

**PURCHASE AND DEVELOPMENT AGREEMENT**  
**(Wausau Center Mall)**

**THIS PURCHASE AND DEVELOPMENT AGREEMENT** (this “Agreement”) is made as of the 17th day of January, 2020 (the “Effective Date”), by and between the **CITY OF WAUSAU**, a Wisconsin municipal corporation (the “City”); and **WAUSAU OPPORTUNITY ZONE, INC.**, a Wisconsin corporation (“Developer”).

**RECITALS**

WHEREAS, the City is the owner of the Mall Property and certain improvements located thereon; and

WHEREAS, portions of the Mall Property are subject to the GARL; and

WHEREAS, Developer intends to purchase the Ground Lessee’s interest in the GARL and its other interests in the Mall Property; and

WHEREAS, as described in more particularity herein, in connection with such purchase of the Ground Lessee’s interests in the Mall Property, Developer has proposed to purchase the City’s interest in portions of the Mall Property and to redevelop the Mall Property as set forth herein; and

WHEREAS, the City has, pursuant to the authority granted in Wisconsin Statutes, Section 66.1105, created a Tax Incremental District, the City of Wausau Tax Increment District Three (“TID Three”), and adopted a project plan (as amended, the “TID Three Plan”) to finance certain costs to induce development within or around TID Three; and

WHEREAS, the Mall Property is located within, or within one-half mile of, TID Three; and

WHEREAS, the City has, pursuant to the authority granted in Wisconsin Statutes, Section 66.1105, created a Tax Incremental District, the City of Wausau Tax Increment District Eight (“TID Eight”), and adopted a project plan (as amended, the “TID Eight Plan”) to finance certain costs to induce development within or around TID Eight; and

WHEREAS, the Mall Property is located within, or within one-half mile of, TID Eight; and

WHEREAS, the City has, pursuant to the authority granted in Wisconsin Statutes, Section 66.1105, created a Tax Incremental District, the City of Wausau Tax Increment District Twelve (“TID Twelve”) (each of TID Three, TID Eight and TID Twelve a “TID”), and adopted a project plan (as amended, the “TID Twelve Plan”) (each of the TID Three Plan and the TID Eight Plan and the TID Twelve Plan a “TID Plan”) to finance certain costs to induce development within or around TID Twelve; and

WHEREAS, the Mall Property is located within, or within one-half mile of, TID Twelve;  
and

WHEREAS, in order to achieve the objectives of one or more TID Plan, the City has determined to provide financial and other assistance from one or more TID and other actions, including the transfer of the City's interest in portions of the Mall Property, as hereinafter set forth, to permit development to proceed; and

WHEREAS, the City has determined that the proposed development of the applicable portions of the Mall Property by Developer, as set forth herein, will (i) promote and carry out the development objectives of the City, (ii) furthers the purposes of each applicable TID Plan, and (iii) would not occur at the Mall Property without the assistance of the City.

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

1. Definitions. As used in this Agreement, the following terms shall have the following meanings:

- a. "Agreement" means this Purchase and Development Agreement.
- b. "Air Rights Improvements" means all improvements located in the Air Rights Parcel as of Closing.
- c. "Air Rights Parcel" means a certain air space parcel above a portion of the Mall Property, being more particularly described on Exhibit A-3 attached hereto.
- d. "City" is defined in the introductory paragraph of this Agreement.
- e. "Closing" means the completion of the sale and conveyance of the Property to Developer in exchange for the Purchase Price, as contemplated by and subject to the terms and conditions of this Agreement, which shall occur simultaneously with the GARL Purchase and the closing/funding of the Loan.
- f. "Closing Deadline" means January 31, 2020.
- g. "Deed" means a quitclaim deed of the Property from the City to Developer at Closing, which shall include the Deed Restrictions as an attachment.
- h. "Developer" is defined in the introductory paragraph of this Agreement.
- i. "Development Plan" is defined in Section 2 below.
- j. "Effective Date" is defined in the introductory paragraph of this Agreement.
- k. "Environmental Indemnity" is defined in Section 2 below.
- l. "Environmental Laws" shall mean and include all federal, state and local laws including statutes, regulations, ordinances and other governmental restrictions and

requirements and common law relating to the presence, discharge or remediation of air pollutants, water pollutants or process wastewater or otherwise relating to the protection of human health, the environment, toxic or hazardous substances, pesticides, herbicides, fertilizer, mold, asbestos or radon, including, but not limited to, the Federal Solid Waste Disposal Act, the Federal Clean Air Act, the Federal Clean Water Act, the Federal Resource Conservation and Recovery Act, the Toxic Substances Control Act, the Federal Insecticide, Fungicide and Rodenticide Act, the Federal Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (“CERCLA”), the Federal Water Pollution Control Act, the Federal Occupational Safety and Health Act (“OSHA”), the Federal Emergency Planning and Community Right to Know Act, the Federal Mine Safety Act, the Federal Safe Drinking Water Act, regulations of the Environmental Protection Agency, Nuclear Regulatory Agency and any other federal agency, and regulations of any state department of natural resources or state environmental protection agency now or at any time hereafter in effect.

m. “GARL” means a certain Ground and Air Rights Lease between the City (successor to The Redevelopment Authority of the City of Wausau and The Community Development Authority of the City of Wausau), as lessor, and Ground Lessee (successor to Wausau Joint Venture, an Ohio general partnership, and to Wausau Center CMBS, LLC, a Delaware limited liability company), dated as of November 1, 1980, recorded in Micro-Record Volume 324 at Pages 989-1159 in the Register’s Office of Marathon County, Wisconsin, as amended by a certain First Amendment to Ground and Air Rights Lease, dated as of February 1, 1981 and recorded in Micro-Record Volume 329 at Pages 120-129 in the Register’s Office of Marathon County, Wisconsin, as further amended by a certain Second Amendment to Ground and Air Rights Lease dated as of March 1, 1982 and recording in Micro-Record Volume 351 at Pages 191-235 in the Register’s Office of Marathon County, Wisconsin, as further amended by that certain Third Amendment to Ground and Air Rights Lease, dated as of October 1, 1982, recorded with the Recorder on December 9, 1982 in Micro-Record Volume 355 at Page 838, all of which were re-recorded on December 22, 2010 as Document No. 1586651, as further amended by that certain Ground Lease Estoppel and Lease Amendment Agreement by and between The City of Wausau and Wausau Center CMBS, LLC, dated as of March 24, 2011 and recorded in the Register’s Office on April 4, 2011 as Document No. 1593564, and as further amended by that certain Fourth Amendment to Ground and Air Rights Lease dated April 14, 2011, pursuant to which the City leases to Ground Lessee certain land rights with respect to the Ground Lease Parcel and certain air rights with respect to the Air Rights Parcel, together with and subject to easements, rights and appurtenances.

n. “GARL Amendment” means an amendment to the GARL to be entered into between the City and Developer at Closing in the form attached hereto as Exhibit D.

o. “GARL Purchase” means Developer’s purchase of the Ground Lessee’s interest in the GARL and its other interests in the Mall Property.

p. “Ground Lease Improvements” means all improvements located in the Ground Lease Parcel as of Closing.

- q. “Ground Lease Parcel” means a certain portion of the Mall Property, being more particularly described on Exhibit A-2 attached hereto. The Ground Lease Parcel consists of the Ground Lease Parcel-HOM, the Ground Lease Parcel-Mall, and the Ground Lease Parcel-Sears.
- r. “Ground Lease Parcel-HOM” means a certain portion of the Mall Property, being more particularly described on Exhibit A-4 attached hereto.
- s. “Ground Lease Parcel-Mall” means a certain portion of the Mall Property, being more particularly described on Exhibit A-5 attached hereto.
- t. “Ground Lease Parcel-Sears” means a certain portion of the Mall Property, being more particularly described on Exhibit A-6 attached hereto.
- u. “Ground Lessee” means RSS WFRBS2011C4-WI WCPC, LLC, a Wisconsin limited liability company.
- v. “Hazardous Materials” shall mean any oil, flammable explosives, asbestos, urea formaldehyde insulation, radioactive materials, hazardous wastes, toxic or contaminated substances or similar materials, including, without limitation, any substances which are “hazardous substances,” “hazardous wastes,” “hazardous materials,” “toxic substances,” “wastes,” “regulated substances,” “industrial solid wastes,” or “pollutants” under the Environmental Laws including, but not limited to, air pollutants, water pollutants, wastewater, pesticides, herbicides, fertilizer, mold, asbestos, radon or other health or environment threatening substances; provided, however, that “Hazardous Materials” shall not include commercially reasonable amounts of cleaning products used in the ordinary course of operation of the Property which are used and stored in accordance with all applicable Environmental Laws.
- w. “Loan” means an unsecured, interest-free loan of \$1,000,000.00 from the City to Developer, evidenced by the Note, to be used by Developer as a portion of the purchase price for the GARL Purchase, as further described in Section 3 below. The maturity date of the Loan shall be December 31, 2050. As set forth in Section 3 below, some of or the entire Loan is subject to forgiveness by the City upon Developer’s satisfaction of certain requirements as set forth herein.
- x. “Mall Property” means the approximately 15.2 acre parcel of land in the City of Wausau, County of Marathon, State of Wisconsin, as described on Exhibit A-1 attached hereto.
- y. “Memorandum” means a short form memorandum of this Agreement recorded in the real estate records against the Property. The parties agree that the form of memorandum attached hereto as Exhibit E is acceptable to both parties.
- z. “Note” means the instrument signed by Developer evidencing Developer’s obligation to repay the Loan in the form attached hereto as Exhibit C.

aa. “Parking Agreement - HOM” that certain Agreement Re Non-Disturbance, Attornment, Parking and Bus Service dated November 1, 1980, between The Redevelopment Authority of the City of Wausau and H.C. Prange Company, recorded December 31, 1980 as Document No. 773871 as amended by that certain First Amendment to Agreement Re Non-Disturbance, Attornment, Parking and Bus Service dated March 1, 1982, recorded September 14, 1982, as Document No. 793638, all in the office of the Register of Deeds, Marathon County, Wisconsin, pertaining to the Parking Lots.

bb. “Parking Agreement - J.C. Penney” means that certain Agreement Re Non-Disturbance, Attornment, Parking and Bus Service dated November 1, 1980, between The Redevelopment Authority of the City of Wausau and J.C. Penney Company, Inc., recorded December 31, 1980 as Document No. 773872, as amended by that certain First Amendment to Agreement Re Non-Disturbance, Attornment, Parking and Bus Service dated March 1, 1982, recorded September 14, 1982, as Document No. 793642, all in the office of the Register of Deeds, Marathon County, Wisconsin, pertaining to the Parking Lots.

cc. “Parking Agreement - Mall Operator” means, collectively, those certain agreements between the City (or its predecessors in interest with respect to the Mall Property) and the Lessee (or its predecessors in interest with respect to the GARL) incorporating provisions pertaining to the Parking Facilities pertaining to the Parking Lots, dated February 13, 1985, March 17, 1988, December 31, 1992, August 16, 1995, December 31, 2005, and December 31, 2006, and any and all others amendments or side agreements not herein listed.

dd. “Parking Agreement - Sears” means that certain Agreement Re Non-Disturbance, Attornment, Parking and Bus Service dated November 1, 1980, between The Redevelopment Authority of the City of Wausau and Sears, Roebuck and Co., recorded December 31, 1980 as Document No. 773869, as amended by that certain First Amendment to Agreement Re Non-Disturbance, Attornment, Parking and Bus Service dated March 1, 1982, recorded September 14, 1982, as Document No. 793636, all in the office of the Register of Deeds, Marathon County, Wisconsin, pertaining to the Parking Lots.

ee. “Parking Agreement - Sears Termination” means the termination of the Parking Agreement - Sears to be entered into at Closing in the form attached hereto as Exhibit F.

ff. “Parking Agreement - Wausau Penney Investor” means that certain Agreement Re Non-Disturbance, Attornment, Parking and Bus Service dated November 1, 1980, between The Redevelopment Authority of the City of Wausau and Wausau Penney Investor Joint Venture, recorded December 31, 1980 as Document No. 773870, as amended by that certain First Amendment to Agreement Re Non-Disturbance, Attornment, Parking and Bus Service dated March 1, 1982, recorded September 14, 1982, as Document No. 793640, all in the office of the Register of Deeds, Marathon County, Wisconsin, pertaining to the Parking Lots.

