

AGREEMENT OF SALE

THIS AGREEMENT OF SALE (the “**Agreement**”) is made this _____ day of _____, 2024 (the “**Agreement Date**”), by and between **1123 S 30TH STREET ASSOCIATES, LLC**, a Delaware limited liability company (the “**Seller**”) and **CITY OF MANITOWOC**, a _____ (the “**Purchaser**”).

WITNESSETH

A. Seller is the owner of that certain parcel or tract of land containing approximately 3.228 acres identified as Tax Parcel No. 052-725-000-071.00 and being more particularly described on **Exhibit “A”** attached hereto and made a part hereof (the “**Land**”), which Land is a part of the Property (hereinafter defined).

B. Seller desires to sell the Property to Purchaser and Purchaser desires to purchase the Property from Seller upon the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, the parties hereto, intending to be legally bound hereby, agree as follows:

1. **SALE OF PROPERTY**. Subject to the terms and conditions of this Agreement, Seller hereby agrees to sell, transfer and convey to Purchaser and Purchaser hereby agrees to purchase from Seller, Seller’s right, title and interest in and to (i) the Land; and (ii) any easements benefitting the Land (collectively, the “**Property**”).

2. **PURCHASE PRICE**. Purchaser shall pay in exchange for the Property the sum of One Hundred Seventy-Five Thousand Dollars (\$175,000.00) (the “**Purchase Price**”).

3. **MANNER OF PAYMENT OF PURCHASE PRICE**. The Purchase Price shall be paid as follows:

A. **Deposit**. Within two (2) business days of the Agreement Date, Purchaser shall deliver to **BAY TITLE & ABSTRACT INC.** (with an address of 704 Washington Street, Manitowoc, Wisconsin 54220), as escrow agent (the “**Escrow Agent**”) the amount of Twenty-Five Thousand Dollars (\$25,000.00) to be held in escrow by Escrow Agent in a federally insured interest bearing account until consummation or termination of this Agreement (including any interest accrued thereon, the “**Deposit**”). Except as set forth elsewhere in this Agreement, at the Closing, Escrow Agent shall pay the Deposit to the title company which insures the title to the Property for Purchaser (the “**Title Company**”) to be used by the Title Company, together with other funds delivered to it by Purchaser, to pay the Purchase Price to Seller.

B. **Payment of Balance of Purchase Price**. At Closing, Purchaser shall pay to Seller the Purchase Price (subject to adjustments and apportionments set forth in this Agreement) by certified check, bank check, title insurance company check or wire transfer of immediately available federal funds.

4. **INVESTIGATION**.

A. **Investigation.** From and after the Agreement Date and until the Closing Date or the earlier termination of this Agreement, Purchaser shall have the right to cause one or more of Purchaser's experts to inspect and otherwise do that which in the opinion of Purchaser is prudent to determine the suitability of the Property for the uses intended by Purchaser (the "**Investigation**"). Purchaser shall not interfere with the use and occupancy of the Property by Seller. Purchaser shall not perform any invasive or physical testing of the Property without Seller's prior written consent (such consent may be withheld in Seller's sole and absolute discretion). If such tests are performed, Purchaser shall immediately restore the Property to its original condition after the completion of any tests, inspections or investigations performed by Purchaser hereunder (the "**Physical Inspections**") and such Physical Inspections shall be done in a workmanlike manner in accordance with all applicable laws, rules and regulations. Purchaser shall keep the Property free and clear of any liens which may arise as a result of any such Physical Inspections.

B. **Indemnification and Insurance.** Purchaser shall indemnify, defend and hold harmless Seller as well as its affiliates, directors, officers, members, partners, employees and agents (including Seller, each a "**Seller Indemnitee**") against and in respect of, any and all damages, claims, losses, liabilities, costs and expenses (including, without limitation, reasonable legal fees), which may be imposed upon, incurred by or assessed against any of the Seller Indemnitees caused by the access and/or Investigation of the Property by Purchaser or any of Purchaser's contractors, sub-contractors, brokers, consultants, affiliates, directors, officers, members, partners, employees or agents (each, a "**Purchaser's Consultant**"). Prior to any entry onto the Property for the purpose of conducting the Investigation by Purchaser or any of Purchaser's Consultants, Purchaser shall furnish Seller with a copy of an effective certificate of insurance from a duly licensed insurance company approved by Seller in writing (such approval not to be unreasonably withheld, conditioned or delayed). Such policy shall provide coverage against any claim arising from the death of or injury to persons and any property damage of not less than Two Million Dollars (\$2,000,000) per occurrence, and shall name Seller as an additional insured.

