

## **\*\*\*ATTACHMENTS\*\*\***

## CITY OF SHEBOYGAN

### REQUEST FOR REDEVELOPMENT AUTHORITY CONSIDERATION

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**ITEM DESCRIPTION:** Discussion and possible action of Assignment and Assumption of Interest in Ground Lease for 528 and 534 South Pier Drive.

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**REPORT PREPARED BY:** Chad Pelishek, Director of Planning and Development

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**REPORT DATE:** April 5, 2021

**MEETING DATE:** April 7, 2021

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#### FISCAL SUMMARY:

Budget Line Item:	N/A
Budget Summary:	N/A
Budgeted Expenditure:	N/A
Budgeted Revenue:	N/A

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#### STATUTORY REFERENCE:

Wisconsin	N/A
Statutes:	
Municipal Code:	N/A

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#### BACKGROUND / ANALYSIS:

Two ground leases for 528 and 534 South Pier Drive are presently owned by Mackximus, LLC and are still in the name of Sparrows Point LLC. Sher Quasius on behalf of Sparrows Point LLC has signed the assignment and assumptions and Kyle Mack on behalf of Mackximus LLC which would place these leases in the name of Mackximus LLC. Once the Redevelopment Authority consents to the Assignment and Assumption of Interest Ground Lease, Oostburg State Bank will be closing on permanent financing for the buildings.

#### STAFF COMMENTS:

None

#### ACTION REQUESTED:

Motion to approve the Assignment and Assumption of Interest in Ground Lease for 528 and 534 South Pier Drive.

#### ATTACHMENTS:

- I. Assignment and Assumption of Interest in Ground Lease for 528 South Pier Drive.
- II. Assignment and Assumption of Interest in Ground Lease for 534 South Pier Drive.

## **ASSIGNMENT AND ASSUMPTION OF INTEREST IN GROUND LEASE**

THIS ASSIGNMENT AND ASSUMPTION OF INTEREST IN GROUND LEASE by and between Sparrows Point LLC, a Wisconsin limited liability company ("Assignor"), Mackximus, LLC, a Wisconsin limited liability company, ("Assignee"), and the Redevelopment Authority of Sheboygan, Wisconsin ("Landlord").

### **RECITALS**

A. A Ground Lease for the premises described in attached **Exhibit A** ("Premises") was entered into by and between Landlord and LJM Architects, Inc., as Tenant, and subsequently amended to assign the Tenant lease interest to Assignee, for a term commencing on April 14 2005 and terminating at 12:00 midnight on the date which is eighty-five (85) lease years thereafter (the "Lease").

B. Assignor desires to assign all its right, title and interest in the Lease and the Premises to the Assignee, and the Assignee desires to accept the assignment of the Lease.

C. Assignor and Assignee desire to obtain Landlord's consent to the Assignment and the Landlord's release of the Assignor.

NOW, THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged, and the agreement of the parties hereinafter set forth:

### **AGREEMENT**

1. **Assignment.** The Assignor hereby assigns and transfers to the Assignee all of the Assignor's right, title and interest, as Tenant, in and to the Lease effective as of the date hereof (the "Effective Date").

2. **Assignee's Assumption.** As of the Effective Date, the Assignee hereby agrees to and does accept the assignment and in addition expressly assumes and agrees to keep, perform, and fulfill all the terms, covenants, conditions, and obligations required to be kept on the part of Tenant including the making of all payments due or payable on behalf of the Tenant under the Lease when due and payable.

3. **Assignee's Indemnification of Assignor.** Assignee will protect, indemnify, save harmless and defend Assignor from and against all liabilities, obligations, claims, damages, penalties, causes of action, costs and expenses (including, without limitation, reasonable attorneys' fees and expenses) imposed upon or incurred by or asserted against Assignor by reason of: (a) the terms, covenants, conditions, and obligations of Tenant under the Lease, including the obligation to pay rent, (b) after the Effective Date, any accident, injury to or death of persons, loss of or damage to property occurring or repair of the building or improvements on the Premises; (c) any failure on the part of Assignee to perform or comply with any of the terms of this Assignment.

