seller at any hearings or negotiations with respect thereto, and (4) Seller shall not settle or compromise and such matter without Purchaser's prior written consent, not to be unreasonably conditions, delayed, or withheld. Purchaser shall be deemed to have elected to terminate this Agreement under Section 6.4(a) unless, within fifteen (15) Business Days from written notice to Purchaser of the condemnation, Purchaser provides Seller with written notice that Purchaser elects to proceed pursuant to Section 6.4(b); provided, if Purchaser elects to proceed pursuant to this Section 6.4(b), Seller shall have the right for ten (10) days after receipt of Purchaser's written notice to proceed to terminate this Agreement by delivery of written notice thereof to Purchaser on or before the end of such 10-day period, in which event this Agreement shall terminate, the Deposit shall be returned to Purchaser and neither party shall have any further obligation under this Agreement except for those obligations that by the express terms of this Agreement survive termination hereof. If the Closing Date would otherwise occur sooner, it shall automatically be extended as necessary to allow for the full running of the time periods described in this Section 6.4(b).

#### **Section 6.5. Leasing and Other Activities Prior to Closing.**

(a) During the term of this Agreement, Seller shall not enter into any Lease Transaction without Purchaser's prior written consent, which consent may be given or withheld in Purchaser's sole discretion.

(b) During the Restricted Period, Seller shall not enter into any new Contracts or material modifications, renewals or terminations of any existing Contracts that would impose any obligations on Purchaser or on the Property after Closing, without the written consent of Purchaser, which consent shall not be unreasonably withheld. In its request for Purchaser's approval under this Section 6.5(b), Seller shall include the following notice: "NOTE: FAILURE TO RESPOND WITHIN THE TIME PERIOD SET FORTH IN SECTION 6.5(b) WILL RESULT IN A DEEMED APPROVAL". If Seller so requests Purchaser's approval and Purchaser does not notify Seller in writing of its consent or disapproval within ten (10) Business Days after notice thereof from Seller, Purchaser shall be deemed to have consented to such requested action. Without limiting the foregoing approval rights, Seller shall provide Purchaser with prompt notice of any new Contracts or material modifications, renewals or terminations of any such contracts, together with complete copies of the documents relating thereto.

(c) During the Restricted Period, Seller shall not, without Purchaser's prior written approval, (i) make any material alterations or additions to the Property, except as may be required by law or as may reasonably be required for the prudent repair and maintenance of the Property, (ii) change or attempt to change (or consent to any change in) the zoning or other Legal Requirements applicable to the Property, or (iii) cancel, amend or modify in any material respect any Permit.

(d) At all times prior to Closing, Seller shall: (i) maintain the Property in good condition and repair in accordance with Seller's past standard operating procedures; (ii) use commercially reasonable efforts to conduct business with respect to the Property in accordance with Seller's past standard operating procedures; (iii) perform its obligations under the Contracts and the Permitted Exceptions (and, as applicable, use commercially reasonable efforts, without any obligation to incur material expense, to enforce the obligations of any other parties to such documents); (iv) insure the Improvements in accordance with Seller's past standard operating procedures, and maintain liability and other insurance in accordance with Seller's past standard operating procedures; (v) not sell or further encumber the Property or any direct or indirect interest therein or enter into any agreement relating thereto, and (vi) promptly give Purchaser a reasonably detailed written notice of: (1) any fire, flood or other material adverse change with respect to the Property of which Seller obtains actual knowledge; (2) any actual or proposed condemnation (or proceeding in lieu thereof) of which Seller obtains actual knowledge; (3) any written notice received by

Seller claiming that the Property or the use and operation thereof fails to comply in any material respect with any Legal Requirements; and (4) any written notice received by Seller concerning any pending or threatened (of which Seller obtains actual knowledge) litigation or administrative proceeding affecting the Property that would be binding on the Property following the Closing. If Seller obtains actual knowledge during the term of this Agreement of any matters that render any of its representations or warranties untrue in any material respect, Seller shall promptly disclose such matters to Purchaser in writing.

The provisions of this Section 6.5 shall survive the Closing.

## ARTICLE 7

### **As-Is Sale; Limited Representations and Warranties**

#### **Section 7.1. As-Is Sale.**

(a) Purchaser acknowledges that it is an experienced and sophisticated purchaser of commercial real estate projects such as the Property and that, prior to the Closing, it will have a full and complete opportunity to conduct such investigations, examinations, inspections and analysis of the Property and market conditions as Purchaser, in its absolute discretion, may deem appropriate. Purchaser further acknowledges that, except for the Seller Representations, Purchaser has not relied upon any statements, representations or warranties by Seller or any agent of Seller.

(b) Except for the Seller Representations, Purchaser agrees that the Property shall be sold and that Purchaser shall accept possession of the Property on the Closing Date strictly on an "as is, where is, with all faults" basis, and that, except for the Seller Representations, such sale shall be without representation or warranty of any kind by Seller, express or implied.

**Section 7.2. Purchaser Representations.** Purchaser hereby represents and warrants to Seller as follows:

(a) Purchaser is a limited liability company, duly formed, validly existing and in good standing under the laws of the State of Arkansas. This Agreement constitutes the valid and legally binding obligation of Purchaser, enforceable against Purchaser in accordance with its terms.

(b) There are no actions, suits or proceedings pending or, to the knowledge of Purchaser, threatened, against or affecting Purchaser which, if determined adversely to Purchaser, would adversely affect its ability to perform its obligations hereunder. Purchaser has not (a) made a general assignment for the benefit of creditors, (b) filed any voluntary petition in bankruptcy or suffered the filing of an involuntary petition of Purchaser's creditors, (c) suffered the appointment of a receiver to take possession of all, or substantially all, of Purchaser's assets, (d) suffered the attachment or other judicial seizure of all, or substantially all, of Purchaser's assets, (e) admitted in writing its inability to pay its debts as they come due or (f) made an offer of settlement, extension or composition to its creditors generally. Purchaser has full right, power and authority and is duly authorized to enter into this Agreement, to perform each of the covenants on its part to be performed hereunder and to execute and deliver, and to perform its obligations under all documents required to be executed and delivered by it pursuant to this Agreement.

(c) Neither the execution, delivery or performance of this Agreement nor compliance herewith (i) conflicts or will conflict with or results or will result in a breach of or constitutes or will constitute a default under (1) the organizational documents of Purchaser, (2) to the best of Purchaser's knowledge, any law or any order, writ, injunction or decree of any court or governmental authority, or (3) any agreement or instrument to which Purchaser is a party or by which it is bound or (ii) results in the



creation or imposition of any lien, charge or encumbrance upon its property pursuant to any such agreement or instrument.

(d) No authorization, consent, or approval of any governmental authority (including courts) is required for the execution and delivery by Purchaser of this Agreement or the performance of its obligations hereunder.

**Section 7.3. Seller's Representations.** Subject to the matters described on **Exhibit C** attached hereto, the Seller warrants and represents to Purchaser as follows:

(a) **Representations Concerning Seller.**

(i) Seller is a limited liability company, duly formed, validly existing and in good standing under the laws of Wisconsin. This Agreement constitutes the valid and legally binding obligation of Seller, enforceable against Seller in accordance with its terms;

(ii) There are no actions, suits or proceedings pending or, to the knowledge of Seller, threatened, against or affecting Seller which, if determined adversely to Seller, would adversely affect its ability to perform its obligations hereunder. Seller has not (a) made a general assignment for the benefit of creditors, (b) filed any voluntary petition in bankruptcy or suffered the filing of an involuntary petition of Seller's creditors, (c) suffered the appointment of a receiver to take possession of all, or substantially all, of Seller's assets, (d) suffered the attachment or other judicial seizure of all, or substantially all, of Seller's assets, (e) admitted in writing its inability to pay its debts as they come due or (f) made an offer of settlement, extension or composition to its creditors generally. Seller has full right, power and authority and is duly authorized to enter into this Agreement, to perform each of the covenants on its part to be performed hereunder and to execute and deliver, and to perform its obligations under all documents required to be executed and delivered by it pursuant to this Agreement;

(iii) Neither the execution, delivery or performance of this Agreement nor compliance herewith (a) conflicts or will conflict with or results or will result in a breach of or constitutes or will constitute a default under (1) the organizational documents of Seller, (2) to the best of Seller's knowledge, any law or any order, writ, injunction or decree of any court or governmental authority, or (3) any agreement or instrument to which Seller is a party or by which it is bound or (b) results in the creation or imposition of any lien, charge or encumbrance upon its property pursuant to any such agreement or instrument;

(iv) No authorization, consent, or approval of any governmental authority (including courts) is required for the execution and delivery by Seller of this Agreement or the performance of its obligations hereunder;

(v) Seller is not a "foreign person" or "disregarded" entity" as defined in Section 1445 of the Code;

(vi) Neither Seller nor, to Seller's actual knowledge, any of its respective affiliates, is in violation of the Anti-Money Laundering and Anti-Terrorism Laws. Neither Seller nor, to Seller's actual knowledge, any of its affiliates, is acting, directly or indirectly, on behalf of terrorists, terrorist organizations or narcotics traffickers, including those persons or entities that appear on the Annex to the Executive Order, or are included on any relevant lists maintained by the Office of Foreign Assets Control of U.S. Department of Treasury, U.S. Department of State, or other U.S. government agencies, all as may be amended from time to time. Neither Seller nor, to Seller's actual knowledge, any of its affiliates, or, without inquiry, any of its brokers or other agents, in any capacity in connection with the sale of the Property (A) conducts any business or engages in making or receiving any contribution of funds, goods or services to or for the benefit

of any person included in the lists referenced above, (B) deals in, or otherwise engages in any transaction relating to, any property or interests in property blocked pursuant to the Executive Order, or (C) engages in or conspires to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in any Anti-Money Laundering and Anti-Terrorism Laws. Neither Seller, nor any person controlling or controlled by Seller, is a country, territory, individual or entity named on a Government List, and the monies used by Seller in connection with this Agreement and amounts committed with respect hereto, were not and are not derived from any activities that contravene any applicable anti-money laundering or anti-bribery laws and regulations (including funds being derived from any person, entity, country or territory on a Government List or engaged in any unlawful activity defined under Title 18 of the United States Code, Section 1956(c)(7));

(b) **Representations Concerning the Property.**

(i) **Contracts.** **Exhibit H** sets forth a complete and accurate list of the Contracts in existence and effect as of the Effective Date. Seller has given Purchaser true and complete copies of the Contracts. The Contracts are in full force and effect and neither Seller nor, to Seller's actual knowledge, any other party, is in default in any material respect under any Contract;

(ii) **Warranties, Permits and Related Matters.**

(A) Attached hereto as **Exhibit I** is a true, complete, correct and complete list of all warranties or guaranties, issued and in effect in connection with the development, construction, operation, maintenance or repair of the Property, and all amendments and modifications thereto (collectively, the "**Warranties**"). True and correct copies of all of the Warranties have been delivered to Purchaser. To Seller's actual knowledge the Warranties are in full force and effect and shall be duly assigned to Purchaser at Closing, to the extent assignable;

(B) To Seller's knowledge, the Property is in compliance in all material respects with all Legal Requirements, and the Seller has not received in the last two (2) years any written notice claiming violation of any Legal Requirement.

(C) Attached hereto as **Exhibit J** is a true, complete, correct and complete list of, all material licenses, permits, variances, approvals, and authorizations issued to Seller or the Property by governmental authorities having jurisdiction over the Property or, to the extent not disclosed by the Title Commitment, from private parties for the intended development, construction, use, operation and occupancy of the Property and to insure vehicular and pedestrian ingress to and egress from the Property (collectively, the "**Permits**"), and, all of the Permits are, and will at Closing be, in full force and effect and properly vested in the name of the Seller. To Seller's actual knowledge, all appeal periods with respect to the Permits have expired and no appeals have been filed;

(D) Seller has not received any written notice from any insurance company, insurance rating organization or Board of Fire Underwriters requiring any alterations, improvements or changes at the Property, or any portion thereof;

(E) Other than general real estate taxes or as otherwise disclosed by the Title Commitment, Seller has no obligations to any governmental authority, adjacent property owner or other Person for the payment (or for any donations in lieu of payment) or performance of any infrastructure, capital improvements or other work in connection with the development or ownership of the Property;

(iii) **Litigation and Other Proceedings.**



(A) No condemnation or eminent domain proceedings are pending or, to Seller's actual knowledge, threatened against the Property or any part thereof, and the Seller has not made any commitments to or received any written notice of the desire of any public authority or other entity to take or use the Property or any part thereof whether temporarily or permanently, for easements, rights-of-way, or other public or quasi-public purposes;

(B) There are no pending, or to Seller's actual knowledge, threatened, judicial or administrative proceedings or investigations affecting or relating to the development, construction, use, operation or ownership of the Property;

(iv) Taxes. No portion of the Property comprises part of a tax parcel which includes property other than property comprising all or a portion of the Property. No application or proceeding is pending with respect to a reduction or an increase of such taxes. There are no tax refund proceedings relating to the Property which are currently pending. There are no special taxes or assessments to be levied against the Property nor does Seller have actual knowledge of any change in the tax assessment of the Property;

(v) Personal Property. Seller has good title to the Personal Property and shall transfer the same to Purchaser free and clear of all liens and encumbrances;

(vi) Hazardous Materials. Except as disclosed in writing to Purchaser before the date hereof or disclosed in any Confidential Information or environmental reports obtained by Purchaser: (a) the Seller has not received any written notice that Hazardous Materials are present at the Property, (b) to Seller's knowledge, there has not occurred any release of Hazardous Materials on, in, beneath the surface of or about the Property in violation of any Environmental Law, (c) the Seller has not been required by any governmental agency to undertake any remediation activity with respect to Hazardous Materials on, in, beneath the surface of or about the Property, or (d) Seller has not received written notice that the Property is in violation of any Environmental Law. Except as disclosed in writing to Purchaser before the date hereof or disclosed in any Confidential Information or environmental reports obtained by Purchaser, the Seller has not (except as is customary in the course of construction of the Improvements or in the ordinary course of Seller's business and in compliance in all material respects with all applicable laws) used, manufactured, generated, treated, stored, disposed of, or released any material amounts of Hazardous Materials on, under or about the Property or transported any material amounts of Hazardous Materials over the Property or installed, used or removed any storage tank on, from or in connection with the Property. To Seller's knowledge, except as disclosed in writing to Purchaser before the date hereof or disclosed in any Confidential Information or environmental reports obtained by Purchaser, there are no storage tanks or wells (whether existing or abandoned) located on, under or about the Property;

(vii) No Preemptive Rights. The Seller has not granted any option or right of first refusal or first opportunity to any party to acquire any interest in any of the Property;

(viii) Reports and Other Information.

(A) Seller will deliver or make available to Purchaser (without representation or warranty, express or implied, as to the completeness or accuracy thereof) in accordance with this Agreement true and complete copies of the materials listed on Schedule 5.1 in Seller's possession or reasonable control; and

(B) To Seller's actual knowledge, the plans and specifications for the Improvements, Permits, Warranties, operating statements, income and expense reports, and all other agreements, books and records relating to the Property delivered or made available by Seller to Purchaser

in connection with this Agreement are true, complete and correct copies of such materials used in Seller's ownership and operation of the Property. The operating statements furnished by Seller to Purchaser relative to the Property are true and correct copies of such materials used in Seller's ownership and operation of the Property.

(ix) Seller Representative. The Designated Seller Representative is the Manager of the Seller, has occupied such position for approximately fourteen (14) years, has been actively involved in, and familiar with, the ownership, development, construction, leasing and operation of the Property.

