

RESOLUTION 2020-027
VILLAGE OF KRONENWETTER
LEASE, SALE AND DEVELOPMENT AGREEMENT
POLZER HOLDINGS, LLC

THIS AGREEMENT TO UNDERTAKE DEVELOPMENT made this 22nd day of September, 2020, by and between the VILLAGE OF KRONENWETTER, a municipal corporation of Marathon County, Wisconsin, hereinafter referred to as "VILLAGE" located at 1582 Kronenwetter Drive, Kronenwetter, WI 54455 and Polzer Holdings, LLC, a limited liability company, hereinafter referred to as "DEVELOPER" having a Property Identification Number (PIN): 14527071530941 located on Dons Way, Kronenwetter, WI 54455.

WITNESSETH:

WHEREAS, DEVELOPER wishes to expand their recreational vehicles sales and service business in the VILLAGE of Kronenwetter at the property described as Lot 2, CSM VOL 91, PG 39 (#18408), Section 15, Township 27N, Range 7E, Village of Kronenwetter, Marathon County, Wisconsin (Dons Way, Kronenwetter) on approximately 1.3 acres described below as the "PROPERTY".

WHEREAS, the VILLAGE can require the DEVELOPER to enter into a development agreement as part of a site plan review; and

WHEREAS, this Agreement is intended to provide for certain duties and responsibilities of the VILLAGE and DEVELOPER in order to cause the orderly construction and development of said improvements within the VILLAGE and Tax Increment District #4;

NOW, THEREFORE, it is hereby agreed as follows:

I. COMMITMENTS OF PARTIES

In consideration of the conditions set forth below, and specifically subject to the terms and conditions of this development agreement the VILLAGE will lease, with a future option to purchase, to the DEVELOPER an approximately 1.3 acre lot contained within Tax Increment District 4 referred to herein as the "PROPERTY" and more specifically identified as the following addresses and legal description:

Lot 2, CSM VOL 91, PG 39 (#18408), Section 15, Township 27N, Range 7E, Village of Kronenwetter,
Marathon County, Wisconsin (Dons Way, Kronenwetter)

A. VILLAGE OBLIGATIONS

In consideration of the obligations of DEVELOPER as set forth herein, the sufficiency and receipt of which is hereby acknowledged, the VILLAGE shall:

1. Lease the Property to the DEVELOPER for up to two years. The lease payment shall be \$1,000.00 for the first year and \$4,000.00 for a second year. In furtherance of this obligation the Village shall execute a separate lease agreement upon terms acceptable to both Village and Developer which shall be attached hereto as Exhibit A and fully incorporated herein.
2. Provide the option for the DEVELOPER to purchase the Property within two years of the date this Agreement is fully executed (signed by both parties) for a purchase price, exclusive of any lease payments made by DEVELOPER, of \$70,000.00
3. The VILLAGE has previously invested in substantial municipal improvements within Tax Increment District 4 such that substantial municipal infrastructure to support development of the PROPERTY which is the subject of this agreement has already been constructed.

B. DEVELOPER OBLIGATIONS

In consideration of the obligations of the VILLAGE as set forth herein, the sufficiency and receipt of which is hereby acknowledged, DEVELOPER shall:

1. Execute a lease for the subject property in the form and substance of the lease agreement attached hereto as Exhibit A and provide payment of \$1,000.00 to the VILLAGE for the cost of the first year of the lease within 30 days of full execution of this Agreement. The initial one year lease term shall begin on the date that both this Agreement is fully executed.
2. All planned improvements on the Property during the lease period shall require express Village approval. All improvements made to the Property shall remain on the Property after the lease expires, if the DEVELOPER fails to exercise the purchase option and complete the purchase within the terms of this Agreement.
3. If the DEVELOPER chooses to extend the lease an additional year, the DEVELOPER shall pay the VILLAGE \$4,000.00 prior to the expiration of the initial one year lease term. If the lease term is extended, the second year lease term shall commence one year from the date of the expiration of initial one year lease term and shall terminate two years from the date this Agreement is fully executed.
4. The DEVELOPER shall notify the VILLAGE in writing of its commitment to purchase the property prior to the expiration of either lease term provided for under this Agreement. The VILLAGE shall convey the Property to the DEVELOPER by Special Warranty Deed, free and clear of all liens and encumbrances.
5. If the DEVELOPER chooses to purchase the property:

