



Village of Fredonia

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Fredonia, WI 53021

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AGENDA

FREDONIA FINACE COMMITTEE MEETING

TUESDAY, MARCH 15, 2022 - 6:00 P.M.

Fredonia Government Center – East Conference room

242 Fredonia Avenue, Fredonia, Wisconsin

**THE FOLLOWING BUSINESS WILL BE BEFORE THE PARKS AND RECREATION
AND ECONOMIC DEVELOPMENT COMMITTEE FOR INITIATION, DISCUSSION,
CONSIDERATION, DELIBERATION AND POSSIBLE FORMAL ACTION**

AGENDA

1. Call meeting to order
2. Approve minutes from the February 1, 2022, Finance Committee meeting
3. Business Park Developers Agreement
4. Items for future consideration
5. Adjourn

NOTICE IS HEREBY GIVEN that a majority of the Fredonia Village Board may attend this meeting in order to gather information about a subject over which they have decision-making responsibility.

UPON REASONABLE NOTICE, efforts will be made to accommodate the needs of disabled individuals through appropriate aids and services. For additional information or to request this service, contact the village clerk at 692-9125.

2/1/22

1/25/22 19:04

- 1) Call to order 1900
 - 2) Approve minutes from 11/23/22 Motion Bill Second Josh Unanimously
 - 3) Draft developers agreement for business park expansion
 - a. Reviewed draft and made suggestions for correction.
 - b. Roger will rework the proposal with suggestions
 - 4) Items for future consideration
 - a. Covenants for the business park? Do we need them or not?
 - 5) Adjourn: Motion: Bill Second: Josh Unanimous
- Adjourned at 1945

Richard Abglen

SUBDIVIDER'S-DEVELOPER'S AGREEMENT

~~Developer's~~Subdivider's Agreement relating to public improvements for Village of Fredonia Business Park Expansion final plat of Village Green Addition 2-Subdivision, in the Village of Fredonia, Ozaukee County, Wisconsin.

This Agreement made this day of _____, 2022~~21~~ between Hillcrest FredoniaMeadowlark Storage, LLC, hereinafter called "SubdividerDeveloper" and the Village of Fredonia, a municipal corporation of the State of Wisconsin, located in Ozaukee County hereinafter called the "Village".

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RECITALS

WHEREAS, SubdividerDeveloper intends to purchase is the owner of approximately 39+~~7.85~~+/- acres of land in the Village, said land being described as follows, to wit:

Being a Subdivision of a part of the Southeast ¼ of the Northwest ¼ and the Southwest ¼ & Southeast ¼ of the Northeast ¼ of Section 26, Town 12 North, Range 21, East, in the Village of Fredonia, Ozaukee County, WisconsinInsert Legal Description when CSM for purchase by Meadowlark Storage is completed. This land anticipated to be purchased abuts Meadowlark Road and the Thiel Property and lies within the land purchased from the Ansays

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WHEREAS, SubdividerDeveloper desires to purchasesubdivide and develop Phase 3 (Phases 1 & 2 were developed by an earlier developer) of said land for residential storage units; andpurposes. There will be no development of further Phases of the subdivision unless and until the parties enter into an amendment(s) to this Agreement covering the terms and provisions of each specific phase.

WHEREAS, said land is presently zoned RS-4M-2, which is appropriate for the use plannedRS-2, and A-1 (overlay TND) which will require rezoning to RS-2 and RC-2 to allow the above development; and

WHEREAS, said land is identified in the Comprehensive Plan for residential industrial development; and:

WHEREAS, the Village agrees to sell its land in the proposed development for \$25,000 per acre, and~~4.00~~.

WHEREAS, the Plan Commission of the Village has given its approval of the concept planrecommended to the Village Board of the Village that the proposed subdivision of the above-described lands be given final approval when the plat thereof has been presented to the Plan Commission and Village Board on the condition that the Subdivider enter into an agreement with the Village relative to the manner and method by which said land is to be developed; and

WHEREAS, the Subdivider~~Developer~~ agrees to develop said land as herein described in accordance with this agreement.