4. Notices. The portion of the Lease referring to Tenant's notice address is hereby revised as follows:

Mackximus, LLC  
Attention: Kyle Mack  
5021 W North Ave  
Milwaukee, WI 53208

5. Consent of Landlord and Release. The Landlord hereby consents to this Assignment of Interest in Ground Lease, and as of the Effective Date releases Assignor from all obligations and liability under the Lease and from the performance of the Tenant of any and all terms, covenants and conditions of the Lease, including the payment of rent and other charges accruing under the Lease. No further assignment of the Lease or subletting of the Premises shall be made except in accordance with the provisions of the Lease.

6. Binding on Successors. This Agreement shall be binding on and inure to the benefit of the parties hereto, their successors-in-interest, and assigns.

EXECUTED as of the 18<sup>th</sup> day of March, 2021.

**ASSIGNOR:**

SPARROWS POINT, LLC

By:   
Sharron Quasius, Member

**ASSIGNEE:**

MACKXIMUS, LLC

By:   
Kyle Mack, Member

**LANDLORD:**

REDEVELOPMENT AUTHORITY OF THE  
CITY OF SHEBOYGAN, WISCONSIN

By:   
Roberta Filicky-Peneski, Chairperson

Attest:

  
Chad Pelishek, Economic Development Manager

**EXHIBIT A**  
**LEGAL DESCRIPTION**

**See attached.**

**Tax Parcel Identification No.:           59281322021**

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### **RECITALS**

A. A Ground Lease for the premises described in attached **Exhibit A** ("Premises") was entered into by and between Landlord and LJM Architects, Inc., as Tenant, and subsequently amended to assign the Tenant lease interest to Assignee, for a term commencing on June 6, 2006 and terminating at 12:00 midnight on the date which is eighty-five (85) lease years thereafter (the "Lease").

B. Assignor desires to assign all its right, title and interest in the Lease and the Premises to the Assignee, and the Assignee desires to accept the assignment of the Lease.

C. Assignor and Assignee desire to obtain Landlord's consent to the Assignment and the Landlord's release of the Assignor.

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3. Assignee's Indemnification of Assignor. Assignee will protect, indemnify, save harmless and defend Assignor from and against all liabilities, obligations, claims, damages, penalties, causes of action, costs and expenses (including, without limitation, reasonable attorneys' fees and expenses) imposed upon or incurred by or asserted against Assignor by reason of: (a) the terms, covenants, conditions, and obligations of Tenant under the Lease, including the obligation to pay rent, (b) after the Effective Date, any accident, injury to or death of persons, loss of or damage to property occurring or repair of the building or improvements on the Premises; (c) any failure on the part of Assignee to perform or comply with any of the terms of this Assignment.

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EXECUTED as of the 18<sup>th</sup> day of March, 2021.

**ASSIGNOR:**

SPARROWS POINT. LLC

By:   
Sharron Quasius, Member

**ASSIGNEE:**

MACKXIMUS, LLC

By:   
Kyle Mack, Member

**LANDLORD:**

REDEVELOPMENT AUTHORITY OF THE  
CITY OF SHEBOYGAN, WISCONSIN

By:   
Roberta Filicky-Peneski, Chairperson

**Attest:**

  
Chad Pelishek, Economic Development Manager

## **EXHIBIT A**

### **LEGAL DESCRIPTION**

The West sixty (60') feet of the East four hundred fifty (450') feet of Lot 4, South Pier Plat, located in the southeast one quarter (1/4) of Section 23, Township 15N, Range 23E, City of Sheboygan, Sheboygan County, Wisconsin, reserving a six (6') foot wide easement for utility purposes in the North six (6') feet of the above described parcel.

Tax Parcel Identification No.: 59281322026