**Section 7.4. Seller's Knowledge.** Whenever a representation is qualified by the phrase "to Seller's knowledge" or "to Seller's actual knowledge", or by words of similar import, the accuracy of such representation shall be based solely on the actual (as opposed to constructive or imputed) knowledge of Kurt Taylor (the "Designated Seller Representative"), without independent investigation or inquiry.

## ARTICLE 8

### Closing

**Section 8.1. Closing Date.** The Closing shall take place at a time agreeable to Purchaser and Seller on the Closing Date. Unless the parties otherwise agree in writing, the Closing shall be conducted through a customary escrow arrangement with the Title Company and, on or before the Closing Date, the Seller shall deliver to the Title Company or Purchaser the documents listed in Section 8.2 and the Purchaser shall deliver to the Title Company the documents and funds described in Section 8.3.

**Section 8.2. Seller's Deliveries.** At the Closing, Seller shall deliver or cause to be delivered to Purchaser (or its nominee), at Seller's sole expense, each of the following items:

(a) (i) A special warranty deed in the form attached hereto as Exhibit D, conveying good and marketable fee simple title, subject only to the Permitted Exceptions, in proper form for recording, (ii) a Bill of Sale, Blanket Conveyance and Assignment in the form attached hereto as Exhibit E, (iii) the Lease in the form attached hereto as Exhibit B, (iv) the Assignment and Assumption Agreement in the form attached hereto as Exhibit F, (v) the Representation Update Certificate in the form attached hereto as Exhibit G, (vi) the Closing Statement, and (vii) a non-foreign person affidavit sworn to by Seller as required by Section 1445 of the Code, all duly executed (and, when required, acknowledged) by Seller;

(b) Copies of any Continuing Contracts;

(c) Such evidence or documents as may be reasonably required by the Title Company or Purchaser relating to: (i) mechanics' or materialmen's liens; (ii) parties in possession; (iii) the status and capacity of Seller and the authority of the Person or Persons who are executing the various documents on behalf of Seller in connection with the sale of the Property; and (iv) a gap indemnity affidavit;

(d) All books, records and other documents in the possession or reasonable control of Seller and material to Purchaser's ownership or operation of the Property, as-built drawings, and the original Plans and Specifications to the extent in Seller's possession or reasonable control;

(e) If applicable, at least two originals of any applicable REA Estoppels;

(f) The Certificate of Occupancy and other Permits, to the extent in Seller's possession or reasonable control;



(g) The Warranties, including all related manuals and any consents necessary in order for the Warranties to be duly assigned (to the extent assignable) to Purchaser as of the Closing, to the extent in Seller's possession or reasonable control;

(h) If applicable, evidence of release and discharge of all Voluntary Liens; and

(i) Such other documents as are consistent with the terms of this Agreement and reasonably required to close the transaction contemplated hereby.

**Section 8.3. Purchaser's Deliveries.** At the Closing, Purchaser shall deliver the following items:

(a) Immediately available federal funds sufficient to pay the Purchase Price (less the Deposit) and Purchaser's share of all escrow costs and closing expenses;

(b) Duly executed Lease, Assignment and Assumption Agreement, and the Closing Statement;

(c) Such evidence or documents as may reasonably be required by the Title Company evidencing the status and capacity of Purchaser and the authority of the Person or Persons who are executing the various documents on behalf of Purchaser in connection with the purchase of the Property; and

(d) Such other documents as are consistent with the terms of this Agreement and reasonably required to close the transaction contemplated hereby.

**Section 8.4. Costs and Prorations.**

(a) **General.** Pursuant to the Lease, Tenant is responsible for the real estate taxes, utilities, and operating expenses; accordingly, except as expressly provided otherwise in this Section 8.4, there shall be no proration of any expenses related to the Property.

(b) **Taxes.** All real estate taxes or special assessments for the calendar year 2022 shall be paid by Tenant pursuant to the Lease. Any delinquent real estate and personal property taxes and assessments on the Property shall be paid at the Closing by Seller.

(c) **Intentionally Omitted.**

(d) **Utilities.** Deposits for utilities (the "Utility Deposits"), plus any interest on the Utility Deposits belong to and shall be retained by the Tenant

(e) **Continuing Contracts.** Prepaid charges, payments and accrued charges under any Continuing Contracts shall be prorated at Closing in a manner reasonably acceptable to Seller and Purchaser.

(f) **Closing Costs.** Purchaser and Seller shall each pay their own legal fees related to the preparation of this Agreement and all documents required to settle the transaction contemplated hereby. Purchaser shall pay all costs associated with its due diligence and financing, including the cost of appraisals, architectural, engineering, credit and environmental reports. Each party shall pay one-half of the charges for the escrow services of the Title Company. Seller shall pay the cost of the standard coverage of a current ALTA owner's title insurance policy, all recording fees in connection with the release of any Voluntary Liens or other Purchaser Title Objections that Seller has agreed to cure pursuant to this Agreement, and the cost of recording the Deed. All transfer taxes and documentary stamp charges shall be split equally between

Purchase and Seller. Purchaser shall pay the cost of a current ALTA survey for the Property, the cost of any extended coverage included in the owner's title insurance policy and the cost of any endorsements (including the cost of all Required Endorsements) and the cost of any lender's policy. All other customary purchase and sale closing costs shall be paid by Seller or Purchaser in accordance with the custom in the jurisdiction where the Property is located.

(g) **Closing Statement.** Purchaser and Seller shall cooperate to produce prior to the Closing Date a schedule of prorations to be made as of the Closing Date in accordance with the terms of this Agreement (the "Closing Statement"). Any adjustments to estimated figures on the Closing Statement shall be made by the parties with due diligence and cooperation within ninety (90) days following the Closing Date, or such later time as may be required to obtain necessary information for proration, by prompt cash payment to the party yielding a net credit from such prorations from the other party.

**Section 8.5. Possession.** Possession of the Property shall be delivered to Purchaser by Seller at the Closing, subject only to the Lease, rights arising under any Continuing Contracts, and the Permitted Exceptions.

## ARTICLE 9

### **Real Estate Commission and Disclosure**

**Section 9.1.** Each of the parties represents and warrants to the other that neither party has dealt with, negotiated through or communicated with any broker in connection with the transaction contemplated by this Agreement, except for Colliers Arkansas, Inc. for Purchaser, whose commission shall be paid by Purchaser pursuant to a separate agreement between Purchaser and such broker, and Kwekel Companies, for Seller, whose commission shall be paid by Seller pursuant to a separate agreement between Seller and such broker. Each party shall indemnify, defend and hold harmless the other party from and against any and all claims, loss, costs and expenses, including reasonable attorneys' fees, resulting from any claims that may be made against the indemnified party by any broker claiming a commission or fee by, through or under such indemnifying party. The parties' respective obligations under this Section 9.1 shall survive Closing or termination of this Agreement.

**Section 9.2.** Seller acknowledges that one or more persons having a beneficial ownership interest in Purchaser hold valid real estate licenses issued by the State of Arkansas and/or are affiliated with Colliers Arkansas, Inc.

## ARTICLE 10

### **Termination and Default**

**Section 10.1. Termination without Default.** If the sale of the Property is not consummated because of the failure of any condition precedent to Purchaser's or Seller's obligations expressly set forth in this Agreement or for any other reason except a default by Purchaser in its obligation to purchase the Property in accordance with the provisions of this Agreement (which shall be governed by Section 10.2) or any default by Seller of its obligations under this Agreement (which shall be governed by Section 10.3), the Deposit shall promptly be returned to Purchaser and neither Party shall have any further obligations hereunder.

**Section 10.2. Purchaser's Default.** If Purchaser fails to perform any its obligations under the terms of this Agreement, and if such default is not cured within three (3) days from written notice thereof



from Seller to Purchaser, then: (a) this Agreement shall terminate; (b) the Deposit shall be paid to and retained by Seller as liquidated damages; and (c) Seller and Purchaser shall have no further obligations to each other, except those obligations that expressly survive the termination of this Agreement. PURCHASER AND SELLER ACKNOWLEDGE THAT THE DAMAGES TO SELLER IN THE EVENT OF A BREACH OF THIS AGREEMENT BY PURCHASER WOULD BE DIFFICULT OR IMPOSSIBLE TO DETERMINE, THAT THE AMOUNT OF THE DEPOSIT REPRESENTS THE PARTIES' BEST AND MOST ACCURATE ESTIMATE OF THE DAMAGES THAT WOULD BE SUFFERED BY SELLER IF THE TRANSACTION SHOULD FAIL TO CLOSE AND THAT SUCH ESTIMATE IS REASONABLE UNDER THE CIRCUMSTANCES EXISTING AS OF THE DATE OF THIS AGREEMENT AND UNDER THE CIRCUMSTANCES THAT SELLER AND PURCHASER REASONABLY ANTICIPATE WOULD EXIST AT THE TIME OF SUCH BREACH. PURCHASER AND SELLER AGREE THAT SELLER'S RIGHT TO RETAIN THE DEPOSIT SHALL BE SELLER'S SOLE REMEDY, AT LAW AND IN EQUITY, FOR PURCHASER'S FAILURE TO PURCHASE THE PROPERTY IN ACCORDANCE WITH THE TERMS OF THIS AGREEMENT.

**Section 10.3. Seller's Default.** If Seller fails to perform any its obligations under the terms of this Agreement, and if such default is not cured within three (3) days from written notice thereof from Purchaser to Seller, then Purchaser may, as its sole and exclusive remedy at law or in equity: (a) terminate this Agreement by giving written notice thereof to Seller, in which event the Deposit will promptly be returned to Purchaser, Seller promptly shall reimburse Purchaser for the actual out of pocket third party costs that Purchaser has incurred in connection with this Agreement and the transaction contemplated hereby up to an amount not to exceed \$100,000, and the parties shall have no further obligation to each other, except those obligations that expressly survive the termination of this Agreement; (b) waive such default and consummate the transactions contemplated hereby in accordance with the terms of this Agreement; or (c) specifically enforce this Agreement. Purchaser hereby irrevocably waives any other right or remedy for such default; provided, however, that if, in breach of this Agreement, Seller sells the Property (or any material portion thereof) to someone other than Purchaser or otherwise intentionally and in bad faith takes action that renders the remedy of specific performance impossible or impractical to obtain, Seller shall be liable for any damages suffered by Purchaser as a result of such breach.

**Section 10.4. Breach of Representations.** All representations, warranties and covenants of Seller and Purchaser set forth in this Agreement or in any document or certificate delivered by Seller or Purchaser in connection herewith shall survive the Closing for a period of twelve (12) months following the Closing (the "Survival Period").

**Section 10.5. Mutual Indemnifications.**

(a) From and after the Closing, Seller shall indemnify Purchaser and defend and hold Purchaser harmless from and against any and all claims, demands, liabilities, costs, expenses, penalties, damages and losses, including reasonable attorneys' fees, resulting from any misrepresentation or breach of warranty by Seller in this Agreement first discovered by Purchaser after the Closing for which Purchaser asserts a claim against Seller on or before the expiration of the Survival Period.

(b) From and after the Closing, Purchaser shall indemnify Seller and defend and hold Seller harmless from and against any and all claims, demands, liabilities, costs, expenses, penalties, damages and losses, including reasonable attorneys' fees, resulting from any misrepresentation or breach of warranty made by Purchaser in this Agreement or in any document, certificate, or exhibit given or delivered by Purchaser pursuant to or in connection with this Agreement first discovered by Seller after the Closing for which Seller asserts a claim against Purchaser on or before the expiration of the Survival Period.

(c) Seller shall indemnify Purchaser and defend and hold Purchaser harmless from and against any and all claims, demands, liabilities, costs, expenses, penalties, damages and losses, including reasonable attorneys' fees, asserted against, incurred or suffered by Purchaser resulting from any personal injury or property damage occurring in, on or about the Property or relating thereto and occurring during any period in which Seller or its affiliates owned the Property, from any cause whatsoever other than as a consequence of the acts or omissions of Purchaser, its agents, employees or contractors, including, from Purchaser's or its agents, employees, or contractor's entry upon or inspection of the Property.

(d) Purchaser shall indemnify Seller and defend and hold Seller harmless from and against any claims, demands, liabilities, costs, expenses, penalties, damages and losses, including reasonable attorneys' fees, asserted against, incurred or suffered by Seller resulting from any personal injury or property damage occurring in, on or about the Property or relating thereto and occurring during any period in which Purchaser or its affiliates owns the Property, from any cause whatsoever other than as a consequence of the acts or omissions of Seller, its agents, employees or contractors.

(e) In the event either party hereto receives notice of a claim or demand which results or may result in indemnification pursuant to Section 10.5, such party shall promptly give notice thereof to the other party to this Agreement. The party receiving such notice shall promptly take such measures as may be reasonably required to properly and effectively defend such claim, and may defend same with counsel of its own choosing. In the event the party receiving such notice fails to properly and effectively defend such claim, and in the event such party is liable therefor, then the party so giving such notice may defend such claim at the expense of the party receiving such notice. The provisions of this Section 10.5 shall survive the Closing.

(f) Except in the case of fraud or international misrepresentation, in no event shall Seller or Purchaser be liable for any incidental, special or consequential damages whatsoever (including, but not limited to diminution in the value of the Property, lost profits or interruption of business), even if advised of the possibility of such damages.

## ARTICLE 11

### Miscellaneous

**Section 11.1. Entire Agreement; Successors and Assigns; Miscellaneous Provisions.** This Agreement constitutes the entire agreement between the parties hereto with respect to the transactions contemplated herein, and it supersedes all prior discussions, understandings or agreements. All Exhibits and Schedules attached hereto are a part of this Agreement and are incorporated herein by reference. This Agreement may not be assigned by Purchaser without the consent of Seller which may be withheld in Seller's sole discretion, except that Purchaser may assign this Agreement to an entity controlled by, under common control with or controlling Purchaser upon written notice to Seller. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns. This Agreement may be executed in any number of counterparts and it shall be sufficient that the signature of each party appear on one or more such counterparts, and all counterparts shall collectively constitute a single agreement. A party may deliver executed signature pages to this Agreement by facsimile transmission or via electronic mail to the other party, which facsimile or electronic copies shall be deemed to be an original executed signature page binding on the party that so delivered the executed signature page by facsimile or electronic mail. No modification of this Agreement shall be deemed effective unless in writing and signed by both Seller and Purchaser. In the event the time for performance of any obligation hereunder expires on a day that is not a Business Day, the time for performance shall be extended to the next Business Day. The descriptive headings of the paragraphs of this Agreement are inserted for convenience only and shall not control or affect the meaning or construction of any provisions of this



Agreement. Words such as “herein”, “hereinafter”, “hereof” and “hereunder” when used in reference to this Agreement, refer to this Agreement as a whole and not merely to a subdivision in which such words appear, unless the context otherwise requires. The singular shall include the plural and the masculine gender shall include the feminine and neuter, and vice versa, unless the context otherwise requires. The word “including” shall not be restrictive and shall be interpreted as if followed by the words “without limitation.” This Agreement shall not be construed more strictly against one party than against the other merely by virtue of the fact that it may have been prepared primarily by counsel for one of the parties, it being recognized that both Purchaser and Seller have contributed substantially and materially to the preparation of this Agreement.

**Section 11.2. Waiver; Governing Law.** The excuse or waiver of the performance by a party of any obligation of the other party under this Agreement shall only be effective if evidenced by a written statement signed by the party so excusing or waiving. No delay in exercising any right or remedy shall constitute a waiver thereof, and no waiver by Seller or Purchaser of the breach of any covenant of this Agreement shall be construed as a waiver of any preceding or succeeding breach of the same or any other covenant or condition of this Agreement. This Agreement shall be construed and the rights and obligations of Seller and Purchaser hereunder determined in accordance with the internal laws of the State of Wisconsin, without regard to the principles of conflict of laws.

