

Document No.

WHITEWATER UNIVERSITY
TECHNOLOGY PARK COVENANTS

Return to:
Wallace K. McDonell
P.O. Box 59
Whitewater, WI 53190

/WUP00322, /WUP00323
/WUP00333, /WUP00003F
**Note: also need to include
parcel # from SW corner**

Parcel Numbers

KNOW ALL MEN BY THESE PRESENTS that the City of Whitewater, Wisconsin, a municipal corporation, as the owner of the land described below, in order to assure the public and future owners of parcels included in said lands being developed as a university technology park by the City of Whitewater and the orderly and compatible development and use of said lands, hereby declares that the lands described below and the building parcels and/or lots resulting from subsequent divisions or re-divisions of said lands by the City of Whitewater, shall be subject to the following provisions, restrictions and covenants, which shall be covenants running with the land, intending hereby to preserve the value of the lots and parcels contained within the area described below. The City of Whitewater has, and is continuing to undertake, the development of certain lands located in the City of Whitewater for the Whitewater Business Park and incident thereto, has imposed certain covenants and restrictions on said other lands and may further impose such covenants and restrictions on other lands in the future, which covenants and restrictions, though similar to the covenants and restrictions imposed hereunder, are intended to be, and shall be construed to be separate covenants and restrictions from those set forth herein. It is specifically intended that the covenants and restrictions imposed hereunder are completely separate and distinct from such covenants and restrictions imposed on said lands, and that the covenants and restrictions hereby imposed are to be considered, administered and enforced separately and distinctly from the covenants and restrictions now imposed on lots and parcels located in the Whitewater Business Park. Notwithstanding the foregoing, the covenants and restrictions established and provided for under this declaration may, in the future, be imposed on lots or parcels. In the event these covenants are in the future so imposed on lots, parcels or lands, such additional lands and the application of these

covenants and restrictions with respect to such additional lands shall be considered, administered and enforced with all other lands subjected to these covenants and restrictions separately and distinctly from the covenants and restrictions now imposed on lots and parcels located in the Whitewater Business Park. All further references in this Declaration of Covenants and Restrictions to the term "Technology Park" shall be deemed to mean those lands from time to time specifically subjected to this Declaration of Covenants and Restrictions. If these covenants address matters set forth in City of Whitewater ordinances, the more restrictive provision shall control.

Description of Land

The land which is subjected to these restrictions and which the City of Whitewater is undertaking development of for Technology Park purposes is more particularly described as follows, to-wit: **[to be added]**, and any future lots which may be created by further division or re-division thereof by the City of Whitewater.

1. GENERAL PROVISIONS.

- a. It is the intent of this declaration that all structures and uses erected, enlarged, added to, altered, used, and maintained shall be designed, constructed and used so as to meet all applicable State of Wisconsin laws, administrative codes, and City of Whitewater Municipal Codes pertaining to building construction, sanitation and zoning, to provide for a compatible and aesthetically pleasing development.
- b. No building or improvement shall be erected, placed or altered on any building site in the Technology Park until the plans and use for such building or improvement, including site plans, landscaping plans, building plans, and engineering specifications, have been approved by the WUTP Architectural Review Committee.
- c. All proposed construction shall be completed within one year of commencement, except as otherwise indicated herein.
- d. Alternative and redundant energy systems and methods, such as wind, solar, and geothermal, are encouraged in order to generate energy on-site, primarily for the principal use on the site or for other principal uses within the technology park.
- e. Use of parcels covered by these covenants shall be occupied only for uses permitted under zoning classification WUTP Zoning District and shall be limited to trades or industries of a restrictive character which are not detrimental to the Technology Park or to the adjoining residential areas by reason of appearance, noise, dust, smoke, odor or similar condition as hereinafter provided. Any use, the normal operation of which causes objectionable appearance, noise, odor, dust or smoke, shall be prohibited.

