

**CITY OF SHEBOYGAN  
RESOLUTION 73-24-25**

**BY ALDERPERSONS MITCHELL AND PERRELLA.**

**SEPTEMBER 3, 2024.**

A RESOLUTION consenting to the Assignment and Assumption of Ground Lease for parcels adjacent to property currently owned by Nemschoff, Inc., contingent upon sale of property to Phoenix Sheboygan III Industrial Investors, LLC.

WHEREAS, the City is lessor of property under a ground lease dated January 1, 1984 recorded with the Sheboygan County Register of Deeds as Document No. 1202009, and amended via recorded Document No. 1987117 for certain real property and improvements located along the Sheboygan River on which Nemschoff, Inc. has constructed a parking lot and storage area; and

WHEREAS, Nemschoff, Inc. desires to sell its property to Phoenix Sheboygan III Industrial Investors, LLC (“Phoenix”) and to assign its ground lease rights to Phoenix.

NOW, THEREFORE, BE IT RESOLVED: The Common Council hereby consents to Nemschoff, Inc. assigning its interest in the aforementioned ground lease to Phoenix, contingent upon Phoenix’s acquisition of the property, and directs the appropriate City officials to execute the attached Assignment document upon confirmation of sale.

PASSED AND ADOPTED BY THE CITY OF SHEBOYGAN COMMON COUNCIL

\_\_\_\_\_.  
Presiding Officer

Attest

\_\_\_\_\_  
Ryan Sorenson, Mayor, City of  
Sheboygan

\_\_\_\_\_  
Meredith DeBruin, City Clerk, City of  
Sheboygan

DOCUMENT NO.

**ASSIGNMENT AND  
ASSUMPTION OF  
GROUND LEASE**

RETURN TO:  
Atty. Paul Jonas  
Michael Best & Friedrich LLP  
790 N. Water St., STE 2500  
Milwaukee, WI 53202

**Parcel Identification Numbers:**  
See Exhibit A

**ASSIGNMENT AND ASSUMPTION OF GROUND LEASE**

**THIS ASSIGNMENT OF AND ASSUMPTION OF GROUND LEASE (“Assignment”)** is entered into this \_\_\_ day of \_\_\_\_\_, 2024 (“**Effective Date**”) by and among Nemschoff, Inc. f/k/a Nemschoff Chairs, Inc., a Wisconsin corporation (“**Assignor**”), Phoenix Sheboygan III Industrial Investors LLC, a Delaware limited liability company (“**Assignee**”), and the City of Sheboygan (“**City**”).

RECITALS:

**WHEREAS**, Assignor is the lessee and the City is the lessor under a ground lease dated January 1, 1984 (“**Ground Lease**”), as referenced in that certain Memorandum of Lease dated May 3, 1990, and recorded with the Sheboygan County Register of Deeds on May 14, 1990, as Document Number 1202009, and in that certain First Amendment to Lease Agreement Between the City of Sheboygan and Nemschoff Chairs, Inc., dated May 16, 2013, and recorded with the Sheboygan County Register of Deeds on June 5, 2014, as Document Number 1987117, for certain real property and improvements located along the Sheboygan River as more fully described in the Ground Lease and in Exhibit A attached hereto and incorporated herein (the “**Property**”); and

**WHEREAS**, pursuant to the terms of the Ground Lease, Assignor has constructed a parking lot

and storage area ("**Improvements**") on the Property; and

**WHEREAS**, Assignor intends to sell to Assignee certain property located at 2304 and 2218 Julson Court in the City of Sheboygan ("**Owned Property**").

**WHEREAS**, in conjunction with Assignor's sale of the Owned Property to Assignee, Assignor desires to assign to Assignee all of Assignor's right, title, and interest in and to the Ground Lease to Assignee, as Assignee desires to fully assume all of such right, title, and interest in accordance with the terms, covenants and conditions herein set forth.

AGREEMENT:

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

**1. Assignment.** As of the Effective Date, Assignor hereby irrevocably grants, transfers, sets over and assigns unto Assignee all of Assignor's right, title, and interest in and to the Ground Lease and to all Improvements located thereon.

**2. Assumption.** As of the Effective Date, Assignee hereby accepts the foregoing assignment and agrees to comply with and perform all of the terms, conditions, and provisions of the Ground Lease, as tenant under the Ground Lease.

**3. Indemnification.** From and after the Effective Date, Assignee covenants and agrees to indemnify, defend and hold harmless Assignor from and against any and all liabilities, claims, damages, deficiencies, costs, expenses and losses of any nature whatsoever (including without limitation, court costs and reasonable attorney's fees) that may be asserted against Assignor relating to, arising out of or resulting from Assignee's performance or non-performance or default under the terms of the Ground Lease, or any claims, demands obligations or liabilities relating to the Ground Lease.

**4. Miscellaneous.**

(a) Binding Affect. The terms of this Assignment shall survive the closing of the purchase and sale of Assignor's interest in the Owned Property to Assignee, and shall be binding upon, shall inure to the benefit of, and shall be enforceable by Assignor and Assignee and their respective successors, assigns, heirs and personal representatives.

(b) Governing Law. This Assignment shall be deemed to be made under and shall be construed in accordance with and be governed by the laws of the State of Wisconsin.

(c) Entire Assignment. This Assignment constitutes the entire Agreement between the parties hereto with respect to the matters described herein and may not be modified in any way without the express written consent of both parties.