**Section 11.3. Notices.** All notices or other communications required or provided to be sent by either party shall be in writing and shall be sent by: (i) by United States Postal Service, certified mail, return receipt requested, (ii) by any nationally known overnight delivery service for next day delivery, (iii) delivered in person or (iv) sent by electronic mail (with a copy thereof sent thereafter in accordance with clause (i), (ii) or (iii) above). All notices shall be deemed to have been given upon receipt. All notices shall be addressed to the parties at the addresses below:

To Seller: Polywood Properties, LLC  
5626 Rafael Rivera Way  
Las Vegas, NV 89118  
Attn: Kurt Taylor  
Email: ktaylor@sunburstshutters.com

With a copy to: Ballard Rawson Jorgensen  
10181 Park Run Dr., Ste 110  
Las Vegas, NV 89145  
Attn: Richard A. Rawson, Esq.  
Email: rar@ballardrawson.com

To Purchaser: Tempus Realty Partners, LLC  
One Allied Drive, Suite 1500  
Little Rock, AR 72203  
Attention: Isaac Smith  
Email: Isaac.smith@colliers.com

With a copy to: Friday, Eldredge & Clark, LLP  
400 West Capitol Avenue, Suite 2000  
Little Rock, AR 72201  
Attention: Joseph G. Nichols  
Email: jnichols@fridayfirm.com

Any address or name specified above may be changed by notice given to the addressee by the other party in accordance with this Section 11.3. The inability to deliver notice because of a changed address of which no notice was given as provided above, or because of rejection or other refusal to accept any notice, shall be deemed to be the receipt of the notice as of the date of such inability to deliver or rejection or refusal to accept. Any notice to be given by any party hereto may be given by the counsel for such party.

**Section 11.4. Attorneys' Fees.** In the event of a judicial or administrative proceeding or action by one party against the other party with respect to the interpretation or enforcement of this Agreement, the prevailing party shall be entitled to recover reasonable costs and expenses including reasonable attorneys' fees and expenses, whether at the investigative, pretrial, trial or appellate level. The prevailing party shall be determined by the court based upon an assessment of which party's major arguments or position prevailed.

**Section 11.5. IRS Real Estate Sales Reporting.** Purchaser and Seller hereby agree that the Title Company shall act as "the person responsible for closing" the transaction which is the subject of this Agreement pursuant to Section 6045(e) of the Code and shall prepare and file all informational returns, including IRS Form 1099-S, and shall otherwise comply with the provisions of Section 6045(e) of the Code.

**Section 11.6. Further Instruments.** Each party, promptly upon the request of the other, shall execute and have acknowledged and delivered to the other or to Title Company, as may be appropriate, any and all further instruments reasonably requested or appropriate to evidence or give effect to the provisions of this Agreement and which are consistent with the provisions of this Agreement.

**Section 11.7. Severability.** The parties hereto intend and believe that each provision in this Agreement comports with all applicable local, state and federal laws and judicial decisions. If, however, any provision in this Agreement is found by a court of law to be in violation of any applicable local, state, or federal law, statute, ordinance, administrative or judicial decision, or public policy, or if in any other respect such a court declares any such provision to be illegal, invalid, unlawful, void or unenforceable as written, then it is the intent of all parties hereto that, consistent with and with a view towards preserving the economic and legal arrangements among the parties hereto as expressed in this Agreement, such provision shall be given force and effect to the fullest possible extent, and that the remainder of this Agreement shall be construed as if such illegal, invalid, unlawful, void, or unenforceable provision were not contained herein, and that the rights, obligations, and interests of the parties under the remainder of this Agreement shall continue in full force and effect.

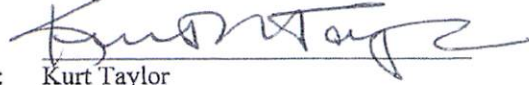
**[The balance of this page has intentionally been left blank. Signature pages follow.]**



IN WITNESS WHEREOF, Seller and Purchaser hereto have executed this Agreement as of the Effective Date.

**SELLER:**

**POLYWOOD PROPERTIES, LLC**

By: 

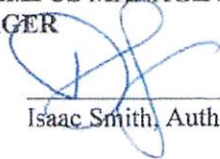
Name: Kurt Taylor

Title: Manager

**PURCHASER:**

**TEMPUS WAUSAU, LLC**

**BY: TEMPUS MANAGING GP, LLC, AS  
MANAGER**

By: 

Isaac Smith, Authorized Manager

## **Schedule 1.1 Defined Terms**

**“Agreement”** has the meaning set forth in the first paragraph of this document.

**“Business Day”** shall mean any day of the week other than (i) Saturday and Sunday, (ii) a day on which banking institutions in Wisconsin are obligated or authorized by law or executive action to be closed to the transaction of normal banking business, or (iii) a day on which governmental functions in Wisconsin are interrupted because of extraordinary events such as hurricanes, power outages or acts of terrorism.

**“Certificate of Occupancy”** has the meaning set forth in Section 6.1(i).

**“Closing”** shall mean the consummation of the purchase and sale of the Property pursuant to the terms of this Agreement.

**“Closing Statement”** has the meaning set forth in Section 8.4(g).

**“Code”** shall mean the Internal Revenue Code of 1986, and all amendments thereto and all regulations issued thereunder.

**“Confidential Information”** shall mean any proprietary information concerning the Property, the Seller, or the Tenant provided to Purchaser by Seller or Tenant, excluding information that is available to the general public or from sources other than Seller or Tenant without violation of any restriction on disclosure.

**“Contracts”** shall mean all development, construction, service, management, leasing, operation, maintenance, repair and other contracts (other than the Lease) affecting the Land or Improvements and all amendments and modifications thereto.

**“Deposit”** has the meaning set forth in Section 3.1.

**“Designated Seller Representatives”** has the meaning set forth in Section 7.4.

**“Effective Date”** shall mean January 6, 2023.

**“Environmental Law”** shall mean any federal, state, local or administrative agency ordinance, law, rule, regulation, order or requirement relating to environmental conditions, human health or Hazardous Material, including the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. §9601 et seq.), the Resource Conservation and Recovery Act of 1976 (42 U.S.C. §6901 et seq.), the Federal Water Pollution Control Act (33 U.S.C. §1251 et seq.), the Clean Air Act (42 U.S.C. §7401 et seq.), the Emergency Planning and Community Right-To-Know Act (42 U.S.C. §1101 et seq.), The Endangered Species Act (16 U.S.C. §1531 et seq.), the Toxic Substances Control Act (15 U.S.C. §2601 et seq.), the Occupational Safety and Health Act (29 U.S.C. §651 et seq.) and the Hazardous Materials Transportation Act (49 U.S.C. §1801 et seq.), and the regulations promulgated pursuant to such laws, all as amended from time to time.

**“Hazardous Materials”** shall mean any substance or material which is or contains: (i) any substance, waste or material now or hereafter defined in and/or regulated under any Environmental Law; (ii) gasoline, diesel fuel or other petroleum hydrocarbons; (iii) asbestos and asbestos containing materials, in any form, whether friable or nonfriable; (iv) polychlorinated biphenyls; (v) radon gas; or (vi) mold, mildew or other biological agents.

**“Inspection Period”** has the meaning set forth in Section 5.2.



“Inspection Period Notice” has the meaning set forth in Section 5.2.

“Inspection Period Notice Deadline” has the meaning set forth in Section 5.2.

“Improvements” shall mean that certain building containing approximately 100,755 square feet and commonly located at 400 North 72<sup>nd</sup> Avenue, Wausau, Wisconsin 54401, and all other buildings, structures and other improvements situated upon the Land and any fixtures, systems and facilities owned by Seller and located on the Land. Improvements exclude the personal property and trade fixtures of Tenant.

“Intangible Property” shall mean all of Seller’s right, title and interest, if any, in all intangible assets relating to the Land, Improvements or Personal Property, including all of Seller’s right, title and interest, if any, in all (a) warranties and guaranties relating to the Land, Improvements or Personal Property, (b) all licenses, permits and approvals relating to the Land, Improvements or Personal Property, (c) all contract rights, (d) all letters of credit held as security for any Tenant’s obligations, and (e) all plans and specifications relating to the Land, Improvements or Personal Property, in each case to the extent that Seller may legally transfer the same.

“Land” shall mean the land described on Exhibit A attached hereto, together with all privileges, rights, easements and appurtenances belonging to such land and all right, title and interest (if any) of Seller in and to any streets, alleys, passages or other rights-of-way or appurtenances included in, adjacent to or used in connection with such land and all right, title and interest (if any) of Seller in all mineral rights appurtenant to such land.

“Lease” has the meaning set forth in Section 2.3.

“Lease Transaction” shall mean any of the following: (a) the execution of any new lease or other occupancy agreement for any portion of the Property; (b) any modification of any occupancy agreement affecting the Property; (c) the consent to any assignment of or subletting under the Lease; or (d) the termination of the Lease.

“Legal Requirements” means all applicable zoning, building, health and safety, environmental and all other laws, legislation, rules, codes, by-laws, ordinances, resolutions, regulations, orders and decrees and all requirements of the Board of Fire Underwriters and any other insurance underwriters relating in any way to the Property or the development, construction, ownership, use and occupancy thereof.

“Material Casualty” has the meaning set forth in Section 6.3.

“Material Taking” has the meaning set forth in Section 6.4.

“Permitted Exceptions” shall mean all matters shown on the Title Commitment (other than Voluntary Liens) or the Survey, except for those matters as to which, in accordance with Section 4.1, Purchaser makes a written objection on or before the Inspection Period Notice Deadline and which, if not cured by Seller, are accepted or deemed to have been accepted by Purchaser on or before Closing in accordance with this Agreement. In no event shall any Voluntary Lien constitute a Permitted Exception, and all Voluntary Liens shall be paid in full at or before the Closing or out of the proceeds otherwise due to Seller.

“Permits” has the meaning set forth in Section 7.3(b)(1)(C).

“Person” shall mean any individual, estate, trust, partnership, limited liability company, limited liability partnership, corporation, governmental agency or other legal entity.

“Personal Property” shall mean all fixtures, if any, owned by Seller and installed, located or situated on or used in connection with the operation of the Improvements. Personal Property excludes the personal property and trade fixtures of Tenant.

“Property” shall mean, collectively, the Real Property, the Personal Property, Seller’s interest in the Lease, and the Intangible Property.

“Purchase Price” shall mean the purchase price for the Property as specified in Section 2.2.

“Purchaser” means the Person named as the Purchaser in the first paragraph of this Agreement, together with any assignee of the originally named Purchaser permitted hereunder.

“Purchaser Title Objections” has the meaning set forth in Section 4.1.

“Real Property” shall mean the Land and the Improvements.

“Reciprocal Easement Agreements” shall mean any and all reciprocal easement agreements, declarations of covenants, conditions, restrictions and easements, party wall agreements, “tie-back” agreements, common area agreements, shared maintenance agreements, common use agreements or similar agreements or understandings which burden or benefit the Real Property and other adjacent real property, and all supplements, amendments, modifications and memoranda thereof, relating to the development, use, operation, management, maintenance or occupancy of the Real Property.

“Reports” shall have the meaning set forth in Schedule 5.1.

“Required Endorsements” shall mean the following ALTA endorsements (to the extent legally available in the jurisdiction in which the Real Property is located and the requirements for issuance by the Title Company do not delay Closing without Seller’s written consent): (a) Form 9 - Comprehensive (modified as appropriate for an owner’s policy); (b) Form 3.1 Zoning (including parking and loading); (c) survey endorsement; (d) access endorsement; (e) if the land on which the Property is located consists of more than one parcel, a contiguity endorsement; and (f) a tax parcel endorsement.

“Restricted Period” shall mean the period commencing five (5) Business Days before the end of the Inspection Period and ending on the earlier of the Closing or the termination of this Agreement.

“Seller” has the meaning set forth in the first paragraph of this Agreement.

“Seller Representations” shall mean the representations and warranties of Seller expressly set forth in Section 7.3.

“Survey” has the meaning set forth in Section 4.1.

“Tenant” shall mean Polywood Fabrication, Inc., a Wisconsin corporation.

“Termination Notice” has the meaning set forth in Section 5.2.

“Title Commitment” has the meaning set forth in Section 4.1.

“Title Company” shall mean Title First Agency, whose address for notice is 495 Executive Campus Drive, Suite 100, Westerville, OH 43082, Attention: Tiffany Baymiller, Senior Vice President.

“Utility Deposits” has the meaning set forth in Section 8.4(d).



**“Voluntary Liens”** shall mean any of the following encumbrances on the Property or any portion thereof: (a) any mortgage or deed of trust granted or assumed by Seller; (b) any mechanic’s or materialmen’s lien arising from work contracted for by Seller; (c) any lien for unpaid taxes, assessments, utility, water, sewer or other governmental charges; and (d) any other lien or encumbrance granted, assumed or suffered by Seller and securing the repayment of money or other claims made against Seller.

## Schedule 3.1

### Deposit Escrow Provisions

#### **[Attached to and a Part of Real Estate Purchase and Sale Agreement]**

(a) Title Company shall hold the Deposit in separate, segregated, interest bearing account(s) approved by Purchaser and Seller. If the Closing occurs, the Deposit shall be credited against the Purchase Price. The Deposit shall be held and disbursed by Title Company in the following manner:

(i) to Seller upon consummation of the Closing; or

(ii) to Seller upon receipt of written demand therefor, stating that Purchaser has defaulted in the performance of Purchaser's obligations under this Agreement and the facts and circumstances underlying such default; provided, however, that Title Company shall not honor such demand until at least ten (10) Business Days after it has sent a copy of such demand to Purchaser, nor thereafter if Title Company shall have received written notice of objection from Purchaser in accordance with paragraph (b) below; or

(iii) to Purchaser upon receipt of written demand therefor, stating that either (x) this Agreement has been terminated pursuant to a provision hereof providing for the disbursement of the Deposit to Purchaser and certifying the basis for such termination, or (y) Seller has defaulted in performance of Seller's obligations under this Agreement and the facts and circumstances underlying such default or that Purchaser is otherwise entitled to the Deposit under the provisions of this Agreement; provided, however, that except for a termination pursuant to Section 5.2, Title Company shall not honor such demand until at least ten (10) Business Days after it has sent a copy of such demand to Seller, nor thereafter if Title Company shall have received written notice of objection from Seller in accordance with paragraph (b) below. Notwithstanding anything to the contrary herein, if at any time before the Inspection Period Notice Deadline, Purchaser provides Title Company with written notice of termination and demand for the return of the Deposit, Title Company shall immediately return the Deposit to Purchaser.

(b) Upon receipt of written demand for the Deposit by Purchaser or Seller pursuant to clause (a)(ii) or (a)(iii) above, Title Company shall promptly send a copy thereof to the other party. Except for a termination under Section 5.2 (as to which Seller shall have no right to object), the other party shall have the right to object to the delivery of the Deposit by sending written notice of such objection to Title Company within ten (10) Business Days after Title Company sends a copy of the written demand to the objecting party. Upon receipt of such notice, Title Company shall promptly send a copy thereof to the party who made the written demand.

(c) Except for the return of the Deposit to Purchaser as provided in the last sentence of Section (a)(iii) above, in the event of any dispute between the parties, Title Company shall disregard all instructions received and may hold the Deposit until the dispute is mutually resolved and Title Company is advised of this fact in writing by both Seller and Purchaser, or Title Company is otherwise instructed by a final judgment of a court of competent jurisdiction.