2. TECHNOLOGY PARK LOT DEVELOPMENT

- a. All buildings, improvements, structures, additions or alterations shall meet all minimum yards and setbacks as specified in the WUTP zoning district in which the land is located.
- b. The combination of all buildings, other roofed structures, all parking, driveways, loading areas and other paved area (except for approved pervious pavement applications, green building roofs, or similar features that allow infiltration) shall cover no more than seventy (70) percent of the total lot area. At least thirty (30) percent of the total lot area shall be landscaped green area or other approved infiltration area, such as a green roof or pervious pavement.
- c. The position of buildings and parking on all lots shall be in general accordance with Exhibit A (Whitewater University Technology Park, Lot Standards & Conceptual Site Configurations), except where the Architectural Review Committee agrees that an alternative arrangement will be more in keeping with the limitations and opportunities of the lot, with pre-existing development on adjacent lots, or with both.

3. PARKING AND ACCESS.

- a. Parking of all vehicles shall be prohibited at all times within minimum front and street side yards as specified under the zoning district in which the land is located. Parking of vehicles, other than passenger vehicles, shall be prohibited at all times within fifty (50) feet of any street right-of-way.
- b. For lots that abut either Innovation Drive or Howard Road, a maximum of one driveway with passenger vehicle parking spaces on both sides of that driveway shall be permitted along the Innovation Drive or the Howard Road sides of the principal building. In such cases, no parking spaces between the principal building and one of those two streets shall extend beyond the length of the nearest façade of the principal building.
- c. A parking lot may not extend any closer than twenty (20) feet from any residential zoning district.
- d. Access driveways and parking lots shall be separated from principal pedestrian walkways and recreational areas by pavement markings, curbs, planting areas, fences or other appropriate materials to ensure pedestrian safety. Walkways shall be provided to connect the principal building entrance to the parking lot and to the public sidewalk. Where these walkways cross parking areas and driving lanes they shall be clearly identified, either with different paving materials, such as brick or colored concrete (preferred) or with painted crosswalk striping.
- e. Parking lots shall be subdivided by landscaping so that no uninterrupted parking expanse exceeds one-half acre. Parking rows shall be separated from perpendicular drive lanes by a landscaped island or peninsula that extends the full length of the parking stall. All landscaped islands, areas, and buffers, shall have a minimum width of eight (8) feet, measured from the inside of any curb or frame, to ensure the long-term viability of trees planted there.

- f. Landscaping and berming shall be utilized to shield parking areas from public rights-of-way. A minimum of fifty (50) percent of the plant material used for screening shall be evergreen, in order to promote year round buffering, except where meaningful berming is also used as a means to provide all-season buffering.
- g. All driveways and parking areas shall be paved and constructed with concrete curb and gutter, except where necessary to address progressive approaches to stormwater management, with all materials meeting the accepted standards of the construction trades. The curbing of driveways and parking areas shall further meet the standards within Exhibit B (City of Whitewater parking lot curbing guidelines) of these covenants, to the extent they do not conflict with the requirements of the previous sentence.
- h. For lots with frontage along Howard Road, private driveway access shall be to other public streets, and not to Howard Road, in order to maintain traffic flows along Howard Road.
- i. Adjacent lots with shared parking arrangements may have driveways and pedestrian walkways connecting parking areas and buildings, regardless of the lot on which the parking, driveways, or walkways are located.
- j. Bicycle racks shall be provided on each site. Bicycle racks shall be designed to allow the use of a U-shaped lock that secures the frame to the rack. The number of bicycle parking spaces provided shall be a minimum of one (1) per twenty (20) employees.
- k. All landscaping, drives, parking lots, and walks shall be completed within one (1) year of construction of the building, or within one (1) year of paving of the City street serving the property, whichever is later.