NOW, THEREFORE, in consideration of the granting of approval of a CSM and site plan~~plat~~ of the above-described lands and the development thereof by the Village Board, the Subdivider~~Developer~~ does hereby agree to subdivide and develop said land as follows:

SECTION I: IMPROVEMENTS

A. — Roads and Streets. The Village will perform the following: Subdivider hereby agrees, at Subdivider's sole expense:

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1. To grade, construct, and surface the public all roads and streets in Village Green in accordance with the Village's plan for the business park. This includes bidding and construction oversight of the road construction, plat of said subdivision and the plans and specifications attached hereto as Exhibit A. The Developer's engineer shall design the road to substantially match the centerline of the conceptually planned road and details provided by the Village.

2. The road shall be temporary finished with asphalt binder Dense aggregate base of to an engineered thickness as shown in the plans, will be laid for the roads no later than September 30th Novemb of 2022, or 1 of the year the road is initially graded. Engineering of the base thickness shall consider subgrade strength during spring frost thawing. The roads shall be proof-rolled prior to placement of dense aggregate base, and if necessary, remediated per the plans and specifications. Precipitation up to the ten-year event and snow melt shall positively drain away from the road. By October 1 of the following year, asphalt binder and the curb and gutter shall be installed. By July 31st of the following year, the surface course of asphalt shall be placed. The surface course of asphalt will be placed by the Village when the Village determines it be most cost effective based on the buildout of this development, developments further north on Innovation Drive, and other factors that the Village may choose to consider. Subdivider shall take all necessary "dust control" measures while streets are in gravel including posting a sign with a phone number for Hillcrest's person designated responsible for dust control.

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3. Prior to placing curb and gutter and binder course of asphalt, the dense aggregate base shall be regraded to conform to the plans and

specifications. The Subdivider shall show that base grade and thickness matches the plans and specifications $\pm 0.5'$.

____ Prior to placing surface course of asphalt, the Subdivider shall repair or replace deteriorated or failed sections of the binder course as identified by the Village.

____ The Village will plow and maintain the roads past the last home under construction or to the next efficient place to stop. The Village will plow with care but shall not be responsible for damage to structures within the road, the road, or curb and gutter.

3. ____ Permanent concrete sidewalk shall be installed prior to occupancy on a lot. If one person or group buys multiple adjacent lots, permanent concrete sidewalk shall be installed across all lots prior to occupancy of the built upon lot. In the case where a vacant lot(s) exists between two lots with sidewalks, the Village may require installation of temporary or permanent sidewalks if the condition exists for more than two summers. Hillcrest Fredonia LLC may request a delay for installation of permanent sidewalk to the Village Board. When making such a request, Hillcrest LLC shall list the reasons why such a request is made.

____ Subdivider shall design and install sidewalk on the west side of N. Milwaukee Street from termination of existing sidewalk at 400 Martin Drive extending northerly to the Subdivider's property. This work will be paid by the Village. Subdivider shall obtain quotes for the design work and construction work and obtain Village approval prior to proceeding. Sidewalk shall be installed when the sidewalk for lot 62 is installed or no later than September 30, 2022

4. ____ Street trees shall be installed prior to occupancy of a lot.

45. ____ The Developer shall construct the buildings as shown on the site plan (Attachment A) within (to be negotiated) with a minimum of (percent to be determined)% of them being constructed in the first year. Landscaping as shown in Attachment A shall be installed when practical; however, some landscaping shall be installed each year. Request a minimum of six building permits for the purpose of constructing models or custom homes, to be given during construction of improvements. A duplex condominium will be considered one building. No other permits will be issued until dense aggregate road base is placed. The Subdivider shall indemnify the Village or any of its employees or agents for damages incurred to all third parties and Village equipment or emergency vehicles as a result of the use of the road bed prior to the installation of the finish coat on the roadway.