(d) In the event Title Company shall be uncertain as to its duties or rights hereunder or shall receive conflicting instructions, claims or demands from the parties hereto, or instructions which conflict with any of the provisions of this Agreement, Title Company shall be entitled to refrain from taking any action other than to keep safely the Deposit until Title Company shall be instructed otherwise in writing signed by both Seller and Purchaser, or by final judgment of a court of competent jurisdiction.

(e) Title Company may rely upon, and shall be protected in acting or refraining from acting upon, any written notice, instruction or request furnished to it hereunder and believed by it to be genuine and to



have been signed or presented by the proper party or parties, provided that any modification of this Schedule 3.1 shall be signed by Title Company, Purchaser and Seller.

(f) Seller and Purchaser shall jointly and severally hold Title Company harmless against any loss, damage, liability or expense incurred by Title Company not caused by its willful misconduct, gross negligence or breach of these escrow provisions, arising out of or in connection with its entering into this Agreement and the carrying out of its duties hereunder, including the reasonable costs and expenses of defending itself against any claim of liability or participating in any legal proceeding.

(g) Title Company may receive certain benefits from the financial institution where the funds are deposited. Based upon the deposit of escrow funds in demand deposit accounts and other relationships with the financial institution. Title Company is eligible to participate in a program whereby it may (i) receive favorable loan terms and earn income from the investment of loan proceeds and (ii) receive other benefits offered by the financial institution, but any such benefits derived by Title Company shall in no way limit the rights of Seller or Purchaser to Deposit as set forth herein.

(h) The Title Company may at its sole discretion resign from its duties as escrow agent by giving (30) days written notice thereof to the parties hereto. The parties shall furnish to the Title Company written instructions for the release of the Deposit and escrow documents. If the Title Company shall not have received such written instructions within the thirty (30) days, the Title Company may petition any court of competent jurisdiction for the appointment of a successor escrow agent and upon such appointment deliver the Deposit and escrow documents to such successor. Costs and fees incurred by the Title Company may, at the option of the Title Company, be deducted from any funds held pursuant hereto.

Seller and Purchaser do hereby certify that they are aware that the Federal Deposit Insurance Corporation ("FDIC") coverages apply only to a cumulative maximum amount of \$250,000 for each individual deposit for all of the depositor's accounts at the same or related institution. The parties hereto further understand that certain banking instruments such as, but not limited to, repurchase agreements and letters of credit are not covered at all by FDIC insurance.

Further the parties hereto understand that Title Company assumes no responsibility for, nor will the parties hereto hold Title Company liable for, a loss occurring which arises from the fact that the amount of the above account may cause the aggregate amount of any individual depositor's accounts to exceed \$250,000 and that the excess amount is not insured by the Federal Deposit Insurance Corporation or that FDIC insurance is not available on certain types of bank instruments.

#### **JOINDER BY THE TITLE COMPANY**

By its execution hereof, the Title Company hereby (i) covenants and agrees to hold the Deposit in accordance with the above provisions, and (ii) acknowledges receipt of a copy of the Real Estate Purchase and Sale Agreement to which this Schedule 3.1 is attached.

TITLE FIRST AGENCY

Name: \_\_\_\_\_

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

Title: \_\_\_\_\_

Date: January \_\_, 2023

## **Schedule 5.1**

### **Due Diligence Materials**

1. a certificate of occupancy for the Improvements in Seller's possession or reasonable control and all other Permits in Seller's possession or reasonable control;
2. copies of any notices received within two (2) years prior to the Effective Date from any governmental authority of which Seller has knowledge in connection with any purported or actual violation at the property of any Legal Requirement;
3. all reports (listed below) or correspondence relating thereto in the possession or reasonable control of the Seller relating to the Property (the "Reports"); it being understood and agreed by the parties hereto that Seller is in no way warranting or representing, express or implied, the accuracy or completeness of anything contained in the Reports:
  - a. engineering
  - b. geotechnical
  - c. environmental
  - d. ALTA survey
  - e. Zoning
  - f. as-built plans and specifications for the Improvements;
  - g. and other similar studies
4. copies of Seller's current title policy for the Property to the extent in Seller's possession or reasonable control;
5. copies of the Tenant's financial statements used in the operation of the Property for the years ended December 31, 2021, and 2020, and year to date financial statements for the \_\_ month period ending \_\_\_\_\_, 2022;
6. a report of material maintenance and capital improvements conducted by Seller at the Property for the two (2) calendar years preceding the Effective Date and during the current year;
7. a description of any capital improvements or material maintenance scheduled to occur within the next two (2) years;
8. the following:
  - a. copies of all tax bills and statements for the Property for the year-to-date 2022;
  - b. copies of any notices of actual or proposed reassessments of the Property;
  - c. such other financial information as Purchaser may reasonably request and in the possession or reasonable control of Seller which is not proprietary to Seller;
9. a copy of the Tenant's current general liability and property insurance certificates;
10. copies of all Contracts in force and effect;

11. copies of all Warranties in Seller's possession or reasonable control;
12. a copy of all management agreements relating to the Property; and
13. a copy of all leasing agreements relating to the Property.



## **EXHIBIT A**

### **DESCRIPTION OF LAND**

Lot one (1) of Certified Survey Map No. I 5003 recorded in the office of the Register of Deeds for Marathon County, Wisconsin, in Volume 67 of Certified Survey Maps on page 85; being part of the Northeast quarter (NE 1/4) of the Southeast quarter (SE 1/4) and part of the Southeast quarter (SE 1/4) of the Northeast quarter (NE 1/4) of Section twenty-five (25), Township twenty-nine (29) North, Range six (6) East, in the City of Wausau, Marathon County, Wisconsin; subject to easements of record.

**EXHIBIT B**  
**FORM OF LEASE**

**EXHIBIT C**

**EXCEPTIONS TO SELLER REPRESENTATIONS**

None.



**EXHIBIT D**

**DEED**

**After Recording Return to:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**SPECIAL WARRANTY DEED**

**THIS SPECIAL WARRANTY DEED**, is made effective this \_\_\_\_ day of \_\_\_\_\_,  
20\_\_\_\_, by POLYWOOD PROPERTIES, LLC, a Wisconsin limited liability company ("Grantor") to  
\_\_\_\_\_, ("Grantee") whose address is  
\_\_\_\_\_.

**WITNESS**, that the Grantor, for and in consideration of the sum of Ten and 00/100 DOLLARS (\$10.00), and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, has conveyed, and by these presents does convey and confirm unto the Grantee, its successors and assigns forever, all the real property, together with all improvements situate, lying and being in the County of Marathon, State of Wisconsin, on the real property described as follows:

**See Exhibit A attached hereto and incorporated by this reference herein.**

**TOGETHER** with all and singular the hereditaments and appurtenances thereto belonging, or in anywise appertaining, the reversion and reversions, remainder and remainders, rents, issues, and profits thereof; and all the estate, right, title, interest, claim, and demand whatsoever of Grantors, either in law or equity, of, in, and to the above bargained premises, with the hereditaments and appurtenances;

**TO HAVE AND TO HOLD** the said premises above bargained and described with the appurtenances, unto Grantee, its successors and assigns forever. Grantors, for itself, its successors and assigns does covenant and agree that it shall and will WARRANT AND FOREVER DEFEND the above bargained premises in the quiet and peaceable possession of Grantee, its successors and assigns, against all and every person or persons claiming the whole or any part thereof, by, through or under Grantor, but not otherwise, except for the matters set forth on **Exhibit B** attached hereto and incorporated by this reference herein.

*[Remainder of page intentionally left blank; signature page follows]*

IN WITNESS WHEREOF, the Grantor has executed this deed on the date set forth above.

POLYWOOD PROPERTIES, LLC,  
a Wisconsin limited liability company

By: \_\_\_\_\_  
Name: Kurt Taylor  
Title: Manager

STATE OF NEVADA       )  
                                  ) ss.  
COUNTY OF CLARK     )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by Kurt Taylor, as Manager of Polywood Properties, LLC, a Wisconsin limited liability company .

Witness my hand and official seal.

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

**EXHIBIT A**  
**LEGAL DESCRIPTION**



**EXHIBIT B**  
**PERMITTED EXCEPTIONS**

## **EXHIBIT E**

### **BILL OF SALE AND GENERAL ASSIGNMENT**

#### **BILL OF SALE, BLANKET CONVEYANCE AND ASSIGNMENT**

This Bill of Sale, Blanket Conveyance and Assignment (this "Assignment") is executed by POLYWOOD PROPERTIES, LLC, a Wisconsin limited liability company ("Assignor") to and for the benefit of \_\_\_\_\_, a \_\_\_\_\_ ("Assignee").

#### **RECITALS**

**WHEREAS**, concurrently herewith Assignor is conveying to Assignee by Special Warranty Deed of even date herewith that certain real property (the "Property") more particularly described on Exhibit A attached hereto and incorporated herein for all purposes; and

**WHEREAS**, in connection with the conveyance of the Property, Assignor intends to sell, assign and convey unto Assignee the Assigned Properties (defined below).

**NOW, THEREFORE**, in consideration of the foregoing and Ten and No/100 Dollars (\$10.00) and other good and valuable consideration in hand paid by Assignee to Assignor, the receipt and sufficiency of which are hereby acknowledged and confessed by Assignor, Assignor and Assignee hereby act and agree as follows:

1. **Conveyance**. Assignor does hereby **ASSIGN, TRANSFER, CONVEY, SET OVER and DELIVER** to Assignee, its successors and assigns, the following properties (collectively, the "Assigned Properties"):

(a) Any and all personal improvements owned by Assignor, lying and being situated at, incidental to, appurtenant to, or associated or used in connection with the ownership, use, operation, repair and maintenance of the Property, including all fixtures and other property affixed thereto, including without limitation, all heating, air conditioning, plumbing, lighting, communications, elevators and kitchen, fixtures, all gas and electric fixtures, appliances and wiring, engines, boilers, elevators, escalators, incinerators, motors, dynamos, heating and air conditioning equipment, sinks, water closets, basins, pipes, electrical systems, faucets, fire prevention and extinguishing apparatus, central music and public address systems, burglar alarms, security systems and equipment, spare parts for the ownership, use, operation, maintenance, and repair of the Property or the personal property referred to herein or both, paving, curbing, trees, shrubs, plants and other improvements and landscaping of every kind and nature (collectively, the "Personalty"). Personalty excludes all trade fixtures and personal property owned by any tenant leasing the Property.

(b) Rights in and to, all certificates, franchises, trademarks, symbols, service marks, books, records, plans, specifications, designs, drawings, licenses, business licenses, state health department licenses, licenses to conduct business, certificates of need and all other permits, licenses, approvals, authorizations and rights obtained from any governmental, quasi-governmental or private person or entity whatsoever concerning ownership, operation, use or occupancy of the Property, if any and to the extent they are assignable, and all leasing records, leasing applications, tenant credit reports and maintenance and operating records, and keys, if any and to the extent they are assignable.

(c) To the extent assignable, all of Assignor's rights in and to (i) all licenses, permits, approvals and similar documents relating to the Property, (ii) all plans, drawings, specifications, surveys, engineering reports, and other technical descriptions relating to the Property, (iii) all warranties and guaranties (express or implied) issued in connection with or arising out of (a) the purchase or repair of all fixtures, fittings, appliances, apparatus, equipment, machinery, if any, and affixed or attached to or placed or situated upon, or used or acquired in connection with the Property, or (b) the construction, alteration, maintenance and repair of any of the improvements located on the Property, (iv) all other property (real, personal or mixed), owned or held by Assignor which relate in any way to the design, construction, leasing, maintenance, service or operation of the Property or Personalty, and (v) all promotional materials, market studies, tenant data and other materials of any kind in Assignor's possession related to the Property or the Personalty referred to herein or both.

TO HAVE AND TO HOLD the Assigned Properties unto Assignee, and Assignee's successors and assigns forever, and Assignor does hereby bind Assignor, and Assignor's successors and assigns, to WARRANT and FOREVER DEFEND, all and singular the Assigned Properties unto Assignee, and Assignee's successors and assigns, against every person whomsoever lawfully claiming or to claim the same, or any part thereof by, through and under Assignor but not otherwise.

2. **Counterparts; Governing Law; Successors and Assigns; Authority.** This Assignment may be executed in any number of counterparts, and each counterpart hereof shall be deemed to be an original instrument, but all such counterparts shall constitute but one instrument. This Assignment shall be construed and enforced in accordance with and governed by the internal laws of the State of Wisconsin. This Assignment shall bind and inure to the benefit of Assignor and Assignee and their respective successors and assigns. Each of Assignor and Assignee represents and warrants to the other that it is fully empowered and authorized to execute and deliver this Assignment, and the individuals signing this Assignment each represent and warrant that he or she is fully empowered and authorized to do so.

3. **Further Assurances.** The parties agree to take all such further actions and execute, acknowledge and deliver all such further documents that are reasonably necessary or useful in carrying out the purposes of this Assignment.

4. **Mutual Indemnification.** Assignor shall indemnify and hold Assignee, its successors and assigns, harmless from and against any and all unpaid balances owed by Assignor and arising and accruing prior to the date hereof with respect to any and all of the Assigned Properties, and from and against any and all damages, claims, costs (including reasonable attorney's fees), expenses and causes of action which may arise and accrue from or under the Assigned Properties or any of them and that are attributable to periods of time prior to the date hereof, regardless of when same are discovered or asserted. Assignee shall indemnify and hold Assignor harmless from and against any and all unpaid balances owed by Assignee and arising and accruing on or after the date hereof with respect to any and all of the Assigned Properties, and from and against any and all damages, claims, costs (including reasonable attorney's fees), expenses and causes of action which may arise and accrue from or under the Assigned Properties or any of them and that are attributable to periods of time on or after the date hereof, regardless of when same are discovered or asserted.

[The balance of this page is intentionally left blank]



IN WITNESS WHEREOF, this Assignment is executed as of this \_\_\_\_ day of \_\_\_\_\_,  
2023.

**ASSIGNOR:**

POLYWOOD PROPERTIES, LLC,  
a Wisconsin limited liability company

By: \_\_\_\_\_,  
Name: Kurt Taylor  
Title: Manager  
Date: \_\_\_\_\_

**ASSIGNEE:**

By: \_\_\_\_\_,  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**EXHIBIT A**  
**(to Bill of Sale)**  
**Property Description**

## EXHIBIT F

### ASSIGNMENT AND ASSUMPTION AGREEMENT

**THIS ASSIGNMENT AND ASSUMPTION AGREEMENT** (this “Assignment”) is executed as of \_\_\_\_\_, 2023 by and between POLYWOOD PROPERTIES, LLC, a Wisconsin limited liability company (“Assignor”), and \_\_\_\_\_ (“Assignee”).

#### Background

Assignor has this day conveyed to the Assignee the property located at 400 North 72<sup>nd</sup> Avenue, Wausau, Wisconsin 54401 and more particularly described in Exhibit A hereto (the “Premises”) and, in connection with the conveyance of the Premises, Assignor and Assignee intend that Assignor’s right, title, interests, powers, and privileges in and under all leases and security deposits affecting the Premises and other matters stated herein be assigned and transferred to Assignee.

#### Agreement

In consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Contracts.** Assignor hereby transfers and assigns to Assignee any and all right, title and interest which Assignor may have in the contracts listed in Exhibit B attached hereto and made a part hereof (collectively, the “Contracts”). By executing this Assignment, Assignee hereby accepts, assumes, and agrees to perform all of the terms, covenants and conditions of the Contracts on the part of Assignor therein required to be performed, from and after the date hereof, but not prior thereto.