C. **Confidentiality.** Purchaser shall maintain the confidentiality of any information regarding the Property that Purchaser becomes aware of prior to the Closing Date (hereinafter defined); provided, however, that Purchaser may disclose such matters to Purchaser's prospective lenders, partners, attorneys, accountants, engineers, employees and other consultants to the extent reasonably necessary in connection with the Investigation and/or consummation of the transaction contemplated hereby, so long as Purchaser instructs such party of the foregoing confidentiality provision and such party agrees to be bound by this confidentiality provision where allowable pursuant to state and federal law.

D. **Assignment of Investigation Materials and Incidental Rights.** In the event that this Agreement is terminated for any reason whatsoever, within five (5) days of such termination, Purchaser and Purchaser's Consultants shall each deliver to Seller and, to the extent requested by Seller, assign to Seller Purchaser's rights to, at no cost or expense to Seller, any and all plans and incidental rights regarding the Property, as well as copies of all engineering reports, environmental studies, surveys, land development and zoning analyses, letters of intent, correspondence, approvals and permits and other information relating to the Property, which have been generated by Purchaser or Purchaser's Consultants, or are in the possession of Purchaser or any of Purchaser's Consultants.

E. **Survival.** The provisions of this Section 4 shall survive Closing or any earlier termination of this Agreement.

5. **TITLE.** Promptly after the Agreement Date, Purchaser shall order a search of title to the Property to be made by the Title Company and, within twenty-one (21) days of the Agreement Date, Purchaser shall deliver to Seller a copy of the title commitment (the “**Title Report**”), together with copies of any matters which are listed as exceptions on the Title Report. With regard to the exceptions set forth in the Title Report, Seller shall only be required to cure and remove any mortgages and mechanics’ liens which are recorded against the Property prior to the Closing Date. Except for the foregoing, title to the Property shall be delivered at Closing in its as-is, where-is condition. Seller shall not be required to pay any costs for any title insurance policies, title insurance endorsements, surveys and/or any other costs related thereto.

6. **COVENANTS OF SELLER.** During the period after the Agreement Date and prior to the Closing Date, Seller covenants that it will:

A. **Alterations.** Without the prior written consent of Purchaser (such consent not to be unreasonably withheld, conditioned or delayed), not make or permit to be made any material alterations, improvements or additions to the Property prior to the Closing Date, except to the extent required under any agreement affecting the Property.

B. **Contracts.** Without the prior written consent of Purchaser (such consent not to be unreasonably withheld, conditioned or delayed), not enter into any contract for, on behalf of, or affecting the Property which will not be terminated prior to Closing. In the event Purchaser fails to respond to a request by Seller for Purchaser’s consent to such a contract within five (5) days, then Purchaser’s consent shall be deemed granted.

7. **COVENANTS OF PURCHASER.** At Closing:

A. **Permeable/Impermeable Waiver for Park Plaza.** Purchaser shall cause Purchaser and any and all other governmental authorities having authority over the governance of the permeable/impermeable land development and zoning requirements governing that certain shopping center located at 1100 and 1140 S. 30th Street, Manitowoc, Wisconsin and known as Tax Parcel No. 052-210-005-06.00 (the “**Park Plaza Parcel**”) to issue a letter or other written authorization that provides and ensures to Seller (and all future owners of the Park Plaza Parcel) that the Park Plaza Parcel shall now and hereafter meet and comply with any and all permeable/impermeable land development, zoning and similar requirements regardless of the sale and development of the Property and any future development, construction or redevelopment of the Park Plaza Parcel (the “**Permeable/Impermeable Waiver**”), which Permeable/Impermeable Waiver shall be in a form and substance acceptable to Seller.

B. **Stormwater Easement.** Seller and Purchaser shall enter into a stormwater easement (the “**Stormwater Easement**”) in the form attached hereto as **Exhibit “C”** that provides that Seller shall have the right to tie into and use the stormwater management facilities that are to be developed by Purchaser on the Property after Closing at no cost to Seller and at a location reasonably acceptable to Seller.

8. **CONTRACTS.** Seller hereby represents and warrants that, to its actual knowledge as of the Agreement Date, **Exhibit "B"** and those contracts recorded against the title to the Property set forth all contracts that affect the Property that will be in effect after the Closing (collectively, the "**Contracts**"). Purchaser acknowledges and understands that Purchaser will assume any and all of Seller's obligations under the Contracts effective as of the Closing Date.