4. BUILDING DESIGN.

- a. All buildings shall be sited, designed, and constructed in such manner as to provide an aesthetically pleasing development, emphasizing building styles, designs, and materials that are modern or contemporary in nature, reinforcing a technology park theme, and that promote sustainability, energy-efficiency, and environmental responsibility.
- b. Buildings exceeding four (4) stories in height will not be allowed unless approved by the Architectural Review Committee after it finds that the building height will not be a detriment to the park and will be compatible with buildings on adjacent lots. Buildings under two stories are encouraged to establish vertical elements along the street facing façade, and vertical elements within the façade.
- c. New buildings shall be designed to be compatible with nearby buildings within the technology park, without discouraging creativity in design or promoting uniformity or monotony in architectural styles. Factors such as exterior materials, height, transparency and landscaping of the neighboring facility shall be considered in the design of a new building.

- d. No building shall be designed with long, uninterrupted, horizontal blank walls facing any public right-of-way or park. The primary entrance of the building shall face or be visible from the public right-of-way that provides principal access to the lot.
- e. Where possible, buildings shall be oriented east-west to gain maximum use of natural light. All principal buildings shall also incorporate features to promote energy efficiency and environmental responsibility, including but not limited to, transom or roof windows/skylights to promote natural light, alternative energy options such as building-mounted wind turbines or solar panels, green roofs, and use of recycled and locally-sourced building products. Buildings that are “LEED-certifiable” are encouraged.
- f. The front wall and street side wall of all principal buildings shall be faced with at least thirty percent (30%) decorative masonry or other comparable durable, decorative, and Technology Park-compatible material approved by the Architectural Review Committee after review of plans submitted by applicant. Interior side walls of such a principal building shall have the aforementioned material percentage facing extended for a minimum distance of twenty (20) feet or to a natural dividing point approved by the Architectural Review Committee. Walls facing interior side and rear yards shall be finished in materials complimentary to the facades facing the streets. Exposed concrete blocks are prohibited. Articulated flattened architectural grade metal panels (not corrugated metal) and metal shingles may be approved by the Architectural Review Committee, if it finds that they can be incorporated into the building design as an attractive, efficient and cost-effective way to define building forms in a contemporary or modern way.
- g. Buildings shall provide for an active street environment by providing a minimum of twenty-five (25) percent clear glass at the ground floor façade facing the primary public right-of-way. The use of reflective or dark-tinted glass at ground level is strongly discouraged. Buildings that include both office space and research or production space requiring privacy from the public right-of-way shall be designed with the office use oriented along the street façade.
- h. Accessory buildings and ancillary structures such as fences, walls, and dumpster enclosures shall be designed to be architecturally compatible with the principal building on the lot.
- i. All buildings shall at all times be kept clean and in good repair, condition and appearance.

5. LIGHTING.

Exterior lighting shall be designed to provide uniform illumination with low glare. All exterior lights shall be full cut-off, dark-sky compliant fixtures. Parking lot and driveway fixtures shall not exceed thirty (30) feet in height. Pedestrian pathway lights shall not exceed fifteen (15) feet in height. LED or equivalent low-energy lighting is preferred on all external lighting fixtures. Electrical reflectors, spotlights, floodlights and other sources of illumination may be used to illuminate buildings,

landscaping, signs, and parking and loading areas on any site, but only if they are equipped with lenses or other devices which concentrate the illumination upon such buildings, landscaping, street graphics, and parking and loading areas. All lighting shall be directed away from residences and public rights-of-way and other public lands. All lighting shall be in compliance with City of Whitewater Ordinance 19.57.150.

6. OUTDOOR STORAGE.

Outdoor storage will be limited to containers for periodic collection of refuse and recyclables only, within enclosures that provide for full screening of the refuse and recyclables. Approval by the Architectural Review Committee must be obtained for any other type of outdoor storage.

7. FENCING.

No fence shall be less than six (6) feet high, nor more than eight (8) feet high. No chain link or barbed wire shall be allowed within the Technology Park. Design and materials used for fencing shall be subject to the review and approval by the Architectural Review Committee of specific plans by the applicant. Fences are not permitted to extend beyond the minimum required street yard within the zoning district, or in case of a greater setback, shall not extend beyond the front of the structure into the street yard. Corner lots may have fencing extending to the minimum street setback requirement and shall not extend into the street yard in front of any structure.