2. **Mutual Indemnification.** Subject to the terms of the Purchaser Agreement pursuant to which this Assignment is delivered, Assignor shall indemnify and hold Assignee harmless from and against any and all damages, claims, liabilities, costs (including reasonable attorney’s fees), expenses and causes of action which may arise and accrue from or under the Lease or Contracts and that are attributable to periods of time prior to the date hereof, regardless of when same are discovered or asserted. Assignee shall indemnify and hold Assignor harmless from and against any and all damages, claims, liabilities, costs (including reasonable attorney’s fees), expenses and causes of action which may arise and accrue from or under the Lease or Contracts or any of them and that are attributable to periods of time on or after the date hereof, regardless of when same are discovered or asserted.

3. **Further Assurances.** Assignor and Assignee agree to take all further actions and execute, acknowledge and deliver all further documents that are reasonably necessary or useful in carrying out the purposes hereof.

4. **Successors and Assigns.** This Assignment shall inure to the benefit of, and be binding upon, the successors, executors, administrators, legal representatives and assigns of the parties hereto.

*[Signature Page to Follow]*



**IN WITNESS WHEREOF**, this Assignment has been duly signed and sealed by the parties as of the date set forth above.

**ASSIGNOR:**

**POLYWOOD PROPERTIES, LLC,**  
a Wisconsin limited liability company

By: \_\_\_\_\_,

Name: Kurt Taylor

Title: Manager

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

**ASSIGNEE:**

\_\_\_\_\_

By: \_\_\_\_\_,

Name: \_\_\_\_\_

Title: \_\_\_\_\_

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

**EXHIBIT A**  
(to Assignment and Assumption)

**Property Description**

**EXHIBIT B**  
(to Assignment and Assumption)

Assigned Contracts



## EXHIBIT G

### UPDATED REPRESENTATION CERTIFICATE

The undersigned, as Seller under a Real Estate Purchase and Sale Agreement ("Purchase Agreement") dated as of \_\_\_\_\_, 2022 between POLYWOOD PROPERTIES, LLC, a Wisconsin limited liability company ("Seller") and \_\_\_\_\_ ("Purchaser"), does hereby certify to Purchaser that the representations and warranties set forth in Section 7.3 of the Purchase Agreement are hereby reaffirmed as of the date hereof.

Seller's liability hereunder shall be subject to the limitations set forth in the Purchase Agreement.

Dated as of this \_\_\_\_ day of \_\_\_\_\_, 2023. .

SELLER

POLYWOOD PROPERTIES, LLC,  
a Wisconsin limited liability company

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

Name: Kurt Taylor

Title: Manager

**EXHIBIT H**  
**LIST OF CONTRACTS**

VENDOR

DATE

SERVICE

**EXHIBIT I**

**LIST OF WARRANTIES**



**EXHIBIT J**  
**LIST OF PERMITS**

## RESOLUTION OF THE FINANCE COMMITTEE

Approving alleged claim for recovery of unlawful tax – Achieve Center, Inc. (520 N. 28<sup>th</sup> Avenue)

Committee Action: *Pending*

Fiscal Impact:

File Number: 16-0214

Date Introduced: March 14, 2023

### FISCAL IMPACT SUMMARY

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

## RESOLUTION

**WHEREAS**, on January 31, 2023, Achieve Center, Inc. filed a claim for recovery of an unlawful tax for its property located at 520 N. 28<sup>th</sup> Avenue (PIN 291-2907-281-0977) pursuant to Section 74.35(2), Wisconsin Statutes; and

**WHEREAS**, pursuant to said claim, Achieve Center, Inc. is requesting a refund of \$17,174.16; and

**WHEREAS**, city staff has reviewed the claim and recommends that the claim be disallowed; and

**WHEREAS**, your Finance Committee, on March 14, 2023, considered the matter and recommends that the claim be disallowed.

**NOW, THEREFORE, BE IT RESOLVED** by the Common Council of the City of Wausau that the claim of Achieve Center, Inc. filed with the city clerk on January 31, 2023, for unlawful tax for the property at located at 520 N. 28<sup>th</sup> Avenue (PIN 291-2907-281-0977) is hereby approved.

Approved:

Katie Rosenberg, Mayor

## Claim for Recovery of an Unlawful Tax

PIN: 291-2907-281-0977

520 N 28<sup>th</sup> AVE

ACHIEVE CENTER INC

1. There was no change in assessment from 2020 to the 2022 Assessment Year.

The current 2022 assessment is:

Land: \$ 154,000

Imp: \$ 519,200

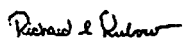
Total: \$ 673,200

2. A Notice of Change of Assessment was not mailed for the 2022 Assessment Year, as no valuation changes were made. The last increase in assessment was for the 2020 Assessment Year with an increase of \$49,500 due to the city-wide revaluation.
3. On January 31, 2022, the 2022 real estate taxes were paid timely and in full by Achieve Center, Inc.
4. For the 2022 Assessment Year, neither the City Assessor nor any Assessment Staff received any communication from Achieve Center, Inc indicating they were requesting a Property Tax Exemption due to a change in the property.
5. Wisconsin Statute §70.11 declares, "if a property was taxable for the previous year, the use, occupancy or ownership changed in a way that makes it exempt and its owner, on or before March 1, files with the assessor a form (PR-230) that the Department of Revenue prescribes".
6. Wisconsin Statute §70.109 declares, "Exemptions under this chapter shall be strictly construed in every instance with a presumption by statute that the property in question is taxable, and the burden of proof is on the person who claims the exemption."
7. "...the party seeking the exemption bears the burden of proving that it falls within a statutory exemption" (Columbus Park Housing Corp v. City of Kenosha, 2003 WI 143, 11, 267 Wis. 2d 59, 671 n.W.2d 633), and "...must show that its construction of the statute is supported by clear evidence of legislative intent" (Village of Lannon, 2003 WI App 7, 4, 259 Wis. 2d 879, 659 N.W.2d 95, affirmed, 2003 WI 150).
8. January 31, 2023, the City Clerk, Kaitlyn Bernarde was served a Claim for Recovery of an Unlawful Tax under Wisconsin Statutes §74.35.

Wisconsin Statutes grant only the Assessor, the Courts, and the Legislature the authority to determine property tax exemption status. Neither the Board of Review, nor the taxation municipality has the authority to grant property tax exemptions.

I recommend the Claim for Recovery of Unlawful Tax be disallowed for the lack of statutory standing for the failure to request a property tax exemption for 2022 assessment year.

Respectfully Submitted,



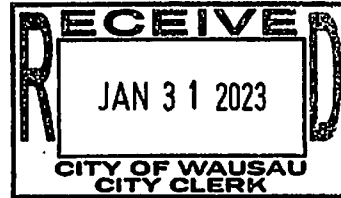
Richard L. Rubow  
City Assessor  
City of Wausau



520 North 28th Avenue • Wausau, WI 54401-4101 • 715/845-4900 • Fax 715/845-4970

January 30, 2023

Kaitlyn Bernarde, City Clerk  
City of Wausau  
407 Grant Street  
Wausau, WI 54403



Re: Claim for Recovery of Unlawful Tax  
Achieve Center, Inc.  
520 N. 28<sup>th</sup> Street  
Wausau, WI 54401  
Parcel No. 291-2907-281-0977

cc: Attorney, Finance 2/2

Dear Ms. Bernarde:

This letter constitutes a claim for recovery of unlawful tax under § 74.35(2) of the Wisconsin Statutes for property of Achieve Center, Inc. located at the address above. This claim is based upon a property tax bill issued by the City of Wausau in the amount of \$17,174.16, a copy of which is attached.

### ***Background for Claim***

Achieve Center provides assessment and treatment for children and families with neuropsychological development disorders, chronic health problems, and physical disabilities. Achieve Center provides assessments, diagnosis, and treatment to improve cognitive functioning, speech, language, and behavior, and a childcare.

The Achieve Center building consists of 11,069 square feet of space. The building is used exclusively by Achieve for the purposes listed above and described in more detail later in this letter. The Achieve Center was given tax exemption for the upper level of the building, which at the time it was exclusively using, and was taxed for the lower level that was being leased. On 12/31/2021, the lease terminated, and the Achieve Center began utilizing the lower level exclusively as a childcare for children with special needs. The entire space is now occupied exclusively by the Achieve Center. Because the Achieve Center is now exclusively utilizing all the building space for its benevolent services, the Achieve Center is seeking repayment of the property tax paid for tax year 2022.

### ***Basis for Claim***

#### **1. Requirements for exemption under § 70.11(4).**

In order to qualify for exemption as a benevolent association, Achieve Center must establish three facts:

- Achieve Center is a benevolent organization.

- Achieve Center owns and exclusively uses the property.
- Achieve Center uses the property for exempt purposes.

Achieve Center believes that there is no dispute that Achieve Center owns and exclusively uses the property for which exemption is sought.

## **2. Achieve Center is a benevolent organization.**

The Wisconsin statutes do not specifically define what it means to be "benevolent." The Wisconsin Property Assessment Manual ("WPAM") refers to the following dictionary definitions at page 22-5:

- Characterized by or suggestive of doing good.
- Of, concerned with, or organized for the benefit of charity.
- An inclination to perform kind, charitable acts.

The WPAM notes that an organization must be a non-profit organization (which Achieve Center is), but that does not mean that the organization must operate at a loss or even break-even. Instead, the issue is what is done with the profit.

I have briefly set forth the details showing why Achieve Center qualifies as a benevolent organization as follows:

- The services provided by Achieve Center are not only directed to an underserved population, but in fact are not otherwise available in either the public or private sector in Marathon County. These includes services for children with cognitive disorders and those requiring behavioral therapy; children who are deaf and hard of hearing, or struggle with verbal communication; and children with significant learning disabilities and other chronic disorders. If not for Achieve Center, local government or the school districts would be required to provide these services or refer these children to other providers outside of Marathon County.
- In 2022, Achieve Center provided approximately 35%, \$201,033, of its services at no charge. Further, another 40% of services were payable under the Medicaid program, which in most instances does not even cover the cost of providing care.
- Achieve Center's policy is that no child will be turned away due to the financial situation of a family, and it does not discriminate in any way based on payer source. This policy, which is provided to patients' parents and guardians in writing, also confirms that if at any time a parent or guardian expresses concern about the ability to pay for services, Achieve Center will negotiate a plan that may involve free services, a sliding discount fee schedule, a payment plan, or assistance in enrolling in Medicaid or other government assistance.
- In addition to its provision of free or discounted patient services of the type noted above, Achieve Center provides many other services at no charge including individual educational planning as well as consultations and referrals relating to rare disorders and complex presentations requiring specialty care.
- The Achieve Center regularly works with local school administrators and local governments, at no charge, on a variety of projects including the Marathon County School-

Based Counseling Consortium, a collaboration between the Marathon County school districts and outpatient mental health clinics to provide counseling services to students in the schools. The Achieve Center provides 2 satellite clinics in John Muir Middle School and DC Everest Middle School 2 days per week at each school.

- The Achieve Center is a Pediatric Clerkship site for the Medical College of Wisconsin-Wausau Campus in which medical students receive training from Achieve Center clinicians, who are Adjunct Instructors, related to the assessment and treatment of children with special health care needs with no reimbursement to the Instructors or the Achieve Center. In 2022, provided 579 hours of direct instruction.
- The Achieve Center provides childcare and early childhood education for children with special health care and educational needs integrated with prescribed treatments for 30 children. This level of childcare has been cited by the State of Wisconsin as an unmet need in the state.
- The Achieve Center provides services to children who are deaf and hard of hearing, struggle with verbal communication, have difficulty with ambulation, have significant learning disabilities, chronic health problems, and/or who have severe cognitive delays. Parent support groups, which are provided at no charge, assist parents in coping with the challenges of caring for their children with special needs.

Achieve Center has documented how it performs benevolent activities and how those activities benefit the community. The Achieve Center provides services that would otherwise have to be provided at government expense, and its services make Marathon County residents less dependent on government care. While it is not necessary to provide services for free or at reduced cost to qualify as benevolent, Achieve Center does so. To the extent that Achieve makes any profit from these activities, those funds are used to improve facilities and expand its benevolent purpose and mission. In short, the Marathon County community is a better place as a result of these activities. See WPAM at page 22-15. Based on all the foregoing, there should be no question that Achieve is a "benevolent association" within the meaning of Wis. Stat. § 70.11(4).

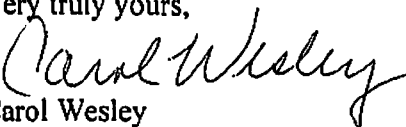
#### *Amount of Claim*

Achieve seeks recovery of the property tax it paid in 2022. Based on square footage, Achieve is using 100% of the property, such that it is entitled to a refund of \$17,174.16.

Achieve requests that the City provide notice to it within 90 days, by certified or registered mail, as to whether this claim is allowed or disallowed, pursuant to § 74.35(3)(b), Stats.

Thank you for your consideration.

Very truly yours,

  
Carol Wesley  
Executive Director



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

**RESOLUTION OF THE FINANCE COMMITTEE**

Approving alleged claim for recovery of unlawful tax – Roaring Fork, LLC (2205 Stewart Avenue)

Committee Action: *Pending*

Fiscal Impact:

**File Number:** 23-0307

**Date Introduced:** March 14, 2023

**FISCAL IMPACT SUMMARY**

|               |                                                                                                                                                                                                 |                                                                     |                                        |
|---------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------|----------------------------------------|
| <b>COSTS</b>  | <i>Budget Neutral</i>                                                                                                                                                                           | Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> |                                        |
|               | <i>Included in Budget:</i>                                                                                                                                                                      | Yes <input type="checkbox"/> No <input type="checkbox"/>            | <i>Budget Source</i>                   |
|               | <i>One-time Costs:</i>                                                                                                                                                                          | Yes <input type="checkbox"/> No <input type="checkbox"/>            | <i>Amount:</i>                         |
|               | <i>Recurring Costs:</i>                                                                                                                                                                         | Yes <input type="checkbox"/> No <input type="checkbox"/>            | <i>Amount:</i>                         |
| <b>SOURCE</b> | <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**, on January 31, 2023, Roaring Fork, LLC filed a claim for recovery of an unlawful tax pursuant to Section 74.35, Wisconsin Statutes; and

**WHEREAS**, a Notice of Personal Property Assessment was mailed to claimant on April 29, 2022, indicating an assessment of \$198,000 for personal property; and

**WHEREAS**, pursuant to said claim, Roaring Fork, LLC is requesting that the 2022 assessment on their personal property located at 2205 Stewart Avenue #400 be reduced to \$76,557 (PIN 291-16945) – exempt machinery, tools and patterns; and

**WHEREAS**, City staff has reviewed the claim and recommends that the claim be disallowed; and

**WHEREAS**, your Finance Committee, on March 14, 2023, considered the matter and recommends that the claim be disallowed.

**NOW, THEREFORE, BE IT RESOLVED** by the Common Council of the City of Wausau that the claim of Roaring Fork, LLC filed with the city clerk on January 31, 2023, for unlawful tax on their personal property located at 2205 Stewart Avenue (PIN 291-16945) is hereby approved.

Approved:

---

Katie Rosenberg, Mayor

## Claim for Recovery of Unlawful Tax (74.35)

PERSONAL PROPERTY ACCOUNT 291-16945  
2205 STEWART AVE, STE 400  
ROARING FORK, LLC/QDOBA MEXICAN GRILL

1. On December 31, 2021 Statements of Personal Property were mailed to all business accounts in the City. Per (Wis. Sec. 70.35) the due date to return forms to the local assessor is on or before March 1st 2018.
2. On February 28, 2022, a Statement of Personal Property was submitted to the assessment office with same assets reported since 2020.
3. On April. 28, 2022 @ 10pm, an email received by Daryl Ohland tax appeals with an attached amended personal property form and a list of some assets moved from taxable to exempt. Staff reviewed amended assets accepted one disposed asset and kept the leasehold improvements as originally filed and previously assessed. Per (Wis. Sec. 70.35(3) No personal property return is controlling on the assessor in any respect in the assessment of any property.)
4. On April 29, 2022, all Notice of Personal Property Assessment were mailed, including one to QDOBA Mexican Grill. indicating an assessment for Personal Property.