- a. The Developer shall close on the purchase of the PROPERTY within sixty (60) days of the date the DEVELOPER provides notice to the Village indicating its commitment to do so, paying a total sum of Seventy Thousand and 00/100 Dollars (\$70,000.00) therefore (the "Purchase Price"). Developer shall not be entitled to any credit on the purchase price for any lease payments.
- b. The DEVELOPER shall submit a site plan to the VILLAGE within one year from the date of property transfer for the expansion of recreational vehicle storage on their current, adjacent site. If the DEVELOPER fails to act on this within the time specified, the PROPERTY shall be transferred back to the VILLAGE free of all encumbrances with no reimbursement to the DEVELOPER. Developer shall be responsible for all cost necessary to transfer back the Property to the Village. This provision shall appear as an encumbrance on the deed transferring title to Developer.
- c. The DEVELOPER shall submit an erosion control and stormwater management plan as part of their site plan approval process.
- d. The Developer will have two (2) years from the time the improvements are started to hard surface (asphalt or concrete) any storage or driving areas.
- e. The DEVELOPER shall utilize "Kronenwetter" rather than "Mosinee" as their place of business in any marketing or printed materials within 2 years of the date of the property transfer.

II. GENERAL REQUIREMENTS

A. EFFECTIVE DATE

This Agreement shall be effective on the date it is last executed by the authorized representatives of the parties hereto, as evidenced below.

B. DEFAULT

A default is defined herein as either party's breach of, or failure to comply with, the terms of this Agreement.

1. Remedies on Default. In the event of any default in or breach of this Agreement of any terms or conditions by any party hereto, or any successor in interest to such party, such party or successors shall cure or remedy such default or breach within thirty (30) days written notice of default describing the nature of the default, what action, if any, is deemed necessary to cure the same and specify a time period of not less than thirty (30) days in which the default may be cured by the defaulting party. In case such action is not taken or the defaulted breach cannot be cured or remedied within the aforesaid time, the non-defaulting party may institute such proceedings that may be necessary or desirable in its opinion to cure the default or breach, including, but not limited

to, proceedings to compel specific performance by the party in default or breached obligation(s). If such a proceeding is commenced, the prevailing party in such proceeding shall be entitled to recover from the other party its reasonable costs incurred in such proceeding, including reasonable attorney fees.

2. **Rights and Remedies.** The rights and remedies of the parties under this Agreement, whether by law or provided by this Agreement, shall be cumulative and the exercise by any party of any one or more of such remedies shall not preclude the exercise by it at the same or different time of any such other remedies for the same event of default or breach or any of its remedies for any other default or breach by any other party.

C. TERM

This Agreement shall terminate and be of no further force and effect upon the end of the lease agreement dates as specified in the agreement or the end of the life of Tax Increment District #4 if the purchase option is executed.

D. NOTICE

Delivery of documents and written notices to a party shall be effective only when accomplished in any of the following ways:

1. By sending the document or written notice, postage or fees prepaid, by U.S. Mail registered or certified mail, return receipt requested, or by a nationally recognized commercial overnight delivery system addressed to the party at:

DEVELOPER: Polzer Holdings, LLC
 Ray Polzer
 1480 Kronenwetter Drive
 Kronenwetter, WI 54455

VILLAGE: Village of Kronenwetter
 Village President
 1582 Kronenwetter Drive
 Kronenwetter, WI 54455

WITH COPY TO: Harold C. Wolfgram
 Wolfgram, Gamoke & Hutchinson, S.C.
 114 West Fifth Street
 Marshfield, WI 54449

2. By giving the document or written notice personally to the party.

F. MISCELLANEOUS PROVISIONS

1. **Waiver.** No waiver of any provision of this Agreement shall be deemed or constitute a waiver of any other provision, nor shall it be deemed or constitute a continuing waiver unless expressly provided

for by a written amendment to this Agreement nor shall it be deemed a waiver of any subsequent default or defaults of the same type. The VILLAGE'S failure to exercise any right under this Agreement shall not constitute the approval of any wrongful act by the DEVELOPER.