8. LOADING AREAS.

Loading areas and docks shall be secondary elements of any principal building, focused in locations and provided with screening in a manner that minimizes their visibility from public rights-of-way and adjoining properties. Loading areas shall not be permitted in the street yard or along any façade facing a public street area, except that loading docks located at least one hundred fifty (150) feet from the street right-of-way may be permitted with the specific approval of the Architectural Review Committee and where such loading docks are extensively screened from the public right-of-way. All loading areas shall be screened from view from any public right-of-way through the use of landscaping, berms and walls, or methods otherwise approved by the Architectural Review Committee.

9. LANDSCAPING.

- a. Landscaping of the building site shall be accomplished so as to enhance the aesthetic and architectural beauty of the principal building, contribute to the park-like setting of the Technology Park, and emphasize native and sustainable planting schemes. All landscaping shall be approved by the Architectural Review Committee prior to installation.
- b. All landscaping shall meet the "City of Whitewater Landscaping Guidelines" (attached and labeled Exhibit C.)

- c. All plant materials shall be nursery grown. Landscaping designed to conserve water resources and to minimize use of herbicides and pesticides shall be emphasized within all landscape plans. Use of bioswales, rain gardens, prairie plantings in lieu of lawn, and native planting solutions are encouraged. Decorative berms with organic shapes are encouraged.
- d. The street yard setback areas shall be entirely graded, sodded and seeded and properly landscaped between side lot lines, excepting only such areas as may be required for driveways, sidewalks and permitted parking areas. See also "Parking and Access" standards above.
- e. Landscaping may include ponds and/or storm water detention and/or retention basins or areas that are intentionally designed to provide an aesthetic element to the site, subject to the approval by the Architectural Review Committee.
- f. The entire parcel of land under each ownership shall have all vegetation maintained, replaced where dead or dying, and kept in good appearance at all times. All portions of the lot reserved for future expansion of the facilities and not surfaced for parking or loading purposes shall be maintained and mowed in accordance with the City noxious weed code.
- g. All ground signs shall be incorporated into the landscape plan, including the provision of plant materials at the base of such signs.

10. DRAINAGE CONTROL.

Prior to any site development, a stormwater management plan, site grading plan, and erosion control plan shall be approved by the City director of public works, who shall transmit his or her decision to the Architectural Review Committee. No land shall be developed and no use shall be permitted that results in flooding, erosion or sedimentation on adjacent properties. All runoff shall be properly channeled into a storm drain, watercourse, storage area, or other stormwater management facility.

11. SIGNS AND BILLBOARDS.

No sign shall be erected or maintained on the Property except in conformity with the following:

- a. All signs required shall be subject to approval by the Architectural Review Committee and shall meet applicable standards of the City of Whitewater zoning ordinance.
- b. All signage shall be designed in a manner that reflects the architectural theme and materials of the principal building on the lot, and connotes a look that is compatible with a technology park setting.
- c. The Architectural Review Committee may require a degree of uniformity in sign type, placement, and styles within the Technology Park in an effort to foster a compatible or contemporary theme, while still allowing creativity in individual sign designs.
- d. The base of all ground mounted signage shall be attractively landscaped in a manner that relates to the overall landscape plan for the lot.

- e. Signs shall not be painted directly on the outside wall of a building, nor are they permitted to be painted on a fence, tree, stone or other similar object, except those that are deliberately and artificially located for that purpose.
- f. Buildings with multiple businesses may construct a comprehensive or group sign, which must receive Architectural Review Committee approval.
- g. Signs shall be restricted to advertising only the person, firm, company or corporation operating the use conducted on the site or the products produced or sold therein.
- h. Motion signs, roof signs, projecting signs, electronic message center signs, or flashing signs are not permitted.
- i. Signs may be illuminated subject to the Architectural Review Committee approval.
- j. No sign shall contain any indecent or offensive picture or written matter.