9. **AS-IS SALE.** **THE ENTIRE AGREEMENT BETWEEN SELLER AND PURCHASER WITH RESPECT TO THE PROPERTY IS EXPRESSLY SET FORTH IN THIS AGREEMENT, AND THE PARTIES ARE NOT BOUND BY ANY AGREEMENTS, UNDERSTANDINGS, PROVISIONS, CONDITIONS, REPRESENTATIONS OR WARRANTIES OTHER THAN AS ARE EXPRESSLY SET FORTH AND STIPULATED HEREIN. WITHOUT IN ANY MANNER LIMITING THE GENERALITY OF THE FOREGOING, PURCHASER ACKNOWLEDGES THAT, PRIOR TO CLOSING, IT AND ITS REPRESENTATIVES WILL HAVE FULLY INSPECTED THE PROPERTY AND WILL BE FULLY FAMILIAR WITH THE PHYSICAL AND FINANCIAL CONDITION THEREOF, AND THAT THE PROPERTY WILL HAVE BEEN PURCHASED BY PURCHASER IN AN "AS IS" AND "WHERE IS" CONDITION AS A RESULT OF SUCH INSPECTIONS AND NOT IN RELIANCE ON ANY AGREEMENTS, UNDERSTANDINGS, PROVISIONS, CONDITIONS, REPRESENTATIONS OR WARRANTIES MADE BY SELLER AS TO THE CONDITION THEREOF, AS TO ANY PERMITTED USE THEREOF, OR AS TO THE INCOME OR EXPENSE IN CONNECTION THEREWITH, OR AS TO ANY OTHER MATTER IN CONNECTION THEREWITH; AND PURCHASER FURTHER ACKNOWLEDGES THAT NEITHER SELLER NOR ANY PARTY ACTING ON BEHALF OF SELLER HAS MADE OR SHALL BE DEEMED TO HAVE MADE ANY SUCH AGREEMENTS, UNDERSTANDINGS, PROVISIONS, CONDITIONS, REPRESENTATIONS OR WARRANTIES.**

10. **WAIVERS AND DISCLAIMERS.** **PURCHASER HEREBY FULLY AND FOREVER WAIVES, AND SELLER HEREBY FULLY AND FOREVER DISCLAIMS, ALL WARRANTIES OF WHATEVER TYPE OR KIND WITH RESPECT TO THE PROPERTY, WHETHER EXPRESS, IMPLIED OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, THOSE OF FITNESS FOR A PARTICULAR PURPOSE, TENANTABILITY, HABITABILITY OR USE. PURCHASER ACKNOWLEDGES THAT ANY MATERIALS RELATED TO THE PROPERTY DELIVERED BY SELLER OR ANY OF SELLER'S AGENTS OR CONSULTANTS WERE AND ARE FURNISHED WITHOUT WARRANTY OF ANY KIND AND ON THE EXPRESS CONDITION THAT PURCHASER HAS MADE ITS OWN INDEPENDENT VERIFICATION OF THE ACCURACY, RELIABILITY AND COMPLETENESS OF SUCH INFORMATION AND THAT PURCHASER WILL NOT RELY THEREON.**

11. **CONDEMNATION.** If on or prior to the Closing Date, all or any portion of the Property is taken by eminent domain or a notice of any eminent domain proceeding with respect to the Property or any part thereof is received by Seller, Seller shall immediately give written notice thereof with specificity to Purchaser. If such taking adversely affects the Property in a material manner, Purchaser shall have the option to complete the purchase hereunder or terminate this Agreement, in which event this Agreement shall be null and void and the Deposit shall be returned to Purchaser. Purchaser shall deliver written notice of its election to Seller within ten

(10) days after the date upon which Purchaser receives the foregoing written notice. If notice of condemnation is received by Purchaser and Purchaser fails to timely deliver written notice of Purchaser's election, such failure shall be deemed an election by Purchaser to complete the purchase of the Property under this Agreement. If Purchaser elects (or is deemed to have elected) to complete the purchase of the Property hereunder, the purchase shall be completed in accordance with this Agreement, except at the Closing Seller shall pay, assign and transfer to Purchaser all proceeds from such proceedings theretofore received by Seller with regard to the Property and all rights Seller has to any future proceeds of such eminent domain proceedings with regard to the Property, without in any manner affecting the Purchase Price.