- gg. “Parking Agreements” means, collectively, the Parking Agreement - HOM, the Parking Agreement J.C. Penney, the Parking Agreement Mall Operator, the Parking Agreement - Sears, and the Parking Agreement - Wausau Penney Investor.
- hh. “Parking Lot 1” means the parking lot and related facilities located on the Parking Lot 1 Parcel.
- ii. “Parking Lot 1 Parcel” means the parcel of land in the City of Wausau, County of Marathon, State of Wisconsin, as described on Exhibit A-7 attached hereto.
- jj. “Parking Lot 2” means the parking lot and related facilities located on the Parking Lot 2 Parcel.
- kk. “Parking Lot 2 Parcel” means the parcel of land in the City of Wausau, County of Marathon, State of Wisconsin, as described on Exhibit A-8 attached hereto.
- ll. “Parking Lot Purchase Option(s)” is defined in Section 3 below.
- mm. “Parking Lots” means, collectively, Parking Lot 1 and Parking Lot 2.
- nn. “Permitted Encumbrances” means those matters of title with respect to the property as disclosed in the title commitment issued by the Title Company with respect to the Property.
- oo. “Project” means the operation and eventual redevelopment of some or all of the Property and the potential redevelopment of additional portions of the Mall Property, in conformity with the Proposal.
- pp. “Property” means, collectively, all of the City’s right, title and interest, if any, in and to the Ground Lease Parcel, the Ground Lease Improvements, the Air Rights Improvements, and the Sears Interest.
- qq. “Proposal” is the Project as described in the Authorizing Resolution. In the event of a conflict between the Proposal and this Agreement, this Agreement shall control.
- rr. “Purchase Price” means One Dollar (\$1.00) for the Property.
- ss. “Sears Interest” means the interest, if any, that the City holds in the GARL (by virtue of a sublease or otherwise), the Ground Lease Parcel-Sears, any of the Ground Lease Improvements, and the Parking Agreement - Sears by virtue of that certain Assignment and Assumption of Ground Sublease between Sears, Roebuck and Co. and the City dated November 30, 2016 and recorded with the Marathon Register of Deeds on December 6, 2016 as Document No. 1727255 and any other documents entered into in connection therewith.
- tt. “TID” is defined in the Recitals above.

uu. “TID Grant” means, as described in more particularity in Section 3 below, an annual grant from the City commencing in 2020 in seven (7) installments of the TID Grant Amount.

vv. “TID Grant Amount” means \$327,000.00 per year (subject to annual CPI inflation over a base year of 2020, as reasonably determined by the City); provided, however, that after the first installment in 2020, in no event shall any annual installment of the TID Grant exceed the smaller of (i) the TID Increment or (ii) the TID Grant Cap.

ww. “TID Grant Shortfall” means, for any given year, (i) the smaller of (A) \$327,000.00 (adjusted for inflation as set forth above) and (B) the TID Grant Cap for that year, minus (ii) the amount of the TID Grant installment actually paid to Developer for such year (regardless of the City's source of funds for such payment). In the event of a negative number, the TID Grant Shortfall for such year shall be \$0 and any excess payment shall be carried forward as a credit against TID Grant Shortfalls in a later year.

xx. “TID Grant Cap” means, on an annual basis starting in 2021, a limitation of the TID Grant Amount based on the following: in the event operations of the Project by Developer result in a decrease in annual operating expenses (as compared to an annualized base year of 2020) in excess of \$180,000 (“Reduction Threshold”), Developer shall notify City that the TID Grant Amount may be reduced by an amount equal to the increased reduction in operation expenses below the Reduction Threshold on a .5 to 1 basis (i.e, a reduction of \$1 of annual operating expenses in excess of \$180,000 will result in a \$.50 reduction of the TID Grant).

yy. “TID Increment” means, for any given calendar year, the cumulative total amount of available tax increment generated by each of the TIDs (as reasonably determined by the City) which (i) is permitted to be used for the TID Grant under Wisconsin Statutes Section 66.1105, (ii) has not been previously committed as of the Effective Date for other district obligations for the applicable TID (e.g. debt and project payments and developer payments from prior City commitments) and (iii) has actually been appropriated by the City Council for TID Grant for such year. In the event that a TID has negative increment in a given year, such TID shall not be included in the calculation. Tax increment from TID Three shall not be included in the calculation until such time as the TID Three Plan is amended to include developer payments, such as the TID Grant.

zz. “TID Plan” is defined in the Recitals above.

aaa. “Title Company” means Runkel Abstract & Title Co.

2. Commitments of Developer. Developer agrees and covenants with the City as follows:

a. *GARL Purchase.* Developer shall use commercially reasonable efforts to complete the GARL Purchase by the Closing Deadline and to obtain all funding required therefor; provided, however, that Developer shall not have any liability hereunder if the GARL Purchase does not occur. In connection with the GARL Purchase, Developer shall use commercially reasonable efforts to cause the Ground Lessee to pay all past-due amounts as of the date of Closing owed to the City by the Ground Lessee in connection

with the GARL, the Parking Agreement - Mall Operator and all other agreements between such parties with respect to the Mall Property; provided, however, that Developer shall have no obligation to pay any such amounts at or after Closing and the Property shall be free from any lien related thereto; provided further that the City does not waive any right to collect the same from Ground Lessee. Developer shall also execute and deliver the Note at Closing.

b. *Purchase of the Property.* Subject to the terms and conditions of this Agreement, Developer agrees to purchase the Property for the Purchase Price simultaneously with (and subject to) the closing of the GARL Purchase but no later than the Closing Deadline. The transfer of the Property shall be subject to all matters of record, the Permitted Encumbrances. Developer agrees that the Memorandum shall be recorded immediately after the Deed. Developer shall be responsible for all recording fees, title fees, closing fees, other charges by the title company, transfer taxes (if any) and other costs of Closing.

c. *Operation of the Project.*

i. Following the GARL Purchase, Developer, at its sole cost and expense, agrees to use commercially reasonable efforts to implement the Project.

ii. Following the GARL Purchase, Developer shall use commercially reasonable efforts to engage and maintain professional mall operation management for the Project.

d. *Development Plan.* Following the GARL Purchase, Developer, at Developer's cost, shall use commercially reasonable efforts to undertake a professional study and investigation into the possible redevelopment and repurposing of all or a portion of the Property and the Mall Property, which is anticipated to provide flexible options and paths forward with a focus on the best long-term benefits for the City of Wausau and its central business district (the "Development Plan"). Developer shall use commercially reasonable efforts to solicit input from the City's development staff and other community stakeholders in the creation of the Development Plan. The City agrees that the Development Plan as contemplated herein is intended to be a vision document/process meant to inform and guide redevelopment decisions by Developer and that the plan is not intended to be prescriptive, add additional regulations, or create additional restrictions that do not already exist in relevant City ordinances and regulations. Further, notwithstanding the forgoing, the Development Plan is intended to provide guidance and is not intended to act as a restriction on any redevelopment or use of the Mall Property, nor does it create a right in the City of Wausau to restrict or otherwise control the redevelopment process.

e. *Governing Board of Developer.* Prior to Closing, Developer shall, if not already complete, amend its governing documents to provide that a voting representative of the governing board of Developer is to be appointed by the mayor of the City (with re-appointments by the mayor at periodic intervals), and Developer shall provide evidence of the same.



f. *GARL Amendment.* At Closing, Developer shall enter into the GARL Amendment.

g. *Termination of the Parking Agreements.*

i. Developer understands that the City would like to operate the Parking Lots in a manner consistent with its other municipal lots, subject only to the commitments related to parking as set forth in the GARL (as amended) and City understands and has agreed to operate and maintain the Parking Lots in support of the current uses of the Mall Property. Accordingly, Developer agrees to use commercially reasonable efforts to cause any Parking Agreements inconsistent with these goals and agreements to be terminated or otherwise modified to achieve this goal. Developer agrees to cooperate with the City with respect to additional formal terminations of any of the other Parking Agreements as may be reasonably requested by the City, whether at or after Closing, including, without limitation, the Parking Agreement - Sears Termination.

ii. Developer acknowledges that the GARL Amendment removes the obligation for the GARL lessee to contribute toward the cost of maintaining the Parking Lots or to pay any rents or similar fees or expenses thereunder. Accordingly, Developer agrees that the City shall, have the right to retain all parking fees collected at the Parking Lots and to utilize such funds in the City's discretion.

iii. Developer agrees to cooperate in good faith with the City to negotiate with the current counterparty and beneficiaries (if different) of the Parking Agreement - HOM to amend such agreement to align the requirements of such agreement as closely as possible with the City's objectives with respect to the operation of the Parking Lots as noted above.

3. Commitments of the City.

a. *Sale of the Property; Unity of Title.* Subject to the terms and conditions of this Agreement, the City agrees to sell to Developer the Property for the Purchase Price simultaneously with Developer's completion of the GARL Purchase. The goal of this transaction is for Developer to have unity of title in and to the Property, without the encumbrance of the GARL. The City shall convey the Property to Developer by the Deed. With respect to the sale of the Property, subject to the other terms and conditions of this Agreement, the City's sole obligation shall be to deliver the Deed to Developer at Closing; provided, however, that the City agrees to cooperate with Developer's and the Title Company's reasonable requests to execute additional closing documentation consistent with this Agreement so long as such documentation does not subject the City, in the City's reasonable determination, to any additional obligations or liabilities inconsistent with this Agreement. Any transfer taxes, recording fees, due diligence expenses and other closing costs in connection with such conveyance (whether charged by the Title Company or otherwise) shall be at Developer's expense; provided however, that each party shall be responsible for the costs of their respective legal counsel. Should

Developer desire to obtain title insurance or a survey or other due diligence in connection with this conveyance, such items shall be at Developer's sole cost and expense. The City acknowledges that the legal descriptions for the various parcels of Property attached hereto are based on the City's records, and the City will cooperate with the Title Company with respect to determining final legal descriptions for closing documentation.

b. *Forgivable Loan.*

i. Subject to the terms and conditions herein, to induce Developer to complete the GARL Purchase, the City hereby agrees to provide Developer with the Loan at the closing of the GARL Purchase. The Loan shall not accrue interest (except in the event of default interest) and Developer shall have no obligation to repay the Loan until the maturity date set forth above (except in the event of acceleration due to default). Developer may pre-pay the Loan in whole or in part from time to time without penalty or premium for prepayment. Developer shall cause repayment of all other sources of financing for the GARL Purchase to be subordinate to repayment of the Loan.

ii. The City agrees to forgive a portion of the Loan principal upon the sale or other transfer of a portion of the Property to an unrelated third-party consistent with the Development Plan. The amount of such Loan forgiveness shall be based on the proportional size of the developable area of such transferred property as compared with the total developable area of the Property. The City shall provide confirmation of the amount of such loan forgiveness (as reasonably calculated by the City) after Developer submits documentation reasonably requested by the City with respect to the sale/transfer. In the event Developer exercises one of both of the Parking Lot Purchase Options, then the parties hereto agree to cooperate in good faith to equitably adjust these loan forgiveness mechanisms based on the new configuration of developable property.

c. *TID Grant.* Commencing on July 15, 2020, and on or before July 15 each year thereafter, the City shall provide Developer with the annual installment of the TID Grant, until the final payment on or before July 15, 2026. In the event of a TID Grant Shortfall in any year, the amount of the TID Grant Shortfall shall be applied to reduce the then-remaining principal balance of the Loan. This obligation shall terminate in the event Developer is no longer the owner of any interest in the Mall Property.

d. *GARL Amendment.* At Closing, the City shall enter into the GARL Amendment.

e. *Development Plan.* The City agrees to cooperate in good faith with Developer in the development of the Development Plan, including providing Developer with prompt communication as to any City-proposed revisions or other comments relating to the plan. Upon approval by the City Council of a Development Plan, the City agrees to use reasonable efforts to assist Developer with implementation of such plan.

f. *Environmental Indemnity.* The City hereby agrees to indemnify, defend and hold harmless Developer and any party who currently or subsequently holds any interest in the

Mall Property, and each of their officers, directors, employees, agents, consultants, attorneys, invitees, contractors, and their respective successors and assigns (individually, an “Indemnified Party”, and collectively, the “Indemnified Parties”) for, from and against any and all losses, liabilities, damages, fines, penalties, costs and expenses of every kind and character, including reasonable attorneys’ fees and court costs, incurred and expended by an Indemnified Party, and occasioned by or associated with any claims, demands, causes of action, suits and/or enforcement actions including, without limitation, any administrative or judicial proceedings, and any remedial, removal, or response actions ever asserted, threatened, instituted or requested by any person whatsoever (each a “Claim”) arising out of or related to (i) any non-compliance of the Mall Property with Environmental Laws as of Closing, or (ii) any violation of Environmental Laws prior to Closing by any current or former user or owner of the Mall Property, (iii) any matters arising from or related to in any way matters disclosed in that certain Phase I Environmental Site Assessment prepared by REI Engineering, Inc. (project #8905) dated October 25, 2019; or (iv) the existence as of Closing of Hazardous Materials in, on, or under the Mall Property (collectively, the “Environmental Indemnity”); provided, however, that the Environmental Indemnity shall be limited to the extent the Claim was caused by a negligent or knowing violation of Environmental Laws by the Indemnified Parties. The foregoing covenants and agreements of City in this subparagraph shall be ongoing, survive the termination of this Agreement, and be a continuing covenants and agreement for the benefit of each and every Indemnified Party, who are intended third-party beneficiaries of these covenants and agreements and this Agreement.

