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

OFFICIAL NOTICE AND AGENDA

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

Meeting:	**Economic Development Committee**
Date/Time:	**Tuesday, February 4, 2025, at 5:30 PM**
Location:	**City Hall (407 Grant Street, Wausau, WI 54403), Council Chambers**
Members:	Carol Lukens (C), Chad Henke (VC), Terry Kilian, Gary Gisselman, and Victoria Tierney

AGENDA ITEMS FOR CONSIDERATION

(All items listed may be acted upon)

1) Public Comment (Up to 3 minutes per person at Chair's discretion)

2) Approval of Minutes from January 7, 2025 Meeting

3) Discussion and Possible Action Approving Request to Install Photovoltaic Equipment on Property Ground Leased by City of Wausau to Van Smiling Eyes, LLC at 1300 N. River Drive (Wausau on Water)

4) Discussion and Possible Action on Exterior Façade Improvements for Asch Properties, LLC for 180 E Wausau Ave (Infused)

5) Update on Thomas Street Infill and WAM Grant (Fifrick)

6) Adjourn

Carol Lukens, Chairperson

It is likely that members of, and a quorum of the Council and/or members of other committees of the Common Council of the City of Wausau will be in attendance at the above-mentioned meeting to gather information. **No action will be taken by any such groups.**

Members of the public may view the meeting live or after the fact on the City of Wausau's YouTube Channel: https://tinyurl.com/WausauCityCouncil or live on Cable TV, Channel 981. Any person who wishes to make a public comment but is unable to or does not wish to to appear in person may direct their comment via email to the City Clerk: Kaitlyn.Bernarde@wausauwi.gov or Interim Development Director: Randy.Fifrick@wausauwi.gov with "EDC Public Comment" in the subject line by the start of the meeting. All public comments received, either by email or in person, will be limited to items on the agenda only. Messages related to agenda items received prior to the start of the meeting will be provided to the Committee Chair.

This Notice was Posted at City Hall and Emailed to Local Media Outlets on 1/30/2025 @ 4:00 PM

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 it's services, programs or activities. If you need assistance or reasonable accommodations to participate in this meeting or event due to a disability as defined under the ADA, please call the ADA Coordinator at (715) 261-6622 or email ADAServices@wausauwi.gov to discuss your accessibility needs. We ask that your request be provided a minimum of 72 hours before the scheduled event or meeting. If a request is made less than 72 hours beforehand, the City of Wausau will make a good faith effort to accommodate your request.

MINUTES

Economic Development Committee Meeting

Date / Time: Tuesday, January 7, 2025, at 5:30 P.M. | ***Meeting called to order by*** Lukens at 5:30 P.M.

In Attendance

Members Present: Carol Lukens, Chad Henke, Gary Gisselman, Terry Kilian, Victoria Tierney

Others Present: Randy Fifrick, Shannon Graff, Tammy Stratz, Andy Lynch, Atty. Jacobson, MaryAnne Groat, Mayor Diny

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 – Public Comment *(Up to 3 minutes per person at Chairs discretion)*

No community members presented for public comment.

Agenda Item 2 – Approval of Minutes from December 3, 2024, Meeting

Tierney motioned to approve, seconded by Kilian. ***Motion Carried 5-0.***

Agenda Item 3 – Parking Space Lease Agreement with Foundry on 3rd Phase 1, LLC (Fifrick)

Fifrick provided the committee with the key terms of the lease agreement as:

- 100 unreserved stalls on the 3rd floor
- Foundry would pay for all stalls on a monthly basis at standard city rate with a 20% discount.
- The lease would commence 12/1/25 and end in 20 years or until the parking facility is terminated.

Alder Kilian noted she does not support the agreement with a 20% discount considering the incentives already granted to the developer. Kilian also stated she spoke with Atty. Jacobson regarding several questions about the lease and requested the attorney review those questions with the committee.

Atty. Jacobson addressed Kilian questions on the lease as follows:

¶ 1 Fifrick answered Kilian's question regarding location of parking stalls at introduction of topic (3rd Floor).

¶ 3 A 20% discount is a business decision to be voted on by the committee and council.

¶ 5 It is unknown how the 24-month timeframe was determined or if it can be shortened.

¶ 8 Presumes since the city owns the ramp in the city would handle the maintenance. She further explained that Wausau has a contract with downtown businesses to clear snow from the sidewalks at no cost to ensure they're cleared timely, limit liability and done consistently.

¶ 10 Assigns liability to the Foundry for damage caused by their agents and allows the city to terminate the lease if they do not pay for the damage the city invoices them for. However, because the city would potentially impose some liability the city's standard insurance clauses will be added to the agreement as well.

¶ 12 Allows the city to terminate the lease if part or all of the ramp is destroyed which is understandable if the ramp isn't fully operational.

¶ 14 Allows the city to expel people who aren't being compliant, but the behaviors noted are subjective and should be revised to indicate someone who acts in a manner which violates city ordinances whether or not a citation is issued may be expelled.

¶ 15 Atty. Jacobson noted she is comfortable with assigning 50 of the stalls to one of its affiliates for their Phase 2 development because they are not asking for an additional 50 stalls and will still only have the 100 stalls per the agreement.

¶ 16 This section will be revised to say "shall be effective any notice under this agreement given by certified mail, overnight mail or personal delivery will be effective upon receipt by" the registered agent.

Kilian also asked about electric charging stations and Fifrick noted there are not currently any in the ramp, nor are any planned at this time.

Discussion continued between committee members on the discount being offered.

Henke motioned to table parking space agreement until the February meeting to allow for agreement edits and further discussion with developer regarding discount. Seconded by Tierney. ***Motion Carried 5-0.***

Agenda Item 4 – Review of Bids for Single-Family Infill Housing for 1019 W Bridge Street (Stratz)

Stratz presented the sole bid received for single home construction on Bridge Street. The bid came in with a cost of approximately $350k which is a bit of a sticker shock but after discussions with several home builders and analyzing the market and pricing, the cost is in line with a stick-built home.

Tierney asked if there is a requirement for a basement or if that can be eliminated to save money. Stratz responded that it's not required but if there is no basement the home size would need to increase to include an area for utilities and storage so there may not be much cost savings. Tierny questioned whether the contractor inflated the cost because they knew they would be the only bidder and further recommended completing a background check of the contractor to ensure they are a reputable contractor.

Kilian noted it didn't seem like good policy to build a home for $348k and sell it for ½ the price. She noted there are nice homes with basements and two car garages on the market listed for $165k - $175k so it's a hard to swallow building a home for $348k and selling it for ½ the price and doesn't think it's good policy. She also noted it's important to consider making adjustments that would impact the resale value because it doesn't offer what buyers want.

Fifrick explained the committee does not accept the bid, staff cannot negotiate with the contractor. The bid must be accepted by the committee and staff directed to negotiate the bid to find opportunities to save costs.

Henke commented that he's been on the council for two years and there is always talk about needing affordable housing and staff work hard to produce ideas and plans. He said this bid isn't at the dollar amount desired and we have to take a loss, that it's just the environment we are in, and he's disgruntled about not moving forward on one of the projects to have a chance to actually build some affordable housing and to make a difference. He expressed support for the bid and hope of moving forward in finally building some affordable housing and selling it to families that need it.

Henke motioned to approve, seconded by Gisselman to accept bid. ***Motion Carried 3-2 with Kilian and Tierney as dissenting votes.***

Agenda Item 5 – Committee Requests for Future Education or Presentations (Fifrick)

Henke excused early and exits at 6:35 pm.

Status of Wausau's housing stock, buying and rehabbing vacant homes, buying vacant lots to build affordable housing.
Rental Property Sales – Rehab program
TIF presentation by Ehlers

Agenda Item 6 – Adjourn

Gisselman motioned to adjourn, seconded by Tierney. ***Motion Carried 4-0.***

Meeting Adjourned at 18:53

CITY OF WAUSAU, YouTube MEETING LINKS

ALL City of Wausau Meetings can be viewed at:

- **https://www.youtube.com/@CityofWausauMeetings**

The ED meeting from 01/07/25 can be viewed at:

- **https://www.youtube.com/live/uranejUbhho?si=aYHWivffZ0OA-uHI**

To: Economic Development Committee

From: Randy Fifrick, Development Director

Date: January 30, 2025

Re: Discussion and Possible Action Approving Request to Install Photovoltaic Equipment on Property Ground Leased by City of Wausau to Van Smiling Eyes, LLC at 1300 N. River Drive (Wausau on Water)

Wausau on the Water (WOW) is applying for a REAP Grant for solar photovoltaic equipment for some of the games at WOW. Attorney Anne Jacobsen has reviewed the documents and our lease agreement and determined that this approval should go to the Economic Development Committee and Council. The City has a Development Agreement and Lease with Van-Smiling Eyes LLC in which the City owns the land and would require approval for their grant request.

REAP Grant documents can be found in the packet along with a plan showing where the equipment would be added to the roof.

What is the solution?

200

0825 - VSUN 550W N Solar Panels
SOLAR PANELS

200

1020 - EN-IQ8P-3P-72-E-US
INVERTERS

135,148

kWh Energy Produced

110.0

KW DC System

Site Control (Ownership and Control) for Solar Photovoltaic Equipment

____ is the owner entity of the property at ________________________________.

As a member of said owner entity I, ____, hereby lease to _________________________ (herein known as "REAP applicant") the property at ____.

REAP applicant may have control of the **Solar Photovoltaic Equipment** to be installed at the site for the expected life of the equipment (approximately 20 years). This will be for a fee of $1 per year. REAP applicant will own and operate the **Solar Photovoltaic Equipment**, have site access and control. The equipment is severable from the land the tenant does not own. All project income and expenses including its operation and maintenance is the responsibility of REAP applicant.

REAP applicant has available at the time of application satisfactory sources of revenue in an amount sufficient to provide for the operation, management, maintenance, and any debt service of the project for the useful life of the project. In addition, the applicant will control the revenues and expenses of the project, including its operation and maintenance. Notwithstanding the provisions of this paragraph, the applicant may employ a qualified consultant under contract to manage revenues and expenses of the project and its operation and/or maintenance.

Signature of property owner or representative: _______________________________________

Date: ___________________

Signature of REAP applicant: ____

Date: ___________________

Rural Energy for America Program (REAP) Grants

Dear REAP Grant Applicant,

Thank you for your interest in the REAP grant for your proposed project. The REAP program can pay up to 50% on eligible projects. **You must submit the application to the USDA before you begin the project or pay any money towards it.** Our company, *Energy Improvement Matters* (EIM), has had great success working with the USDA to help REAP applicants become winners. Our fee is **$600** for project under $200,000, **$900** for projects over $200,000, and **$1250** for projects over $400,000 to complete the energy audit and write the application, which is approximately 150 pages. If you win the grant, we will also invoice for **3% of the project costs (only if you win).**

You may start a project only after the completed application is received and acknowledged by the United States Department of Agriculture. Please contact our office when you have the first 4 items on the list below.

Items needed to complete the grant application:

1. A completed EIM information ("**intake**") form. It is best if item #1 on the intake form, the applicant's name, is the entity to whom the electric bill is addressed; has a tax ID #; and plans to pay for the equipment, take the depreciation and tax credits. **If this is not the case, please contact us before you attempt to get a UEI number or register on SAM.gov.**
2. **Quote(s)** from equipment dealer. Quote(s) should contain all materials and labor required to complete the project, and quote(s) should contain the make/model for all equipment.
3. Upfront fee of **$600** for projects under $200,000.00, **$900** for Projects over $200,000; **$1250** for projects over $400,000. Make checks payable to EIM, mailed to: 7545 Chablis Circle Indianapolis, IN 46278.
4. **Most recent 12 months of utility bills** for the business and/or equipment being replaced. Individual bills, **not summaries**, are required by the USDA. The USDA requires a minimum of the 12 most recent months of bills to demonstrate existing usage. We would prefer 3 years of bills to calculate your energy audit and maximize your application's score.
5. **SAM UEI and CAGE Code** (from SAM.gov). This registration will need to be completed in the exact legal business name of the applying entity. Please **contact us at info@eimgrants.com before attempting to register** to confirm it will be in the correct name.
6. Copy of your **articles of incorporation** or partnership agreement, unless you are applying as a sole proprietor.