12. **DEFAULT.**

A. **Purchaser's Default.** Should Purchaser default under any of the terms, covenants or conditions of this Agreement, Seller shall have the right to terminate this Agreement by providing written notice to Purchaser and to receive the entire Deposit as liquidated damages and not as a penalty, such being agreed between Purchaser and Seller to be a necessary condition to this Agreement in order to compensate Seller for expenses and expenditures incurred and made in connection therewith and the damages sustained as a result of withdrawing the Property from the market and otherwise for Purchaser's non-compliance with this Agreement. Thereupon, this Agreement shall become null and void and of no further force and effect and neither party shall have any further rights, liabilities or obligations hereunder (except for those provisions and obligations that explicitly survive the termination of this Agreement). Notwithstanding the foregoing, nothing in this Section shall in any way limit any damages for which Purchaser is liable under Section 4 hereinabove, Section 12.C hereinbelow, or any indemnity obligations of Purchaser as set forth in elsewhere in this Agreement.

B. **Seller's Default.** Should Seller default under any of the terms, covenants or conditions of this Agreement, Purchaser shall have as its sole and exclusive remedies, only the following: (i) the right to terminate this Agreement and receive a return of the Deposit; or (ii) the right to pursue a remedy of specific performance so long as such action is commenced within thirty (30) days of the Closing Date. In furtherance of the foregoing, in no event shall Seller be liable for any additional damages, losses, expenses or liabilities under this Agreement and/or with regard to the Property (including, but not limited to, any special, consequential or punitive damages), except as specifically set forth in Section 12.C hereinbelow.

C. **Attorney's Fees.** If any litigation is commenced in connection with this Agreement, the party determined to be at fault in connection with such litigation, shall pay all reasonable attorney's fees and expenses incurred by the other party in connection with such litigation.

13. **CLOSING.** Closing on the purchase of the Property (the "**Closing**") shall occur on or before the later of (i) September 27, 2024 or (ii) one (1) business day after the closing under the Underlying Agreement of Sale (herein referred to as the "**Closing Date**"). Purchaser may advance the Closing Date by giving Seller five (5) days prior written notice thereof. Closing shall be held via an escrow closing with the Title Company.

14. **APPORTIONMENTS AND TAXES.**

A. **Apportionments**. The following apportionments shall be prorated on a per diem basis as of midnight of the day preceding the Closing Date, all of which, to the extent applicable, shall be reflected on a closing statement (the “**Closing Statement**”) executed by Seller and Purchaser on the Closing Date:

(1) **Real Estate Taxes**. Real estate taxes shall be apportioned on a per diem basis based on the fiscal or calendar year of each taxing authority.

(2) **Water, Sewer and Other Utility Charges**. Any water, sewer or other utility charges assessed against the Property (if any) shall be apportioned on a per diem basis based on the billing cycle of such utility.

B. **Transfer Taxes**. Any recording and/or transfer taxes imposed by any governmental authority upon this transaction shall be paid by Seller. This Section shall survive Closing.

15. **CLOSING PROCEDURE**.

A. **Seller’s Closing Documents**. At or before the Closing, Seller shall deliver to Purchaser, or cause to be delivered to Purchaser the following:

(1) A special warranty deed as is customary in the state in which the Property is located duly executed by Seller as required to convey title to the Property in the condition set forth in Section 5 hereinabove (the “**Deed**”), which Deed shall include the same legal description for the Land as set forth in the vesting deed to Seller;

(2) A duly executed Assignment in form reasonably acceptable to Seller and Purchaser of all of Seller’s right, title and interest in and to any Contracts (if any);

(3) A duly executed certificate required by Section 1445 of the Internal Revenue Code certifying that Seller is not a foreign person within the meaning of said Section 1445;

(4) A duly executed Stormwater Easement, in the form set forth on **Exhibit “C”** and in recordable form, which shall be recorded at Closing immediately after the recording of the Deed;

(5) Documents of authority of Seller authorizing the transactions contemplated by this Agreement; and

(6) The Closing Statement executed by Seller.

B. **Purchaser’s Closing Documents**. At or before the Closing, Purchaser shall deliver or cause to be delivered to Seller, the following:

(1) An assumption of the Contracts (if any);

(2) The balance of the Purchase Price remaining due at time of Closing;

(3) Documents of authority of Purchaser authorizing the transactions contemplated by this Agreement;

(4) A duly executed Permeable/Impermeable Waiver;

(5) A duly executed Stormwater Easement, in the form set forth on **Exhibit “C”** and in recordable form, which shall be recorded at Closing immediately after the recording of the Deed;

(6) The Closing Statement executed by Purchaser; and

(7) Such other instruments as may be reasonably required by the Title Company or otherwise reasonably required to consummate the purchase of the Property in accordance with the terms hereof.