2022 Assessment  
\$ 198,000

5. On January 31, 2023, a 2022 Claim for Recovery of Unlawful Tax was filed with the City Clerk, Kaitlyn Bernarde. Requesting that certain assets assessed in 2022 to be considered unlawfully taxed, as they are Machinery, Tools, and Patterns assets that were exempt under statute 70.11 (27). No assets or description of improvements were provided in the claim to verify assessment and claim amount requested.
6. Wisconsin State Statute 70.109 declares, "Exemptions under this chapter shall be strictly construed in every instance with a presumption that the property in question is taxable, and the burden of proof is on the person who claims the exemption."
7. "...the party seeking the exemption bears the burden of proving that it falls within a statutory exemption" (Columbus Park Housing Corp v. City of Kenosha, 2003 WI 143, 11, 267 Wis. 2d 59, 671 n.W.2d 633), and "...must show that its construction of the statute is supported by clear evidence of legislative intent" (Village of Lannon, 2003 WI App 7, 4, 259 Wis. 2d 879, 659 N.W.2d 95, affirmed, 2003 WI 150).

I recommend the Claim for Recovery of Unlawful Tax be disallowed for failure to prove their claim that the assets reported in the amended Personal Property filing and assessed met the exemption statute and the Department of Revenue guidance.

Respectfully Submitted,

*Rick Rubow*

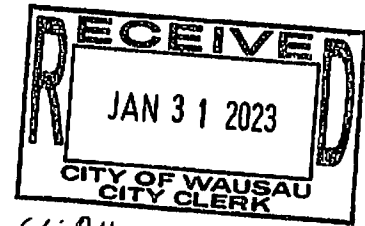
Rick Rubow  
City Assessor  
City of Wausau



Assessment Reduction Services, LLC  
1382 Whippletree Lane  
Neenah, WI 54956

January 31, 2023

City Clerk  
City of Wausau  
407 Grant Street  
Wausau, WI 54403



cc: Attorney, Finance 2/2

**RE: ROARING FORK LLC**  
**Personal Property Claim under 74.35**  
**ACCT 291 16945          2205 Stewart Ave #400**

We hereby file a claim for refund under Wisconsin Statutes 74.35 [Recovery of unlawful taxes] for a portion of the personal property taxes assessed to this taxpayer for the 2022 tax year. The claim is based upon 74.33(1)(c) which states: *The property is exempt by law from taxation, except as provided under sub. (2).*

The claim relates to property that is exempt under several statutory and administrative provisions including:

- 70.111(27), which states:

**(27) MACHINERY, TOOLS, AND PATTERNS.**

*(a) In this subsection, "machinery" means a structure or assemblage of parts that transmits force, motion, or energy from one part to another in a predetermined way by electrical, mechanical, or chemical means. "Machinery" does not include a building.*

*(b) Beginning with the property tax assessments as of January 1, 2018, machinery, tools, and patterns, not including such items used in manufacturing.*

The Wisconsin attorney general issued an opinion on January 3, 2019, clarifying the type of assets exempt under the "machinery" exemption available under 70.111(27). The opinion clarified the asset is exempt regardless of which schedule the assets had been previously reported.

Additionally, the Wisconsin Tax Appeals Commission decision in Masters Gallery [19.M.067] identified certain items in Exhibit 1 which were considered machines including washers, under counter refrigerators, and copiers. This position was allowed in amended returns filed for 35 other Qdoba locations in Wisconsin including 6 in the City of Milwaukee.

- Leasehold improvements which are properly taxed as real estate and included in the assessed value of the real estate value:

**Wisconsin Property Assessment Manual** defines "White Boxed" items to include finished floor system, drop ceiling, standard electrical system, standard plumbing system to include restrooms which are fully functional, standard HVAC system, fire sprinklers, storefront entries. These items are

to be included in the real estate assessment. The assessor has chosen to ignore the direct guidance and continue to assess these items as personal property.

Based upon the above items, we believe the corrected assessed value should be \$76,557. This \$120,843 reduction in assessed value results in a reduction in tax of \$3,097.

This claim is being timely filed under 74.35(5)(a), which states: ***Except as provided under par. (b), a claim under this section shall be filed by January 31 of the year in which the tax is payable.***

Roaring Fork LLC has previously paid the assessed tax of \$5,059.24 with check # 101939. Therefore, the claim for refund is in the amount of \$3,097, plus any applicable interest under 74.35(4), which states: ***The amount of a claim filed under sub. (2) or an action commenced under sub. (3) may include interest computed from the date of filing the claim against the taxation district, at the rate of 0.8 percent per month.***

Sincerely,  
Assessment Reduction Services, LLC

A handwritten signature in black ink, appearing to read 'D. L. Ohland', written in a cursive style.

Daryl L. Ohland

enclosure – property tax agent authorization

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

**RESOLUTION OF THE FINANCE COMMITTEE**

Approving carryover funding of \$40,000 for the 2022 Scott Street Bridge Fencing Project to 2023

Committee Action: Pending

Fiscal Impact: None

File Number: 22-1109

Date Introduced: March 14, 2023

**FISCAL IMPACT SUMMARY**

|               |                                                                                                                                                                                                 |                                                                     |                                  |
|---------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------|----------------------------------|
| <b>COSTS</b>  | <i>Budget Neutral</i>                                                                                                                                                                           | Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> |                                  |
|               | <i>Included in Budget:</i>                                                                                                                                                                      | Yes <input type="checkbox"/> No <input type="checkbox"/>            | <i>Budget Source:</i>            |
|               | <i>One-time Costs:</i>                                                                                                                                                                          | Yes <input type="checkbox"/> No <input type="checkbox"/>            | <i>Amount:</i>                   |
|               | <i>Recurring Costs:</i>                                                                                                                                                                         | Yes <input type="checkbox"/> No <input type="checkbox"/>            | <i>Amount:</i>                   |
| <b>SOURCE</b> | <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> Annual Retirement |
|               | <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 committed to maintaining infrastructure and other capital assets in a timely fashion; and

**WHEREAS**, the Scott Street Bridge Fencing Project (Project) was part of the 2022 Infrastructure Capital Projects, approved by the City Council in November of 2021, as part of the 2022 budget in the amount of \$40,000; and

**WHEREAS**, Wisconsin Public Service (“WPS”) indicated a willingness to contribute to the overall cost in an amount equal to the unit price bid for the WPS portion of the work, as they were desirous of securing the area around the dam; and

**WHEREAS**, on July 6, 2022, the Board of Public Works approved Fortress Fence and Zenith Tech, Inc. to bid on the 2022 Scott Street Bridge Fencing Project; on July 12, 2022, at a meeting of the Board of Public Works, one bid was received from Fortress Fence in the amount of \$92,173.26 (\$58,034 of which the City agreed with WPS to pay) which exceeded the amount for which the City had budgeted by \$18,034; and



**WHEREAS**, on August 10, 2022, the Board of Public Works awarded the project to Fortress Fence in the amount of \$92,172.36, contingent upon any necessary budget modifications through Finance and committees as required; and

**WHEREAS**, on September 27, 2022, having tabled the matter from their September 13, 2022 meeting, the Common Council failed, on a vote of 5-4, to pass a Resolution of the Finance Committee Approving a modification of the 2022 Budget for the Fencing Project, as a two-third's vote is required for budget modifications; and

**WHEREAS**, on February 14, 2023, the Board of Public Works approved Fortress Fence to bid on the 2023 Scott Street Bridge Fencing Project, and rebid the project; and

**WHEREAS**, on February 22, 2023, the Board of Public Works opened bids for the 2023 Scott Street Bridge Fencing Project, and opened one bid from Fortress Fence in the amount of \$87,229.48 and took no action; and

**WHEREAS**, WPS has made a commitment to split the costs of \$87,229.48, by paying \$47,229.48; and

**WHEREAS**, your Finance Committee has reviewed and recommended approval of carryover funding from the 2022 budget to the 2023 budget in the amount of \$40,000 to pay the City's portion of the costs; and

**NOW, THEREFORE BE IT RESOLVED** by the Common Council of the City of Wausau that the proper City Officials are hereby authorized and directed to modify the 2023 budget by carrying over from the 2022 budget, \$40,000 in capital funds for the purpose of completing the 2022 Scott Street Bridge Fencing Project.

Approved:

---

Katie Rosenberg, Mayor

Dept. of Public Works & Utilities



Eric Lindman, P.E.  
Director of Public Works & Utilities

**TO:** Finance Committee

**FROM:** Eric Lindman, P.E.  
Director of Public Works & Utilities

**DATE:** March 14, 2023

**SUBJECT:** Budget Carry Over – Scott Street Bridge Fencing Installation Project

---

A project to install fence under the Scott Street Bridge was approved and funded in the amount of \$40,000 in the 2022 City budget. The objective of the fence is to prohibit access to the areas under the bridge due to safety, personal belongings being stored, excessive trash and public health concerns.

People are and have been camping, living and hanging out in the areas under the bridge. All of the areas that are being used for makeshift sheltering is public road right-of-way. Majority of the sheltering is taking place on the east side of the river. See below pictures from March 8, 2023 of all areas proposed for having fencing installed.

Originally this project was bid in 2022 as a joint project with WPS. WPS is going to place fencing around the area near the dam to keep people off the dam and the city approved placing fencing in areas under the bridge to prevent people from using this area for living and camping. The bids came in high in 2022 and the city portion needed an additional \$18,000. In the fall of 2022, a budget modification was presented to finance and council for the additional \$18,000, it was approved by the finance committee but not approved by the council. The primary reasons discussed were to wait for additional shelter space to open to have more places for individuals to go. Since last fall additional bed space has been made available.

In January 2023 WPS stated they would like to move forward with their portion of the work but since the bids were out of date the city prepared a new advertisement to rebid the project. Bids were received and were still above the city's 2022 budgeted project amount. To keep the project moving forward WPS has committed to paying the additional cost of the city's portion of work which is about \$14,000. The city's original 2022 budget of \$40,000 will NOT need to be increased as WPS will supplement the remaining cost of the project.

Since the funding was budgeted in 2022, the budget for the project will need to be carried over into 2023. This agenda item is to consider a budget carryover of \$40,000 from the 2022 budget to the 2023 budget for the approved Scott Street Fencing Project and accept the grant funding from WPS to fully complete the project.



East Side of River near Library



East side of River near dam



East side of river near library



West side of river near the Mandarin



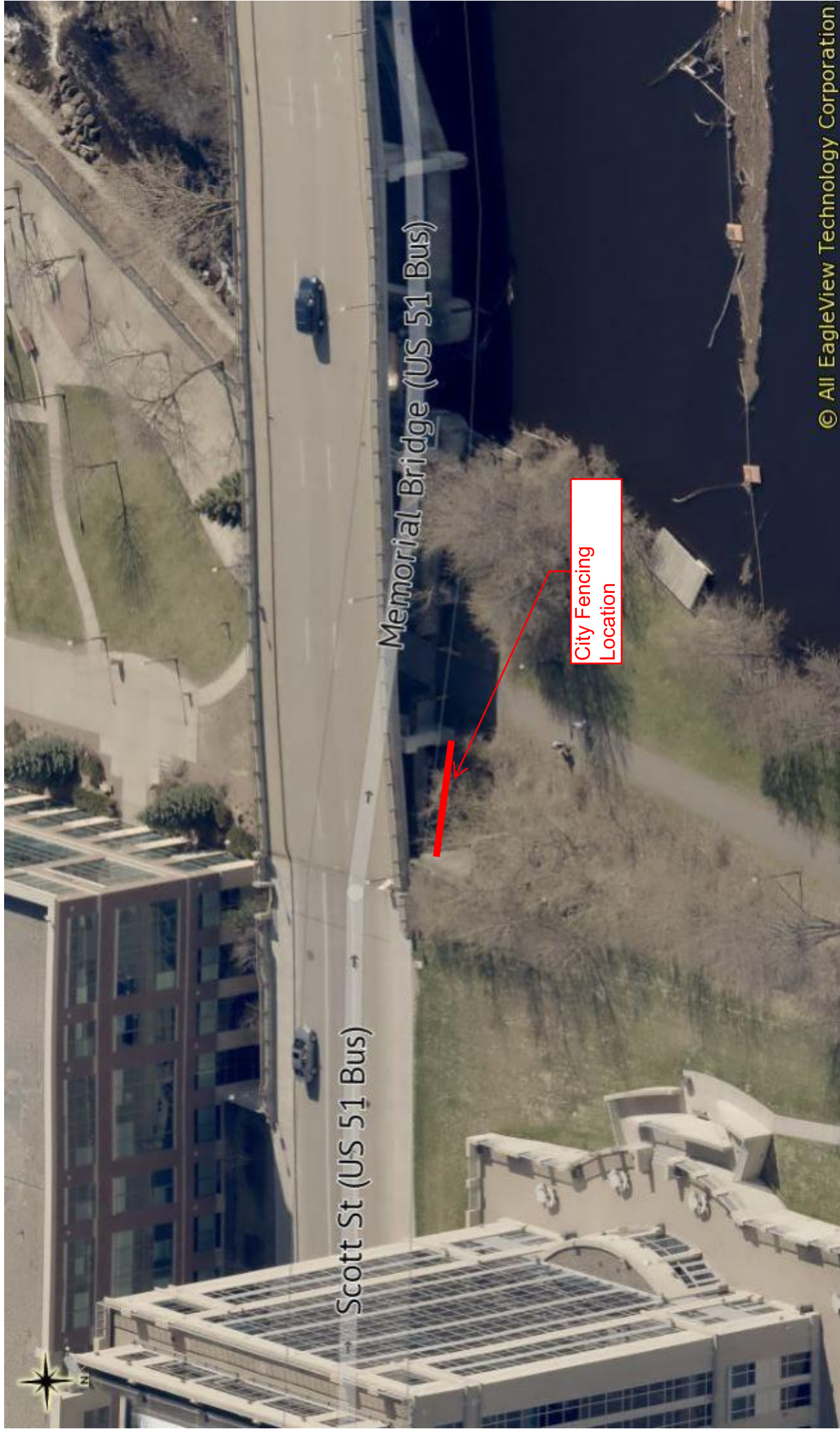
Decorative Pillars  
Not part of Project