7. If you plan to pay for equipment in cash, a **bank statement** showing sufficient funds to pay for project costs not covered by the grant. Generally, this will be half the project cost, but final cost will need to be confirmed. If you plan to pay with a loan or line of credit, **we will send your bank a template letter of support**.
8. Proof of **property control** shown by a copy of property taxes, deed, or a long-term lease. We provide a special form if the applicant does not own the land.
9. Because your project total is over $200,000, the USDA requires the following **financial information** (please contact your accountant):
    a. Historical Financial Statements (BOTH Income Statements and Balance Sheets) for the past 3 years (2021, 2022, and 2023)
    b. Pro Forma (projected) Financial Statements (include assumptions):
        i. Pro Forma Balance Sheet at start-up of project (include grant award)
        ii. 2024 Pro Forma Balance Sheet, Income Statement, AND Cash Flow
        iii. 2025 Pro Forma Balance Sheet, Income Statement, AND Cash Flow
        iv. 2026 Pro Forma Balance Sheet, Income Statement, AND Cash Flow

Energy Improvement Matters helps obtain the following information: lender letters of support; environmental review; eligibility verification for site, applicant and equipment; qualifications of project team; energy or resource assessment; design and engineering descriptions; project development schedule; economic assessment; energy audit to calculate and compare your existing system energy use to proposed energy usage for energy efficiency improvements. We make every effort to keep our up-front costs as low as possible. We have associates on staff who have served as USDA consultants for the REAP program and we have had hundreds of winners with our recent win rates at 92%. We stay abreast of USDA rules pertaining to the REAP grant and application process. While EIM has an exemplary history of winning grants submitted, no one can guarantee that your application will be a winner because this is a competitive process. If you **do** receive the REAP grant, it pays up to 50% of the total project (maximum of $500,000 on energy efficiency improvements and $1M on renewable energy projects). You may begin a project without fear of disqualification only **after** the USDA tells you they received a completed application. **If** you are selected for the 50% grant, EIM will invoice you for 3% of the total project amount. If the grant is not received, there will be no additional cost other than the initial fee. For more information about REAP, please see the USDA website. Please email info@eimgrants.com to submit paperwork or if you have questions. Thank you for your interest.

Sincerely,
Bruce Everly, Certified Energy Manager, Technical Service Provider, MFA, BSME
General Manager, Energy Improvement Matters (EIM), LLC
7545 Chablis Circle Indianapolis, IN 46278

Phone: (317) 228-0134; Fax: (866) 286-0343
Email: info@eimgrants.com

Rev. JB 5/22/24

2024 Solar Grant Intake for *Energy Improvement Matters*

Please complete this form and return it to EIM. Send a **check for $600** for projects under $200,000, **$900** for projects over $200,000, and **$1250** for projects over $400,000. for grant writing and energy audits. Make checks payable to EIM at 7545 Chablis Circle Indianapolis, IN 46278. By completing this application, the applicant also agrees to pay EIM 3% of the total project cost only if you win. **You will be disqualified if you begin the project or pay the dealer before submitting your application to the USDA.**

Name of Applicant or Business to be listed on the application (full legal name as on income taxes)	
The applicant named above (check all that apply)	☐ Pays utility bills ☐ Files Schedule F tax return ☐ Owns proposed equipment site
Is the applicant named above a past REAP winner?	☐ Yes ☐ No
If yes, what was the project? What year was it won and completed?	
Principal person to contact	
Contact information	Phone Number: Email:
Principal person who will sign as a representative for this entity and their position	Name: Position: ☐ Owner ☐ President ☐ Partner ☐ Member ☐ Other:
Tax ID # (EIN for business or SSN for sole proprietor)	
SAM UEI and Expiration (if you don't have one already, leave blank)	
Business physical address If you have a separate mailing address, please include that as well	Address: City: State: Zip Code: County:
Location of proposed equipment Use separate page if you have more than one location for this application	Address: City: State: Zip Code: County:

2024 Solar Grant Intake for *Energy Improvement Matters*

Type of business (as taxes are filed)	☐ Sole Proprietor ☐ C Corp ☐ Partnership	☐ LLC ☐ S Corp ☐ Corporation

Please list the names of entity's members as on article of incorporation or partnership agreement and include their title, percent ownership, and contact information:

Name	Title	% ownership	Contact info

Is the company >20% veteran owned, or >50% women or minority owned? If yes, please explain.	☐ Yes ☐ No

Are any other separate legal entities involved in this project? (e.g., entities that own the project site, partially own applicant entity, controlled by applicant entity, pay utility bills) – ☐ **Yes** ☐ **No**

Please provide entity name(s), relationship with applying entity, and breakdown of the entity's membership.

NAICS code of applying entity *(6 digit code near top of recent tax return)*	
Does more than 50% of your entity's income come from agricultural production?	☐ Yes ☐ No

What was your entity's gross income for each of the past five years as shown on applicant's income taxes? (Please enter below, using the most recent 5 years for which you have taxes.)

2019	2020	2021	2022	2023

What is your primary business?	
How many years have you been in business?	
What does your business do that uses electricity on this meter?	☐ Office lighting &/or heating ☐ Livestock building &/or housing ☐ Greenhouse lighting &/or heating ☐ Grain dryer ☐ Other:
Is there a house on any electric meters to which this system will be connected?	☐ Yes ☐ No
If yes, what is the meter number for the meter the house is on?	
How many full-time employees do you have?	

2024 Solar Grant Intake for *Energy Improvement Matters*

Bank Information (PLEASE provide all info)

Bank you will work with	
Contact person	
E-mail	
Phone Number	
What type of funding will you be using to pay for the project?	☐ Loan ☐ Operating Line of Credit ☐ Cash

Environmental Questions (PLEASE provide all info)

Will the project involve ground disturbance?	☐ Yes	☐ No
Has the ground been previously disturbed by excavation or cultivation? **If yes, please explain:**	☐ Yes	☐ No
Will the project be located within the view of a building that is 50+ years old?	☐ Yes	☐ No
Are there underground storage tanks on the property? **If yes, provide type (gasoline, etc), size, age, date of later certification.**	☐ Yes	☐ No
Are there above ground storage tanks on the property? **If yes, is it in a secondary containment?**	☐ Yes	☐ No
Is there any environmental controversy caused by this project that you are aware of?	☐ Yes	☐ No
Will the project involve cutting or trimming trees? **If yes, explain (how many, how large, tree type):**	☐ Yes	☐ No
Does the property contain areas where regulated hazardous substances or petroleum products appear to have been released?	☐ Yes	☐ No
Could the project have any emissions or cause any uncontrolled or unpermitted release of hazardous substances, pollutants, contaminant, petroleum, or natural gas products?	☐ Yes	☐ No
Is the business facility connected to a municipal wastewater system? **If no, describe existing onsite system, including capacity.**	☐ Yes	☐ No
Will the project be in/on a building? **If yes, what year was it built?**	☐ Yes	☐ No

2024 Solar Grant Intake for *Energy Improvement Matters*

Dealership Information (PLEASE provide all info, contact your dealer with questions)

Where will you purchase equipment? (Dealership name)	
Dealer contact (Salesperson)	
Phone number	
E-mail	
Solar Panels (make & model)	
Inverters (make & model)	
Racking system (make & model)	
Optimizers (make & model)	
What other type of new equipment will there be? (New meter? Batteries?)	
Will this be roof mount or ground mount?	☐ Roof ☐ Ground

Past Energy Use

Who is your utility provider?	
What is the meter number for this location?	
Do you have an interconnect or net metering agreement?	
Are you aware of any energy rate incentives in your area?	

I agree to the fee structure on this form and believe all information provided is accurate. In exchange for EIM preparing and submitting my/our grant application, I agree to pay 3% of the project cost if the application is selected for funding regardless of project completion. Upfront fees are shown at the top of the first page. If a FULL environmental review, or additional help with preparation of financial documents is required, additional fees may be required. Client is responsible for prompt payment. An Interest rate of 18% will begin accruing 45 days after initial invoice. Client is also responsible for any fees incurred upon collection process (if necessary) to obtain payment. By signing below, I verify that I am authorized to sign for this applicant entity.

Printed name: ______________________________

Signature: ______________________________

Date: ____________________________

Rev. JB 5/22/24

GROUND LEASE

THIS GROUND LEASE (this "Lease") is made as of May 9, 2016 (the "Effective Date") by and between the **CITY OF WAUSAU, WISCONSIN**, a Wisconsin municipal corporation ("Landlord"), and **VAN-SMILING EYES, LLC**, a Wisconsin limited liability company ("Tenant").

RECITALS:

A. Landlord owns the real property located in the City of Wausau, County of Marathon, State of Wisconsin, described on the attached Exhibit A (the "Premises").

B. The City of Wausau, Wisconsin (the "City") and Tenant have entered into a certain Development Agreement of dated as of December 28, 2015 (as may be amended from time to time, the "Development Agreement"), which, among other agreements, contemplates that this Lease will be entered into. As used herein, "Landlord" shall refer to the City of Wausau, Wisconsin in its capacity as lessor under this Lease and "the City" shall refer to the City of Wausau in its capacity as a party to the Development Agreement and as Leasehold Mortgagee, if applicable.

C. Tenant desires to lease from Landlord and Landlord desires to lease to Tenant the Premises for the uses described herein.

ACCORDINGLY, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord and Tenant hereby agree as follows:

1. **GRANT AND TERM.**

1.1 Lease. Landlord, for and in consideration of the rents reserved and of the covenants and agreements of Tenant to be performed, leases to Tenant, and Tenant leases from Landlord, the Premises.

1.2 Term. The term ("Term") of this Lease shall be for an initial term commencing on the Effective Date written above (the "Commencement Date") and terminating May 1, 2032 (the "Expiration Date").

1.3 Options to Extend. Tenant shall have seven (7) successive options to extend the Term for ten (10) year periods each (each such period shall be referred to as an "Extended Term"), provided, however, that Tenant exercise its option by written notice to Landlord delivered on or before the date that is one year prior to the expiration of the then current term, and provided further that the Term (inclusive of all Extended Terms) shall not exceed eighty-five (85) years.

1.4 Construction of Building; Development of the Premises. Tenant shall construct the building to be located on the Premises (the "Building") and otherwise develop the Premises at its sole cost and expense in accordance with the provisions of the Development Agreement.

1.5 AS IS Condition. Tenant has inspected the Premises and accepts the same "AS IS" in its current condition without any express or implied warranties by Landlord. Landlord expressly disclaims any warranties or representations regarding the physical condition of the Premises, entitlements, or the suitability of the Premises for Tenant's use.

1.6 Condition of Title. Landlord represents and warrants that Landlord holds fee title to the Premises, free of any liens except those disclosed, if any, in Landlord's title insurance policy previously provided to Tenant (Chicago Title Owner's Policy dated 6/16/2011 and identified as Policy No. 72306-86505914; hereinafter "Landlord's Title Policy"). Notwithstanding anything to the contrary in this Lease, Landlord's grant hereunder is limited to Landlord's right title and interest in and to the Premises, subject to all matters of record, including, without limitation, the Riverfront Declaration (as that term is defined in Section 20 below). Tenant understands and agrees that its right, title and interest in the Premises shall in no event exceed that vested in Landlord. Should Tenant desire to obtain title insurance or a survey in connection with this Lease, such items shall be at Tenant's sole cost and expense.

1.7 Dumpster Area. During the Term, Tenant shall have a non-exclusive license to use the "Dumpster Area" contemplated and defined in Section 3.g of the Development Agreement. Tenant shall use the Dumpster Area in with all applicable laws and ordinances, and shall Tenant keep Tenant's portion of the Dumpster Area in a reasonably clean and orderly condition. Further, Tenant's use is subject to such additional reasonable rules and regulations as Landlord may establish from time to time. Landlord shall have the right, at Landlord's expense, to relocate the Dumpster Area from time to time, provided that the area remains within a reasonable distance from the Premises. Landlord's obligations hereunder with regard to the Dumpster Area shall terminate if the Riverfront Declaration is created and establishes a similar dumpster area that is appurtenant to the Premises.

2. **RENT.**

2.1 Base Rent. Tenant shall pay the amount of Twelve Thousand and No/100 Dollars ($12,000.00) as the annual base rent ("Base Rent"), payable in advance in equal monthly installments of One Thousand and No/100 Dollars ($1,000.00) commencing on the Commencement Date and continuing on the first day of each and every month thereafter throughout the Term (the "Monthly Base Rent"). Notwithstanding the foregoing, the installments of Rent for any partial month of the term hereof shall be prorated based upon the number of days during such month. All Rent or other rentals or sums due hereunder shall be paid in advance without notice, set off, abatement or demand at the office of Landlord or to such other person or at such other place as Landlord may designate in writing.

2.2 Base Rent During Extended Terms. The Base Rent for each Extended Term shall continue to be $1,000.00 per month.

2.3 Abatement of Base Rent. So long as no Event of Default occurs, Base Rent shall abate for the first thirty-six (36) months of the Term. Tenant shall remain liable for all Additional Rent (as defined below) during such abatement period. In the event of an Event of Default during the initial Term of this Lease, all abated Base Rent under this Section 2.3 shall become immediately due and payable.