C. **Possession.** Possession of the Property shall be delivered by Seller to Purchaser at Closing, subject only to the rights of parties under encumbrances recorded against the title to the Property.

D. **Tender.** Formal tender of an executed deed and purchase money is hereby waived.

16. **ACQUISITION CONTINGENCY.** Notwithstanding anything to the contrary set forth in this Agreement: (i) Purchaser acknowledges and understands that, as of the Agreement Date, Seller does not own fee title to the Property, and is the contract purchaser under that certain Contract of Sale dated May 17, 2024 with Park Plaza TIC Rollup LLC as the seller (as amended, the “**Underlying Agreement of Sale**”); (ii) any and all access by Purchaser to the Property prior to the closing on the Underlying Agreement of Sale shall be subject to the terms and conditions of the Underlying Agreement of Sale; (iii) in no event shall the Closing hereunder occur prior to the closing under the Underlying Agreement of Sale; and (iv) in the event the Underlying Agreement of Sale is terminated for any reason prior to the closing thereunder, then Seller shall have the right to terminate this Agreement by providing written notice to Purchaser, in which event the Deposit shall be returned to Purchaser.

17. **REAL ESTATE BROKERS.** Purchaser and Seller each hereby warrant and represent to the other that it has not employed any broker or finder in connection with the transactions contemplated by this Agreement, and that it has not had any dealings with any other person or entity which might entitle that person or entity to a fee or commission. Purchaser and Seller shall each indemnify and hold the other harmless from and against any losses, costs or expenses (including, without limitation, reasonable attorneys’ fees) arising out of claims of any other broker or finder in connection with this transaction, the obligation for which was incurred, or alleged to have been incurred, by the indemnifying party. The provisions of this Section shall survive Closing or the earlier termination of this Agreement.

18. **ESCROW AGENT.** Purchaser and Seller have requested that the Deposit be held in escrow by Escrow Agent to be applied in accordance with this Agreement. Escrow Agent is merely responsible for the safe keeping of the Deposit and shall not be required to determine any questions of fact or law. Escrow Agent shall dispose of the Deposit in accordance with the

provisions of this Agreement. Escrow Agent shall be protected in acting in good faith upon instruments and documents believed to have been signed by a proper person or persons, not only as to their due execution and the validity and effectiveness of their provisions, but also as to the truth and acceptability of any information therein contained. Escrow Agent shall not have any duties except as those which are expressly set forth herein. Escrow Agent shall not be bound by any notice of, or demand with respect to, any waiver, modification, or amendment of this Agreement, unless in writing, signed by all of the parties to this Agreement and, if the duties or responsibilities of Escrow Agent hereunder are effected, unless Escrow Agent shall have given its prior written consent thereto. Escrow Agent shall not be entitled to a fee for its services as Escrow Agent, nor shall it have any liability to either Seller or Purchaser for anything done or omitted to be done by it in good faith, its liability being limited solely to gross negligence or willful misconduct. In the event Escrow Agent is acting as counsel to either Seller or Purchaser, the parties expressly consent to the foregoing and waive any right to hereafter claim that the same in any way constitutes a conflict of interest. Furthermore, in the event that any dispute arises after the Agreement Date, said Escrow Agent shall not be precluded in any way from continuing to represent Seller or Purchaser, as applicable, in any matter regarding this Agreement.

19. **TAX DEFERRED EXCHANGE.** Seller may elect to exchange the Property for other real estate of a like kind in accordance with Section 1031 of the Internal Revenue Code of 1986 as amended (“**Section 1031**”), or Purchaser may elect to acquire the Property as replacement property for a like kind exchange. To exercise any rights under this Section, the party electing to utilize Section 1031 shall provide the other with a written statement stating its intent to enter into an exchange prior to the Closing Date. Either party’s election to exchange, rather than sell or buy, the Property for other real estate of a like kind shall be at no cost or liability to the other party. Should this Agreement become part of a Section 1031 transaction, the party electing to exchange the Property (the “**Exchanger**”) hereby agrees that the other party may enforce any and all representations, warranties, covenants and other obligations of the Exchanger under this Agreement directly against Exchanger, and the other party agrees that the Exchanger may enforce any and all representations, warranties, covenants and other obligations of the other party under this Agreement directly against the other party.

20. **GENERAL PROVISIONS.**

A. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties and there are no other terms, covenants, representations, statements or conditions, oral or otherwise, of any kind whatsoever, which are not herein referred to or incorporated. Any agreement hereafter made shall be ineffective to change, modify, discharge or effect an abandonment of this Agreement in whole or in part unless such agreement is in writing and signed by the party against whom enforcement of the change, modification, discharge or abandonment is sought.