g. *Termination of GARL; Amended and Restated Air Rights Lease.* Upon the request of Developer, the City shall enter into with Developer an agreement to formally terminate the GARL and enter into a stand-alone air rights lease agreement and parking agreements with respect to the Air Rights Parcel and parking agreements with respect to the Property with terms and conditions equivalent in all material respects to the GARL (or contain such terms as otherwise acceptable to the parties).

h. *Termination or Amendment of Parking Agreement - HOM.* The City agrees to cooperate in good faith with Developer to negotiate with the current counterparty and beneficiaries (if different) of the Parking Agreement - HOM to terminate or otherwise amend such agreement to align the requirements of such agreement as closely as possible with the City’s objectives with respect to the operation of the Parking Lots as noted in Section 2 above.

i. *Termination of Other Parking Agreements.* At Closing, the City shall enter into the Parking Agreement - Sears Termination as well as the GARL Amendment (which terminates the Parking Agreement - Mall Operator). The City agrees to cooperate with Developer with respect to additional formal terminations of any of the other Parking Agreements as may be reasonably requested by Developer, whether at or after Closing.

j. *Parking Lot Purchase Options.* The City hereby grants to Developer the option to purchase Parking Lot 1 together with the Parking Lot 1 Parcel and/or Parking Lot 2 together with the Parking Lot 2 Parcel (each a “Parking Lot Purchase Option” and, collectively, the “Parking Lot Purchase Options”) for the purpose of redeveloping one or

both of the Parking Lots in a manner consistent with the Development Plan or any other reasonably acceptable development plan. Developer shall provide the City with at least 60 days' prior written notice of its desire to exercise each Parking Lot Purchase Option. The sale of each of the Parking Lots pursuant to the applicable Parking Lot Purchase Option shall be pursuant to the same general terms and conditions herein stated with respect to the sale of the Property, including the following terms: (i) purchase price of \$1.00; (ii) quitclaim deed by the City; (iii) AS-IS sale subject to all matters of record; (iv) recordation of a memorandum of this Agreement immediately after the deed; and (v) all costs of the transfer to be borne by Developer (transfer taxes, recording fees, title insurance costs, etc.). Upon transfer of one of both of the Parking Lots to Developer, such property shall be deemed part of the Property for the purposes of the ongoing covenants of this Agreement. Until such transfer, the City shall have the right to operate the Parking Lots in a manner consistent with other City-owned parking lots; provided, however, that the rules and parking fees established by the City for the Parking Lots shall not unreasonably interfere with the ongoing operations of the mall or the redevelopment efforts of Developer. If unexercised, each of the Parking Lot Purchase Options shall expire on December 31, 2050.

k. *Further Agreements.* The City agrees, from time to time upon request by Developer, to terminate or amend any other agreements or title encumbrances with respect to the Mall Property or the ownership and operation of the Mall Property in a manner consistent with this Agreement and the Development Plan, including, but not limited to the development plan and redevelopment agreements recorded with respect to the Mall Property undertaken to facilitate the development of the Mall Property.

4. Conditions Precedent to the City's Obligations.

a. *General Conditions.* In addition to all other conditions and requirements set forth in this Agreement, all of the obligations of the City under this Agreement are conditioned upon the satisfaction of each and every one of the following conditions:

i. Developer shall promptly provide the City with (A) evidence that such Developer is authorized to enter into this Agreement and that the persons signing this Agreement on behalf of Developer are authorized to so sign this Agreement and to bind Developer to the terms and conditions of this Agreement, (B) a certified copy of its organizational documents, (C) a certificate of status issued by the Wisconsin Department of Financial Institutions, and (D) resolutions or consents of its board of directors approving this Agreement and the transactions which are the subject of this Agreement.

ii. Developer shall promptly provide the City with reasonable documentation and other evidence detailing the other funding necessary for the GARL Purchase.

iii. No uncured default, or event which with the giving of notice or lapse of time or both would be a default, shall exist under this Agreement.

b. *Conditions to Sale of the Property.* In addition to the foregoing and all other conditions and requirements set forth in this Agreement, the obligation of the City under

this Agreement to sell the Property to Developer at Closing is conditioned upon the satisfaction of each and every of the following conditions:

- i. No uncured default, or event which with the giving of notice or lapse of time or both would be a default, shall exist under this Agreement.
- ii. The GARL Purchase shall have occurred, or be closed simultaneously.
- iii. Developer shall have executed and delivered such other closing documentation reasonably requested by the City or Developer's title company, if any.

c. *Conditions to Disbursement of the Loan.* In addition to the foregoing and all other conditions and requirements set forth in this Agreement, the obligation of the City under this Agreement to disburse the Loan is conditioned upon the satisfaction of each and every of the following conditions:

- i. No uncured default, or event which with the giving of notice or lapse of time or both would be a default, shall exist under this Agreement.
- ii. Developer shall have executed and delivered the Note and any other document reasonably requested by the City to evidence the Loan.
- iii. The simultaneous closing of the GARL Purchase; provided that the City agrees to deposit the Loan in escrow with the Title Company in advance to facilitate such closing.

d. *Conditions to Annual Disbursements of the TID Grant.* In addition to the foregoing and all other conditions and requirements set forth in this Agreement, the obligation of the City under this Agreement to provide each installment of the TID Grant is conditioned upon the satisfaction of each and every of the following conditions:

- i. No uncured default, or event which with the giving of notice or lapse of time or both would be a default, shall exist under this Agreement.
- ii. Closing shall have occurred (including both the Sale of the Property and the simultaneous closing of the GARL Purchase).
- iii. Except for the first installment of the TID Grant due in 2020, Developer shall provide the City with documentation (and backup) reasonably acceptable to the City detailing the calculation of the TID Grant Cap for such year and Developer's proposed computation of the inflation adjustment of the TID Grant Amount.

e. *Conditions to Loan Forgiveness.* In addition to the foregoing and all other conditions and requirements set forth in this Agreement, the obligation of the City under this Agreement to provide each installment of Loan forgiveness due to sale or other

transfer of all or a portion of the Property is conditioned upon the satisfaction of each and every of the following conditions:

- i. No uncured default, or event which with the giving of notice or lapse of time or both would be a default, shall exist under this Agreement.
  - ii. Developer shall submit documentation reasonably requested by the City with respect to the sale or other transfer to a third party to establish the amount of forgiveness.
- f. *Conditions to Parking Lot Purchase Options.* In addition to the foregoing and all other conditions and requirements set forth in this Agreement, the obligation of the City under this Agreement to transfer each of the Parking Lots pursuant to the Parking Lot Purchase Options is conditioned upon the satisfaction of each and every of the following:
- i. No uncured default, or event which with the giving of notice or lapse of time or both would be a default, shall exist under this Agreement.
  - ii. Closing shall have occurred (including both the Sale of the Property and the closing of the GARL Purchase).

All submissions given to the City to satisfy the conditions contained in this Section 4 must be satisfactory in form and content to the City, in its reasonable discretion.

5. Additional Representations, Warranties and Covenants of Developer. Developer represents and warrants to the City and agrees and covenants with the City as of the Effective Date as follows:

- a. All copies of documents, contracts and agreements that Developer has furnished to the City are true and correct in all material respects.
- b. Developer has paid, and will pay when due, all federal, state and local taxes, and will promptly prepare and file returns for accrued taxes prior to any taxes becoming delinquent.
- c. Developer will timely pay, or cause to be paid, for all work performed and materials furnished for the Project.
- d. No statement of fact by Developer contained in this Agreement and no statement of fact furnished or to be furnished by Developer to the City pursuant to this Agreement contains or will contain any untrue statement of a material fact or omits or will omit to state a material fact necessary in order to make the statements herein or therein contained not misleading at the time when made.
- e. Developer is a Wisconsin corporation duly formed and validly existing, in good standing, and has the power and all necessary licenses, permits and franchises to own its assets and properties and to carry on its business. Developer is duly licensed or qualified

to do business and in good standing in all other jurisdictions in which failure to do so would have a material adverse effect on its business or financial condition.

f. The execution, delivery and performance of this Agreement have been duly authorized by all necessary action of Developer and constitute the valid and binding obligations of Developer enforceable in accordance with their terms, subject only to applicable bankruptcy, insolvency, reorganization, moratorium, general principles of equity, and other similar laws of general application affecting the enforceability of creditors' rights generally.

g. The execution, delivery, and performance of Developer's obligations pursuant to this Agreement will not violate or conflict with any of Developer's organizational documents or any indenture, instrument or agreement by which Developer is bound, nor will the execution, delivery, or performance of Developer's obligations pursuant to this Agreement violate or conflict with any law applicable to Developer or the Project.

h. There is no litigation or proceeding pending or threatened against or affecting Developer or the Project that would adversely affect the Project or Developer or the enforceability of this Agreement, the ability of Developer to complete the Project or the ability of Developer to perform its obligations under this Agreement.

i. No default, or event which with the giving of notice or lapse of time or both would be a default, exists under this Agreement, and Developer is not in default (beyond any applicable cure or grace period) of any of its obligations under any other agreement or instrument entered into in connection with the Project.

j. Developer agrees to pay timely all generally applicable property taxes assessed and levied in connection with the Property under applicable property tax laws, rules, rates, regulations and ordinances in effect from time to time. Nothing in this Agreement shall impair any statutory rights of the City and other taxing authorities with respect to the assessment, levy, priority, collection and/or enforcement of real estate and personal property taxes.

The representations and warranties contained herein shall be true and correct at all times as required by this Agreement. Without limiting the generality of the foregoing sentence, the representations and warranties above shall be deemed to have been made again by Developer at Closing, again at the disbursement of the Loan, again at each installment of the TID Grant, again at each installment of Loan forgiveness, and again at the closing, if any, of the sale of each of the Parking Lots pursuant to the Parking Lot Purchase Options. Developer shall comply with all covenants contained herein at all times during the term of this Agreement.

6. Representations and Warranties of the City. The City represents and warrants to Developer that:

a. The City is a municipal corporation and political subdivision organized under the laws of the State of Wisconsin.

b. The City has the authority to enter into this Agreement and carry out its obligations hereunder pursuant to the authority granted to it by the Wisconsin Constitution and State law.

c. The City will cooperate with Developer throughout the term of this Agreement and shall use its best efforts to promptly review and/or process all submissions and applications in accordance with applicable City ordinances and policies.

d. The activities of the City pursuant to this Agreement are undertaken for the purpose defined in Section 66.1105 of the Wisconsin Statutes.

e. The parties below on behalf of the City have been fully authorized to execute this Agreement on behalf of the City. When executed and delivered to Developer, this Agreement shall constitute a legal, valid and binding obligation of the City, enforceable in accordance with its terms.

7. **AS-IS PURCHASE.** DEVELOPER ACKNOWLEDGES AND AGREES THAT DEVELOPER IS ACCEPTING THE PROPERTY ON AN “AS-IS WITH ALL FAULTS” BASIS AND THAT DEVELOPER IS RELYING SOLELY ON ITS INDEPENDENT INVESTIGATION AND NOT ON ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND WHATSOEVER, EXPRESS OR IMPLIED, FROM THE CITY OR ITS AGENTS AS TO ANY MATTERS CONCERNING THE CONDITION OF THE PROPERTY. Notwithstanding the preceding provisions of this Section 7, nothing in this section is intended in any way to limit or modify the commitments of the City with respect to the Environmental Indemnity.

8. **Default.**

a. *Developer Default.* The occurrence of any one or more of the following events shall constitute a default (“Default”) hereunder:

i. Developer shall fail to pay any amounts due from it under this Agreement or the Note on or before the date when due; or

ii. Any representation or warranty made by Developer in this Agreement or the Note, or any document or financial statement delivered by Developer pursuant to this Agreement, shall prove to have been false in any material respect as of the time when made or given; or

iii. Developer shall breach or fail to perform timely or observe timely any of its covenants or obligations (other than payment obligations, which is addressed in subparagraph (a) above) under this Agreement or the Note, and such failure shall continue for thirty (30) days following notice thereof from the City to Developer (or such longer period of time as is necessary to cure the default as long as Developer has commenced the cure of the default within the 30-day period, is diligently pursuing the cure of the default and as long as the default is cured not later than 60 days following the notice thereof from the City); or



iv. Developer shall: (i) become insolvent or generally not pay, or be unable to pay, or admit in writing its/his inability to pay, its/his debts as they mature; or (ii) make a general assignment for the benefit of creditors or to an agent authorized to liquidate any substantial amount of its/his assets; or (iii) become the subject of an “order for relief” within the meaning of the United States Bankruptcy Code, or file a petition in bankruptcy, for reorganization or to effect a plan or other arrangement with creditors; or (iv) have a petition or application filed against it/him in bankruptcy or any similar proceeding, or have such a proceeding commenced against it/him, and such petition, application or proceeding shall remain undismissed for a period of ninety (90) days or Developer or Guarantor shall file an answer to such a petition or application, admitting the material allegations thereof; or (v) apply to a court for the appointment of a receiver or custodian for any of its/his assets or properties, or have a receiver or custodian appointed for any of its/his assets or properties, with or without consent, and such receiver shall not be discharged within ninety (90) days after its/his appointment; or (vi) adopt a plan of complete liquidation of its/his assets; or

v. If Developer shall dissolve or shall cease to exist; or

vi. Developer shall breach or fail to perform timely or observe timely any of its covenants or obligations (including any payment obligations) under any other contracts or agreements with the City with respect to the Project or the Mall Property.