It is specifically understood that no occupancy permits for these buildings six

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homes or additional building permits shall be granted until SubdividerDeveloper completes the *(this paragraph may be eliminated based on site plan and landscaping phases)* rough grading of the subdivision; construction of the road base, water, storm, and sewer lines for Phase 1 of the development and such completed infrastructure have been installed as per plans and specifications, and dedicated to the Village. It is understood by the parties that such dedication shall not occur unless prior review and approval of the construction and installation of the utilities has been given by the Village Engineer and other necessary Village authorities.

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B.— Sanitary Sewer. No sanitary sewer is planned to be installed for this project. The Subdivider hereby agrees, at Subdivider's sole expense:

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1. ——— To construct, furnish, install, and provide a complete sewerage system throughout the entire subdivision in accordance with the plans, specifications, and drawings as approved by the Village and attached hereto as Exhibit A.

2. ——— That construction of sanitary sewer will be completed and in acceptable form to the Village Board no later than one year after construction begins. Cretex External Chimney Seals or its functioning equal shall be installed on all manholes in conjunction with curb and gutter and asphalt surface work as required in Section I.A.(2) of this Agreement. Each sanitary sewer system shall be televised, any defects repaired, and the videotape supplied to the Village before dedication.

3. ——— All materials used in said construction shall be subject to Village approval.

C.— Water. ——— No water main is planned to be installed for this project. The Subdivider hereby agrees, at Subdivider's sole expense:

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1. To construct, install, furnish, and provide a complete system of water distribution throughout the entire subdivision, in accordance with the plans and specifications as approved by the Village and attached hereto as Exhibit A.

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2. That construction of the system of water distribution will be completed and in acceptable form to the Village Board no later than one year after construction begins.

3. All materials used in said construction shall be subject to Village approval.

D. Surface Water Drainage. The Village will perform the following: Subdivider hereby agrees, at Subdivider's sole expense:

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1. Design. To construct, install, furnish, and provide public storm sewer and detention pond. The Developer is responsible for providing drainage facilities within their development. The Village and Developer will coordinate the location of storm sewers and inlets, manholes and catch basins to facilitate drainage from the development. Adequate facilities for storm and surface water drainage throughout the entire subdivision and a grading plan providing for sump pump discharge either to a tile or open swale, in accordance with the plans and specifications attached hereto as Exhibit A.

2. Subdivider is aware of an existing storm water detention pond which serves this subdivision. Subdivider agrees to measure depth and dredge as necessary the pond to restore it to its design grades. Once the pond is restored to its design grades and disturbed vegetation replaced it may be dedicated to the Village.

All construction pursuant to this subsection shall be done in conformance to the erosion control requirements set forth in the Village Code.

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E. Landscaping. The Subdivider/Developer hereby agrees, at Subdivider/Developer's sole expense:

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1. To preserve to the maximum extent possible existing trees, shrubbery, vines, and grasses not actually lying in public roadways, drainage ways, building foundation sites, private driveways, soil absorption waste disposal areas, paths, and trails by use of sound conservation practices.

2. To plant street trees at least 2 inches in diameter, no more than 40 feet apart, in accordance with the species set forth in Exhibit B. To implement the approved landscaping plans. *Attach the landscaping plans as Exhibit A to this agreement.*

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3. To remove and lawfully dispose of all structures, outbuildings, destroyed trees, brush, tree trunks, shrubs, and other natural growth and all rubbish.

4. To remove site erosion control practices when the site is stabilized.

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4. That all landscaping on land proposed to be dedicated to the Village except street trees and removal of unwanted items will be completed in accordance with the schedule set forth in the landscaping plan (Exhibit B), but under no circumstances later than the completion of final paving.

Landscaping on lots with homes shall be completed prior to occupancy.