12. UTILITY CONTROL.

Except where integral to on-site energy generation systems, all utilities, including all electric power, telephone and other communication equipment, gas, water, storm and sanitary sewers, excepting electric power lines exceeding 26.4 kv, shall be underground. The location of the utility shall be subject to approval by the Architectural Review Committee.

13. RUBBISH AND WASTE MATERIALS.

No rubbish shall be burned on the premises except in an incinerator designed and approved for such purposes, meeting all appropriate state and federal air emission standards. All waste materials shall be located and kept in containers for pick up or proper disposal. Storage of waste materials shall not exceed thirty (30) days on any lot. All waste material storage areas shall be fully screened from view from public rights-of-way and adjacent properties through the use of landscaping, berms and walls, fences, or other methods approved by the Architectural Review Committee. All waste storage areas shall be located at the rear of the building, except where an alternate location better meets these objectives as determined by the Architectural Review Committee.

14. MECHANICAL EQUIPMENT.

Mechanical equipment mounted on the roof shall be screened and/or positioned in a method that is architecturally compatible with the building and set back, providing screening from public view. All ground-mounted equipment shall be screened from public areas.

15. NOISE.

To reduce external noise associated with businesses within the Technology Park, a maximum external decibel reading of fifty (50) db at the property line must be maintained.

16. RESALE OF LOTS.

In the event owner of land other than the City of Whitewater elects to sell any portion of the

undeveloped land, which is not being used in connection with the business or industry of such owner, the same shall be first offered for sale, in writing, to the City of Whitewater at the price per acre paid for such land when such land was purchased from the City of Whitewater, together with the costs of any special assessments paid from the date of purchase of said land from the City of Whitewater to the date of closing. The City of Whitewater shall have ninety (90) days from the date of receipt of such offer to accept or reject the same, unless an extension of the time is mutually agreed upon and set forth in writing. Acceptance or rejection of any such Offer shall be approved by the Common Council of the City of Whitewater. In the event the City of Whitewater accepts such Offer, the owner shall convey title to said land to the City of Whitewater by Warranty Deed free and clear of all liens and encumbrances, except these covenants, conditions, and restrictions, recorded easements for public utilities approved by the City of Whitewater, rights of the public in roadways as laid out, dedicated or used, deferred unpaid special assessments for public improvements, if any. Seller shall be responsible for prorated real estate taxes for the year of sale through the date of sale; Owner shall provide, at Owner's expense, a title insurance policy insuring the City of Whitewater as the owner upon repurchase for the full amount of the repurchase price. In the event the City of Whitewater rejects any such offer and said owner proceeds with the sale of any portion of its undeveloped land to a third party, said conveyance shall be subject to the continuing provisions of this paragraph and said third-party purchaser, if it in the future elects to sell any portion of the undeveloped land which is not then being used by it in connection with its business or industry, shall be required to again first offer said portion for sale in writing to the City of Whitewater at the price paid per acre for such land by the initial purchaser from the City of Whitewater, together with the cost of any special assessments paid by owners of said lands from the date of the original sale by the City of Whitewater to the date of repurchase, all on the same terms and conditions as first set forth above; it being the intent that the City of Whitewater shall have and retain a continuing right to repurchase undeveloped lands under this paragraph.

17. RECAPTURE AND RESALE OF LAND.

A. If an Owner, other than the City of Whitewater, of any lot does not commence construction of a building or buildings thereon within two (2) years after the date of purchase of said lot, the City shall have the option to repurchase said lot. Exercise of the Option shall be effected by a resolution adopted by the Common Council of the City of Whitewater. So long as said owner has not commenced construction of a building or buildings on said lot, said Option shall be exercisable by the City of Whitewater upon delivery in writing of a notice to said Owner at any time after the expiration of said two (2) year period, or such longer period as may be agreed to in writing between said Owner and the City of Whitewater Common Council. Closing shall take place within sixty (60) days following the exercise of said Option on said date as shall be designated by the City of Whitewater specified in said Notice of Exercise or on such later date as may be agreed to in writing between said Owner and the City of Whitewater Common Council. In the event the City of Whitewater exercises its Option to Purchase contained in this paragraph, the purchase price to be paid by the City of Whitewater shall be computed at the price per acre paid for such land by the initial purchaser of said land at the time of purchase thereof from the City of Whitewater, plus any special assessments paid by the Owner of such land from the date of purchase of such land from the City of Whitewater to the date of closing of the repurchase by the City of Whitewater under this