Upon the occurrence of any Default, the City at its option may pursue any or all of the rights and remedies available to it at law and/or in equity and/or under this Agreement and/or under any of the other agreements contemplated herein. Upon the occurrence of any Default, any amounts due to the City shall accrue interest at the rate of one percent (1%) per month.

b. *City Default.* In the event the City is in default hereunder, Developer shall be entitled to take any action allowed by applicable law by virtue of said default provided that Developer first gives the City written notice of default describing the nature of the default, what action, if any, is deemed necessary to cure the same and specifying a time period of not less than sixty (60) days in which the default may be cured by the City. In the event of a default by the City that remains uncured, Developer may seek any remedy available to Developer under the terms of this Agreement or take any other action, including legal or administrative action, in law or equity, which may appear necessary or desirable to enforce performance and observance of any obligation, agreement or covenant of the City under this Agreement, including securing an injunction to prevent harm.

9. Term. The term of this Agreement shall commence on the Effective Date and shall continue, unless terminated earlier as provided herein, until the later to occur of (i) repayment in full of the Loan; and (iii) termination of every TID.

10. Notices. All notices hereunder must be in writing and must be sent by United States registered or certified mail (postage prepaid) or by an independent overnight courier service, addressed to the addresses specified below:

Notices to Developer:

Wausau Opportunity Zone, Inc  
500 N. 1<sup>st</sup> Street, Ste, 8000  
Wausau, WI 54403  
Attn: President

*with a copy to:*

Ruder Ware  
500 First Street, Ste. 8000  
P.O. Box 8050  
Wausau, WI 54402-8050  
Attn: Joseph M. Mella, Esq.

Notices to the City:

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

*with a copy to:*

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

Notices given by mail are deemed delivered within (3) three business days after the party sending the notice deposits the notice in the United States Post Office. Notices delivered by courier are deemed delivered on the next business day after the party delivering the notice timely deposits the Notice with the courier for overnight (next day) delivery.

11. Recording. Recording of this Agreement is prohibited except as allowed in this paragraph. The parties shall promptly execute and record the Memorandum against the Property immediately after conveyance from the City. The Parties further agree to execute and record a short form memorandum in the form attached hereto as Exhibit E (or other form that is mutually acceptable to the parties) immediately after the conveyance of any additional portions of the Mall Property from the City to Developer. All such memoranda shall be recorded prior to any mortgages or other liens.

12. Miscellaneous.

a. No Personal Liability. Under no circumstances shall any alderperson, council member, officer, official, director, attorney, employee or agent of the City or the Developer have any personal liability arising out of this Agreement, and no party shall seek or claim any such personal liability.

b. Waiver; Amendment. No waiver, amendment, or variation in the terms of this Agreement shall be valid unless in writing and signed by the City and Developer, and then only to the extent specifically set forth in writing. Nothing contained in this Agreement is intended to or has the effect of releasing Developer from compliance with all applicable laws, rules, regulations and ordinances in addition to compliance with all terms, conditions and covenants contained in this Agreement.

c. Entire Agreement. This Agreement and the documents executed pursuant to this Agreement contain the entire understanding of the parties with respect to the subject

matter hereof. There are no restrictions, promises, warranties, covenants or undertakings other than those expressly set forth in this Agreement and the documents executed in connection with this Agreement. This Agreement and the documents executed in connection herewith supersede all prior negotiations, agreements and undertakings between the parties with respect to the subject matter hereof.

d. No Third-Party Beneficiaries. Except for the express provisions of the Environmental Indemnity, this Agreement is intended solely for the benefit of Developer and the City, and no third party (other than successors and assigns) shall have any rights or interest in any provision of this Agreement, or as a result of any action or inaction of the City in connection therewith.

e. Severability. If any covenant, condition, provision, term or agreement of this Agreement is, to any extent, held invalid or unenforceable, the remaining portion thereof and all other covenants, conditions, provisions, terms, and agreements of this Agreement will not be affected by such holding, and will remain valid and in force to the fullest extent by law.

f. Governing Law. This Agreement is governed by, and must be interpreted under, the internal laws of the State of Wisconsin. Any suit arising or relating to this Agreement must be brought in Marathon County, Wisconsin.

g. Time is of the Essence; Deadlines. Time is of the essence with respect to this performance of every provision of this Agreement in which time of performance is a factor. In the event a deadline herein falls on a non-business day, the deadline shall be deemed to fall on the next following business day.

h. Relationship of Parties. This Agreement does not create the relationship of principal and agent, or of partnership, joint venture, or of any association or relationship between the City and Developer.

i. Captions and Interpretation. The captions of the articles and sections of this Agreement are to assist the parties in reading this Agreement and are not a part of the terms of this Agreement. Whenever required by the context of this Agreement, the singular includes the plural and the plural includes the singular.

j. Counterparts/Electronic Signature. This Agreement may be executed in several counterparts, each of which shall be deemed an original but all of which counterparts collectively shall constitute one instrument representing the agreement among the parties. Facsimile signatures and PDF email signatures shall constitute originals for all purposes.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date first printed above.

**DEVELOPER:**

WAUSAU OPPORTUNITY ZONE, INC.

By: David Eckmann  
Name: DAVID Eckmann  
Title: President

**CITY:**

CITY OF WAUSAU

By: \_\_\_\_\_  
Robert B. Mielke, Mayor

Attested to By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date first printed above.

**DEVELOPER:**

WAUSAU OPPORTUNITY ZONE, INC.

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

**CITY:**

CITY OF WAUSAU

By: Robert B. Mielke  
Robert B. Mielke, Mayor

Attested to

By: Mary A. Goede  
Name: Mary A. Goede  
Title: Deputy Clerk

EXHIBIT A-1

LEGAL DESCRIPTION OF MALL PROPERTY\*

THE ENTIRE SITE

Part of the northwest 1/4 of Section 36 and part of Government Lot 5 in Section 35, Town 29 North, Range 7 East, City of Wausau, Marathon County, Wisconsin more fully described as follows:

Commencing at the southeast corner of Lot 1, Block 3, original plat of the City of Wausau, thence S85°05'40"E, 66.00 feet; thence S05°03'54"W, 56.10 feet TO THE POINT OF BEGINNING OF THIS DESCRIPTION; thence, S85°05'40"E, 166.05 feet; thence N73°54'20"E, 42.14 feet; thence S85°05'40"E, 41.44 feet; thence N64°54'20"E, 16.00 feet to a point on the centerline of Washington Street; thence S85°05'40"E, along the centerline of Washington Street 561.14 feet; thence S24°15'43"E, 24.05 feet; thence S85°05'40"E, 317.35 feet to a point lying on the westerly right-of-way line of Fifth Street; thence along said westerly right-of-way line of Fifth Street, S04°55'49"W, 566.50 feet to a point which is 1.09 feet south of the northerly right-of-way line of Forest Street; thence N85°05'40"W, 412.10 feet to a point which is 2.11 feet south of the northerly right-of-way line of Forest Street; thence N04°54'20"E, 2.11 feet to a point lying on the northerly right-of-way line of Forest Street; thence along said northerly right-of-way line of Forest Street N84°57'11"W, 402.00 feet; thence departing from said northerly right-of-way line of Forest Street S04°54'20"W, 0.60 feet to a point which is 0.60 feet south of the northerly right-of-way line of Forest Street; thence N85°05'40"W, 321.24 feet; thence N40°05'40"W, 51.99 feet to a point on the easterly right-of-way line of First Street; thence N05°03'54"E along the easterly right-of-way line of First Street, 525.14 feet to THE POINT OF BEGINNING OF THIS DESCRIPTION. Containing within said bounds 15.203 acres, to be the same more or less.

\*Note: This description is based on historic information and may have slight inaccuracies. Generally, the Mall Property is the land in the City of Wausau, State of Wisconsin bounded by Washington Street to the North, Fifth Street to the East, Forest Street to the South, and First Street to the West.

**EXHIBIT A-2**

**LEGAL DESCRIPTION OF THE GROUND LEASE PARCEL**

Part of the Northwest one-quarter (NW 1/4) of Section thirty-six (36), Town twenty-nine (29) North, Range seven (7) East, City of Wausau, Marathon County, Wisconsin, more particularly bounded and described as follows:

Commencing at the Southeast corner of Lot 1, Block 3, Original Plat of the City of Wausau, thence S 85° 05' 40" E, 66.00 feet; thence S 05° 03' 54" W, 33.00 feet to a point on the centerline of Washington Street; thence S 85° 05' 40" E along the centerline of Washington Street, 295.86 feet to the point of beginning of this description; thence S 85° 05' 40" E, along the centerline of Washington Street, 525.89 feet; thence S 24° 15' 43" E, 24.05 feet; thence S 85° 05' 40" E, 317.35 feet; thence S 04° 55' 49" W, along the Westerly right-of-way line of Fifth Street, 348.00 feet; thence N 85° 05' 40" W, 412.20 feet; thence S 04° 54' 20" W, 216.39 feet to a point on the Northerly right-of-way line of Forest Street; thence N 84° 57' 11" W, along the Northerly right-of-way line of Forest Street, 402.00 feet; thence N 04° 54' 20" E, 32.40 feet; thence N 85° 05' 40" W, 10.00 feet; thence N 04° 54' 20" E, 10.00 feet; thence S 85° 05' 40" E, 10.00 feet; thence N 04° 54' 20" E, 105.00 feet; thence N 85° 05' 40" W, 28.00 feet; thence S 04° 54' 20" W, 26.00 feet; thence N 85° 05' 40" W, 12.00 feet, thence N 04° 54' 20" E, 40.00 feet; thence N 85° 05' 40" W, 42.00 feet; thence S 04° 54' 20" W, 13.00 feet; thence N 85° 05' 40" W, 10.00 feet; thence N 04° 54' 20" E, 10.08 feet; thence N 85° 05' 40" W, 20.00 feet; thence N 04° 54' 20" E, 2.00 feet; thence N 85° 05' 40" W, 9.00 feet, thence N 04° 54' 20" E, 166.42 feet; thence S 85° 05' 40" E, 19.92 feet; thence N 04° 54' 20" E, 42.50 feet; thence N 85° 05' 40" W, 19.92 feet; thence N 04° 54' 20" E, 176.00 feet; thence N 85° 05' 40" W, 1.00 foot; thence N 04° 54' 20" E, 7.00 feet; thence S 85° 05' 40" E, 42.00 feet; thence N 55° 48' 42" E, 50.75 feet to the point of beginning of this description. Containing within said bounds 9.872 acres, to be the same more or less.

**EXHIBIT A-3**

**LEGAL DESCRIPTION OF THE AIR RIGHTS PARCEL**

All air space and air rights in and to the following described property lying above base plan elevation of 1219.5 feet (USGS datum). Part of the Northwest one-quarter (NW 1/4) of Section thirty-six (36), and part of Government Lot five (5) in Section thirty-five (35), Town twenty-nine (29) North, Range seven (7) East, City of Wausau, Marathon County, Wisconsin, more fully described as follows:

Commencing at the Southeast corner of Lot 1, Block 3, Original Plat of the City of Wausau, thence S 85° 05' 40" E, 66.00 feet; thence S 05° 03' 54" W, 91.50 feet to a point lying on the Easterly right-of-way line of First Street and the point of beginning of this description; thence S 85° 05' 40" E, 214.65 feet; thence N 04° 54' 20" E, 19.50 feet; thence S 85° 05' 40" E, 1.00 foot; thence S 04° 54' 20" W, 176.00 feet; thence S 85° 05' 40" E, 19.92 feet; thence S 04° 54' 20" W, 42.50 feet; thence N 85° 05' 40" W, 19.92 feet; thence S 04° 54' 20" W, 199.50 feet; thence S 25° 05' 40" E, 6.75 feet; thence S 64° 54' 20" W, 0.50 feet; thence S 25° 05' 40" E, 3.17 feet; thence S 64° 54' 20" W, 28.50 feet; thence S 25° 05' 40" E, 16.33 feet; thence S 64° 54' 20" W, 12.00 feet; thence N 25° 05' 40" W, 19.50 feet; thence S 64° 54' 20" W, 1.00 foot; thence N 25° 05' 40" W, 6.75 feet; thence N 85° 05' 40" W, 37.13 feet; thence N 04° 54' 20" E, 20.50 feet; thence N 85° 05' 40" W, 143.26 feet; to a point on the Easterly right-of-way line of First Street; thence N 05° 03' 54" E, along the Easterly right-of-way line of First Street, 399.00 feet to the point of beginning of this description. Containing within said bounds 2.040 acres to be the same more or less.