(d) Counterparts. This Assignment may be executed in any number of counterparts, each of which shall be deemed an original, but all of which when taken together shall constitute one and the same instrument.

(Signatures appear on the following page)

**IN WITNESS WHEREOF**, the parties hereto have caused this Assignment to be executed as of the date and year first written above written.

**ASSIGNOR:**  
NEMSCHOFF, INC.

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

STATE OF WISCONSIN     )  
  ) ss.  
COUNTY OF SHEBOYGAN    )

Personally came before me this \_\_\_\_ day of \_\_\_\_\_, 2024, the above named \_\_\_\_\_, individually and, who acknowledged himself/herself to be the \_\_\_\_\_ of Nemschoff, Inc., and to me known to be the person who executed the foregoing instrument and acknowledged the same.

\_\_\_\_\_  
Print Name: \_\_\_\_\_  
Notary Public, State of Wisconsin  
My Commission Expires: \_\_\_\_\_

**ASSIGNEE:**  
PHOENIX SHEBOYGAN III INDUSTRIAL INVESTORS  
LLC

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

STATE OF WISCONSIN     )  
  ) ss.  
COUNTY OF SHEBOYGAN    )

Personally came before me this \_\_\_\_ day of \_\_\_\_\_, 2024, the above named \_\_\_\_\_, individually and, who acknowledged himself/herself to be the \_\_\_\_\_ of Phoenix Sheboygan III Industrial Investors LLC, and to me known to be the person who executed the foregoing instrument and acknowledged the same.

\_\_\_\_\_  
Print Name: \_\_\_\_\_  
Notary Public, State of Wisconsin  
My Commission Expires: \_\_\_\_\_

**CONSENT TO ASSIGNMENT AND ASSUMPTION OF GROUND LEASE**

The undersigned, on behalf of the City of Sheboygan ("**City**"), hereby acknowledges and consents to the foregoing Assignment of Ground Lease ("**Assignment**") by and between Nemschoff, Inc. f/k/a Nemschoff Chairs, Inc., a Wisconsin corporation ("**Assignor**"), and Phoenix Sheboygan III Industrial Investors LLC, a Delaware limited liability company ("**Assignee**"), to which this Consent is attached.

DATED effective as of the \_\_\_\_ day of \_\_\_\_\_, 2024.

**CITY:**  
CITY OF SHEBOYGAN

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

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

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

STATE OF WISCONSIN     )  
  ) ss.  
COUNTY OF SHEBOYGAN    )

Personally came before me this \_\_\_\_ day of \_\_\_\_\_, 2024, the above named \_\_\_\_\_, individually and, who acknowledged himself/herself to be the \_\_\_\_\_ of the City of Sheboygan, and to me known to be the person who executed the foregoing instrument and acknowledged the same.

\_\_\_\_\_  
Print Name:  
Notary Public, State of Wisconsin  
My Commission Expires: \_\_\_\_\_

This instrument was drafted by:  
  
Atty. Paul Jonas  
Michael Best & Friedrich LLP  
790 N. Water St, STE 2500  
Milwaukee, WI 53202



**EXHIBIT A**

**Property Legal Description**

PARCEL E:

LOT ONE (1) IN BLOCK TWENTY-FIVE (25) OF LYMAN ADDITION TO THE CITY OF SHEBOYGAN, SHEBOYGAN COUNTY, WISCONSIN.

TAX PARCEL NO.: 59281210490

PARCEL F:

LOTS TWO (2), THREE (3) AND FOUR (4) OF BLOCK TWENTY-FIVE (25) OF LYMAN ADDITION TO THE CITY OF SHEBOYGAN, SHEBOYGAN COUNTY, WISCONSIN, ACCORDING TO THE RECORDED PLAT THEREOF.

TAX PARCEL NO.: 59281210500

PARCEL G:

LOTS ELEVEN (11), TWELVE (12), THIRTEEN (13), FOURTEEN (14) AND FIFTEEN (15) IN BLOCK TWENTY-FIVE (25) OF LYMAN'S ADDITION TO THE CITY OF SHEBOYGAN, SHEBOYGAN COUNTY, WISCONSIN, ACCORDING TO THE RECORDED PLAT THEREOF, EXCEPTING PARCELS OF LAND AND RIGHT-OF-WAY HERETOFORE CONVEYED TO THE CHICAGO AND NORTHWESTERN RAILWAY CO. BY DEED DATED OCTOBER 31, 1892, AND RECORDED IN VOL. 74 OF DEEDS, PAGE 379, OFFICE OF THE REGISTER OF DEEDS OF SHEBOYGAN COUNTY, GRANTING A RIGHT-OF-WAY TO SAID RAILWAY CO. UPON THE CONDITIONS STATED IN SAID DEED. TOGETHER WITH THE EAST 1/2 OF VACATED SOUTH 24TH STREET ADJACENT TO LOT 15 AND THAT PORTION OF THE SOUTH 1/2 OF THE SOUTH 33 FEET OF VACATED W. WATER STREET LYING ADJACENT TO LOTS 12, 13, 14 AND 15 AND THE WEST 34 FEET OF LOT 11, AND THE SOUTH 1/2 OF VACATED W. WATER STREET LYING ADJACENT TO THE EAST 6 FEET OF LOT 11.

TAX PARCEL NO.: 59281210540