2. Amendment/Modification. This Agreement may be amended or modified only by a written amendment approved and executed by the VILLAGE and the DEVELOPER.
3. Entire Agreement. This written Agreement and written amendments, and any referenced attachments hereto, shall constitute the entire Agreement between the DEVELOPER and the VILLAGE.
4. Time. Time is of the essence as to all dates and deadlines contained in this Agreement. Provided, however, in any instance where the performance of an act is required within a specified time or by a specified date, strict compliance within the specified time shall be extended if the delay or inability to perform is caused by or results from civil disasters or acts of God. It is the intent of this provision that in the event of the occurrence of any such delay, the time or times of performance of any of the obligations of the party shall be reasonably extended for the period of the delay as determined by the other party, provided that the party seeking the extension due to the delay shall have first notified the other party thereof and requested an extension of the period of the delay.
5. Severability. If any part, term, or provision of this Agreement is held by the courts to be illegal or otherwise unenforceable, such illegality or unenforceability shall not affect the validity of any other part, term, or provision and the rights of the parties will be construed as if the part, term, or provision was never part of this Agreement.
6. Immunity. Nothing contained in this Agreement constitutes a waiver of the VILLAGE'S sovereign immunity under applicable law.
7. Personal Jurisdiction and Venue. Personal jurisdiction and venue for any civil action commenced by either party to this Agreement whether arising out of or relating to the Agreement shall be deemed to be proper only if such action is commenced in the Circuit Court for Marathon County, Wisconsin. The DEVELOPER expressly waives its right to bring such action in or to remove such action to any other court whether state or federal.
8. Binding Effect. This Agreement shall inure to the benefit of and shall be binding upon the VILLAGE and DEVELOPER and their respective successors and assigns if the property constituting the Development Site or part thereof is ever transferred to new ownership.
9. Further Assurances and Corrective Instruments. The VILLAGE and DEVELOPER agree that they will, from time to time, execute, acknowledge, deliver, cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of the land hereby conveyed or intended so to be, and for carrying out the express intentions of this Agreement.

10. Authority. Each party warrants and represents to each other that the execution of this Agreement by their respective officers or agents has been duly authorized and that this Agreement, when fully executed, constitutes a valid, binding and legally enforceable obligation of itself.
11. Execution in Counterparts. This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute one and the same instrument.
13. Reservation of Authority. The VILLAGE reserves the authority to impose new or different regulations according to VILLAGE procedure, except that the VILLAGE shall not impose new or different regulations on the Property which shall materially impact its value or negatively impact the DEVELOPER'S construction, operation or management of the Property or the development contemplated on the Property.
14. Recordation. The DEVELOPER shall record the development agreement in the Register of Deeds Office for Marathon County, Wisconsin. All costs of recording shall be paid by the DEVELOPER.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the year and date set forth above, and by so signing this Agreement, certify that they have been duly and properly authorized by their respective entities to make the commitments contained herein, intending them to be binding upon their respective entities and to execute this Agreement on their behalf.

POLZER HOLDINGS, LLC



Ray Polzer, Sole Member

VILLAGE OF KRONENWETTER
VILLAGE BOARD



Chris Voll, Village President

VILLAGE OF KRONENWETTER
REDEVELOPMENT AUTHORITY



Christopher Eiden, RDA President


Attest: 
Cindra Falkowski, Village Clerk

EXHIBIT A

VILLAGE OF KRONENWETTER LEASE AGREEMENT WITH POLZER HOLDINGS, LLC

This lease is made and entered into the 1st day of October 2020, by and between the Village of Kronenwetter (hereinafter called Lessor) and Polzer Holdings, LLC, a limited liability company (hereinafter called Lessee).

PREMISES. In consideration of the covenants, conditions and promises hereby mutually agreed to be undertaken by the parties, Lessor hereby leases and Lessee hereby rents the property described as Lot 2, CSM VOL 91, PG 39 (#18408), Section 15, Township 27N, Range 7E, Village of Kronenwetter, Marathon County, Wisconsin (Dons Way, Kronenwetter) on consisting of approximately 1.3 acres of vacant land and (hereinafter referred to in its entirety as the "Property").