**EXHIBIT A-4**

**LEGAL DESCRIPTION OF THE GROUND LEASE PARCEL-HOM**

THAT PART OF THE NORTHWEST QUARTER (NW 1/4) OF SECTION THIRTY-SIX (36), TOWNSHIP TWENTY-NINE (29) NORTH, RANGE SEVEN (7) EAST, IN THE CITY OF WAUSAU, MARATHON COUNTY, WISCONSIN, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF LOT ONE (1), BLOCK THREE (3), ORIGINAL PLAT OF THE CITY OF WAUSAU, THENCE SOUTH 85° 05' 40" EAST, 66.00 FEET; THENCE SOUTH 05° 03' 54" WEST, 56.10 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF FIRST STREET; THENCE SOUTH 05° 03' 54" WEST, ALONG THE EASTERLY RIGHT-OF-WAY LINE OF FIRST STREET, 525.14 FEET; THENCE SOUTH 40° 05' 40" EAST, 51.99 FEET; THENCE SOUTH 85° 05' 40" EAST, 301.24 FEET; THENCE NORTH 04° 54' 20" EAST, 0.60 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF FOREST ST. AND THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE NORTH 04° 54' 20" EAST, 32.40 FEET; THENCE NORTH 85° 05' 40" WEST, 10.00 FEET; THENCE NORTH 04° 54' 20" EAST, 10.00 FEET; THENCE SOUTH 85° 05' 40" EAST, 10.00 FEET; THENCE NORTH 04° 54' 20" EAST, 105.00 FEET; THENCE NORTH 85° 05' 40" WEST, 28.00 FEET; THENCE SOUTH 04° 54' 20" WEST, 26.00 FEET; THENCE NORTH 85° 05' 40" WEST 12.00 FEET; THENCE NORTH 04° 54' 20" EAST, 122.00 FEET; THENCE SOUTH 85° 05' 40" EAST, 442.00 FEET; THENCE SOUTH 04° 54' 20" WEST, 244.39 FEET; TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF FOREST STREET; THENCE NORTH 84° 57' 11" WEST, ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF FOREST STREET; 402.00 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION.

EXHIBIT A-5

**LEGAL DESCRIPTION OF THE GROUND LEASE PARCEL-MALL\***

ENCLOSED MALL AND MALL SHOP PARCEL

Part of the northwest one quarter of Section 36, Town 29 north, Range 7 east, City of Wausau, Marathon County, Wisconsin. More particularly bounded and described as follows:

Commencing at the southeast corner of Lot #1, Block #3, original plat of the City of Wausau, thence S85°05'40"E, 66.00 feet; thence S05°03'54"W, 33.00 feet to a point on the centerline of Washington Street; thence S85°05'40"E along the centerline of Washington Street, 295.86 feet TO THE POINT OF BEGINNING OF THIS DESCRIPTION; thence S85°05'40"E, along the centerline of Washington Street, 525.89 feet; thence S24°15'43"E, 24.05 feet; thence S85°05'40"E, 29.00 feet; thence S04°54'20"W, 348.00 feet; thence N85°05'40"W, 124.00 feet; thence N04°54'20"E, 28.00 feet; thence N85°05'40"W, 442.00 feet; thence S04°54'20"W, 82.00 feet; thence N85°05'40"W, 42.00 feet; thence S04°54'20"W, 13.00 feet; thence N85°05'40"W, 10.00 feet; thence N04°54'20"E, 10.08 feet; thence N85°05'40"W, 20.00 feet; thence N04°54'20"E, 2.00 feet; thence N85°05'40"W, 9.00 feet; thence N04°54'20"E, 166.42 feet; thence S85°05'40"E, 19.92 feet; thence N04°54'20"E, 42.50 feet; thence N85°05'40"W, 19.92 feet; thence N04°54'20"E, 176.00 feet; thence N85°05'40"W, 1.00 foot; thence N04°54'20"E, 7.00 feet; thence S85°05'40"E, 42.00 feet; thence N55°48'42"E, 50.75 feet to THE POINT OF BEGINNING OF THIS DESCRIPTION. Containing within said bounds 5.221 acres, to be the same more or less.

\*Note: This description is based on historic information and may have slight inaccuracies.

**EXHIBIT A-6**

**LEGAL DESCRIPTION OF THE GROUND LEASE PARCEL-SEARS**

PART OF THE NORTHWEST 1/4 OF SECTION 36, TOWN 29 NORTH, RANGE 7 EAST, CITY OF WAUSAU, MARATHON COUNTY, WISCONSIN, MORE FULLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF LOT #1, BLOCK #3, ORIGINAL PLAT OF THE CITY OF WAUSAU, THENCE S85°05'40"E, 66.00 FEET; THENCE S05°03'54"W, 33.00 FEET TO THE CENTERLINE OF WASHINGTON STREET; THENCE ALONG SAID CENTERLINE OF WASHINGTON STREET, S85°05'40"E, 862.48 FEET; THENCE S04°54'20"W, 21.00 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE S85°05'40"E, 288.35 FEET TO A POINT LYING ON THE WESTERLY RIGHT-OF-WAY LINE OF FIFTH STREET; THENCE ALONG SAID WESTERLY RIGHT-OF-WAY LINE S04°55'49"W, 348.00 FEET; THENCE N85°05'40"W, 288.20 FEET; THENCE N04°54'20" E, 348.00 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION.

**EXHIBIT A-7**

**LEGAL DESCRIPTION OF THE PARKING LOT 1 PARCEL**

Part of the northwest 1/4 of Section 36, and northeast 1/4 of Section 35, Town 29 North, Range 7 East, City of Wausau, Marathon County, Wisconsin, more fully described as follows:

Commencing at the southeast corner of Lot 1, Block 3, original plat of the City of Wausau, thence S85°05'40"E, 66.00 feet; thence, S05°03'54"W, 56.10 feet TO THE POINT OF BEGINNING OF THIS DESCRIPTION; thence, S85°05'40"E, 175.39 feet; thence, N82°54'20"E, 87.06 feet; thence, S85°05'40"E, 21.00 feet; thence, S04°54'20"W, 28.00 feet; thence, N85°05'40"W, 66.00 feet; thence, S04°54'20"W, 183.00 feet; thence, S85°05'40"E, 15.00 feet; thence, S04°54'20"W, 40.00 feet; thence, N85°05'40"W, 15.00 feet; thence, S04°54'20"W, 181.00 feet; thence, S85°05'40"E, 81.00 feet; thence, S04°54'20"W, 35.00 feet; thence, S85°05'40"E, 12.00 feet; thence, N04°54'20"E, 35.00 feet; thence, S85°05'40"E, 28.00 feet; thence, S04°54'20"W, 105.00 feet; thence, N85°05'40"W, 10.00 feet; thence, S04°54'20"W, 10.00 feet; thence, S85°05'40"E, 10.00 feet; thence, S04°54'20"W, 32.40 feet to the northerly right-of-way line of Forest Street; thence along said northerly right-of-way line N84°57'11"W, 162.69 feet; thence departing from said northerly right-of-way line, N85°05'40"W, 175.42 feet to a point lying on the easterly right-of-way line of First Street; thence, along said easterly right-of-way line N05°03'54"E, 560.90 feet TO THE POINT OF BEGINNING OF THIS DESCRIPTION. Parcel contains 3.238 acres more or less.

**EXHIBIT A-8**

**LEGAL DESCRIPTION OF THE PARKING LOT 2 PARCEL**

Part of the northwest 1/4 of Section 36, Town 29 North, Range 7 East, City of Wausau, Marathon County, Wisconsin, more fully described as follows:

Commencing at the southeast corner of Lot 1, Block 3, original plat of the City of Wausau, thence, S85°05'40"E, 66.00 feet; thence, S05°03'54"W, 33.00 feet to the centerline of Washington Street; thence along said centerline of Washington Street, S85°05'40"E, 862.48 feet; thence, S04°54'20"W, 369.00 feet; TO THE POINT OF BEGINNING OF THIS DESCRIPTION; thence, S85°05'40"E, 288.20 feet; to the westerly right-of-way line of Fifth Street; thence along said westerly right-of-way line, S04°55'49"W, 218.00 feet to a point which is exactly 0.41 feet south of the northerly right-of-way line of Forest Street; thence, N85°05'40"W, 412.10 feet to a point which is exactly 1.61 feet south of the northerly line of Forest Street; thence, N04°54'20"E, 218.00 feet; thence, S85°05'40"E, 124.00 feet TO THE POINT OF BEGINNING OF THIS DESCRIPTION. Parcel contains 2.063 acres more or less.

**EXHIBIT B**

[reserved]

**EXHIBIT C**

**FORM OF NOTE**

[ATTACH TO THIS COVER PAGE]

MORTGAGE NOTE (Wausau Center Mall)

Boxes checked are applicable. Boxes not checked are inapplicable.

© 2014 Wisconsin Bankers Association/Distributed by FIPCO® (Do not use for a loan of \$25,000 or less to individual(s) for personal, family or household purposes unless the loan is secured by a first mortgage or equivalent security interest.)

WAUSAU OPPORTUNITY ZONE, INC. (MAKER(S)) January, 2020 (DATE) \$1,000,000.00

1. Promise to Pay and Payment Schedule. I promise to pay to the order of CITY OF WAUSAU ("Lender") at 407 Grant Street, Wausau, WI 54403, Attention: City Clerk, Wisconsin, the principal sum of \$1,000,000.00:

[Check (a), (b) or (c); only one shall apply.]

- (a) in one payment on December 31, 2020, PLUS interest payable as set forth in section 3 or 7 below, as applicable. (b) [INTENTIONALLY DELETED] (c) [INTENTIONALLY DELETED]

Lender is under no obligation to refinance the final payment at maturity.

2. Interest. Interest shall accrue before maturity (whether by acceleration or lapse of time) at the state interest rate(s) identified in section 2(a), (b) or (c) below (each a "stated interest rate"), as applicable, on the unpaid principal balance, calculated as provided in section 2(f) or (g) below:

[Check (a), (b) or (c); only one shall apply.]

- (a) Fixed Interest Rate. 0.00%. (b) [INTENTIONALLY DELETED] (c) [INTENTIONALLY DELETED] (d) [INTENTIONALLY DELETED]

(e) Interest After Maturity. Interest shall accrue on unpaid principal and interest after maturity (whether by acceleration or lapse of time) until paid at the stated interest rate(s) under section 2(a), (b) or (c) above, as applicable, plus percentage points at the stated interest rate of 12.00%, calculated as provided in section 2(f) or (g), below.

[Check (f) or (g); only one shall apply.]

- (f) [INTENTIONALLY DELETED] (g) Interest calculation (30/360). Interest will be calculated by applying the applicable stated interest rate based on a 360 day year, counting each day as one thirtieth of a month and disregarding differences in lengths of months and years.

3. [INTENTIONALLY DELETED]

4. [INTENTIONALLY DELETED]

5. Security. This Note is secured by real estate under agreement(s) dated from to Lender.

This Note is secured by a dwelling under security agreement(s) dated from to Lender.

6. [INTENTIONALLY DELETED]

7. [INTENTIONALLY DELETED]

8. [INTENTIONALLY DELETED]

9. Additional Terms. This Note is subject to the following additional terms:

- (a) [INTENTIONALLY DELETED] (b) Full or partial prepayment of this Note (i) is permitted at any time without penalty (ii) [INTENTIONALLY DELETED].

Upon prepayment in full, unearned interest will be refunded to the extent required by law. Lender may apply prepayments to such future installments as it elects.

10. [INTENTIONALLY DELETED]

VARIABLE RATE DISCLOSURES

If section 2(c) above is checked, this Note contains a variable interest rate provision. The following disclosures are applicable if this Note is secured by a first lien real estate mortgage or equivalent security interest on a one-to-four family dwelling used as my principal place of residence. An increase or decrease in the Index Rate described above will cause a corresponding increase or decrease in the rate of interest, and the current Index Rate value is %.

I acknowledge receipt of a completed copy of this Note. "I," "my" and "me" includes each person who signs this Note and our obligations are joint and several. This Note includes the Additional Provisions on page 2.

MAKER:

WAUSAU OPPORTUNITY ZONE, INC., a Wisconsin corporation

By: Name: Title:



## ADDITIONAL PROVISIONS

11. **Default and Enforcement.** If I fail to make a payment under this Note when due, and the default continues for 10 days, or upon the occurrence of an event of default described in any agreement securing this Note, Lender may declare the entire balance of principal and accrued interest to be payable immediately, without notice or demand. All payments shall be applied in such manner as Lender determines to interest, principal and payments due under this Note or any agreement securing this Note. I agree to pay all costs of collection before and after judgment, including, to the extent not prohibited by law, reasonable attorneys' fees.