B. **Binding Effect and Assignment.** This Agreement shall be binding upon and inure to the benefit of Seller and Purchaser and their permitted respective successors and assigns. Purchaser shall not have the right to assign its interest hereunder to any party without the prior written consent of Seller (such consent may be withheld in Seller’s sole and absolute discretion). Any assignee as may be consented to by Seller shall expressly assume in writing all obligations of Purchaser under this Agreement and shall further acknowledge and agree in writing

to be bound by all of the provisions of this Agreement as if the assignee had originally executed this Agreement as Purchaser. Notwithstanding any assignment hereunder, the original-named Purchaser shall not be released from any liability hereunder.

C. **Notices.** All notices, consents or other communications required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given: (a) when delivered personally; (b) three (3) business days after being mailed by first class certified mail, return receipt requested, postage prepaid; or (c) one (1) business day after being sent by a reputable overnight delivery service, postage or delivery charges prepaid, to the parties at the following addresses:

- (1) If to Purchaser:
City of Manitowoc
900 Quay Street
Manitowoc, WI 54220
Attention: Eric Nycz, City Attorney
Email: enycz@manitowoc.org

- (2) If to Seller:
c/o Axiom Realty Services
9 Rittenhouse Place
Ardmore, PA 19003
Attention: Adam Rosenzweig, President
Email: adam.r@axiomrs1.com

With a copy to:

Kaplin Stewart
910 Harvest Drive
Blue Bell, Pennsylvania 19422-0765
Attention: Scott C. Butler, Esquire
Email: sbutler@kaplaw.com

Notices may also be given by email and shall be effective on the date transmitted if confirmed within twenty-four (24) hours thereafter by a signed original sent in the manner provided in the preceding sentence. Any party may change its address for notice and the address to which copies must be sent by giving notice of the new address to the other party in accordance with this Section, except that any such change of address notice shall not be effective unless and until received.

D. **Time of the Essence.** All times provided for herein are and shall be of the essence of this Agreement and any extension of any such time or times shall continue to be of the essence of this Agreement.

E. **Severability.** If any provision of this Agreement, or the application of such provision to any person or circumstance, shall be held invalid, the remainder of this Agreement, or the application of such provision to persons or circumstances other than those as to which it is

held invalid, shall not be affected thereby. Furthermore, if any provision of this Agreement is held to be unenforceable because of the time period of such provision, the court making such determination shall have the power to reduce the time period of such provision to a time period which is enforceable and, in its reduced form, said provision shall then be enforceable.

F. **Captions.** The section captions contained herein are not a part of this Agreement. They are included solely for the convenience of the parties and do not in any way modify, amplify or give full notice of any of the terms, covenants or conditions of this Agreement.

G. **Construction.** This Agreement shall be construed and interpreted in accordance with the laws of the state in which the Property is located without giving effect to the principles of conflict of laws.

H. **Recording.** Purchaser shall not record this Agreement or any memorandum hereof in the public land or other public records office of any jurisdiction.

I. **Business Day.** If any deadline or date on which any Closing or notice is to be provided is a Saturday, Sunday or legal holiday, the subject date shall be extended to the next following business day.

J. **Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument. The transmission of a signed counterpart of this Agreement by electronic format (including, without limitation, delivery by .pdf, .jpeg or .tif file or execution utilizing DocuSign, AdobeSign or a similar signature program) shall have the same force and effect as the delivery of an original signed counterpart of this Agreement, and shall constitute valid and effective delivery for all purposes.

K. **Waiver of Jury Trial.** SELLER AND PURCHASER, TO THE EXTENT THEY MAY LEGALLY DO SO, HEREBY EXPRESSLY WAIVE ANY RIGHT TO TRIAL BY JURY OF ANY CLAIM, DEMAND, ACTION, CAUSE OF ACTION OR PROCEEDING ARISING UNDER OR WITH RESPECT TO THIS AGREEMENT, OR IN ANY WAY CONNECTED WITH, OR RELATED TO, OR INCIDENTAL TO, THE DEALINGS OF THE PARTIES HERETO WITH RESPECT TO THIS AGREEMENT OR THE TRANSACTIONS RELATED HERETO OR THERETO, IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING, AND IRRESPECTIVE OF WHETHER SOUNDING IN CONTRACT, TORT, OR OTHERWISE. TO THE EXTENT THEY MAY LEGALLY DO SO, SELLER AND PURCHASER HEREBY AGREE THAT ANY SUCH CLAIM, DEMAND, ACTION, CAUSE OF ACTION OR PROCEEDING SHALL BE DECIDED BY A COURT TRIAL WITHOUT A JURY AND THAT ANY PARTY HERETO MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS SECTION WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF THE OTHER PARTY OR PARTIES HERETO TO WAIVER OF ITS OR THEIR RIGHT TO TRIAL BY JURY.