1. **PERMISSIBLE USE.** The Lessee may use the Premises for the purpose of expanding its recreational vehicle sales and storage lot and only for such purposes. The Lessee may not sublet or assign the Lease in full or part without the prior written consent of Lessor. The Lessee shall not use, permit or authorize the use of the Premises in any unlawful manner and shall at all times during the term of the Lease comply with all applicable governmental regulations and reasonable rules imposed by the Lessor with respect to said uses.
2. **TERM.** The Lease shall commence on October 1, 2020 and end on September 30, 2021. The Lease may be extended for one additional one-year term at the election of the Lessee. Said election shall be made by giving written notice of the same to Lessor not later than August 31, 2020. If the Lessee makes such election the extended term of the lease shall commence on October 1, 2021 and end on September 30, 2022.
3. **RENT.** During the term of this Lease, the Lessee shall pay the Lessor rent as follows:
 - a. For the initial one-year term, \$1,000 shall be paid to the Lessor within 30 days of the execution of this Lease.
 - b. If the lessee elects to extend the lease for a second one-year term, \$4,000 shall be paid on or before October 1, 2021.
4. **UTILITY COSTS.** Through any term of this Lease the Lessee shall be responsible for all utility costs associated with the use and maintenance of the Property including but not limited to electricity, water, sewer, natural gas, heating, cooling and all other services or expense associated with the Property. In the event that utilities or services are connected to the property during the term of the Lease the Lessee shall be responsible to terminate said services prior to the termination of the Lease.
5. **IMPROVEMENTS.** Lessee shall not make any improvements to the Property without the express written approval of the Lessor. In the event that improvements are made, said improvements shall become the property of Lessor upon the termination of this Lease, unless the Lessee purchases the Property from Lessor prior to the expiration of the Lease. In the event that this

Lease expires and Lessee does not purchase the Property from Lessor, Lessee shall cease to have any interest in any improvements to the property and said improvements shall transfer to Lessor upon the expiration of the lease term, and in such event Lessee shall have no interest therein.

6. **REPAIRS AND MAINTENANCE.** Lessee shall make all necessary repairs to the interior and exterior of any improvements of any nature constructed or placed on the Property. Lessee shall be responsible for all maintenance costs associated with the care and use of the property including any improvements that may be constructed, installed or placed on said Property.
7. **INSURANCE.** Lessee shall maintain liability insurance of not less than \$1,000,000 per person and \$2,000,000 per occurrence that extends to all operations and activities related to the use and occupancy of the Property by Lessee and shall provide proof of such insurance prior to Lessee's occupancy of the Property.
8. **INDEMNITY AND HOLDHARMLESS.** Lessee agrees to the fullest extent permitted by applicable law, to indemnify and hold harmless Lessor from and against any and all loss, cost, damage, expense and liability, including reasonable attorneys' fees and costs that may be incurred by or asserted, claimed, or charged against Lessor, its officers, employees, agents, successors, and assigns in connection with Lessee's occupancy, use or activities under this Lease or arising out of the Property during the term of this Lease. Nothing in this Lease shall be construed as a waiver, in whole or in part, of any governmental immunity granted to Lessee by law.
9. **NOTICES.** All lease payments and notices allowed for herein shall be either personally delivered or mailed regular mail to these addresses:

LESSOR: Village of Kronenwetter
 Village President
 1582 Kronenwetter Drive
 Kronenwetter, WI 54455

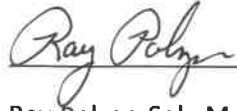
LESSEE: Polzer Holdings, LLC
 Ray Polzer
 1480 Kronenwetter Drive
 Kronenwetter, WI 54455

10. **ENTIRE AGREEMENT.** This Lease sets forth the entire agreement between the parties; it may only be amended in writing by the authorized representatives of each party; it does not inure to the benefit of any third party. The Lease may be terminated for cause upon 60 days prior written notice to the breaching party if the breaching party fails to remediate the breach within the 60-day time period.
11. **EXECUTION AND EFFECTIVE DATE.** This Lease may be executed in counterparts but shall be effective as of the date first written above.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the year and date set forth above, and by so signing this Agreement, certify that they have been duly and properly authorized

by their respective entities to make the commitments contained herein, intending them to be binding upon their respective entities and to execute this Agreement on their behalf.

POLZER HOLDINGS, LLC



Ray Polzer, Sole Member

VILLAGE OF KRONENWETTER
VILLAGE BOARD



Chris Voll, Village President

VILLAGE OF KRONENWETTER
REDEVELOPMENT AUTHORITY



Christopher Eiden, RDA President

Attest: 

Cindra Falkowski, Village Clerk