~~12. **Other Security.** Unless a lien is prohibited by law or would render a nontaxable account taxable, I grant to Lender a security interest and lien in any deposit account I may at any time have with Lender. Lender may at any time after the occurrence of an event of default, without notice or demand, set off any amount unpaid on this Note against any deposit balances I may at any time have with Lender, or other money now or hereafter owed me by Lender. This Note is also secured by any existing mortgage(s) described on page 1, and by any future mortgage(s) that provides that the mortgage secures this Note and by all existing and future security agreements covering personal property (other than a dwelling, unless the security agreement granting a security interest in the dwelling is disclosed on page 1), between Lender and any of us, between Lender and any guarantor or indorser of this Note, and between Lender and any other person providing collateral security for my obligations and payment may be accelerated according to any of them.~~

13. **Rights of Lender.** Presentment, protest, demand and notice of dishonor are waived. All rights and remedies of Lender are cumulative and may be exercised from time to time together, separately, and in any order. Without affecting my liability or the liability of any indorser, surety or guarantor, Lender may, without notice, grant renewals or extensions, accept partial payments, reject partial payments, or hold partial payments in a suspense account until Lender receives payment in full of the payment amount to be applied to this Note, release or impair any collateral security for the payment of this Note or agree not to sue any party liable on it.

14. **Agreements of Maker.** I acknowledge that Lender has not made any representations or warranties with respect to, and that Lender does not assume any responsibility to me for, the collectability or enforceability of this Note or the financial condition of any of us. Each of us independently determined our creditworthiness and the enforceability of this Note.

15. **Interpretation.** If the loan evidenced by this Note is an alternative mortgage transaction as defined under the Alternative Mortgage Transaction Parity Act of 1982, 12 USC §3801 et seq. (the "Act"), Lender elects to make the loan in accordance with federal regulations as permitted under the Act. Except as provided above, the validity, construction and enforcement of this Note are governed by the internal laws of Wisconsin except to the extent such laws are otherwise preempted by federal law. Invalidity or unenforceability of any provision of this Note shall not affect the validity or enforceability of any other provisions of this Note. This Note benefits Lender, its successors and assigns, and binds me and my heirs, personal representatives and assigns.

16. **Entire Agreement.** THIS NOTE IS INTENDED BY LENDER AND ME AS A FINAL EXPRESSION OF THIS NOTE AND AS A COMPLETE AND EXCLUSIVE STATEMENT OF ITS TERMS, THERE BEING NO CONDITIONS TO THE ENFORCEABILITY OF THIS NOTE, AND THIS NOTE MAY NOT BE CONTRADICTED OR VARIED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OR DISCUSSIONS OF THE PARTIES TO THIS NOTE. THERE ARE NO ORAL AGREEMENTS AMONG THE PARTIES TO THIS NOTE. THIS NOTE MAY NOT BE SUPPLEMENTED OR MODIFIED EXCEPT IN WRITING SIGNED BY LENDER AND ME.

### Additional Provisions:

17. **Development Agreement.** Maker and Lender have entered into a Purchase and Development Agreement (Wausau Center Mall) dated as of January 17, 2020 (as may be amended, restated supplemented, modified and replaced from time to time hereafter, the "Development Agreement"). This Note evidences the "Loan" referenced in the Development Agreement. The terms, conditions and covenants of the Development Agreement relating to the Loan are hereby incorporated herein by this reference, including, without limitation, the provisions regarding partial forgiveness of the Loan. A default under the Development Agreement shall be a default hereunder.

18. **Maker's address for notices.** The notice provisions set forth in the Development Agreement are hereby incorporated herein by this reference.

**EXHIBIT D**

**FORM OF GARL AMENDMENT**

[ATTACH TO THIS COVER PAGE]

**FIFTH AMENDMENT TO  
GROUND AND AIR RIGHTS LEASE**

**THIS FIFTH AMENDMENT TO GROUND AND AIR RIGHTS LEASE** (this “Fifth Amendment”) dated effective as of the \_\_\_\_ day of \_\_\_\_\_, 2020 (the “Effective Date”), by and between THE CITY OF WAUSAU, a municipal corporation of the State of Wisconsin (“Landlord”) and WAUSAU OPPORTUNITY ZONE, INC., a Wisconsin corporation (“Tenant”);

**WITNESSETH:**

**WHEREAS**, Landlord (as successor in interest to the Redevelopment Authority of the City of Wausau) and RSS WFRBS2011C4-WI WCPC, LLC, a Wisconsin limited liability company (as successor to Wausau Joint Venture, an Ohio general partnership and to Wausau Center CMBS, LLC, a Delaware limited liability company) (“Prior Tenant”) entered into a certain Ground and Air Rights Lease, dated as of November 1, 1980, recorded in Micro-Record Volume 324 at Pages 989-1159 in the Register’s Office of Marathon County, Wisconsin (the “Original Lease”), as amended by that certain First Amendment to Ground and Air Rights Lease, dated as of February 1, 1981 and recorded in Micro-Record Volume 329 at Pages 120-129 in the Register’s Office of Marathon County, Wisconsin (the “First Amendment”), as further amended by that certain Second Amendment to Ground and Air Rights Lease dated as of March 1, 1982 and recorded in Micro-Record Volume 351 at Pages 191-235 in the Register’s Office of Marathon County, Wisconsin (the “Second Amendment”), as further amended by that certain Third Amendment to Ground and Air Rights Lease, dated as of October 1, 1982, and recorded in Micro-Record Volume 355 at Page 838 in the Register’s Office of Marathon County, Wisconsin (the “Third Amendment”), all of which were re-recorded on December 22, 2010 as Document No. 1586651, as further amended by a certain Ground Lease Estoppel and Lease Amendment Agreement, dated as of March 24, 2011 (the “Estoppel Lease Amendment”), and as further amended by a certain Fourth Amendment to Ground and Air Rights Lease, dated as of April 14, 2011 (the “Fourth Amendment”, together with the Original Lease, First Amendment, Second Amendment, Third Amendment, and the Estoppel Lease Amendment, the “Ground and Air Rights Lease”), pursuant to which Landlord leased to Tenant certain land and air rights located in the City of Wausau, Marathon County, Wisconsin, as more particularly described in **Exhibit A**, attached hereto (the “Property”), together with and subject to easements, rights and appurtenances, on the terms and conditions described therein; and

**WHEREAS**, Landlord and Prior Tenant previously entered into multiple agreements with respect to the parking facilities located on the land legally described in the attached **Exhibit B** (the “Parking Facilities”) dated February 13, 1985, March 17, 1988, December 31, 1992, August 16, 1995, December 31, 2005, and December 31, 2006 (together with any and all others amendments or side agreements with respect to the Parking Facilities not herein listed, collectively, the “Parking Agreement”); and

**WHEREAS**, Tenant has acquired Prior Tenant's leasehold interest in the Ground and Air Rights Lease and the Parking Agreement; and

**WHEREAS**, Landlord and Tenant have entered into a certain Purchase and Development Agreement dated as of January [\_\_\_], 2020 with respect to the Property, the Parking Facilities and other matters (the "Development Agreement"); and

**WHEREAS**, the Landlord and Tenant desire to, among other things, (i) amend the Ground and Air Rights, (ii) terminate the Parking Agreement, and (iii) memorialize Landlord's consent to the transfer of Prior Tenant's leasehold interest in the Ground and Air Rights Lease to Tenant.

**NOW, THEREFORE**, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration given by each party to the other, the receipt and sufficiency of which are hereby acknowledged, it is mutually agreed by and among the parties hereto, as follows:

1. All terms which are used as defined terms in the Ground and Air Rights Lease shall have the same meanings when capitalized in this Fifth Amendment, except to the extent herein specifically provided to the contrary, and all page references hereinafter set forth in parentheses shall refer to the page number of the Ground and Air Rights Lease.

2. All references in the Ground and Air Rights Lease to Leased Premises are hereby amended to exclude all portions of the Leased Premises conveyed to Tenant pursuant to the Development Agreement, it being the intention of the parties hereto to merge title to such land and leasehold interests into Tenant.

3. Section 5.1(a) of the Ground and Air Rights Lease is hereby deleted and replaced with the following:

Tenant shall pay to Landlord Fixed Minimum Rent of One Dollar (\$1.00) per year from the Effective Date until termination of the Ground and Air Rights Lease.

4. Section 5.2 of the Ground and Air Rights Lease is hereby deleted in its entirety. It is the express intent of the Landlord and Tenant to hereby terminate Tenant's obligation to pay Additional Rental. Landlord and Tenant hereby acknowledge and agree and all references to "rent" shall no longer include Additional Rental. Landlord further waives any claim it may have had against Tenant, or its predecessors hereunder, for the payment of Additional Rental.

5. Section 9.2 of the Ground and Air Rights Lease is hereby deleted and replaced with the following:

Section 9.2 Operation of Parking Facilities.

(a) Landlord covenants and agrees with Tenant, at all times during the Term, to operate and maintain the Parking Facilities consistent with the standards of operation and maintenance for other parking facilities and lots owned and operated by the City of Wausau; provided, however, that the rules and parking fees established by the City for the Parking Lots shall not unreasonably interfere

with the ongoing operations of the mall or the redevelopment efforts of Tenant with respect to the Property.

(b) Notwithstanding anything contained herein to the contrary, Landlord and Tenant acknowledge and agree that Tenant shall have no obligation to contribute to the costs of operation and maintenance of the Parking Facilities.

6. Landlord and Tenant hereby terminate the Parking Agreement and hereby acknowledge and agree that the Parking Facilities are released and forever discharged from the provisions of the Parking Agreement.

7. Landlord hereby recognizes and approves the transfer by Prior Tenant of all of Prior Tenant's interest, as tenant, in the Ground and Air Rights Lease to Tenant. Landlord acknowledges and approves the substitution of Tenant in place of Prior Tenant under the Ground and Air Rights Lease.

8. Section 15.1 of the Ground and Air Rights Lease is hereby deleted and replaced with the following:

Section 15.1 Notices. All notices provided for in this Agreement shall be in writing and shall be deemed to have been given if (i) deposited in the United States mail, registered or certified, return receipt requested, postage prepaid, or (ii) sent by a nationally recognized overnight courier service, prepaid, addressed as follows:

If to Landlord: City of Wausau  
407 Grant Street  
Wausau, WI 54403  
Attn: City Clerk

w/ a copy to: City of Wausau  
407 Grant Street  
Wausau, WI 54403  
Attn: City Attorney

If to Tenant: [INSERT]

w/ a copy to: Ruder Ware  
500 First Street, Ste. 8000  
P.O. Box 8050  
Wausau, WI 54402  
Attn: Joseph M. Mella, Esq.

or addressed to any such party at such other address, or copies of notices addressed to such additional parties at such additional addresses, as such party shall hereafter furnish by written notice to the other party. The date of giving of any such notice or election shall be (i) the date that is three (3) business days

following the posting of the mail, or (ii) the date that is one (1) business day after delivery to the overnight courier service.

9. The parties acknowledge and agree that this Fifth Amendment may be supplemented and replaced by a new air rights lease as provided in the Development Agreement.

10. This Fifth Amendment may be executed by each of the parties on separate pages in counterparts, each of which shall be deemed an original, and all counterparts once having been assembled, together shall constitute one and the same instrument.

11. If any covenant, condition, provision, term or agreement of this Fifth Amendment is, to any extent, held invalid or unenforceable, the remaining portion thereof and all other covenants, conditions, provisions, terms, and agreements of this Fifth Amendment will not be affected by such holding, and will remain valid and in force to the fullest extent by law.

12. Under no circumstances shall any alderperson, council member, officer, official, director, attorney, employee or agent of the Landlord have any personal liability arising out of this Fifth Amendment, and no party shall seek or claim any such personal liability.

13. In the event of any conflict between the provisions of the Ground and Air Rights Lease and this Fifth Amendment, the provisions of this Fifth Amendment shall control. Except as amended by this Fifth Amendment, the Ground and Air Rights Lease is hereby ratified and confirmed by Landlord and Tenant and shall be and remain in full force and effect.

14. In the event of any conflict between the provisions of the Ground and Air Rights Lease (as modified by this Fifth Amendment) and the Development Agreement, the provisions of Development Agreement shall control.

***[Signatures to Follow]***

IN WITNESS WHEREOF, the parties hereto have caused this Fifth Amendment to be duly executed and sealed as of the day and year first above written.

**TENANT:**

WAUSAU OPPORTUNITY ZONE, INC.