-SIGNATURE PAGE TO FOLLOW-

IN WITNESS WHEREOF, Seller and Purchaser have caused this Agreement to be duly executed the day and year first above written.

SELLER:

1123 S 30TH STREET ASSOCIATES, LLC,

a Delaware limited liability company

By: ParkAxe Management, LLC
a Delaware limited liability company,
its Manager

By: _____
Adam Rosenzweig
Manager

PURCHASER:

CITY OF MANITOWOC

By: _____
Justin Nickels
Mayor

By: _____
Mackenzie Reed
City Clerk and Deputy Treasurer

JOINDER OF ESCROW AGENT

THE UNDERSIGNED, the escrow agent named in the foregoing Agreement, hereby joins in such Agreement to evidence its agreement to hold the Deposit (as defined in the Agreement), and to otherwise perform its obligations as the escrow agent as provided for in such Agreement.

**ESCROW AGENT:
BAY TITLE & ABSTRACT INC.**

By: _____
Name: _____
Title: _____

EXHIBIT "A"

DESCRIPTION OF LAND

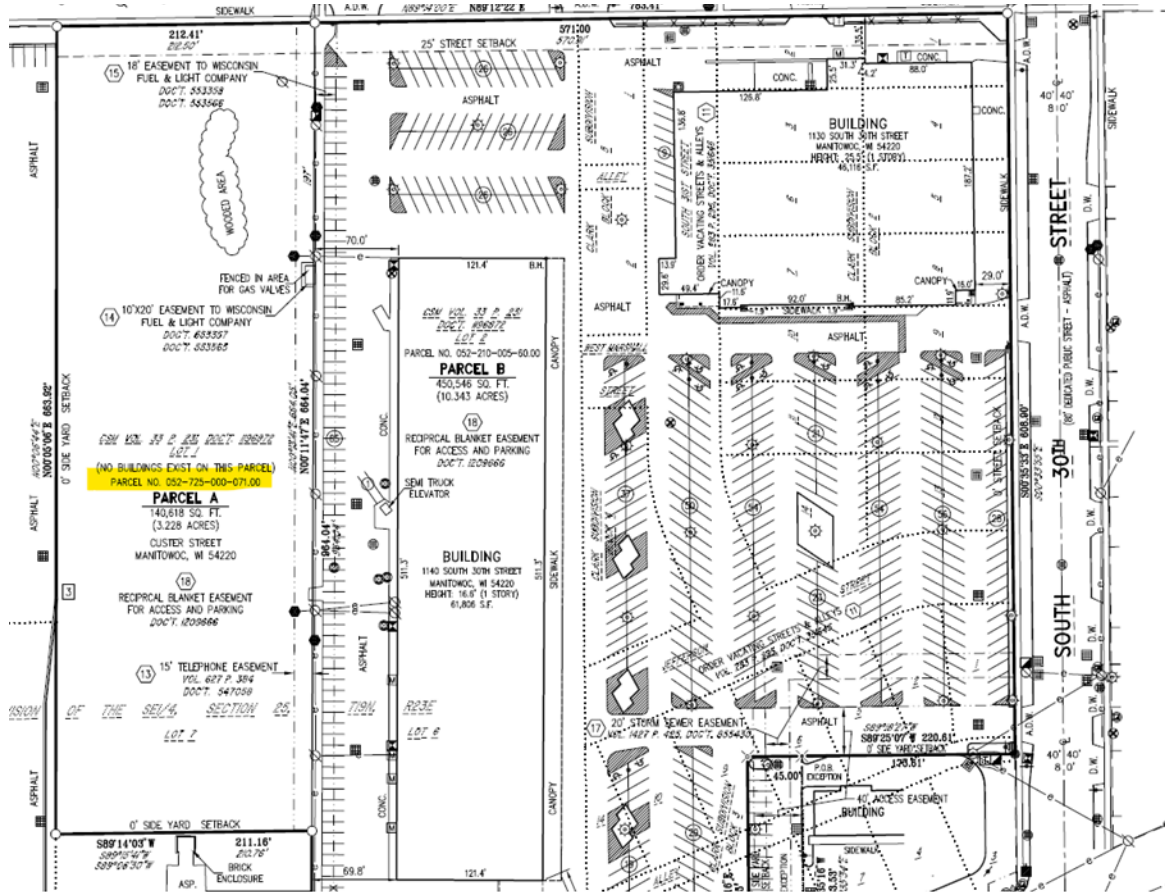


EXHIBIT "B"