Typical Decorative  
Fencing



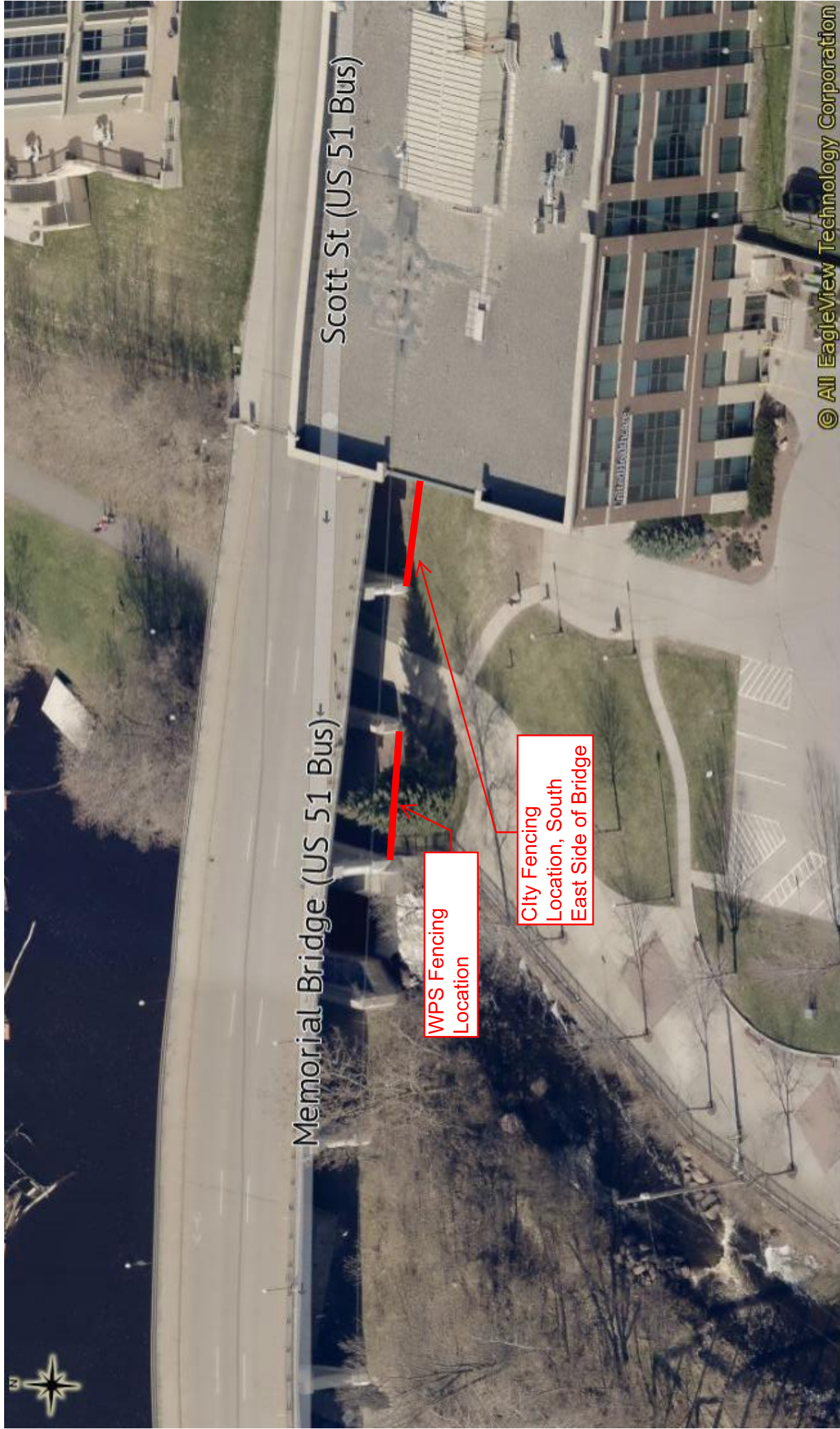


# Bridge Fencing NE Side





# Bridge Fencing SE Side





# Bridge Fencing-West side



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

**RESOLUTION OF THE FINANCE COMMITTEE**

Approving Modification of the 2022 Budget for Fencing Project

Committee Action:      Approved 5-0

Fiscal Impact:          \$18,034

|                     |          |                         |                             |
|---------------------|----------|-------------------------|-----------------------------|
| <b>File Number:</b> | 21-1109E | <b>Date Introduced:</b> | September 13, 2022 (Tabled) |
|                     |          | <b>Re-introduced:</b>   | September 27, 2022          |

**FISCAL IMPACT SUMMARY**

|               |                                                                                                                                                                                                            |                                                                     |                                              |
|---------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------|----------------------------------------------|
| <b>COSTS</b>  | <i>Budget Neutral</i>                                                                                                                                                                                      | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> |                                              |
|               | <i>Included in Budget:</i>                                                                                                                                                                                 | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> | <i>Budget Source: Capital Projects Funds</i> |
|               | <i>One-time Costs:</i>                                                                                                                                                                                     | Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> | <i>Amount: \$18,034</i>                      |
|               | <i>Recurring Costs:</i>                                                                                                                                                                                    | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> | <i>Amount:</i>                               |
| <b>SOURCE</b> | <i>Fee Financed:</i>                                                                                                                                                                                       | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> | <i>Amount:</i>                               |
|               | <i>Grant Financed:</i>                                                                                                                                                                                     | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> | <i>Amount:</i>                               |
|               | <i>Debt Financed:</i>                                                                                                                                                                                      | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> | <i>Amount</i> <i>Annual Retirement</i>       |
|               | <i>TID Financed:</i>                                                                                                                                                                                       | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> | <i>Amount:</i>                               |
|               | <i>TID Source: Increment Revenue</i> <input checked="" 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 committed to maintain infrastructure and other capital assets in a timely fashion; and

**WHEREAS**, the Scott Street Bridge Fencing project has a budget shortfall; and

**WHEREAS**, the 2022 capital fund includes \$40,000 for the fencing project and the costs are \$58,034 with funding to come from unspent Capital Project Funds; and

**WHEREAS**, your Finance Committee has reviewed and recommends a budget modification to move the finance these projects as shown below with funds on hand:

|                               |                                   |                 |
|-------------------------------|-----------------------------------|-----------------|
| <b>Increase 150-236598290</b> | <b>Other Capital Improvements</b> | <b>\$18,034</b> |
|-------------------------------|-----------------------------------|-----------------|

**NOW THEREFORE BE IT RESOLVED**, by the Common Council of the City of Wausau that the proper City Officials be and are hereby authorized and directed to modify the 2022 budget as noted above.

Approved:

---

Katie Rosenberg, Mayor



## **FINANCE COMMITTEE**

Date and Time: Tuesday, August 23, 2022 @ 5:30 pm., Council Chambers

Members Present: Lisa Rasmussen, Sarah Watson, Michael Martens, Carol Lukens, Doug Diny

Others Present: Maryanne Groat, Jeremy Kopp, Ben Bliven, Eric Lindman, Anne Jacobson, Anne Keenan, Katie Rosenberg, Jamie Polley, Solomon King, Dustin Kraege

### **Discussion and possible action regarding budget modification fencing project**

Rasmussen stated this budget modification is a transfer request is for the Scott Street Bridge Fencing project shortfall and for Stewart Avenue 72<sup>nd</sup> to 28<sup>th</sup> Avenue real estate services shortfall.

Maryanne Groat pointed out the agenda item only states the fencing project and did not include the real estate services portion referred to in the resolution, so they should only approve the fencing transfer today and the real estate services will be brought to the next meeting.

Motion by Diny, second by Martens to approve the budget modification of \$18,034 for the Scott Street Bridge Fencing Project. Motion carried 5-0.

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

**RESOLUTION OF THE FINANCE COMMITTEE**

Approving carryover funding of \$40,000 for the 2022 Scott Street Bridge Fencing Project to 2023

Committee Action:

Fiscal Impact:                None

**File Number:**

**Date Introduced:**    March 14, 2023

**FISCAL IMPACT SUMMARY**

|               |                                                                                                                                                                                                 |                                                                     |                                         |
|---------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------|-----------------------------------------|
| <b>COSTS</b>  | <i>Budget Neutral</i>                                                                                                                                                                           | Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> |                                         |
|               | <i>Included in Budget:</i>                                                                                                                                                                      | Yes <input type="checkbox"/> No <input type="checkbox"/>            | <i>Budget Source:</i>                   |
|               | <i>One-time Costs:</i>                                                                                                                                                                          | Yes <input type="checkbox"/> No <input type="checkbox"/>            | <i>Amount:</i>                          |
|               | <i>Recurring Costs:</i>                                                                                                                                                                         | Yes <input type="checkbox"/> No <input type="checkbox"/>            | <i>Amount:</i>                          |
| <b>SOURCE</b> | <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 committed to maintaining infrastructure and other capital assets in a timely fashion; and

**WHEREAS**, the Scott Street Bridge Fencing Project (Project) was part of the 2022 Infrastructure Capital Projects, approved by the City Council in November of 2021, as part of the 2022 budget in the amount of \$40,000; and

**WHEREAS**, Wisconsin Public Service (“WPS”) indicated a willingness to contribute to the overall cost in an amount equal to the unit price bid for the WPS portion of the work, as they were desirous of securing the area around the dam; and

**WHEREAS**, on July 6, 2022, the Board of Public Works approved Fortress Fence and Zenith Tech, Inc. to bid on the 2022 Scott Street Bridge Fencing Project; on July 12, 2022, at a meeting of the Board of Public Works, one bid was received from Fortress Fence in the amount of \$92,173.26 (\$58,034 of which the City agreed with WPS to pay) which exceeded the amount for which the City had budgeted by \$18,034; and

**WHEREAS**, on August 10, 2022, the Board of Public Works awarded the project to Fortress Fence in the amount of \$92,172.36, contingent upon any necessary budget modifications through

Finance and committees as required; and

WHEREAS, on September 27, 2022, having tabled the matter from their September 13, 2022 meeting, the Common Council failed, on a vote of 5-4, to pass a Resolution of the Finance Committee Approving a modification of the 2022 Budget for the Fencing Project, as a two-third's vote is required for budget modifications; and

WHEREAS, on February 14, 2023, the Board of Public Works approved Fortress Fence to bid on the 2023 Scott Street Bridge Fencing Project, and rebid the project; and

WHEREAS, on February 22, 2023, the Board of Public Works opened bids for the 2023 Scott Street Bridge Fencing Project, and opened one bid from Fortress Fence in the amount of \$87,229.48 and took no action; and

WHEREAS, WPS has made a commitment to split the costs of \$87,229.48, by paying \$47,229.48; and

WHEREAS, your Finance Committee has reviewed and recommended approval of carryover funding from the 2022 budget to the 2023 budget in the amount of \$40,000 to pay the City's portion of the costs; and

**NOW, THEREFORE BE IT RESOLVED** by the Common Council of the City of Wausau that the proper City Officials are hereby authorized and directed to modify the 2023 budget by carrying over from the 2022 budget, \$40,000 in capital funds for the purpose of completing the 2022 Scott Street Bridge Fencing Project.

Approved:

---

Katie Rosenberg, Mayor



## RESOLUTION OF THE FINANCE COMMITTEE

Approving Fourth Amendment to Advanced Physical Therapy and Sports Medicine, S. C. On-Site Health Services Agreement

Committee Action: Pending

Fiscal Impact: Services billed at \$85.00 per hour

File Number: 23-0309

Date Introduced: March 14, 2023

### FISCAL IMPACT SUMMARY

|        |                                                                                                                                                                     |                                                                     |                                       |
|--------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------|---------------------------------------|
| COSTS  | Budget Neutral                                                                                                                                                      | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> |                                       |
|        | Included in Budget:                                                                                                                                                 | Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> | Budget Source: not computed - minimal |
|        | One-time Costs:                                                                                                                                                     | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> | Amount:                               |
|        | Recurring Costs:                                                                                                                                                    | Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> | Amount:                               |
| SOURCE | Fee Financed:                                                                                                                                                       | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> | Amount:                               |
|        | Grant Financed:                                                                                                                                                     | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> | Amount:                               |
|        | Debt Financed:                                                                                                                                                      | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> | Amount Annual Retirement              |
|        | TID Financed:                                                                                                                                                       | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> | Amount:                               |
|        | TID Source: Increment Revenue <input type="checkbox"/> Debt <input type="checkbox"/> Funds on Hand <input type="checkbox"/> Interfund Loan <input type="checkbox"/> |                                                                     |                                       |

## RESOLUTION

**WHEREAS**, Advanced Physical Therapy and Sports Medicine, S.C. (“Advanced”) and the City entered into an On-Site Health Services Agreement on June 1, 2018; and

**WHEREAS**, Advanced and the City wish to amend the original agreement by increasing the hourly rate from \$80 per hour to \$85 per hour; and

**WHEREAS**, your Finance Committee, at their March 14, 2023 meeting, discussed and recommended approving the amendment increasing the hourly rate to \$85.

**NOW, THEREFORE, BE IT RESOLVED** that the Common Council of the City of Wausau does hereby approve the Fourth Amendment to the On-Site Health Services Agreement with Advanced Physical Therapy and Sports Medicine, S.C. and directs the proper city officials to execute the attached Amendment.

Approved:

Katie Rosenberg, Mayor



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Office of the City Attorney

TEL: (715) 261-6590

FAX: (715) 261-6808

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Anne L. Jacobson  
City Attorney

Tara G. Alfonso  
Assistant City Attorney

Nathan Miller  
Assistant City Attorney

## Memorandum

**From:** Anne Jacobson   
**To:** Finance Committee  
**Date:** March 3, 2023  
**Re:** Fourth Amendment to Advanced Physical Therapy and Sports Medicine,  
S.C. On-Site Health Services Agreement

---

Purpose: To obtain your approval of a fourth amendment to the Advanced Physical Therapy and Sports Medicine, S.C. On-Site Health Services Agreement.

Facts: On June 1, 2018, Advanced Physical Therapy and Sports Medicine, S. C. ("Advanced") and the City entered into an agreement for on-site health services for the police and fire departments.

Advanced has proposed an hourly rate increase from \$80 to \$85 and an amendment to the Agreement would be necessary.

Recommendation: Approval of the fourth amendment.

**ADVANCED PHYSICAL THERAPY AND SPORTS MEDICINE, S.C.**  
**ON-SITE HEALTH SERVICES AGREEMENT FOURTH AMENDMENT**

THIS ON-SITE HEALTH SERVICES AGREEMENT AMENDMENT (this “Amendment”) is made effective as of the 1<sup>st</sup> day of January, 2023, by and between ADVANCED PHYSICAL THERAPY AND SPORTS MEDICINE, S.C. (“Advanced”), and CITY OF WAUSAU (“Company”).

WHEREAS, Advanced and the Company previously entered into an On-Site Health Services Agreement (the “Original On-Site Health Services Agreement”) on June 1, 2018; and

WHEREAS, Advanced and the Company wish to amend the Original On-Site Health Services Agreement pursuant to the terms and conditions set forth below.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and with the intent of being legally bound hereby, the parties hereto agree as follows:

1. **Exhibit A.** Exhibit A of the On-Site Health Services Agreement Amendment, signed 5/14/21, is hereby deleted in its entirety and replaced with the Exhibit A attached hereto.
2. **Renewal.** Except as set forth above, the Original On-Site Health Services Agreement shall be ratified and affirmed, and shall continue in full force and effect, under the same terms and conditions as set forth therein, as amended by this Amendment. In the event that the terms and conditions of the Original On-Site Health Services Agreement are inconsistent or conflict with the terms and conditions of this Amendment, the terms and conditions of this Amendment shall govern.

IN WITNESS WHEREOF, the parties have executed this Amendment as of the day and year first written above.

ADVANCED PHYSICAL THERAPY  
AND SPORTS MEDICINE, S.C.

\_\_\_\_\_  
Name: Robert Worth  
Title: President/CEO  
Date\_\_\_\_\_

CITY OF WAUSAU (“COMPANY”)

\_\_\_\_\_  
Name: Katie Rosenberg  
Title: Mayor  
Date\_\_\_\_\_

\_\_\_\_\_  
Name: Kaitlyn A. Bernarde  
Title: Clerk  
Date\_\_\_\_\_



## **EXHIBIT A**

### **PURCHASED SERVICES AND FEES**

Advanced Physical Therapy and Sports Medicine, SC will provide onsite injury prevention and management services. The services will be billed at \$85.00 per hour for calendar year 2023 and shall remain in effect thereafter unless or until amended in writing by the parties. Invoices, for the Fire Department, will be sent on a monthly basis to Fire Chief, 606 E. Thomas Street, Wausau, WI 54403. Invoices, for the Police Department, will be sent on a monthly basis to Susan Lang, 515 Grand Avenue, Wausau, WI 54403.