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

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

Title: \_\_\_\_\_

**LANDLORD:**

CITY OF WAUSAU

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

Robert B. Mielke, Mayor

Attested to

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

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

Title: \_\_\_\_\_

STATE OF WISCONSIN )  
 )  
COUNTY OF \_\_\_\_\_ )

BEFORE ME, a Notary Public in and for said County and State, personally appearing \_\_\_\_\_, known to me to be the \_\_\_\_\_ of WAUSAU OPPORTUNITY ZONE, INC., a Wisconsin corporation, which executed the foregoing instrument, who acknowledged that they did sign and seal the foregoing instrument for and on behalf of said corporation, being thereunto duly authorized; that the same is their free act and deed as such officers and the free act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand an official seal in Wausau, Wisconsin, this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Notary Public

STATE OF WISCONSIN )  
 ) SS:  
COUNTY OF MARATHON )

BEFORE ME, a Notary Public in and for said County and State, personally appeared Robert B. Mielke and \_\_\_\_\_, known to me to be the Mayor and Clerk, respectively, of the CITY OF WAUSAU, a municipal corporation of the State of Wisconsin, which executed the foregoing instrument, who acknowledged that he/she did sign and seal the foregoing instrument for and on behalf of said municipal corporation being thereunto duly authorized; that the same is his/her free act and deed as such officers and the free act and deed of said municipal corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and the office seal in Wausau, Wisconsin this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Notary Public  
\_\_\_\_\_  
\_\_\_\_\_



Exhibit A  
Ground and Air Rights Lease Parcels

PARCEL A: Leasehold estate created by that certain Ground and Air Rights Lease (as amended and restated as of November 1, 1980) entered into by and between The Redevelopment Authority of the City of Wausau, as Lessor, and Wausau Joint Venture, as Lessee, dated as of November 1, 1980, and recorded in the Office of the Register of Deeds for Marathon County, Wisconsin (the "Register's Office") on December 31, 1980 in Volume 324 of Micro Records at Pages 989-1159, Document No. 773864; as amended by that certain First Amendment to Ground and Air Rights Lease, dated as of February 1, 1981, and recorded in the Register's Office on April 6, 1981 in Volume 329 of Micro Records at Pages 120-129, Document No. 776944; as further amended by that certain Second Amendment to Ground and Air Rights Lease dated as of March 1, 1982, and recorded in the Register's Office on September 14, 1982 in Volume 351 of Micro Records at Pages 191-235, Document No. 793634; as further amended by that certain Third Amendment to Ground and Air Rights Lease, dated as of October 1, 1982, and recorded in the Register's Office on December 9, 1982 in Volume 355 of Micro Records at Pages 838-852, Document No. 797036; all of which were re-recorded December 22, 2011 as Document No. 1586651, as assigned and assumed by that certain Assignment and Assumption of Ground and Air Rights Lease by and between Wausau Joint Venture and Wausau Center CMBS, LLC, dated as of March 24, 2011 and recorded in the Register's Office on April 4, 2011 as Document Number 1593562; and as further amended by that certain Ground Lease Estoppel and Lease Amendment Agreement by and between The City of Wausau and Wausau Joint Venture, dated as of March 24, 2011 and recorded in the Register's Office on April 4, 2011 as Document Number 1593564, demising premises described as follows:

PARCEL 1 - GROUND LEASE PARCEL

Part of the Northwest one-quarter (NW 1/4) of Section thirty-six (36), Town twenty-nine (29) North, Range seven (7) East, City of Wausau, Marathon County, Wisconsin, more particularly bounded and described as follows:

Commencing at the Southeast corner of Lot 1, Block 3, Original Plat of the City of Wausau, thence S 85° 05' 40" E, 66.00 feet; thence S 05° 03' 54" W, 33.00 feet to a point on the centerline of Washington Street; thence S 85° 05' 40" E along the centerline of Washington Street, 295.86 feet to the point of beginning of this description; thence S 85° 05' 40" E, along the centerline of Washington Street, 525.89 feet; thence S 24° 15' 43" E, 24.05 feet; thence S 85° 05' 40" E, 317.35 feet; thence S 04° 55' 49" W, along the Westerly right-of-way line of Fifth Street, 348.00 feet; thence N 85° 05' 40" W, 412.20 feet; thence S 04° 54' 20" W, 216.39 feet to a point on the Northerly right-of-way line of Forest Street; thence N 84° 57' 11" W, along the Northerly right-of-way line of Forest Street, 402.00 feet; thence N 04° 54' 20" E, 32.40 feet; thence N 85° 05' 40" W, 10.00 feet; thence N 04° 54' 20" E, 10.00 feet; thence S 85° 05' 40" E, 10.00 feet; thence N 04° 54' 20" E, 105.00 feet; thence N 85° 05' 40" W, 28.00 feet; thence S 04° 54' 20" W, 26.00 feet; thence N 85° 05' 40" W, 12.00 feet, thence N 04° 54' 20" E, 40.00 feet; thence N 85° 05' 40" W, 42.00 feet; thence S 04° 54' 20" W, 13.00 feet; thence N 85° 05' 40" W, 10.00 feet; thence N 04° 54' 20" E, 10.08 feet; thence N 85° 05' 40" W, 20.00 feet; thence N 04° 54' 20" E, 2.00 feet; thence N 85° 05' 40" W, 9.00 feet, thence N 04° 54' 20" E, 166.42 feet; thence S 85°

05' 40" E, 19.92 feet; thence N 04° 54' 20" E, 42.50 feet; thence N 85° 05' 40" W, 19.92 feet; thence N 04° 54' 20" E, 176.00 feet; thence N 85° 05' 40" W, 1.00 foot; thence N 04° 54' 20" E, 7.00 feet; thence S 85° 05' 40" E, 42.00 feet; thence N 55° 48' 42" E, 50.75 feet to the point of beginning of this description. Containing within said bounds 9.872 acres, to be the same more or less.

#### PARCEL 2- AIR RIGHTS PARCEL

All air space and air rights in and to the following described property lying above base plan elevation of 1219.5 feet (USGS datum). Part of the Northwest one-quarter (NW 1/4) of Section thirty-six (36), and part of Government Lot five (5) in Section thirty-five (35), Town twenty-nine (29) North, Range seven (7) East, City of Wausau, Marathon County, Wisconsin, more fully described as follows:

Commencing at the Southeast corner of Lot 1, Block 3, Original Plat of the City of Wausau, thence S 85° 05' 40" E, 66.00 feet; thence S 05° 03' 54" W, 91.50 feet to a point lying on the Easterly right-of-way line of First Street and the point of beginning of this description; thence S 85° 05' 40" E, 214.65 feet; thence N 04° 54' 20" E, 19.50 feet; thence S 85° 05' 40" E, 1.00 foot; thence S 04° 54' 20" W, 176.00 feet; thence S 85° 05' 40" E, 19.92 feet; thence S 04° 54' 20" W, 42.50 feet; thence N 85° 05' 40" W, 19.92 feet; thence S 04° 54' 20" W, 199.50 feet; thence S 25° 05' 40" E, 6.75 feet; thence S 64° 54' 20" W, 0.50 feet; thence S 25° 05' 40" E, 3.17 feet; thence S 64° 54' 20" W, 28.50 feet; thence S 25° 05' 40" E, 16.33 feet; thence S 64° 54' 20" W, 12.00 feet; thence N 25° 05' 40" W, 19.50 feet; thence S 64° 54' 20" W, 1.00 foot; thence N 25° 05' 40" W, 6.75 feet; thence N 85° 05' 40" W, 37.13 feet; thence N 04° 54' 20" E, 20.50 feet; thence N 85° 05' 40" W, 143.26 feet; to a point on the Easterly right-of-way line of First Street; thence N 05° 03' 54" E, along the Easterly right-of-way line of First Street, 399.00 feet to the point of beginning of this description. Containing within said bounds 2.040 acres to be the same more or less.

#### PARCEL 3 - EASEMENTS AND PARTY WALL RIGHTS

As contained in that certain Ground and Air Rights Lease (as amended and restated as of November 1, 1980) entered into by and between The Redevelopment Authority of the City of Wausau, as Lessor, and Wausau Joint Venture, as Lessee, dated as of November 1, 1980, and recorded in the Register's Office on December 31, 1980 in Volume 324 of Micro Records at Pages 989-1159, Document No. 773864; as amended by that certain First Amendment to Ground and Air Rights Lease, dated as of February 1, 1981, and recorded in the Register's Office on April 6, 1981 in Volume 329 of Micro Records at Pages 120-129, Document No. 776944; as further amended by that certain Second Amendment to Ground and Air Rights Lease dated as of March 1, 1982, and recorded in the Register's Office on September 14, 1982 in Volume 351 of Micro Records at Pages 191-235, Document No. 793634; and as further amended by that certain Third Amendment to Ground and Air Rights Lease, dated as of October 1, 1982, and recorded in the Register's Office on December 9, 1982 in Volume 355 of Micro Records at Pages 838-852, Document No. 797036; all of which were re-recorded December 22, 2011 as Document No. 1586651, as assigned and assumed by that certain Assignment and Assumption of Ground and Air Rights Lease by and between Wausau Joint Venture and Wausau Center CMBS, LLC, dated

as of March 24, 2011 and recorded in the Register's Office on April 4, 2011 as Document Number 1593562; and as further amended by that certain Ground Lease Estoppel and Lease Amendment Agreement by and between The City of Wausau and Wausau Center CMBS, LLC, dated as of March 24, 2011 and recorded in the Register's Office on April 4, 2011 as Document No. 1593564.

PARCEL B: Leasehold estate created by that certain unrecorded lease entered into by and between Wausau Joint Venture, as Lessor, and Wausau Penney Investor Joint Venture, as Lessee, as evidenced by that certain Memorandum of Lease, dated as of November 1, 1980, and recorded in the Register's Office on December 31, 1980 in Volume 324 of Micro Records at Pages 1160-1165, Document No. 773865, as amended by that certain First Amendment to Penney Investor Air Rights Sublease, dated as of March 1, 1982 and recorded in the Register's Office on September 14, 1982, in Volume 351 of Micro Records at Page 287-302, Document No. 793639, as further amended by Second Amendment Penney Investor Air Rights Sublease, dated as of January 1, 1983 and recorded in the Register's Office on May 24, 1984 in Volume 383 of Micro Records at Pages 779-784, Document No. 818678; as assigned and assumed by that certain Assignment and Assumption of Air Rights Sublease by and between Wausau Penney Investor Joint Venture and Wausau Penney CMBS, LLC, dated as of March 24, 2011 and recorded in the Register's Office on April 4, 2011 as Document Number 1593563; and as further amended by that certain Penney Investor Air Rights Sublease Estoppel and Amendment Agreement by and between Wausau Center CMBS, LLC and Wausau Penney CMBS, LLC, dated as of March 24, 2011 and recorded in the Register's Office on April 4, 2011 as Document Number 1593565 (collectively, the "Air Rights Sublease"), demising premises as follows:

All air space and air rights in and to the following described property lying above the base plan elevation of 1219.5 (USGS datum). Part of the Northwest one-quarter (NW 1/4) of Section thirty-six (36), and that part of Government Lot five (5) in Section thirty-five (35), Town twenty-nine (29) North, Range seven (7) East, City of Wausau, Marathon County, Wisconsin, more fully described as follows:

Commencing at the Southeast corner of Lot 1, Block 3, Original Plat of the City of Wausau, thence S 85° 05' 40" E, 66.00 feet; thence S 05° 03' 54" W, 91.50 feet to a point lying on the Easterly right-of-way line of First Street and The Point of Beginning of this description; thence S 85° 05' 40" E, 215.65 feet; thence S 04° 54' 20" W, 398.50 feet; thence S 25° 05' 40" E, 6.75 feet; thence S 64° 54' 20" W, 0.50 feet; thence S 25° 05' 40" E, 3.17 feet; thence S 64° 54' 20" W, 28.50 feet; thence S 25° 05' 40" E, 16.33 feet; thence S 64° 54' 20" W, 12.00 feet; thence N 25° 05' 40" W, 19.50 feet; thence S 64° 54' 20" W, 1.00 foot; thence N 25° 05' 40" W, 6.75 feet; thence N 85° 05' 40" W, 37.13 feet; thence N 04° 54' 20" E, 20.50 feet; thence N 85° 05' 40" W, 143.26 feet to a point on the Easterly right-of-way line of First Street; thence N 05° 03' 54" E, along the Easterly right-of-way line of First Street, 399.00 feet to The Point of Beginning of this description. Containing within said bounds 2.020 acres to be the same more or less.

Together with all easements, rights and appurtenances relating thereto, as more particularly described in Air Rights Sublease, including but not limited to the easements, rights and appurtenances which are set forth in Section 2.4 of the Air Rights Sublease.

Together with all easements, rights and appurtenances relating thereto, as more particularly described in that certain Agreement Re Nondisturbance, Attornment, Parking and Bus Service by and between The Redevelopment Authority of the City of Wausau and Wausau Penney Investor Joint Venture, dated as of November 1, 1980 and recorded in the Register's Office on December 31, 1980 in Volume 325 of Micro Records at Pages 44-80, Document No. 773870; as amended by that certain First Amendment to Agreement Re Non-Disturbance, Attornment, Parking and Bus Service Between Redevelopment Authority and Wausau Penney Investor, dated as of March 1, 1982 and recorded in the Register's Office on September 14, 1982 in Volume 351 of Micro Records at Pages 303-313, Document No. 793640.