paragraph. In the event the City of Whitewater exercises its Option to repurchase hereunder, conveyance shall be Warranty Deed from said owner to the City of Whitewater free and clear of all liens and encumbrances, except municipal, zoning and land division ordinances, the provisions of this declaration and any amendments hereto, recorded easements for public utilities approved by the City of Whitewater, rights of the public in roadways as laid out, dedicated or used, unpaid future installments of special assessments for public improvements, if any. Owner shall be responsible for prorated real estate taxes for the year of closing through the date of closing; owner shall furnish to the City of Whitewater, at Owner's expense, a title insurance policy for the full amount of the repurchase price insuring title in the City of Whitewater upon consummation of said repurchase in the condition called for above.

B. Nothing contained in this paragraph shall be deemed to give the City of Whitewater a right of first refusal or option with regard to lands which have been improved by the construction of a building or buildings thereon, it being intended that the Option provisions set forth above shall apply only to vacant parcels and that the owner of any lot which has been improved by the construction of a building or buildings thereon shall have the right to sell all of such property as one parcel together with the improvements thereon.

C. Any proposed subdivision or re-subdivision and any sales of parcels or portions of parcels resulting in change or adjustment of lot lines must be approved by the Architectural Review Committee.

18. DURATION OF COVENANTS AND RESTRICTIONS AND EXTENSION THEREOF AND VOTING RIGHTS.

The covenants, restrictions and provisions of this declaration shall apply to the parcels herein described and, upon subsequent re-divisions thereof, shall also apply to all such resulting additional lots and/or parcels, and shall be considered covenants which are to run with the land and shall be binding upon all parties and persons claiming under all parties for a period of ten (10) years from the date this declaration is recorded, after which time, said covenants, restrictions and provisions shall be automatically extended for successive periods of ten (10) years, unless within either the original ten (10) year term or any successive ten (10) year term, an instrument signed by the then owners of the lots or parcels then subject to these covenants and restrictions holding a majority of the votes (as hereinafter defined) and approved by the Common Council of the City of Whitewater has been recorded agreeing to terminate these covenants, restrictions and provisions, and in the event of amendment of these covenants, restrictions and provisions in accordance with the provisions of paragraph 16 hereof, the same shall continue in force as so amended, in like manner for the balance of that ten (10) year term, and shall in the same way be automatically extended for successive ten (10) year periods. In determining voting rights hereunder, one (1) vote shall be counted for each developed lot or developed parcel, and if there is more than one (1) owner of any such developed lot or developed parcel, the vote allocated to such developed lot or developed parcel shall be divided between said owners according to their percentage of ownership interests of record. Any lot or parcel owned by the City of Whitewater shall be included in such voting, with one (1) vote for each such separate lot or parcel; however, in the event any such lot or parcel owned by the City of Whitewater

is greater than twenty (20) acres, then the City of Whitewater shall have a number of votes with respect to such larger parcel equal to the nearest whole number arrived at by dividing the number of acres contained in such larger parcel by the number twenty (20). Votes of the City of Whitewater shall be exercisable and cast by the action of the Common Council of the City of Whitewater. Each owner, with the exception of the City of Whitewater, shall be limited to a maximum of one (1) vote.

19. ENFORCEMENT OF COVENANTS.

Any disputes involving these covenants shall be decided by the City of Whitewater Architectural Review Committee. The enforcement of the restrictions and covenants contained in this Declaration of Restrictions shall be by proceedings of law or in equity against any person or persons violating or attempting to violate any covenants, either to restrain violation or to recover damages with such election at the option of the enforcing party. Such proceedings may be commenced by any owner or owners of parcels then subject to these restrictions and covenants or by the City of Whitewater.