2.4 Net Lease.

(a) This Lease is what is commonly called a "absolute net lease," it being understood that Landlord shall receive the Monthly Base Rent set forth in Section 2.1 free and clear of any and all other impositions, taxes, liens, charges or expenses of any nature whatsoever in connection with the ownership, maintenance, repair and operation of the Premises. In addition to the Monthly Base Rent, Tenant shall pay, before due, to such persons or entities respectively entitled, all taxes and impositions, and any other charges, costs and expenses which arise or may be contemplated under any provisions of this Lease during the Term. All of such charges, costs and expenses when due, shall constitute additional rent ("Additional Rent"), and upon the failure of Tenant to pay any of such costs, charges or expenses, Landlord shall have the same rights and remedies as otherwise provided in this Lease for the failure of Tenant to pay Monthly Base Rent. Monthly Base Rent, Additional Rent and all other sums payable under this Lease by Tenant (collectively "Rent") shall be paid without notice or demand and without setoff, counterclaim, abatement, suspension, deduction or defense.

(b) It is the intention of the parties to this Lease that the obligations of Tenant under this Lease shall be separate and independent covenants and agreements, that the Monthly Base Rent, the Additional Rent and all other sums payable by Tenant under this Lease shall continue to be payable in all events and that the obligations of Tenant under this Lease shall continue unaffected, unless the requirement to pay or perform the same shall have been terminated pursuant to an express provision of this Lease.

2.5 Place of Payment. Rent shall be paid to or upon the order of Landlord at the Landlord's address set forth in this Lease or as otherwise designated in writing by Landlord. Landlord may change its address by notice to Tenant of such change pursuant to the terms of this Lease.

2.6 Interest. Rent and all other monetary obligations of Tenant hereunder not paid when due shall bear interest from the date due until the same is paid in full at an annual rate of eighteen percent (18%) per annum, unless a lesser rate shall then be the maximum rate permissible by law, in which event said lesser rate shall be charged. The rate of interest determined pursuant to the preceding sentence is sometimes referred to below as the "Maximum Rate of Interest."

3. **USE.**

3.1 Permitted Use. The Premises and the improvements thereon may be used for a family entertainment center, bar and restaurant, and other related activities such as the for the manufacturing of alcoholic and nonalcoholic beverages, and for no other use without Landlord's prior written consent, which shall not be unreasonably withheld delayed or denied. The use of the Premises shall, in any event comply, with the terms, conditions and restrictions of this Lease, including, without limitation, the requirement that Tenant comply with all applicable laws and regulations.

3.2 Restricted Use. Tenant shall not use or permit the Premises to be used in any manner other than the permitted use set forth in Section 3.1. Notwithstanding anything contained in this Lease to the contrary, Tenant shall not use or permit the Premises to be used in any manner which would be contrary to any statute, rule, order, ordinance, requirement or applicable regulation (including, without limitation, zoning regulations), violate any certificate of occupancy affecting the Premises, violate any title restrictions (including, without limitation, the Riverfront Declaration), cause injury to the Premises, cause the value or usefulness of all or any part of the Premises to diminish (other than normal wear and tear), constitute a public or private nuisance or waste, or render the insurance on the Premises void or the insurance risk more hazardous or create any defense to payment, and Tenant agrees that it will promptly, upon discovery of any such use, take all necessary steps to compel the discontinuance of such use.

3.3 No Adverse Possession. Tenant shall not use, suffer or permit all or any portion of the Premises to be used in such manner as might reasonably tend to impair Landlord's title to all or any portion of the Premises, or in such manner as might reasonably make possible a claim of adverse possession or of implied dedication of all or any portion of the Premises.

4. **TAXES.**

4.1 Taxes. "Taxes" shall mean real estate taxes, assessments (general or special), sewer rents, rates and charges, transit taxes, taxes based upon leases or the receipt of rent, and any other federal, state or local governmental charge, general, special, ordinary or extraordinary, or payments in lieu of taxes which may now or subsequently be levied, assessed or imposed against all or any portion of the Premises, any interest in the Premises, the Building or any other improvements thereon. "Taxes" shall also include personal property taxes (if any) imposed upon the furniture, fixtures, machinery, equipment, apparatus, systems or appurtenances located on and used in connection with Tenant's use of the Premises or its operation. "Taxes" shall also include all assessments (general or special) assessed or imposed against the Premises pursuant to the Riverfront Declaration.

4.2 Payment. Tenant shall pay directly, before any fine, penalty, interest or cost is incurred, all Taxes which are assessed, levied, confirmed, imposed or which become a lien upon the Premises with respect to any period of time within the Term. Taxes shall be prorated for the first and last year of the Term.

4.3 Contest. Tenant shall have the right at its own expense to contest the amount or validity, in whole or in part, of any Tax by appropriate proceedings diligently conducted in good faith.

4.4 Development Agreement Obligations. Developer's obligations to the City under Section 2.c of the Development Agreement (relating to payments in lieu of taxes in the event the Premises is ever assessed lower than the "Anticipated Assessed Value") and under Section 5.u of the Development Agreement (relating to a "Tax-Exempt Covenant" and other agreements to pay payments in lieu of taxes if the Premises is ever deemed to be exempt from general real estate taxation) are hereby incorporated herein by this reference. Such provisions shall survive the entire Term of this Lease in the event of an earlier termination of the Development Agreement.

5. **INSURANCE.**

5.1 Fire and Casualty. Tenant, at Tenant's sole cost and expense, shall continuously maintain in full force and effect during the Term of this Lease a policy or policies of insurance insuring the Building against loss or damage by fire and extended perils and other perils with replacement cost and agreed amounts endorsements, and such other endorsements as may be reasonably required from time to time by Landlord. Landlord shall be named as additional insured, and any Leasehold Mortgagee shall be named as a loss payee.

5.2 Liability. During the Term, Tenant, at its sole cost and expense, shall continuously maintain in full force and effect during the Term of this Lease commercial general liability and excess/umbrella liability policies against any loss, liability or damage on, about or relating to all or any portion of the Premises, with limits of not less than $5,000,000.00 combined single limit coverage for bodily injury or property damage liability claims on an occurrence basis arising out of or in connection with Tenant's operations in and maintenance and use of the Premises. Landlord shall be named as an additional insured. Tenant agrees to increase such liability limit as Landlord may reasonably request from time to time, based on the then-current use of the Premises and Landlord's reasonable determination of the then-current prevailing insurance standards for such use.

5.3 Policies. All policies of insurance required by this Lease shall provide that the proceeds shall be payable to Landlord and any Leasehold Mortgagee, as their interests may appear. Each policy shall have attached (i) an endorsement that such policy shall not be cancelled or changed without at least thirty (30) days prior written notice to the other party, and (ii) an endorsement to the effect that the insurance shall not be invalidated by any act or neglect of any person. All policies of insurance shall be written by a company or companies reasonably satisfactory to Landlord and licensed in the State of Wisconsin. Certificates of insurance reasonably acceptable to Landlord (or a copy of the policy if requested by Landlord) shall be delivered to Landlord endorsed "Premium Paid" by the company or agent issuing the same or accompanied by other evidence satisfactory to Landlord that the premiums have been paid as of the Commencement Date; and prior to expiration of such policy, certificates of insurance, plus evidence of premium payment, shall be delivered to Landlord not less than twenty (20) days prior to the expiration of the then current policy term.

5.4 Tenant's Indemnification. Tenant agrees to indemnify and save Landlord harmless against and from any and all third party claims, damages, losses, liabilities and expenses (including reasonable attorneys' fees), arising out of Tenant's occupancy of the Premises or from the conduct of management of the business conducted by Tenant in the Premises or from any breach or default on the part of Tenant in the performance of any covenant or agreement on the part of Tenant to be performed pursuant to the terms of this Lease, or from any act or negligence of Tenant, its agents, contractors, servants, employees, sublessees, concessionaires or licensees in or about the Premises; but excluding any claims, damages, losses, liabilities or expenses to the extent caused by the willful misconduct or negligence of Landlord or Landlord's employees, agents, contractors or invitees. In case any action or proceeding is brought against Landlord by reason of any claim covered by Tenant's indemnity, Tenant, upon notice from Landlord, shall defend such action or proceeding that is brought against Landlord by reason of any such claim. Tenant, upon notice from Landlord, covenants to defend such action or proceeding by attorneys reasonably satisfactory to Landlord.

6. **UTILITIES**. Tenant will pay, when due, all charges of every nature, kind or description for utilities furnished to the Premises or chargeable against the Premises during the Term, including all charges for water, sewage, heat, gas, light, garbage, electricity, telephone, internet, or other public or private utility services. Landlord shall not be liable for any interruption

or discontinuation of any such services nor shall such interruption or discontinuation constitute grounds for constructive eviction; provided, however, that if, through no fault of Tenant, the Premises shall permanently lose service for any utilities necessary for Tenant's operations, Tenant shall have the option, upon thirty (30) days' written notice to Landlord, to terminate this Lease.

7. **REPAIRS**.

7.1 Good Order and Repair. At its sole cost and expense throughout the Term, Tenant shall (a) take good care of the Premises; (b) keep the same in good order and condition (ordinary wear and tear excepted); and (c) make and perform all maintenance and all repairs, interior and exterior, structural and non-structural, of every nature, kind and description in and to the Premises and the Building as may be reasonably necessary to keep the Premises and the improvements thereon in good working condition. When used in this Lease, "repairs" shall include all necessary replacements, renewals, alterations, additions and betterments. All repairs made by Tenant shall be in accordance with all laws, ordinances, regulations and restrictions of record whether previously or subsequently enacted.

7.2 Exterior Maintenance. At its sole cost and expense throughout the Term, Tenant shall take good care of, repair and maintain all exterior portions of the Premises in good order and repair and shall keep all exterior portions of the Premises in a reasonably clean and orderly condition, free of snow, ice, dirt, rubbish, debris and unlawful obstructions. Any such exterior maintenance shall exclude maintenance of areas which are not within the Premises and Tenant's exclusive control (e.g. public roadways) except with respect to Tenant's responsibilities with respect to the Dumpster Area as set forth herein; provided, however, that Tenant understands and agrees that the Riverfront Declaration, if established, will likely include cost sharing for the maintenance of various common areas.

7.3 No Landlord Responsibility. Landlord shall not be required to furnish any services or facilities or to make any repairs or alterations whatsoever in, about or to the Premises.

8. **LAWS, ORDINANCES, AND REGULATIONS**.

8.1 Compliance. Tenant shall at its sole cost and expense promptly comply or cause compliance with or remove or cure or repair any violation of any and all encroachments; any present and future laws, ordinances, orders, rules, regulations and requirements of all federal, state, municipal and other governmental bodies having jurisdiction over the Premises and the appropriate departments, commissions, boards and their officers; and the orders, rules and regulations of the Board of Fire Underwriters where the Premises are situated; or any other body now or subsequently constituted exercising lawful or valid authority over the Premises.

8.2 Covenants and Restrictions. At its sole cost and expense throughout the Term, Tenant shall comply with all agreements, contracts, easements, restrictions, reservations or covenants, if any, disclosed in Landlord's Title Policy; or subsequently created so long as Tenant has received and consented to any such subsequently created covenants or restrictions. Tenant shall also comply with, observe and perform all provisions and requirements of all policies of insurance at anytime in force with respect to the Premises.

9. **MECHANIC'S LIENS AND OTHER LIENS**. Tenant shall not suffer or permit any mechanic's lien or other lien to be filed against all or any portion of the Premises, by reason of work, labor, services, equipment or materials supplied or claimed to have been supplied to the Premises, or any portion of the Premises. If any such mechanic's lien or other lien shall at any time be filed against all or any portion of the Premises, Tenant shall cause the same to be discharged of record within thirty (30) days after notice thereof. If Tenant shall fail to discharge such mechanic's lien or liens or other lien within such period, then, in addition to any other right or remedy of Landlord, Landlord may, but shall not be obligated to, discharge the same by paying to the claimant the amount claimed to be due or by procuring the discharge of such lien as to the Premises by deposit of a cash sum or a bond or other security, or in such other manner as is now or may in the future be provided by present or future law for the discharge of such lien as a lien against the Premises. Any amount paid by Landlord, or the value of any deposit so made by Landlord, together with all costs, fees and expenses (including reasonable attorneys' fees), and interest at the Maximum Rate of Interest, shall be repaid by Tenant to Landlord on demand as Additional Rent. Tenant shall indemnify and defend Landlord, its officers, agents, contractors, employees and representatives (collectively, the "Landlord Parties") and save the Landlord Parties harmless from all losses, costs, damages, expenses, liabilities, suits, penalties, claims, demands and obligations, including, without limitation, reasonable attorneys' fees, resulting from the assertion, filing, foreclosure or other legal proceedings with respect to any such mechanic's lien or other lien placed on the Premises or against the Tenant.