CONTRACTS

EXHIBIT “C”

STORMWATER EASEMENT

(see attached)

Prepared By and Return To:

Tax Parcel Numbers: 052-725-000-071.00 and 052-210-005-06.00

STORM-WATER EASEMENT AGREEMENT

THIS STORM-WATER EASEMENT AGREEMENT (the “**Agreement**”) is made this ____ day of _____, 2024, by and between **CITY OF MANITOWOC**, a _____ (the “**Grantor**”) and **1123 S 30TH STREET ASSOCIATES, LLC**, a Delaware limited liability company (the “**Grantee**”).

WITNESSETH

A. Grantor is the owner of certain property in the County of Manitowoc, State of Wisconsin, identified as Tax Parcel Number 052-725-000-071.00 and described more fully on **Exhibit “A”** attached hereto and made a part hereof (the “**Grantor Property**”).

B. Grantee is the owner of certain property in the County of Manitowoc, State of Wisconsin, identified as Tax Parcel Number 052-210-005-06.00 and described more fully on **Exhibit “B”** attached hereto and made a part hereof (the “**Grantee Property**”).

C. Subject to the terms and conditions of this Agreement, Grantor has agreed to grant Grantee a non-exclusive easement to have the storm-water and drainage system on the Grantee Property connected to the storm-water and drainage system and retention basin located now or in the future on the Grantor Property (the “**Storm-Water System**”) to assist with the water drainage from the Grantee Property.

D. Grantor and Grantee now desire to grant the foregoing easement in accordance with the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the foregoing recitals, which are true and correct and incorporated herein by reference, and the covenants and conditions set forth herein, the parties hereto, intending to be legally bound, hereby agree as follows:

1. **GRANT OF STORM-WATER EASEMENT.** Subject to the terms and conditions set forth in this Agreement, Grantor hereby grants and conveys to Grantee, its successors and assigns, a perpetual non-exclusive easement to have the storm-water and drainage system located on the Grantee Property connected to the Storm-Water System at a location reasonably acceptable to Grantee to assist with the water drainage from the Grantee Property. Grantor shall waive any fee in lieu of on-site stormwater maintenance (see Manitowoc Municipal Code 28.060) and any additional fees or charges related to stormwater discharge onto the Storm-Water System from Grantee Property. This clause is not meant to supersede or abrogate Grantee’s responsibility to pay annual property taxes for Grantee Property, a portion of which includes usual and customary stormwater maintenance fees.

2. **NO INTERFERENCE WITH EASEMENT AREA.** Grantor shall not, at any time hereafter, build, install, construct, plant, locate or relocate any temporary or permanent buildings, structures or landscaping that would in any way interfere with the easements granted pursuant to this Agreement.

3. **RECORDING.** This Agreement or a memorandum hereof may be recorded in the Office of the Recorder of Deeds for the County of Manitowoc, State of Wisconsin.

4. **GOVERNING LAW.** This Agreement shall be governed by the laws of the Commonwealth of Wisconsin.

5. **ENTIRE AGREEMENT.** This Agreement contains the entire Agreement among the parties regarding the transactions described herein. This Agreement shall not be modified without the prior written agreement of the then fee owners of the Grantor Property and the Grantee Property.

6. **BINDING EFFECT.** This Agreement shall be binding upon and shall inure to the benefit of Grantor and Grantee, and their respective successors and assigns. The rights, covenants, restrictions and obligations set forth herein shall be covenants running with the land.

7. **COUNTERPARTS.** This Agreement may be executed in counterparts, each of which shall be considered an original and all of which taken together shall constitute one and the same agreement.

- SIGNATURE PAGE TO FOLLOW -

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first written above.

**GRANTOR:
CITY OF MANITOWOC**

By: _____
Justin Nickels
Mayor

By: _____
Mackenzie Reed
City Clerk and Deputy Treasurer

GRANTEE:
1123 S 30TH STREET ASSOCIATES, LLC,
a Delaware limited liability company
By: ParkAxe Management, LLC
a Delaware limited liability company,
its Manager

By: _____
Adam Rosenzweig
Manager

[NOTARIES AND EXHIBITS TO BE ADDED]