20. AMENDMENT OF DECLARATION OF RESTRICTIONS AND COVENANTS.

Except as hereinafter provided, the within restrictions and covenants may be amended by a written instrument executed by the then current owners of lots or parcels then subject to these restrictions holding a majority of votes as determined under the provisions of paragraph 18 hereof and approved by the Common Council of the City of Whitewater. Notwithstanding the foregoing, any amendment or modification of the provisions of paragraph 1 of these covenants and restrictions which would result in said provisions being less restrictive shall require that said written instrument be executed by 100% of the owners of the lands then subject to these restrictions who would be entitled to vote under the terms of paragraph 18. Any such amendment shall be effective upon the recording of such amendment in the Office or Offices of the Register of Deeds for the county or counties in which the real estate which is then subject to these restrictions is located.

21. VARIANCES.

Where, in the judgment of the Architectural Review Committee, it would be inappropriate to apply literally the provisions of these restrictions and covenants because of unusual circumstances or because exceptional or undue hardship would result, the Architectural Review Committee may waive or modify any requirements of sections 2 through 15, subject, however, to the following: (a) Not less than ten (10) days prior to the date of consideration of such waiver or modification by the Architectural Review Committee, written notice specifying the proposed waiver or modification and the time, date and place when the Architectural Review Committee will consider such proposed waiver or modification shall be mailed to the then current owners of all of the lots or parcels then subject to these covenants and restrictions who would be entitled to vote under the terms of paragraph 18, utilizing for such mailing purposes the most recent addresses for such owners contained in the assessment rolls of the City of Whitewater; (b) In the event written objections to such proposed modification or waiver executed by a majority of the owners who would be entitled to vote under the terms of paragraph 18 are delivered to the City Clerk of the City of Whitewater prior

to the time and date of the meeting at which the Architectural Review Committee is to consider such waiver or modification, such waiver or modification may not be approved or granted by the Architectural Review Committee.

22. EXPANSION OF LANDS SUBJECT TO THESE COVENANTS AND RESTRICTIONS.

The City of Whitewater reserves the right to subject additional lots and parcels of land to these covenants and restrictions by written instrument specifying that such additional lots or parcels are so subjected hereto. In the event any additional lots or parcels are so subjected to these covenants and restrictions, such additional lands shall then be deemed to be parcels or lots subject to these restrictions and, thereafter, the then current owners of such additional lots or parcels shall have the same rights and obligations as the owners of the lots or parcels initially subjected to these restrictions and covenants.

23. SEVERABILITY AND INVALIDATION.

Invalidation of any of the covenants or restrictions herein set forth, or as hereafter existing by way of amendment or modification as herein provided, by judgment or court order, shall in no way affect any of the other provisions hereof, which shall remain in full force and effect, nor shall any such judgment or court order render inapplicable the provisions of these covenants and restrictions to persons or circumstances other than those held invalid by such judgment or court order.

IN WITNESS WHEREOF, the City of Whitewater has caused these presents to be signed by its City Manager and counter-signed by its City Clerk at Whitewater, Wisconsin, and its corporate seal to be hereunto affixed this _____ day of September, 2009.

CITY OF WHITEWATER

By:

Kevin Brunner, City Manager

By:

Michele R. Smith, City Clerk

ACKNOWLEDGMENT

STATE OF WISCONSIN)
) SS:
WALWORTH COUNTY)

Personally came before me this ____ day of September, 2009, the above named Kevin Brunner, City Manager, and Michele R. Smith, City Clerk of the City of Whitewater, Wisconsin, to me known to be the City Manager and City Clerk of the City of Whitewater, Wisconsin, and to me known to be the persons who executed the foregoing instrument and acknowledge that they executed the same on behalf of the City of Whitewater as the duly-authorized act and deed of the city of Whitewater.

Notary Public, State of Wisconsin
My commission expires:

This document was drafted by:

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