10. **LANDLORD'S RIGHT TO CURE DEFAULT**.

10.1 Right to Cure. If Tenant shall at any time fail to (a) pay any Taxes in accordance with the provisions of this Lease; (b) obtain, pay for, maintain and deliver any of the copies of insurance policies or certificates of insurance provided for in this Lease; (c) make any other payment or perform any other act on its part to be made or performed, then Landlord, after thirty (30) days prior written notice to Tenant (or without notice in case of emergency or in the case of insurance), and without waiving or releasing Tenant from any obligation of Tenant contained in this Lease, may, but shall be under no obligation to, (i) pay any Taxes payable by Tenant pursuant to the provisions of this Lease; (ii) obtain, pay for and maintain any of the insurance policies provided for in this Lease; (iii) make any repair; or (d) make any other payment or perform any other act on Tenant's part to be paid or performed as provided in this Lease, and Landlord may enter upon the Premises for any such purpose and take all such action in the Premises or on the Premises as may be reasonably necessary. Nothing contained in this Lease shall be deemed as a waiver or release of Tenant from any obligation of Tenant under this Lease.

10.2 Additional Rent. All sums so paid by Landlord pursuant to Section 10.1 and all costs and expenses, including reasonable attorneys' fees, incurred by Landlord in connection with the performance of any such payment, together with interest at the Maximum Rate of Interest from the respective dates of Landlord's making of each payment of such cost and expense, shall be deemed Additional Rent under this Lease and shall be paid by Tenant to Landlord on demand.

11. **DEFAULTS OF TENANT**.

11.1 Events of Default. The occurrence of any one or more of the following events shall constitute an "Event of Default":

(a) If default shall be made by Tenant, by operation of law or otherwise, under the provisions of this Lease relating to assignment, sublease, mortgage or other transfer of Tenant's interest in this Lease or in the Premises or in the income arising from the Premises;

(b) If default shall be made in the due and punctual payment of any Base Rent or Additional Rent or in the payment of any other amount to be paid by Tenant, when and as the same shall become due and payable;

(c) If a default by Tenant shall occur under the terms of the Development Agreement;

(d) If default shall be made by Tenant in keeping, observing or performing any of the terms contained in this Lease, other than matters of an emergency nature and other than those referred to in subparagraphs (a), (b) and (c) of this Section 11.1, and such default shall continue for a period of thirty (30) days after written notice given by Landlord to Tenant, or in the event such a default or contingency cannot, with due diligence and in good faith, be cured within thirty (30) days, if Tenant fails to proceed promptly and with due diligence and in good faith to cure the same and subsequently to prosecute the curing of such default with due diligence and in good faith, then the time allowed Tenant within which to cure the same shall be extended for such period as may be necessary for the curing of such default promptly with due diligence and in good faith, but not for more than an additional thirty (30) days; and/or

(e) If (i) Tenant shall make an assignment for the benefit of creditors; (ii) a voluntary petition is filed by Tenant under any law having for its purpose the adjudication of Tenant a bankrupt, or an involuntary petition in bankruptcy is filed against Tenant which is not dismissed within sixty (60) days; (iii) a receiver be appointed for the property of Tenant where possession is not restored to Tenant within thirty (30) days; or (iv) any department of the State of Wisconsin or the federal government, or any officer of such department duly authorized, shall take possession of the business or any material property of Tenant unless (in the case of a petition filed against Tenant) the same is dismissed within sixty (60) days.

11.2 Remedies. If an Event of Default occurs, Landlord shall have the rights and remedies set forth below, which shall be distinct, separate and cumulative and shall not operate to exclude or deprive Landlord of any other right or remedy allowed it at law or in equity or elsewhere in this Lease:

(a) Landlord may terminate this Lease by giving Tenant written notice of its election to do so, in which event the Term shall end and all right, title and interest of Tenant under this Lease shall expire on the date stated in such notice;

(b) Landlord may terminate Tenant's right to possess the Premises without terminating this Lease by giving written notice to Tenant that Tenant's right of possession shall end on the date stated in such notice, whereupon Tenant's right to possess all or any portion of the Premises shall cease on the date stated in such notice; and

(c) Landlord may enforce the provisions of this Lease and may enforce and protect the rights of Landlord under this Lease by a suit or suits in equity or at law for the specific performance of any covenant or agreement contained in this Lease, and for the enforcement of any other appropriate legal or equitable remedy, including, without limitation, injunctive relief, and for recovery of all monies due or to become due from Tenant under any of the provisions of this Lease. Landlord shall, to the extent required by law, use commercially reasonable efforts to mitigate Tenant's damages.

11.3 Surrender of Possession. If Landlord exercises either of the remedies provided for in Sections 11.2(a) and (b), Tenant shall surrender possession of and vacate the Premises and immediately deliver possession of the Premises to Landlord, and Landlord may re-enter and take complete and peaceful possession of the Premises, with or without process of law, full and complete license so to do being granted to Landlord, and Landlord may remove all occupants and property from the Premises, using such force as may be necessary, without being deemed in any manner guilty of trespass, eviction or forcible entry and detainer, and as to Section 11.2(b), without relinquishing Landlord's right to Rent or any other right given to Landlord under this Lease or by law or in equity.

11.4 Additional Rights and Remedies. Notwithstanding anything to the contrary contained in this Lease, in addition to the remedies set forth herein, Landlord may pursue any other remedy now or hereafter available under the laws or judicial decisions of the State of Wisconsin.

11.5 Termination of Lease. In the event of the termination of this Lease by Landlord as provided for by Section 11.2(a), Landlord shall be entitled to recover from Tenant all the accrued and unpaid Rent for the period up to and including such termination date as well as all other additional sums payable by Tenant, or for which Tenant is liable or in respect of which Tenant has agreed to indemnify Landlord under any of the provisions of this Lease, which may be then owing and unpaid, and all costs and expenses, including, without limitation, court costs and attorneys' fees incurred by Landlord in the enforcement of its rights and remedies under this Lease.

11.6 Costs. If Landlord is the substantially prevailing party (regardless of whether at trial, on appeal, in any bankruptcy proceeding, in an arbitration or without resort to suit), then Tenant shall pay all costs, charges and expenses, including, without limitation, court costs and reasonable attorneys' fees of Landlord, incurred in enforcing the obligations of Tenant under this Lease.

11.7 Leasehold Mortgagees. The rights of Landlord under this Section 11 are subject to the express rights of Leasehold Mortgagees pursuant to Section 15 below.

12. **DESTRUCTION AND RESTORATION.**

12.1 Restoration. Subject to the rights of any Leasehold Mortgagees (including, without limitation, the CDC or its assignee) and the rights of the City under the Development Agreement, and subject to Tenant's early termination right in Section 12.2 below, in the event the Building or other improvements on the Premises shall be damaged or destroyed by fire or otherwise, Tenant, at its sole cost and expense, shall promptly restore, repair, replace and rebuild the same as nearly as possible to the condition that the same were in immediately prior to such damage or destruction (reasonable wear and tear excepted) with such changes or alterations (made in conformity with this Lease) as may be required by law and Landlord agrees to release any insurance proceeds payable to Landlord for such purpose as the restoration is completed to the

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reasonable satisfaction of Landlord. Tenant shall promptly give Landlord written notice of such damage or destruction upon its occurrence and specify in such notice, in reasonable detail, the extent of such damage or destruction. Such restoration, repairs, replacements, rebuilding, changes and alterations, including the cost of temporary repairs for the protection of all or any portion of the Premises, pending completion of the Premises are sometimes referred to below as the "Restoration." The Restoration shall be carried on and completed in accordance with the provisions and conditions of Section 17 of this Lease.

12.2 Early Termination. If the Building shall be destroyed or damaged (through no negligent or intentional act of Tenant), and if restoration cannot in the reasonable judgment of Tenant be completed within twelve (12) full calendar months after the date of such damage or destruction or if, in the reasonable judgment of Tenant, available insurance proceeds are insufficient to complete the Restoration, then Tenant shall have the option to terminate this Lease as of the date of the casualty by providing written notice of its election to Landlord within thirty (30) days of the date of the casualty. In such event Landlord shall be entitled to the proceeds of all insurance required to be carried by Tenant under this Lease to the extent necessary to restore the Premises to substantially the same unimproved condition as of the Effective Date and Tenant shall execute all documents reasonably requested by Landlord to allow such proceeds to be paid to Landlord. Any remaining insurance proceeds shall be paid to Tenant, subject to the rights of any Leasehold Mortgagees (including, without limitation, the CDC or its assignee) and the rights of the City under the Development Agreement. In the event the casualty was caused by the negligent or intentional act of Tenant, then Landlord shall have the option to terminate this Lease (with the insurance proceeds to be distributed as set forth in this Section 12.2) or to require Tenant to rebuild as set forth in Section 12.1 above.

12.3 No Rent Abatement. Except as set forth in Section 12.2 above, no destruction of or damage to all or any portion of the Premises, by fire, casualty or otherwise shall permit Tenant to surrender this Lease or shall relieve Tenant from its liability to pay to Landlord the Base Rent and Additional Rent payable under this Lease or from any of its other obligations under this Lease.

13. **CONDEMNATION.**

13.1 Entire Taking. If, during the Term, the entire Premises or any material portion of the Building shall be taken as the result of the exercise of the power of eminent domain or conveyed under threat of such power (referred to below as the "Proceedings"), this Lease and all right, title and interest of Tenant under this Lease shall terminate on the earlier of taking of possession by the condemning authority or the date of vesting of title pursuant to such Proceedings. Except as provided below, Landlord shall be entitled to and shall receive the total award made in such Proceedings, Tenant assigning any interest in such award, damages, consequential damages and compensation to Landlord. Tenant shall be entitled, subject to the rights of any Leasehold Mortgagees (including, without limitation, the CDC or its assignee), to the portion of the award (and any separate award to Tenant) for the cost of realigning, relocating or removing its personal property, or the portion of the award allocated to the value of the Building and any other improvements made by or at the expense of Tenant, or for relocation expenses or loss of business; provided, however, that Landlord shall, at minimum, receive the sum of the value of the fee taken (equitably adjusted downward based on the relative value of the remaining leasehold estate), the lost rental income under this Lease, Landlord's costs and expenses, including reasonable attorneys' fees, with respect to the Proceedings, and, in the event of a partial taking, the amount of the award necessary to restore the remainder of the Premises to substantially the same unimproved condition as of the Effective Date.

13.2 Partial Taking. If, during the Term, less than the entire Premises and no material part of the Building shall be taken in any such Proceedings this Lease shall, upon the earlier of taking of possession by the condemning authority or vesting of title in the Proceedings, terminate as to the parts so taken, Except as provided below, Landlord shall be entitled to and shall receive the total award made in such Proceedings, Tenant assigning any interest in such award, damages, consequential damages and compensation to Landlord. Tenant shall be entitled, subject to the rights of any Leasehold Mortgagees (including, without limitation, the CDC or its assignee), to the portion of the award (and any separate award to Tenant) for the cost of realigning, relocating or removing its personal property, or the portion of the award allocated to the value of the Building and any other improvements made by or at the expense of Tenant, or for relocation expenses or loss of business; provided, however, that Landlord shall, at minimum, receive the sum of the value of the fee taken (equitably adjusted downward based on the relative value of the remaining leasehold estate), the lost rental income under this Lease (pursuant to Section 13.4 below), Landlord's costs and expenses, including reasonable attorneys' fees, with respect to the Proceedings, and the amount of the award necessary to restore the remainder of the Premises. Tenant covenants and agrees, at Tenant's sole cost and expense (subject to reimbursement to the extent provided below), to promptly restore that portion of the Premises not so taken for the use of Tenant. Landlord agrees in connection with such restoration work to apply so much of the net amount of any award (after deduction of all costs and expenses, including reasonable attorneys' fees) as Landlord deems reasonable and that may be received by Landlord in any such Proceedings for physical damage as a result of such taking to the costs of such restoration work when completed by Tenant to the satisfaction of Landlord.

13.3 Payment of Rent. In the event of any termination of all or any part in this Lease as a result of any such Proceedings, Tenant shall pay all Base Rent and all Additional Rent and other charges payable under this Lease with respect to that portion of the Premises so taken, apportioned to the date of such termination.

13.4 Apportionment of Rent. If this Lease is not terminated in the event of a partial taking of the Premises, the Base Rent payable under this Lease during the period from and after the earlier of the taking of possession by the condemning authority and the date of vesting of title in such Proceedings to the expiration or termination of this Lease shall be equitably reduced based on the square footage so taken; provided, however, that no such reduction shall take place in the event of a *de minimis* taking.