## **ON-SITE HEALTH SERVICES AGREEMENT**

This ON-SITE HEALTH SERVICES AGREEMENT ("Agreement") is effective as of the date of the last signature on this Agreement (the "Effective Date"), and is by and between Advanced Physical Therapy and Sports Medicine, S.C. ("ADVANCED") and City of Wausau, a Wisconsin municipal corporation ("COMPANY").

### **RECITALS**

- A. ADVANCED is experienced in and furnishes on-site health and other related services to employers both directly and by contracting with third-party vendors.
- B. COMPANY desires to engage ADVANCED to provide on-site and related health services to eligible employees (the "Participants") at its facilities ("Designated Locations").
- C. ADVANCED agrees to provide such services to COMPANY as pursuant to the terms and conditions of this Agreement.

### **AGREEMENT**

**IN CONSIDERATION** of the Recitals and the mutual agreements that follow, the parties agree as follows:

1. **SCOPE OF SERVICES.** ADVANCED shall make available to COMPANY under this Agreement the range of services outlined in Exhibit A attached hereto and incorporated herein ("Purchased Services"). ADVANCED and COMPANY agree to work collaboratively to develop a plan for promoting Purchased Services to Participants.
  - (a) COMPANY shall be responsible for providing and maintaining adequate space, including utilities, housekeeping, maintenance, repairs and other related support services for the Designated Locations that are reasonable and necessary for the provision of Purchased Services.
  - (1) COMPANY will provide appropriate, clean and safe office/clinical setting type space for the On-Site Clinic location at no cost to ADVANCED;
  - (i) COMPANY will provide all non-medical equipment, furnishings, and supplies required; which shall include, but may not be limited to; an agreed upon number of private examination rooms that include sinks with running water; functional bathrooms; adequate writing surfaces; functional chairs; Internet service; storage space that is immediately accessible, secured and lockable; telephones; along with access to any applicable and viable Fitness Center and/or equipment; and any other items mutually agreed upon.
  - a) COMPANY agrees to provide, cover and assumes responsibility for all costs and expenses related to ensuring consistent, reliable, secure and timely Internet service access to internal and external communication networks for ADVANCED;
    - I) Includes Infrastructure development, expansion, integration and maintenance of any required wiring and equipment necessary to meet the needs of ADVANCED.
    - II) Includes direct access to designated personnel responsible for COMPANY Internet infrastructure, or similarly aligned personnel.

- (ii) COMPANY agrees to pay ADVANCED the cost to provide and replenish, in full package increments, consumable medical supplies (i.e. gauze, bandages, alcohol wipes, etc.) used through the provision of Purchased Services.
- (2) COMPANY shall provide ADVANCED with any company policies and procedures ADVANCED is expected to adhere to while providing Purchased Services.
- (3) ADVANCED shall provide all medical-related furnishings, equipment and other inventory items, at ADVANCED's sole expense and discretion, which will remain ADVANCED's property.
- (b) In any of its communications regarding the Purchased Services, COMPANY shall use only the approved promotional images and materials provided by ADVANCED and as developed, modified and made available from time to time at ADVANCED's sole discretion.

## **2. FEES AND PAYMENTS.**

- (a) As consideration for the Purchased Services, COMPANY shall pay to ADVANCED the fees as set forth on Exhibit A (the "Fees").
- (b) ADVANCED shall issue itemized invoices to COMPANY once per month for all Fees due from COMPANY for Purchased Services provided during the immediately preceding month. ADVANCED invoices shall be due, and payment in full shall be made by COMPANY, within thirty (30) days of receipt of ADVANCED's invoice.
- (c) COMPANY and ADVANCED agree that Participants shall not be billed for any expenses related to the Purchased Services rendered under this Agreement.

## **3. TERM AND TERMINATION.**

- (a) The term of this Agreement shall commence on the Effective Date and continue for a period of one (1) year (the "Initial Term"); provided, however that this Agreement shall be automatically renewed for successive additional one (1) year terms (each a "Renewal Term"), unless terminated earlier as set forth below. The Initial Term and any Renewal Terms are collectively referred to in this Agreement as the "Term."
- (b) This Agreement may be terminated as follows:
  - (1) Termination Without Cause. Either party may terminate this Agreement upon 30 days' prior written notice to the other party. Changes in the terms, conditions, and pricing of this Agreement require 30 days' written notice prior to the renewal date.
  - (2) Termination by Mutual Agreement. This Agreement shall terminate upon the mutual written agreement of the parties at the time specified by such agreement.
  - (3) Termination for Cause. Either party may terminate this Agreement:
    - (i) If a party (the "Breaching Party") commits a material breach of this Agreement and the Breaching Party does not cure such material breach within thirty (30) days after receiving written notice of such breach from the other party;



(ii) Immediately upon written notice to the other party if either party receives a final order of any governmental agency or court of competent jurisdiction concerning the business, affairs, or practices of either of the parties which requires such termination; or

(iii) Immediately upon the filing of a petition for relief under chapter 11 of the U.S. Bankruptcy Code or a petition for appointment of a receiver by or against one of the parties to this Agreement.

**(c) Upon termination of this Agreement:**

- (1) Neither party shall have any further obligations except for obligations accruing prior to the date of termination or of a nature that survives such termination;
- (2) Each party shall complete all records and reports required to document the Purchased Services;
- (3) COMPANY shall have the right to obtain any Purchased Services from any third party without limitation or restriction of any kind;
- (4) Each party shall promptly return to the other party all property of the other party in its possession or control, including, but not limited to, manuals, business records, information and databases; and
- (5) If termination is by ADVANCED, ADVANCED shall provide to COMPANY information, consultation, and other assistance reasonably necessary to ensure the efficient transition of the Purchased Services to a replacement vendor.

4. **EFFECT OF TERMINATION.** The termination of this Agreement shall not affect any rights or obligations of the parties which accrue or arise prior to the effective date of termination.
5. **AMENDMENT.** No changes or additions to this Agreement shall be recognized and binding unless and until made in writing and signed by all parties to this Agreement.
6. **WAIVER OF BREACH.** The waiver by either party of a breach or violation of any provision of this Agreement shall not operate as, or be construed to be, a waiver of any subsequent breach of the same or other provision thereof.
7. **MEDICAL RECORDS.** ADVANCED shall prepare and maintain appropriate patient medical records, including without limitation records of examination, diagnosis, and treatment, for all Participants receiving health care services pursuant to this Agreement, in accordance with good practice and customary and reasonable standards within the medical industry, and in conformance with applicable law. All medical records created for any Participant are, and shall remain, ADVANCED's property.
8. **OTHER RECORDS.** Each party shall provide the other party with access to all records and other information the requesting party determines is necessary or required for ADVANCED to provide the Purchased Services (the "Information"); provided, however, that such request is permitted by law and the receiving party. Each party shall maintain the confidentiality of the Information in accordance with policies and all applicable federal, state, and local laws, rules and regulations.

- 9. HIPAA COMPLIANCE.** Each party agrees that it will comply in all material respects with all federal and state-mandated regulations, rules or orders applicable to privacy, security and electronic transactions, including without limitation, regulations promulgated pursuant to the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"). This includes entering into an appropriate Business Associate Agreement if necessary to ensure compliance with HIPAA.
- 10. PERSONNEL.** ADVANCED shall ensure that all ADVANCED personnel providing Purchased Services are qualified by training, licensure, certification or experience to perform such services. If requested by COMPANY, ADVANCED shall provide COMPANY with all documentation required to confirm any necessary training, licensure, certification or experience of personnel. All ADVANCED personnel providing Purchased Services under this Agreement shall perform such services in accordance with all applicable requirements of the appropriate regulatory and accrediting agencies. In the event that COMPANY has a concern about the competency, performance, behavior or other event involving ADVANCED personnel providing Purchased Services, ADVANCED will respond promptly to COMPANY's reasonable request. In the event that such concern can be cured by additional training, COMPANY will afford ADVANCED time to supply additional training to such individual. Notwithstanding the foregoing, ADVANCED personnel shall be immediately removed from providing Purchased Services in the event that COMPANY reasonably believes such personnel to be imminently or immediately dangerous to patients, other employees, or COMPANY's reputation in the community.
- 11. INSURANCE.** Throughout the Term of this Agreement, both parties agree to obtain and maintain adequate commercial general liability insurance, in amounts and on terms that are in accordance with acceptable standards in the industry, and as required by law. Both parties agree to maintain all appropriate workers' compensation insurance and employers' liability insurance for its own employees. Upon request, each party will furnish to the other proof of such insurance by presenting valid certificates of current coverage and certificates of renewal.
- 12. INDEPENDENT CONTRACTOR RELATIONSHIP.** ADVANCED is an independent contractor and nothing in this Agreement is intended nor shall be construed to create any joint venture or employment relationship between the parties. No employee or agent of either party may be deemed an employee or agent of the other party by reason of this Agreement. ADVANCED shall be fully responsible for all tax liabilities arising from its status as an independent contractor. Each party shall reasonably notify the other party and permit the other party to participate in the resolution of any inquiry or audit related to ADVANCED's status as an independent contractor.
- 13. CONFIDENTIALITY.** ADVANCED shall follow policies and procedures established by COMPANY regarding confidential information, a copy of which, or access thereto, has been provided to ADVANCED.
- 14. NON-EXCLUSIVITY.** This Agreement shall not be deemed to be an exclusive contract and ADVANCED shall be free to perform services similar or comparable to the Purchased Services for other companies and to enter into agreements for similar services directly with employers.
- 15. NON-SOLICITATION OF EMPLOYEES.** During the term of this Agreement, and for one (1) year thereafter, neither party shall, either directly or indirectly, on their own behalf or on behalf of any other person, firm, or organization: (i) solicit an employee or contractor of the other party, who is directly involved in the provision of Purchased Services, to leave the employ of the other party or (ii) induce such employee or contractor to breach any employment agreement or services contract with the other party. This restriction shall not apply to a party soliciting employment through general public advertisements.

- 16. EXCLUSION.** Each party represents and warrants to the other that it (and each of its agents, employees, or any substitutes thereof providing Purchased Services under this Agreement) (a) is not currently excluded, debarred or otherwise ineligible to participate in the Federal health care programs as defined in 42 U.S.C. 1320a-7b(f) (the "Federal health care programs"); (b) is not convicted of a criminal offense related to the provision of healthcare items or services but has not yet been excluded, debarred, or otherwise declared ineligible to participate in the Federal health care programs; and (c) is not under investigation or otherwise aware of any circumstances which may result in its (or its agents, employees, or any substitutes providing Purchased Services under this Agreement) being excluded from participation in the Federal health care programs. This shall be an ongoing representation and warranty during the term of this Agreement, and each party shall immediately notify the other party of any change in the status of the representation and warranty set forth in this Section. Any breach of this Section shall give the non-breaching party the right to terminate this Agreement immediately.
- 17. APPLICABLE LAWS.** Each party shall comply with all applicable federal, state, and local laws, regulations and ordinances.
- 18. GOVERNING LAW; VENUE.** This Agreement shall be governed by and construed in accordance with the laws of the State of Wisconsin. Any judicial or other action or proceeding arising from or relating to this Agreement shall be brought and venued exclusively in the Marathon County, Wisconsin, Circuit Court.
- 19. MEDICARE ACCESS.** If applicable, until the expiration of four years after the furnishing of the Purchased Services, ADVANCED shall make available, upon request by the Secretary of the U.S. Department of Health and Human Services, the Comptroller General, or any of their duly authorized representatives, the contracts, books, documents and records of ADVANCED that are necessary to certify the nature and extent of all Medicare costs with respect to such services; if ADVANCED carries out any of the duties of this Agreement through a subcontract with a value of or cost of \$10,000 or more over a 12-month period with a related organization, such subcontract shall contain a clause to this effect.
- 20. NON-DISCRIMINATION.** ADVANCED shall impartially provide the Purchased Services to individuals regardless of race, color, religion, creed, sex, national origin, age, disability, sources of payment, or any other protected characteristic.
- 21. MERGER/ENTIRE AGREEMENT.** This Agreement, including the recitals set forth above and any exhibits attached hereto, constitutes the entire agreement between the parties. No oral statements or prior written material not specifically incorporated herein shall be of any force and effect. This Agreement cancels and supersedes all previous contracts and agreements between the parties relating to the subject matter covered by this Agreement.
- 22. NOTICE.** Any and all notices, offers, acceptances, and other communications required or permitted to be given under this Agreement shall be deemed given when delivered by personal delivery or by confirmed facsimile or mailed by prepaid certified mail, return receipt requested, in each case addressed as follows:

|                 |                                                                                                                                                                              |
|-----------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| If to ADVANCED: | Advanced Physical Therapy and Sports Medicine, S.C.<br>2918 Post Road<br>Stevens Point, WI 54481<br>Attention: Dennis Kaster, Clinical Director<br>Facsimile: (715) 345-2797 |
|-----------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|



If to COMPANY:      City of Wausau  
407 Grant Street  
Wausau, WI 54403  
Attention: Toni Rayala, City Clerk  
Facsimile: (715) 261-4106

or to such other address or facsimile number as the party may designate in writing to the other party from time to time.

**23. MISCELLANEOUS.** Nothing in this Agreement shall be construed to create any rights or benefits of any third parties. Neither party may assign this Agreement without the written consent of the other party.

**24. INDEMNIFICATION.** Each party shall be legally and financially responsible for the acts and omissions of itself and its employees, directors, officers, representatives or agents and will pay all losses and damages attributable to such acts or omissions for which it is legally liable. NOTWITHSTANDING THE FOREGOING, NEITHER PARTY SHALL BE LIABLE FOR ANY OF THE OTHER PARTY'S INDIRECT OR CONSEQUENTIAL LOSS OR DAMAGE, INCLUDING, WITHOUT LIMITATION, LOST PROFITS, REGARDLESS OF WHETHER THE PARTIES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE. This Agreement shall not be construed to create a contractual obligation for one party to indemnify the other party for loss or damage resulting from any act or omission of such other party or its employees, directors, officers, representatives or agents, nor to constitute a waiver by either party of any rights to indemnification, contribution or subrogation that the party may have by operation of law.

**25. SEVERABILITY.** In the event that any provision of this Agreement is held to be unenforceable for any reason, the unenforceability thereof shall not affect the remainder of this Agreement, which shall remain in full force and effect and enforceable in accordance with its terms; provided, however, that this Agreement shall in such event be reformed to include a provision as similar in terms as possible to the unenforceable provision so as to retain as much of the original intent and purposes of this Agreement as possible.

**IN WITNESS WHEREOF,** the parties have executed this Agreement to be effective as of the Effective Date above.

**ADVANCED PHYSICAL THERAPY AND  
SPORTS MEDICINE, S.C. ("ADVANCED")**

Jean Darling  
Signature

Name: Jean Darling  
Title: Vice President, General

5-31-2018  
Date

**CITY OF WAUSAU ("COMPANY")**

Robert B. Mielke  
Signature

Robert B. Mielke  
Mayor

5-1-18  
Date

Toni Rayala  
Signature

Toni Rayala  
Clerk

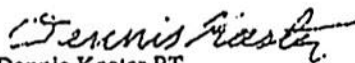
6-1-18  
Date



Tracey Kujawa, Chief  
Wausau Fire Department  
606 E Thomas Street  
Wausau, WI 54403

5/17/18

Advanced Physical Therapy and Sports medicine will provide onsite injury prevention and management services as outlined in the proposal given on 5/4/18, from 5/28/18 thru 12/31/18. The services will be billed at \$70 per hour. The total cost for these services using current 5 hours per week will be \$13,668. Invoices will be sent on a monthly basis to Chief Kujawa.

  
Dennis Kaster PT  
Clinic Director  
Advanced Physical Therapy/Physical Therapy Associates