Exhibit B  
Parking Facilities Parcels

PARCEL 1:

Part of the northwest 1/4 of Section 36, and northeast 1/4 of Section 35, Town 29 North, Range 7 East, City of Wausau, Marathon County, Wisconsin, more fully described as follows:

Commencing at the southeast corner of Lot 1, Block 3, original plat of the City of Wausau, thence S85°05'40"E, 66.00 feet; thence, S05°03'54"W, 56.10 feet TO THE POINT OF BEGINNING OF THIS DESCRIPTION; thence, S85°05'40"E, 175.39 feet; thence, N82°54'20"E, 87.06 feet; thence, S85°05'40"E, 21.00 feet; thence, S04°54'20"W, 28.00 feet; thence, N85°05'40"W, 66.00 feet; thence, S04°54'20"W, 183.00 feet; thence, S85°05'40"E, 15.00 feet; thence, S04°54'20"W, 40.00 feet; thence, N85°05'40"W, 15.00 feet; thence, S04°54'20"W, 181.00 feet; thence, S85°05'40"E, 81.00 feet; thence, S04°54'20"W, 35.00 feet; thence, S85°05'40"E, 12.00 feet; thence, N04°54'20"E, 35.00 feet; thence, S85°05'40"E, 28.00 feet; thence, S04°54'20"W, 105.00 feet; thence, N85°05'40"W, 10.00 feet; thence, S04°54'20"W, 10.00 feet; thence, S85°05'40"E, 10.00 feet; thence, S04°54'20"W, 32.40 feet to the northerly right-of-way line of Forest Street; thence along said northerly right-of-way line N84°57'11"W, 162.69 feet; thence departing from said northerly right-of-way line, N85°05'40"W, 175.42 feet to a point lying on the easterly right-of-way line of First Street; thence, along said easterly right-of-way line N05°03'54"E, 560.90 feet TO THE POINT OF BEGINNING OF THIS DESCRIPTION. Parcel contains 3.238 acres more or less.

PARCEL 2

Part of the northwest 1/4 of Section 36, Town 29 North, Range 7 East, City of Wausau, Marathon County, Wisconsin, more fully described as follows:

Commencing at the southeast corner of Lot 1, Block 3, original plat of the City of Wausau, thence, S85°05'40"E, 66.00 feet; thence, S05°03'54"W, 33.00 feet to the centerline of Washington Street; thence along said centerline of Washington Street, S85°05'40"E, 862.48 feet; thence, S04°54'20"W, 369.00 feet; TO THE POINT OF BEGINNING OF THIS DESCRIPTION; thence, S85°05'40"E, 288.20 feet; to the westerly right-of-way line of Fifth Street; thence along said westerly right-of-way line, S04°55'49"W, 218.00 feet to a point which is exactly 0.41 feet south of the northerly right-of-way line of Forest Street; thence, N85°05'40"W, 412.10 feet to a point which is exactly 1.61 feet south of the northerly line of Forest Street; thence, N04°54'20"E, 218.00 feet; thence, S85°05'40"E, 124.00 feet TO THE POINT OF BEGINNING OF THIS DESCRIPTION. Parcel contains 2.063 acres more or less.

**EXHIBIT E**

**FORM OF MEMORANDUM**

*[FORMATTING TO BE MODIFIED FOR RECORDING]*

**THIS MEMORANDUM OF PURCHASE AND DEVELOPMENT AGREEMENT** (this “Memorandum”) is made and entered into as of the [\_\_\_\_] day of January, 2020, by and between the **CITY OF WAUSAU**, a Wisconsin municipal corporation located at 407 Grant Street, Wausau, WI 54403 (the “City”) and **WAUSAU OPPORTUNITY ZONE, INC.**, a Wisconsin corporation located at 500 N 1st Street, Suite 8000, Wausau, WI 54403 (“Developer”), (the City and Developer are referred to herein, collectively, as the “Parties”).

**WHEREAS**, the Parties entered into that certain Purchase and Development Agreement (Wausau Center Mall) with an effective date of January 17, 2020 (as may be amended from time to time, the “Development Agreement”), with respect to certain property described on Exhibit A attached hereto (the “Property”); and

**WHEREAS**, the Parties desire to place this Memorandum of record in the real estate records for Marathon County, Wisconsin to provide notice to third parties of the Development Agreement.

**NOW, THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Notice is hereby given that the Parties have entered into the Development Agreement affecting the Property. The Development Agreement imposes certain obligations, liabilities and restrictions on the owners and/or mortgagees of all or any portion of the Property. Until termination of the Development Agreement pursuant to its terms, the Development Agreement shall run with the land and shall bind Developer, any subsequent owner and/or mortgagee of all or any portion of the Property, and each of their successors and assigns.

2. The terms, conditions and provisions of the Development Agreement are set forth in the Development Agreement, express reference to which is made for greater particularity as to the terms, conditions and provisions thereof. A copy of the Development Agreement is available upon request from the City at the offices of the City Clerk.

3. This Memorandum is not a complete summary of the Development Agreement. Provisions in this Memorandum shall not be used to interpret the provisions of the Development Agreement. In the event of conflict between this Memorandum and the unrecorded Development Agreement, the unrecorded Development Agreement shall control.

*[ADD SIGNATURE/ACKNOWLEDGMENT PAGE(S)]*

**EXHIBIT F**

**FORM OF PARKING AGREEMENT - SEARS TERMINATION**

[ATTACH TO THIS COVER PAGE]

**TERMINATION OF AGREEMENT RE NON-DISTURBANCE,  
ATTORNMEN, PARKING AND BUS SERVICE**  
(Sears)

THIS TERMINATION OF AGREEMENT RE NON-DISTURBANCE, ATTORNMEN, PARKING AND BUS SERVICE (this “**Termination**”) dated effective as of the \_\_\_\_ of January, 2020, is entered into by and between the CITY OF WAUSAU, a municipal corporation of the State of Wisconsin (the “**City**”) and WAUSAU OPPORTUNITY ZONE, INC., a Wisconsin corporation (“**WOZ**”).

**WITNESSETH:**

WHEREAS, the City (as successor in interest to The Redevelopment Authority of the City of Wausau) and Sears, Roebuck and Co. (“**Sears**”) are parties to that certain Agreement Re Non-Disturbance, Attorment, Parking and Bus Service dated November 1, 1980, recorded December 31, 1980 as Document No. 773869, as amended by that certain First Amendment to Agreement Re Non-Disturbance, Attorment, Parking and Bus Service dated March 1, 1982, recorded September 14, 1982, as Document No. 793636, all in the office of the Register of Deeds, Marathon County, Wisconsin (collectively, the “**Sears Parking Agreement**”) pertaining to the parking facilities as more particularly described on Exhibit A attached hereto (the “**Parking Facilities**”);

WHEREAS, on November 30, 2016, the City acquired Sears’s interest in the Sears Parking Agreement pursuant to an Assignment and Assumption of Ground Sublease recorded on December 6, 2016 as Document No. 1727255 (the “**Sears Assignment**”);

WHEREAS, as of the date hereof, the City has conveyed to WOZ (among other things) the interest in the Sears Parking Agreement which was acquired from Sears through the Sears Assignment pursuant to a certain Purchase and Development Agreement between the City and WOZ dated as of January 17, 2020 (the “**Development Agreement**”); and

WHEREAS, the City and WOZ desire to terminate the Parking Agreement.

**AGREEMENT**

NOW, THEREFORE, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration given by each party to the other, the receipt and sufficiency of which are hereby acknowledged, it is mutually agreed by and among the parties hereto, as follows:

1. **Termination.** Effective as of the date hereof, the Sears Parking Agreement is hereby terminated. WOZ acknowledges and agrees that the Parking Facilities are released and forever discharged from the provisions of the Sears Parking Agreement.
2. **Development Agreement.** In the event of any conflict between the provisions of this Termination and the Development Agreement, the provisions of Development Agreement shall control.

*[SIGNATURE PAGES TO FOLLOW]*



IN WITNESS WHEREOF, the parties hereto have caused this Termination to be duly executed as of the day and year first above written.

**THE CITY:**

CITY OF WAUSAU

By: \_\_\_\_\_  
Robert B. Mielke, Mayor

Attested to By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF WISCONSIN     )  
  ) SS:  
COUNTY OF MARATHON    )

BEFORE ME, a Notary Public in and for said County and State, personally appeared Robert B. Mielke and \_\_\_\_\_, known to me to be the Mayor and \_\_\_\_\_, respectively, of the CITY OF WAUSAU, a municipal corporation of the State of Wisconsin, which executed the foregoing instrument, who acknowledged that he/she did sign and seal the foregoing instrument for and on behalf of said municipal corporation being thereunto duly authorized; that the same is his/her free act and deed as such officers and the free act and deed of said municipal corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and the office seal in Wausau, Wisconsin this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Notary Public  
\_\_\_\_\_  
\_\_\_\_\_

[SEAL]

***[SIGNATURE PAGES CONTINUE ON FOLLOWING PAGE]***

**WOZ:**

WAUSAU OPPORTUNITY ZONE, INC.

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

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

Title: \_\_\_\_\_

STATE OF WISCONSIN                    )

) SS:

COUNTY OF MARATHON                 )

BEFORE ME, a Notary Public in and for said County and State, personally appeared \_\_\_\_\_, known to me to be the \_\_\_\_\_ of the WAUSAU OPPORTUNITY ZONE, INC., a Wisconsin corporation, which executed the foregoing instrument, who acknowledged that he/she did sign and seal the foregoing instrument for and on behalf of said corporation being thereunto duly authorized; that the same is his/her free act and deed as such officers and the free act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and the office seal in Wausau, Wisconsin this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Notary Public  
\_\_\_\_\_  
\_\_\_\_\_

[SEAL]

## Exhibit A

### LEGAL DESCRIPTION OF PARKING FACILITIES

#### PARKING FACILITIES SITE NO. 1

Part of the northwest 1/4 of Section 36, and northeast 1/4 of Section 35, Town 29 North, Range 7 East, City of Wausau, Marathon County, Wisconsin, more fully described as follows:

Commencing at the southeast corner of Lot 1, Block 3, original plat of the City of Wausau, thence S85°05'40"E, 66.00 feet; thence, S05°03'54"W, 56.10 feet TO THE POINT OF BEGINNING OF THIS DESCRIPTION; thence, S85°05'40"E, 175.39 feet; thence, N82°54'20"E, 87.06 feet; thence, S85°05'40"E, 21.00 feet; thence, S04°54'20"W, 28.00 feet; thence, N85°05'40"W, 66.00 feet; thence, S04°54'20"W, 183.00 feet; thence, S85°05'40"E, 15.00 feet; thence, S04°54'20"W, 40.00 feet; thence, N85°05'40"W, 15.00 feet; thence, S04°54'20"W, 181.00 feet; thence, S85°05'40"E, 81.00 feet; thence, S04°54'20"W, 35.00 feet; thence, S85°05'40"E, 12.00 feet; thence, N04°54'20"E, 35.00 feet; thence, S85°05'40"E, 28.00 feet; thence, S04°54'20"W, 105.00 feet; thence, N85°05'40"W, 10.00 feet; thence, S04°54'20"W, 10.00 feet; thence, S85°05'40"E, 10.00 feet; thence, S04°54'20"W, 32.40 feet to the northerly right-of-way line of Forest Street; thence along said northerly right-of-way line N84°57'11"W, 162.69 feet; thence departing from said northerly right-of-way line, N85°05'40"W, 175.42 feet to a point lying on the easterly right-of-way line of First Street; thence, along said easterly right-of-way line N05°03'54"E, 560.90 feet TO THE POINT OF BEGINNING OF THIS DESCRIPTION. Parcel contains 3.238 acres more or less.

#### PARKING FACILITIES SITE NO. 2

Part of the northwest 1/4 of Section 36, Town 29 North, Range 7 East, City of Wausau, Marathon County, Wisconsin, more fully described as follows:

Commencing at the southeast corner of Lot 1, Block 3, original plat of the City of Wausau, thence, S85°05'40"E, 66.00 feet; thence, S05°03'54"W, 33.00 feet to the centerline of Washington Street; thence along said centerline of Washington Street, S85°05'40"E, 862.48 feet; thence, S04°54'20"W, 369.00 feet; TO THE POINT OF BEGINNING OF THIS DESCRIPTION; thence, S85°05'40"E, 288.20 feet; to the westerly right-of-way line of Fifth Street; thence along said westerly right-of-way line, S04°55'49"W, 218.00 feet to a point which is exactly 0.41 feet south of the northerly right-of-way line of Forest Street; thence, N85°05'40"W, 412.10 feet to a point which is exactly 1.61 feet south of the northerly line of Forest Street; thence, N04°54'20"E, 218.00 feet; thence, S85°05'40"E, 124.00 feet TO THE POINT OF BEGINNING OF THIS DESCRIPTION. Parcel contains 2.063 acres more or less.