14. ASSIGNMENT AND SUBLETTING.

14.1 Landlord Consent Required. Tenant shall not, without the prior written consent of Landlord, which consent shall not be unreasonable withheld, conditioned or delayed (except as otherwise set forth in the Development Agreement), (a) assign, transfer, mortgage, or encumber this Lease or any interest under it; (b) allow to exist or occur any transfer of this Lease or Tenant's interest in this Lease by operation of law; (c) sublet all or any part of the Premises; or (d) permit the use or occupancy of all or any part of the Premises by any person or entity other than Tenant. Any transfer of the capital stock or ownership interests of Tenant shall be deemed to be an assignment of this Lease. In no event shall this Lease be assigned or assignable by voluntary or involuntary bankruptcy proceedings or otherwise, and in no event shall this Lease or any rights or privileges under this Lease be an asset of Tenant under any bankruptcy, insolvency or reorganization proceedings, except as provided by law.

14.2 No Release of Tenant. No Assignment by Tenant, and no consent by Landlord to any Assignment shall operate to relieve Tenant from any covenant or obligation under this Lease or be deemed to be a consent to or relieve Tenant from obtaining Landlord's consent to any subsequent Assignment by Tenant or anyone claiming by, through or under Tenant. Tenant shall pay all of Landlord's reasonable costs, charges and expenses, including, without limitation, Landlord's reasonable attorneys' fees incurred in connection with any assignment, subletting, use, occupancy, transfer or encumbrance made or requested by Tenant.

14.3 Assumption. If Tenant shall assign this Lease as permitted in this Lease, the assignee shall expressly assume all of the obligations of Tenant under this Lease in a written instrument satisfactory to Landlord which shall be furnished to Landlord not later than fifteen (15) days prior to the effective date of the assignment, together with a certified copy of an appropriate resolution authorizing such assumption. If Tenant shall sublease the Premises as permitted in this Lease, Tenant shall obtain and furnish to Landlord, not later than fifteen (15) days prior to the effective date of such sublease and in form satisfactory to Landlord, the written agreement of such subtenant to the effect that the subtenant will attorn to Landlord, at Landlord's option and written request.

15. LEASEHOLD MORTGAGES.

15.1 Leasehold Mortgage. Notwithstanding the provisions of Section 14.1, Tenant may mortgage or otherwise encumber Tenant's leasehold interest, in whole or in part, in the Premises and Tenant's interest in the improvements thereon during the Term, by executing a leasehold mortgage (a "Leasehold Mortgage") as security for the performance of Tenant's obligations set forth in such Leasehold Mortgage, it being understood at all times that Landlord's fee ownership of the Premises shall not be encumbered by Tenant. Tenant shall have the right to place more than one Leasehold Mortgage on its interest hereunder. The holder of a Leasehold Mortgage is herein called a "Leasehold Mortgagee".

15.2 Notice to Landlord. Upon the placing or assignment of a Leasehold Mortgage, Tenant shall notify Landlord thereof, in the manner herein provided for giving of notice to Landlord, of the address of the Leasehold Mortgagee to which notices shall be sent. So long as a Leasehold Mortgage is in effect as to which such notice has been given, no surrender or material modification of this Lease shall be made without the prior written consent of such Leasehold Mortgagee. Leasehold Mortgagee shall give Landlord notice of default on the part of the Tenant or the Tenant's successors or assigns, such notice to be given contemporaneously with the notice(s) to Tenant or its successors or assigns.

15.3 Leasehold Mortgagee Rights. When giving notice to Tenant with respect to any default under this Lease, Landlord will also provide a copy of such notice to each Leasehold Mortgagee regarding whom Tenant has notified Landlord as set forth in Section 15.2 above. Upon the occurrence of any default hereunder, each Leasehold Mortgagee shall have the right to cure such default within the same period given to Tenant; provided, however that Leasehold

Mortgagees shall have at least sixty (60) days after written notice to cure. Landlord shall accept such performance on the part of the Leasehold Mortgagee as though the same had been done or performed by Tenant. Nothing herein contained shall require the Leasehold Mortgagee or its nomine to cure any default of Tenant under this Lease or of any other non-monetary default which is not otherwise curable by Leasehold Mortgagee due to the nature of the default.

15.4 Foreclosure of Leasehold Mortgage. Any Leasehold Mortgagee, or such other persons or entities as such Leasehold Mortgagee may designate, may become the legal owner and holder of Tenant's interest in this Lease by foreclosure of its Leasehold Mortgage, or as a result of the assignment of this Lease in lieu of foreclosure. At such time as the Leasehold Mortgagee or its designee becomes the legal owner and holder of Tenant's interest in this Lease: (i) such Leasehold Mortgagee shall have the right to reassign the leasehold estate (along with the right to exercise any options under this Lease) or sublease the Premises, subject only to Landlord's prior written consent, which consent may not be unreasonably withhold, conditioned or delayed and (ii) Leasehold Mortgagee or its designee shall immediately become and remain liable as tenant under this Lease. In no event shall any foreclosure of any Leasehold Mortgage affect Landlord's fee interest in the Lease or the Premises it being understood that any and all Leasehold Mortgages shall be subordinate and subject thereto.

15.5 SBA Loan. Landlord is hereby notified that Tenant intends to enter into one or more debentures insured by the U.S. Small Business Administration, issued by the Wisconsin Business Development Finance Corporation (the "CDC"), and used to fund one or more loans (the "SBA Loan") to Tenant to improve and equip the Premises. For as long as the SBA Loan remains outstanding, Landlord agrees that the CDC (or its assignee) shall be a "Leasehold Mortgagee" as that term is used in this Lease. The address for providing written notice to the CDC is as follows: Wisconsin Business Development Finance Corporation, P.O. Box 2717, Madison, Wisconsin 53701 (reference to be made to SBA Loan No. 81842550.07). Unless otherwise notified in writing, Landlord may rely on a release of the mortgage(s) securing the SBA Loan as evidence that the SBA Loan has been satisfied.

16. **SIGNS**. Tenant may, after obtaining the prior written consent of Landlord, erect signs on the exterior or interior of the Building, provided that such sign or signs (a) do not cause any structural damage or other damage to the Building; (b) do not violate applicable governmental laws, ordinances, rules or regulations; and (c) do not violate any covenants, conditions or restrictions affecting the Premises.

17. **CHANGES AND ALTERATIONS**. No alterations shall be made to the Premises by Tenant except with the prior written consent of Landlord, which consent shall not be unreasonably withheld, conditioned or delayed; provided that such alterations shall be made in accordance with plans and specifications therefor first approved in writing by Landlord. Notwithstanding the foregoing, Landlord's consent shall not be necessary for interior, non-structural alterations which do not affect the exterior appearance of the building and improvements on the Premises or alter the general nature or character of such building and improvements, and which, in any single case, involve the expenditure of Five Hundred Thousand Dollars ($500,000.00) or less. Any alterations by Tenant, whether or not consent is required, must be made at Tenant's own cost and expense and in a good workmanlike manner in accordance with the laws, ordinances and codes relating thereto and free from any claim or claims for construction liens.

18. **SURRENDER.**

18.1 Surrender. Upon the termination of this Lease, whether by forfeiture, lapse of time or otherwise, or upon termination of Tenant's right to possession of the Premises, Tenant will at once surrender and deliver up the Premises, together with the Building and all improvements thereon, to Landlord, in good condition and repair, including all plumbing, lighting, electrical, heating, cooling and ventilating fixtures, but excluding all equipment, personal property and trade fixtures. Unless otherwise required by Landlord in any consent required by this Lease, all alterations, additions and improvements, including the Building, temporary or permanent, made in or upon the Premises by Tenant shall become Landlord's property and shall remain upon the Premises on any such termination without compensation, payment, allowance or credit to Tenant. Landlord shall have the right to require Tenant to remove its signs, equipment and trade fixtures and to restore the Premises to the extent of any such damage caused by such removal. If Landlord requires removal of any alterations, additions and improvements, at the time consent for such alterations, additions or improvements is sought by Tenant and Tenant does not make such removal in accordance with the foregoing at the time of such termination, Landlord may remove the same (and repair any damage), and dispose of such items or, at its election, deliver the same to any other place of business of Tenant or warehouse, and Tenant shall pay the costs of such removal, repair, delivery and warehousing to Landlord on demand. Tenant's obligations under this Section 18.1 shall survive the expiration or termination of this Lease.

18.2 Tenant's Limited Right to Remove the Building. Provided that no Event of Default exists and subject to the rights of any Leasehold Mortgagees, notwithstanding Section 18.1 above, Tenant shall have the option, at Tenant's sole expense, to demolish and remove the Building and all other improvements on the Premises prior to the expiration of the Term (the "Building Removal"), subject to the following terms and conditions: (i) Tenant shall provide Landlord with reasonable prior written notice of its election to complete the Building Removal; (ii) the entire Building and all other improvements shall be removed from the Premises and Tenant shall restore the Premises to substantially the same condition as the Effective Date; (iii) Tenant shall leave the Premises in a clean and safe condition; (iv) the Building Removal shall be completed in strict compliance with all applicable laws, ordinances and regulations, including, without limitation, Environmental Laws, and including, without limitation, obtaining and complying in all material respects with all required permits; and (v) Tenant shall be responsible for the proper abatement and disposal of any hazardous or toxic material which form a part of the Building and other improvements on the Premises, and Tenant shall not cause any discharge of hazardous or toxic material or otherwise materially damage the Premises.

18.3 Holding Over. Tenant shall have no right to occupy all or any portion of the Premises after the expiration or termination of the Lease or of Tenant's right to possession. In the event Tenant or any party claiming by, through or under Tenant holds over, Landlord may exercise any and all remedies available to it at law or in equity to recover possession of the Premises, and for damages.

18.4 Personal Property. All property removed from the Premises by Landlord pursuant to any provisions of this Lease or by law may be handled, removed or stored by Landlord at the cost and expense of Tenant. Tenant shall pay Landlord for all reasonable expenses incurred by Landlord in such removal and for storage charges for such property as long as the same shall be in Landlord's possession or under Landlord's control.

19. HAZARDOUS AND TOXIC MATERIALS.

19.1 Definitions. For purposes of this Section 19, "hazardous or toxic material" shall be defined to include, without limitation, (a) asbestos or any material composed of or containing asbestos in any form and in any type, (b) polychlorinated biphenyl compounds ("PCB") or any material composed of or containing PCB, (c) petroleum or petroleum-derived materials, or (d) any hazardous, toxic or dangerous waste, substance, material, smoke, gas or particulate matter, as from time to time defined by or for purposes of the Comprehensive Environmental Response, Compensation and Liability Act, as amended, and any law commonly referred to, as of the date of this Lease, as "Superfund" or "Superlien," or any successor to such laws, or any other federal, state or local environmental, health or safety statute, ordinance, code, rule, regulation, order or decree regulating, relating to or imposing liability or standards concerning or in connection with hazardous, toxic or dangerous wastes, substances, material, smoke, gas or particulate matters as now or subsequently in effect (collectively, the "Environmental Laws"), or any common law theory based on nuisance or strict liability.

19.2 No Violations. Tenant shall not conduct or authorize the generation, transportation, storage, installation treatment or disposal at the Premises, of any hazardous or toxic material without prior written authorization by Landlord, and any such action by Tenant without such authorization by Landlord shall constitute an Event of Default.

19.3 No Liens. Tenant shall keep the Premises free of any lien imposed pursuant to any Environmental Laws.

19.4 Payment of Costs. Tenant shall pay immediately when due any and all costs of removal of any hazardous or toxic material located on the Premises.

19.5 Compliance with Laws. If Tenant does generate, transport, store, treat or dispose at the Premises, any hazardous or toxic material:

(a) Tenant shall, at its own cost and expense, comply with all Environmental Laws relating to hazardous or toxic materials;

(b) Landlord and Tenant shall promptly provide the other with copies of all communications, permits or agreements with any governmental authority or agency (federal, state or local) or any private entity relating in any way to the presence, release, threat of release, placement on or in the Premises, or the generation, transportation, storage, treatment, or disposal at the Premises, of any hazardous or toxic material;

(c) Landlord and Landlord's agents and employees shall have the right (upon giving Tenant any notice required by this Lease) to enter the Premises and/or conduct appropriate tests for the purpose of ascertaining that Tenant complies with all applicable laws, rules or permits relating in any way to the presence of hazardous or toxic materials on the Premises; and

(d) In the event Tenant uses, stores, originates hazardous or toxic materials on, in or at the Premises, then upon written request by Landlord, Tenant shall provide Landlord the results of appropriate tests of air, water and soil to demonstrate that Tenant complies with all applicable laws, rules or permits relating in any way to the presence of toxic materials or substances on the Premises.

19.6 Tenant's Duties. If the presence, release, threat of release, placement on or in the Premises, or the generation, transportation, storage, treatment, or disposal at the Premises of any hazardous or toxic material: (a) gives rise to liability (including, but not limited to, a response action, remedial action, or removal action) under any Environmental Laws or any common law theory based on nuisance or strict liability; (b) causes a significant public health effect; or (c) pollutes or threatens to pollute the environment, Tenant shall promptly take any and all remedial and removal action necessary to clean up the Premises and mitigate exposure to liability arising from the hazardous or toxic material, whether or not required by law.

19.7 Tenant's Environmental Indemnity. Tenant agrees to indemnify, defend and hold harmless the Landlord Parties from and against any and all debts, liens, claims, causes of action, administrative orders or notices, costs, personal injuries, losses, damages, liabilities, demands, lost profits, consequential damages, interest, fines, penalties or expenses, including attorneys' fees and expenses, consultants' fees and expenses, court costs and all other out-of-pocket expenses, suffered or incurred by the Landlord Parties resulting, directly or indirectly, from (a) the presence during the Term of hazardous or toxic materials in, upon or under the surface of the Premises or in any surface waters or ground waters on or under the Premises or any migration off the Premises that is not considered Preexisting Environmental Condition or (b) any exacerbation of any Preexisting Environmental Conditions directly or indirectly caused by Tenant. Tenant's obligations under this paragraph shall survive the expiration or termination of this Lease.

19.8 Preexisting Environmental Conditions.

(a) Preexisting Environmental Conditions means those environmental conditions known to exist at the Premises as of the date of this Agreement as expressly disclosed in that certain Phase I Environmental Assessment dated November 5, 2013 and prepared by GEI Consultants, Inc. (Project 130840) and as expressly disclosed in that certain Wausau Riverfront Development Preliminary Geotechnical Exploration report dated June 20, 2014 and prepared by Stantec Consulting Services Inc. ("Preexisting Environmental Conditions").

(b) Landlord shall maintain control over the remediation and mitigation efforts pertaining to Preexisting Environmental Conditions. Tenant shall cooperate with Landlord in such efforts, including providing site access to the Landlord Parties and complying with any continuing obligations under any applicable laws, regulations or orders.

(c) Landlord agrees to indemnify, defend and hold harmless the Tenant from and against any and all debts, liens, claims, causes of action, administrative orders or notices, costs, personal injuries, losses, damages, liabilities, demands, lost profits, consequential damages, interest, fines, penalties or expenses, including attorneys' fees and expenses, consultants' fees and expenses, court costs and all other out-of-pocket expenses suffered or incurred by the Tenant resulting directly from any Preexisting Environmental Condition, provided that the Preexisting Environmental Condition was not directly or indirectly exacerbated by Tenant.

19.9 Costs. Tenant agrees to indemnify, defend and hold harmless the Landlord Parties from and against any and all damages, costs, losses, expenses (including, but not limited to, actual attorneys' fees and engineering fees) arising from or attributable to any breach by Tenant of any of its warranties, representations or covenants in this Section 19. Tenant's obligations under this paragraph shall survive the expiration or termination of this Lease.

19.10 RELEASE. EXCEPT AS EXPRESSLY PROVIDED FOR IN SECTION 19.8 OR TO THE EXTENT CAUSED BY LANDLORD'S NEGLIGENCE OR INTENTIONAL MISCONDUCT, AS A PART OF ITS AGREEMENT TO ACCEPT THE PREMISES IN ITS "AS IS" CONDITION, TENANT, FOR ITSELF AND ITS SUCCESSORS, ASSIGNS, AGENTS, EMPLOYEES, CONTRACTORS AND INVITEES, HEREBY WAIVES, DISCHARGES AND RELEASES THE LANDLORD PARTIES FROM ANY AND ALL DEMANDS, CLAIMS, LEGAL OR ADMINISTRATIVE PROCEEDINGS, LOSSES, LIABILITIES, DAMAGES, PENALTIES, FINES, LIENS, JUDGMENTS, COSTS OR EXPENSES WHATSOEVER, WHETHER DIRECT OR INDIRECT, KNOWN OR UNKNOWN, FORESEEN OR UNFORESEEN, THAT MAY ARISE ON ACCOUNT OF OR IN ANY WAY BE CONNECTED WITH OR RELATED TO THE PHYSICAL, GEOLOGICAL OR ENVIRONMENTAL CONDITION OF THE PROPERTY, INCLUDING, WITHOUT LIMITATION, ANY PRESENT CONDITION OF OR ACTION ON OR ABOUT THE PREMISES (INCLUDING, WITHOUT LIMITATION, THE PRESENCE OF HAZARDOUS OR TOXIC MATERIAL AT, UNDER OR IN THE GENERAL VICINITY OF THE PREMISES) OR THE CURRENT VIOLATION OF ENVIRONMENTAL LAWS AT THE PREMISES.

20. **RIVERFRONT DECLARATION**. Pursuant to Section 5.v of the Development Agreement, one or more recorded agreements may be established relating to the Premises and the larger surrounding area (the "Riverfront Declaration"). Notwithstanding anything to the contrary herein, at its sole cost and expense throughout the Term, Tenant shall comply with the terms and conditions of the Riverfront Declaration as it pertains to the Premises, including subsequent amendments thereto which were established pursuant to its terms, whether or not Tenant affirmatively consents to such amendments. Provided no Event of Default occurs, during the Term, Landlord grants Tenant all voting rights in the owner's association established by the Riverfront Declaration which are attributable to the ownership of the Premises.

21. **TAX-EXEMPT COVENANT**. Tenant agrees that it will not sell, lease, assign or otherwise transfer or convey any interest in the Premises to a person or entity exempt from general property taxation or act in any other manner which would cause all or any portion of the Premises to be exempt from general property taxation.

22. **MISCELLANEOUS PROVISIONS**.

22.1 Inspection. Provided that Landlord has given Tenant reasonable prior notice (except in case of emergency), Tenant agrees to permit Landlord and its authorized representatives to enter upon the Premises for the purpose of inspecting the same and to make any necessary repairs to comply with any laws, ordinances, rules, regulations or requirements of any public body or the Board of Fire Underwriters, or any similar body, or otherwise pursuant to this Lease.

22.2 Notices. All notices, demands and requests which may be or are required to be given, demanded or requested by either party to the other shall be in writing.

All notices, demands and requests by Landlord to Tenant shall be delivered personally or shall be sent by overnight courier service or United States registered or certified mail, postage prepaid, addressed to Tenant as follows, or at such other place as Tenant may from time to time designate by written notice to Landlord, with a copy to any Leasehold Mortgagees, if applicable:

To: Van-Smiling Eyes, LLC
N4634 Mayflower Lane
Birnamwood, WI 54414
Attn: Bill and Julie Greenwood

All notices, demands and requests by Tenant to Landlord shall be delivered personally or shall be sent by overnight courier service or United States registered or certified mail, postage prepaid, addressed to Landlord as follows, or at such other place as Landlord may from time to time designate by written notice to Tenant:

To: City of Wausau
407 Grant Street
Wausau, WI 54403
Attn: Attn: City Clerk

Notices, demands and requests which shall be served upon Landlord by Tenant, or upon Tenant by Landlord, in the manner set forth above, shall be deemed to be sufficiently served or given for all purposes under this Lease at the time such notice, demand or request shall be personally delivered, three days after being mailed or the next business day if delivered by express delivery or messenger service.

22.3 Quiet Enjoyment. Landlord covenants and agrees that Tenant, upon paying the Base Rent and Additional Rent, and upon observing and keeping the covenants, agreements and conditions of this Lease on its part to be kept, observed and performed, shall lawfully and quietly hold, occupy and enjoy the Premises (subject to the provisions of this Lease) during the Term without hindrance or molestation by Landlord or by any person or persons claiming under Landlord.

22.4 Landlord. The term "Landlord," as used in this Lease so far as covenants or obligations on the part of Landlord are concerned, shall be limited to mean and include only the owner or owners at the time in question of the fee of the Premises, and in the event of any transfer or transfers or conveyance, the then grantor shall be automatically freed and relieved from and after the date of such transfer or conveyance of all liability as respects the performance of any covenants or obligations on the part of Landlord contained in this Lease subsequently to be performed, provided that any funds in the hands of such landlord or the then grantor at the time of such transfer in which Tenant has an interest shall be turned over to the grantee, and any amount then due and payable to Tenant by Landlord or the then grantor under any provision of this Lease shall be paid to Tenant, it being intended that the covenants and obligations contained in this Lease on the part of Landlord shall, subject to the foregoing, be binding on Landlord, its successors and assigns, only during and in their respective periods of ownership.

22.5 Estoppel Certificates. Tenant and Landlord (to the extent applicable to Landlord) shall, each without charge at any time and from time to time, within ten (10) business days after written request by the other party, certify by written instrument (to the extent true), duly executed, acknowledged and delivered to any mortgagee, assignee of a mortgagee, proposed mortgagee, or to any purchaser or proposed purchaser, or to any other person dealing with Landlord, Tenant or the Premises those statements and certifications which are reasonably and customarily included in such written instruments. It is the intention of the parties hereto that any statement delivered pursuant to this paragraph may be relied upon by any of such parties dealing with Landlord, Tenant or the Premises.

22.6 Partial Invalidity, Governing Law. If any covenant, condition, provision, term or agreement of this Lease shall, to any extent, be held invalid or unenforceable, the remaining covenants, conditions, provisions, terms and agreements of this Lease or the application of such covenant, condition, provision, term or agreement to persons or circumstances other than to which it is held invalid or unenforceable, shall not be affected, but each covenant, condition, provision, term or agreement of this Lease shall be valid and in force to the fullest extent permitted by law. This Lease shall be construed and be enforceable in accordance with the internal laws of the State of Wisconsin.

22.7 Successors. The covenants and agreements contained in this Lease shall bind and inure to the benefit of Landlord, its representatives, successors and assigns, and Tenant and its representatives, permitted successors and assigns.

22.8 Captions. The caption of each article of this Lease is for convenience and reference only, and in no way defines, limits or describes the scope or intent of such article or of this Lease.

22.9 No Joint Venture. This Lease does not create the relationship of principal and agent, or of partnership, joint venture, or of any association or relationship between Landlord and Tenant, the sole relationship between Landlord and Tenant being that of landlord and tenant.

22.10 Entire Agreement. This Lease contains the entire agreement between the parties and shall not be modified or amended in any manner except by an instrument in writing executed by the parties to this Lease.

22.11 No Merger. There shall be no merger of this Lease or the leasehold estate created by this Lease with any other estate or interest in the Premises by reason of the fact that the same person, firm, corporation or other entity may acquire, hold or own directly or indirectly, (a) this Lease or the leasehold interest created by this Lease or any interest in this Lease, and (b) any such other estate or interest in all or any portion of the Premises. No such merger shall occur unless and until all persons, firms, corporations or other entities having an interest (including a security interest) in (1) this Lease or the leasehold estate created by this Lease, and (2) any such other estate or interest in all or any portion of the Premises, shall join in a written instrument expressly effecting such merger and shall duly record the same.

22.12 No Waiver. No surrender to Landlord of this Lease or of all or any portion of the Premises, or any interest in the Premises, prior to the expiration of the Term shall be valid or effective unless agreed to and accepted in writing by Landlord and consented to in writing by all

Leasehold Mortgagees, and no act or omission by Landlord or any representative or agent of Landlord, other than such a written acceptance by Landlord consented to by all Leasehold Mortgagees, as set forth above, shall constitute an acceptance of any such surrender.

22.13 Time. Time is of the essence of this Lease, and all provisions in this Lease relating to this Lease shall be strictly construed.

22.14 Broker. Tenant represents and warrants that Tenant has not dealt with any broker in connection with this Lease. Tenant agrees to indemnify and hold Landlord harmless from all losses, damages and liabilities, claims, liens, costs and expenses, including, without limitation, attorneys' fees, arising from any claims or demands of any and all broker or brokers, salespersons or finders for any commission alleged to be due such other broker or brokers, salespersons or finders claiming to have dealt with Tenant in connection with this Lease.

22.15 Exculpatory Provision. In case of default under this Lease by Landlord, Tenant shall look solely to the interests of Landlord in the Premises and the rents derived from the Premises; and Landlord shall not have any personal liability to pay any indebtedness accruing under this Lease or to perform any covenant, either express or implied, in this Lease contained, all such personal liability, if any, being expressly waived and released by Tenant and by all persons claiming by, through or under Tenant.

22.16 Execution. The submission of this document for examination does not constitute an offer to lease, or a reservation of, or option for, the Premises and this document becomes effective and binding only upon the execution and delivery hereof by both Landlord and Tenant. Tenant confirms that Landlord has made no representations or promises with respect to the Premises or the making or entry into of this Lease except as are expressly set forth herein, and agrees that no claim or liability shall be asserted by Tenant against Landlord for, and Landlord shall not be liable by reason of, breach of any representations, or promises not expressly stated in this Lease.

22.17 Recording. This Lease shall not be recorded in the public records. In connection with the Development Agreement, the parties are recording a short form memorandum giving notice of this Lease. Tenant may reasonably request, from time to time, that Landlord also deliver an updated and executed short form memorandum of this Lease in recordable form, in which case Landlord shall deliver the same in a reasonable amount of time. Such short form memorandum shall include, at minimum, a description of the Premises, the length of the initial term and any renewal rights. Tenant shall bear the cost of preparing any such additional instruments. Tenant may, if it so desires, record such memorandum at its own cost and expense; provided, however, that upon termination of this Lease, Tenant agrees to execute such instruments as may be required to terminate such instrument of record.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have executed this Ground Lease as of the day, month and year first written above.

LANDLORD:

CITY OF WAUSAU

By: ______________________
Robert B. Mielke, Mayor

Attest: ______________________
Toni Rayala, Clerk

TENANT:

VAN-SMILING EYES, LLC

By: ______________________
William M. Greenwood, Member

By: ______________________
Julie A Greenwood, Member

IN WITNESS WHEREOF, the parties hereto have executed this Ground Lease as of the day, month and year first written above.

LANDLORD:

CITY OF WAUSAU

By:____________________________________
Robert B. Mielke, Mayor

Attest:__________________________________
Toni Rayala, Clerk

TENANT:

VAN-SMILING EYES, LLC

By:____________________________________
William M. Greenwood, Member

By:____________________________________
Julie A Greenwood, Member

EXHIBIT A

LEGAL DESCRIPTION OF THE PREMISES

Lot 1 of Certified Survey Map No. 17367, recorded on April 19, 2016 at the Office of Register of Deeds for Marathon County in Volume 83 of Certified Survey Maps on Page 24 as Document No. 1711959, being a part of the Southwest 1/4 of the Northwest 1/4 and part of the Northwest Quarter 1/4 of the Southwest Quarter 1/4, Section 25, and part of Government Lots 5 and 6, Section 26, Township 29 North, Range 7 East, in the City of Wausau, Marathon County, Wisconsin.

Parcel Identification Number: 291.2907.252.0982

To: Economic Development Committee

From: Randy Fifrick, Development Director

Date: January 30, 2025

Re: Façade Improvement Update

At the November 13, 2024, the Economic Development Committee (EDC) requested Mathew Aschbrenner of Infused provide an exterior façade plan at their February EDC meeting for Committee review.

As a condition of the property and building sale in 2022, deed restrictions were placed on the property, requiring Mr. Aschbrenner to complete construction in accordance with the proposal submitted in response to the RFP, which was subsequently accepted by the City. Any modifications to the original proposal required approval from the City.

Mr. Aschbrenner has provided a plan which is included in the Committee packet for discussion.

LEGEND

1 **PLANTER 1**
POLYSTONE KENNSINGTON
16"x16"x36"H IN BLACK FINISH
QTY: 4

2 **PLANTER 2**
POLYSTONE MILAN PLANTER
WITH 2' RAIL CONNECTORS
46"x17"x19"H IN BLACK FINISH
QTY: 8

3 **PLANTER 3**
POLYMADE 6'x6'x36" CUSTOM
PLANTER IN BLACK FINISH
QTY: 1

4 **EXISTING PLANTERS**
VARYING METAL TROUGH
PLANTERS IN MILLE FINISH
QTY: 9

1 PLANTER - POLYSTONE KENNSINGTON

2 PLANTER - POLYSTONE MILAN

3 EXISTING TROUGH PLANTERS

The exact location of the planters is subject to change based upon overhead door and parking needs. The planters may have the ability to be mobile.


INFUSED


Please Use
Main Entrance
1


1
8
0

180 E Wausau RFP

'Infused'
Asch Properties LLC
Mathew and Kristen Aschbrenner
1100 Highland Park Blvd
Wausau, WI
715.297.9032 & 715.297.5251
asch.property@gmail.com
Aschbrenner.mathew@gmail.com
Khbagnall@gmail.com

Executive Summary

This design proposal addresses the need in the greater Wausau area for a public indoor green space. Our proposed business, 'Infused', will procure and supply produce, beverages, crafted oils, syrups, bitters and garnishes in an aesthetically pleasing and environmentally sustainable space. The charming space will be open to the public and available for private use.

Proposed Use of the Area

Although bountiful in green space and public areas, the Wausau area currently lacks indoor green space. The 180 E Wausau building and surrounding area will be transformed into a lush, tranquil gathering space. The main focus of the building will be an indoor garden with a central meeting space, surrounded by garden beds, enclosed in a pergola. The garden beds will contain fruiting trees, tropical plants, climbers and vines, and edible varieties that will create a colorful, lush atmosphere (attached photo A). The area will be warm, welcoming, and relaxing. Wi-Fi will be available, free of charge, and there will be electronic hook up to monitors and screens to allow for business events and multimedia use. The pergola will create a vertical separation and allow for ambient lighting that can feed the plants year round with a longer growing period. All lighting will be LED and energy efficient. Served in the garden space will be infused drinks that will be unique mocktails, teas, and smoothies.

The existing space is divided by a concrete wall. The north side of the wall (attached photos B and C) will serve as the meeting area, open to the public and available for private use. The south side of the wall will be used for the growth of herbs, vegetables and fruit trees. There will be a mixture of hydroponic and conventional growing beds (attached photos D and E). The southern space will also house a kitchen preparation area, a distillation apparatus, and space for extra equipment. The produce grown will be sold and used to create oils, syrups, bitters and garnishes for sale. The unique products will be available for sale to the local public and the online community. Any excess produce will be donated to local food pantries.

Hardscape planters will also be installed in the existing parking area, and a greenhouse will be built. The exterior materials used for the changes will complement the existing structure and enhance the overall look (attached photos F and G). The exterior street scaping will include perennials and trees that will soften the current urban feel of the existing property. The planters and greenhouse will transform an industrial building into a welcoming gathering space that incorporates renewable vegetation and resources. The greenhouse will allow for another space that extends an outdoor experience protected from the harsh Wisconsin elements (attached photo H).

The roof structure of the existing property will house solar panels and a water runoff system to recycle the grey water that will be used to water the non-edible vegetation. Batteries, which will collect energy from the solar panels, will be installed in the south end of the building to allow for heating and cooling of the building to be run primarily on renewable energy.

Profits will be generated from private event rentals, mocktail sales, and produce sales. Our space allows events to hold up to 100 people indoors, with a larger capacity when expanded outdoors. We anticipate employing two staff members full time and ample part-time staff for events. Our public hours of operation will be 10:00am-6:00pm Monday-Friday and 10:00am-8:00pm on Saturday. We will host most private events after-hours.

Handcrafted syrups, oils, and bitters will serve as the base of our mocktails. These will be created on site and include:

Orange Oil
Lemon Oil
Sage Oil
Lavender Syrup
Bee Balm Syrup
Lemon Balm Syrup
Lemon Balm Ginger Syrup
Pineapple Sage Syrup
Rose Water Syrup
Orange Bitters
Lemon Bitters
Jalapeño Bitters
Sage Bitters
Cilantro Bitters
Espresso Bitters

One of our signature drinks will be:

Club Soda
Lavender Syrup
Pineapple Syrup
Lemon Bitters
Garnish with a Lemon Peel and Maraschino cherry

Our estimated gross profits are $150,000 annually:
$75,000 in product sales
$75,000 in event sales

We plan to be open for pregame Woodchuck games, and we would allow parking to occur on site until the current contract expires in 2029. We expect some of our highest volume will coincide with the Woodchucks and wish to partner with them for any private corporate events.

We also anticipate multiple events open to the public and educational events to the local schools. Possible events include:

- Kentucky Derby Watch Party
- Cabin Fever Party to coincide with Wausau Winter Festival
- Harvest Dinner
- Distillation/Extraction Class
- Composting Class
- Spring Seedling Sale

Long-term goals are to create an event space on the south side of the building to accommodate larger private events; obtain a liquor license for additional drink menu items; create a food menu; provide education to the public; and expand upon the current inventory of produce.

Proposed Purchase Price
$40,000

Estimated Construction Value and Timeline
$250,000

The building is in immediate need of updated heating, cooling, electrical, plumbing, roofing, doors, and bathroom. The raised garden beds, pergola, exterior landscaping, and hydroponic planters will be constructed within 6 months of property acquisition.

A breakdown of the construction is as follows and includes labor costs:

- Roof with water runoff: $10,000
- Heating and cooling: $10,000
- Electrical: $5,000
- Bathroom: $5,000
- Solar Panels and Batteries: $25,000
- Pergola and flower beds: $20,000
- Hydroponic gardens: $5,000
- Greenhouse: $10,000
- Plants: $5,000
- Kitchen: $50,000
- Exterior: $40,000

Tables, chairs, glassware, silverware: $10,000
Distillation equipment: $5,000

Asch Properties LLC is a local business that has a ten year history of home restoration and renovations. The restoration projects have valued over $1.4 million. We are experienced in working with local contractors and subcontractors, which we will use for this project.

General Contractor: First Wausau Building and Remodeling
Plumbing, Heating and Cooling: PGA
Electrical: Current Connections
Solar: All Energy Solar
Roofing: Kulp's of Stratford

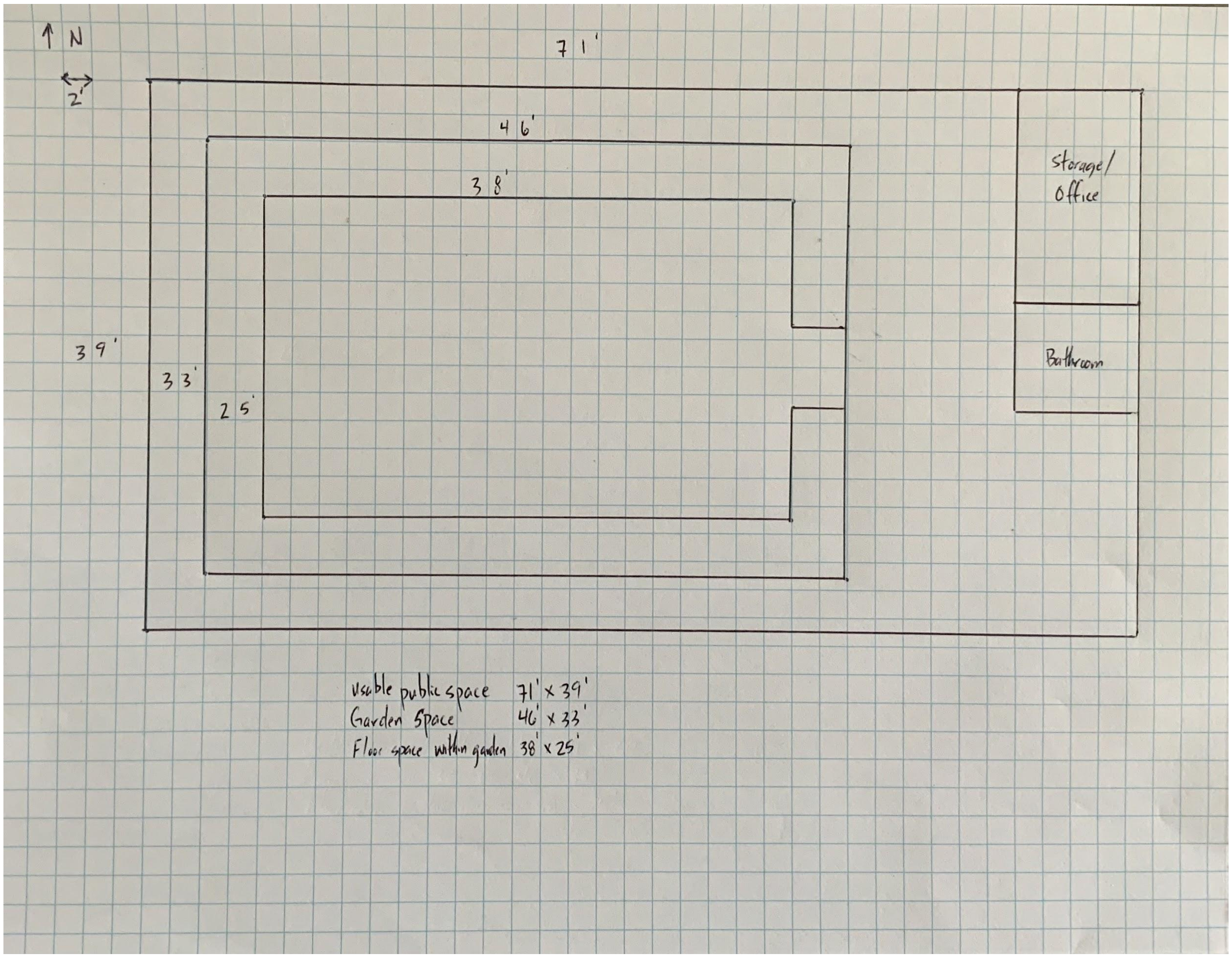
Financing of the project will be from Asch Properties LLC. The liquid assets are over $300,000. There is no need for a city loan or exemption. Asch Properties is a small, family-run organization with owners Mathew and Kristen Aschbrenner. Mathew is a Wausau native and physician with the Eye Clinic of Wisconsin. Kristen is a Hartland, Wisconsin native and a pharmacist. Our housing portfolio includes renovations done at multiple homes in the Wausau area. We have used the above contractors and subcontractors for multiple projects.

Photo exhibits A-H

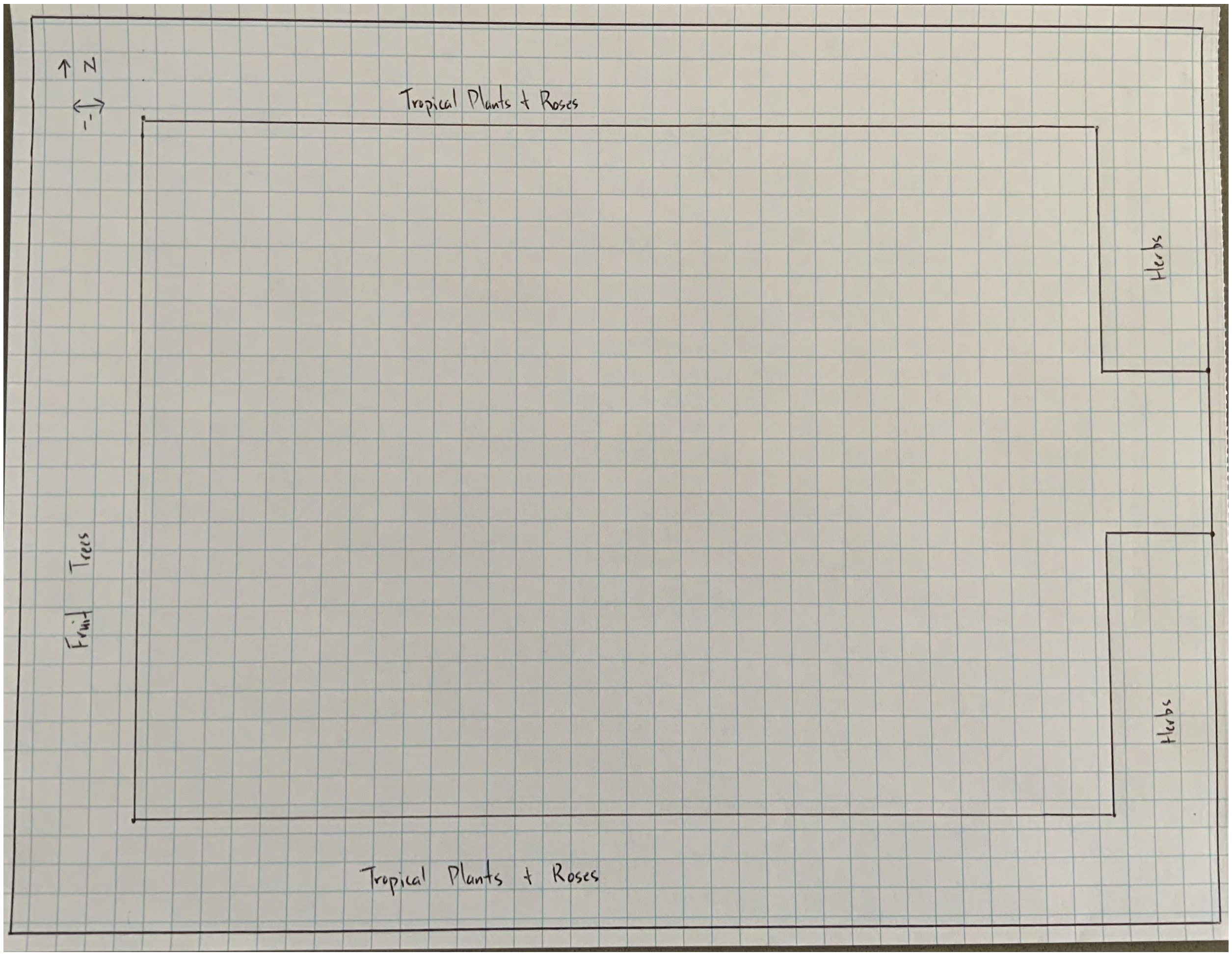
A.

(A) A visually similar event space with surrounding garden beds, vines, and a pergola that will define the vertical space and allow for lighting and vine growth.

B.

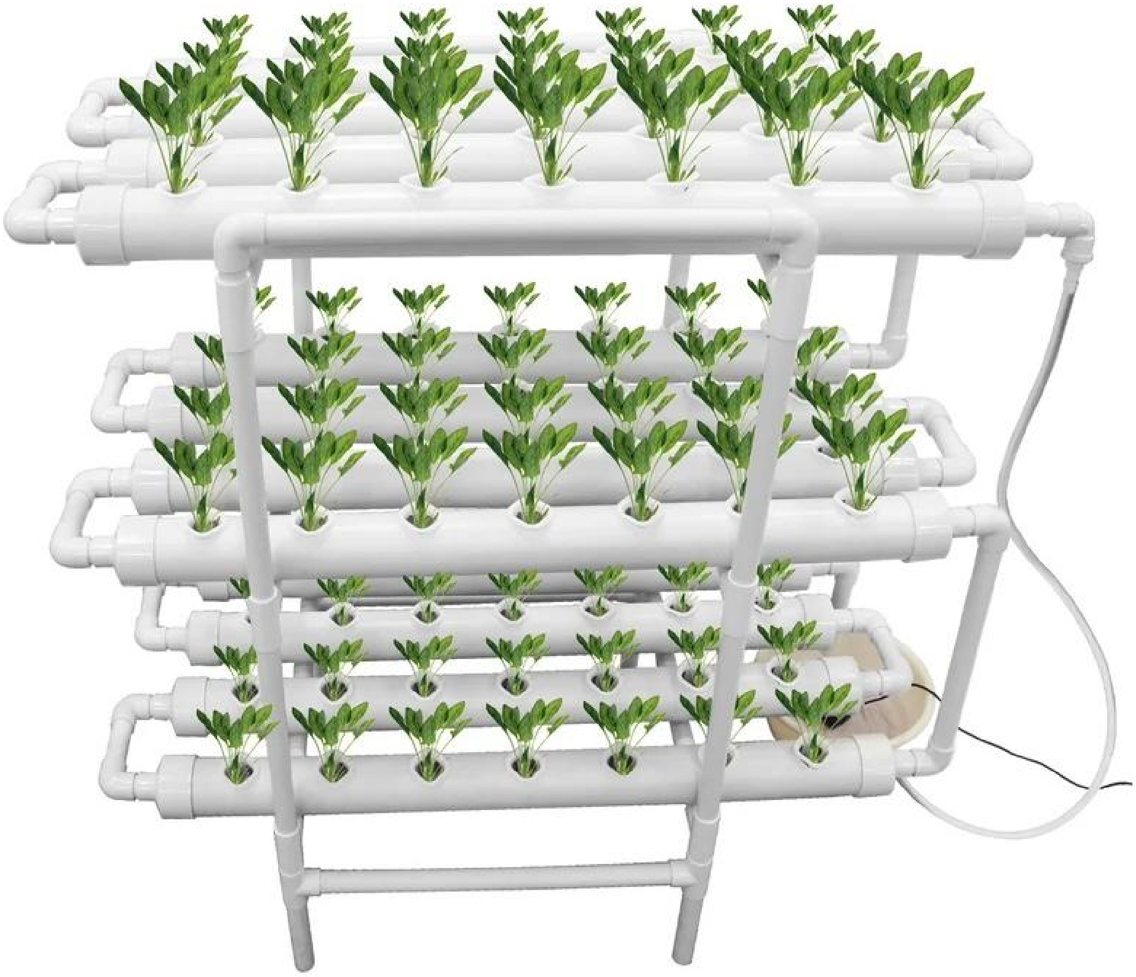

N
2'
71'
46'
38'
Storage/
Office
Bathroom
39'
33'
25'
usable public space 71' x 39'
Garden Space 46' x 33'
Floor space within garden 38' x 25'

C.



The images above represent, to scale, the event space (B) and pergola.
(C) represents the meeting space.

D.



E.

Above, images (D) and (E) represent the hydroponic units that will grow herbs.

F.

Image (F) is similar to the look of the building after doors and siding have been updated.

G.

(G) Most overhead doors will be replaced with glass doors.

H.


(H) A greenhouse addition will create additional communal space as well as a growing space.

CITY OF WAUSAU DEED RESTRICTIONS FOR 180 E WAUSAU AVE

1. The City of Wausau (CITY) shall have the option of repurchasing the land at the sale price paid by GRANTEE for the property plus the costs of any structure improvements, if the GRANTEE fails to complete construction consistent with the proposal that was submitted in response to RFP that was accepted by the City (Exhibit 1) and reach occupancy within one year of the date on which the conveyance to the subject property and the consideration for that conveyance are transferred (the date of closing). Any modification requests from the original proposal shall require CITY approval within this period. For the purposes of this item, structure improvements are limited to the repairs and improvements of the roof, electrical, plumbing, and heating, ventilation, and air conditioning of the building.

2. Exercise of its option to repurchase the property under the circumstances described in Paragraph 1 shall be by a Resolution adopted by the CITY. Such option shall be exercisable upon delivery in writing of a notice by the CITY to the GRANTEE within three months after the expiration of such one-year period. Conveyance to the CITY shall take place within 60 days following the exercise of such option on such date as shall be designated by the CITY specified in such notice, by warranty deed free and clear of all liens and encumbrances created by act or default of the GRANTEE.

3. CITY shall approve any sale or transfer of the property or improvements on the property to a tax-exempt entity, as evidenced by a resolution adopted by the CITY, authorizing such action. The CITY does not need to approve the sale or transfer to tax paying entities, so long as the use of the property complies with zoning ordinances.

4. GRANTEE shall submit to CITY plans and specifications meeting the site design and land use requirements in the CITY's zoning ordinance as to the improvements intended to be placed thereon, and a timetable showing anticipated completion dates of the improvements. Site Plan approval from the CITY is required prior to start of construction. Development of the property shall match plans and specifications accepted and approved by the CITY. All site improvements shall be completed within 6 months from the time of issuance of a building occupancy permit and zoning certification of compliance.

5. Before any outside area is used for storage, or storage or parking of trucks, trailers, tractors and other motor vehicles, prior approval or site plan approval for such storage parking must be received, in writing, from the CITY.

6. All railroad service to GRANTEE's property shall be subject to any agreements in effect between the railroad company and CITY. Railroad lead tracks may not be used for loading or unloading purposes.

7. GRANTEE shall allow for 48 Athletic Field Event parking spots on the Property through 2029.

8. These restrictions supersede any conflicting restrictions and/or regulations and/or covenants and/or encumbrances previously passed by the CITY, and/or recorded in the office of the Marathon County Register of Deeds, which affect the land which is subject to this deed. Any restrictions, regulations, covenants and/or encumbrances which affect the land which is subject to this deed, and which are not in conflict with these restrictions herein, are still specifically deemed to be in full force and effect.

9. These restrictions shall be considered deed restrictions and the covenants, burdens and restrictions shall run with the land in perpetuity and shall forever bind grantee, its successors and assigns.

10. These deed restrictions may be enforced by the CITY by either or both of the following methods:
    a. Action. The enforcement of the restrictions contained in these deed restrictions may be by proceeding at law or in equity against any person or persons breaching or attempting to breach any restriction, to restrain such breach or to recover damages.
    b. Notice and City's Right to Rectify. If any parcel owner has failed in any of the duties or responsibilities created by these deed restrictions, then the City may give such owner written notice of such failure and such person shall within ten (10) days after receiving such notice, rectify the failure or breach. Should any person fail to fulfill the duty or responsibility within such period, then the City shall have the right and power to enter onto the parcel and perform such duty or responsibility without any liability for damages for wrongful entry, trespass, or otherwise to any person. The owner for whom such work is performed shall promptly reimburse the City within thirty (30) days after receipt of a statement of such work.

Updated 6/27/22