F. Street Signs. The Subdivider hereby agrees, at Subdivider's sole expense:

The Subdivider will purchase and install the street signs and necessary traffic signs in conformance with the MUTCD for the subdivision prior to occupying any homes.

GF. Street Lights. The Village will provide street lights. Subdivider hereby agrees, at Subdivider's sole expense:

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G. Land Division The Village will create a certified survey map, CSM, to establish the land to be sold based on the Developer's site plan.

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Subdivider will be responsible for installation of LED street lights at locations, which meet the standards of WE Energies and as approved by the Village. The street lights shall match the style and material of the existing street lights in the Village Green Subdivision. The street lights will be owned by WE Energies.

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H. Construction Requirements. The SubdividerDeveloper hereby agrees, at SubdividerDeveloper's sole expense, to perform all of the construction and installation of the improvements set forth in Section I herein pursuant to the following terms and conditions:

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1. All construction set forth above shall be done pursuant to all applicable federal, state, and county laws and State Statutes and the regulations of all government agencies having jurisdiction over such construction.

2. Prior to commencing site grading and excavating, the SubdividerDeveloper shall provide to the Village written proof certification from the SubdividerDeveloper's Engineer or surveyor that the site plan, once implemented, shall meet all federal, state, county and local regulations, guidelines, specifications, laws and ordinances, including proof, if applicable and written proof, of notification of land disturbances to the State of Wisconsin Department of Natural Resources, and written proof that the Village Engineer, state agencies, county agencies and Army Corp of Engineers, if applicable, have approved said plan.

3. All disturbed areas in the developmentsubdivision, as a result of the construction and installation of the improvements set forth above, shall be restored to the satisfaction of the Village Engineer. Said letter of credit provided for herein (Section II B) shall not be released until the Village Engineer is satisfied that no further erosion measures are required.

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SubdividerDeveloper shall remove erosion and sedimentation control measures after the site is stabilized. if SubdividerDeveloper fails to remove such measures the Village may cause such work to be carried out and shall charge said cost against the letter of credit set forth herein pursuant to this Agreement.

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4. The SubdividerDeveloper shall cause all grading, excavating, open cuts, side slopes and other land disturbances to be seeded and mulched, sodded or otherwise protected that erosion, siltation, sedimentation and washing are prevented in accordance with the plans and specifications reviewed and approved by the Village Engineer and Wisconsin Department of Natural Resources.

5. The Village will hire an engineer to perform density testing, fill observations, check material gradations, concrete placement and strength inspection and testing. These costs will be special assessed to each lot in the subdivision.

65. The Village retains the right to require SubdividerDeveloper to install additional surface and storm water drainage measures if it is determined by the Village Engineer that the original surface and storm water drainage plan as designed and or constructed does not provide reasonable storm water drainage within the development and surrounding area.

7. The Subdivider, as required by the Village, shall remove and lawfully dispose of buildings, destroyed trees, brush, tree trunks, shrubs and other natural growth and all rubbish from the development.

86. The SubdividerDeveloper hereby agrees that if, at any time after plan approval and during construction, the Village Engineer determines that modifications to the plans including additional improvements such as additional drainage ways, erosion control measures, and surface and storm water management measures are necessary in the interest of public safety, are necessary in order to comply with current laws, or are necessary for the implementation of the original intent of the improvement plans, the Village is authorized to order SubdividerDeveloper, at SubdividerDeveloper's expense, to implement the same. if SubdividerDeveloper fails to construct the additional improvement within a reasonable time under the circumstances, the Village may cause such work to be carried out and shall charge against the letter of credit. special assess said cost against all of the properties in the subdivision.

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9. There will be no development of future phases of the subdivision unless and until the parties enter into a written amendment(s) to this Agreement covering the terms and provisions of each specific phase.

SECTION II:

A. DEDICATION

Subject to all of the other provisions of this Agreement and the exhibits hereto attached, the Subdivider shall, without charge to the Village, upon completion of all of the above described improvements, unconditionally give, grant, convey and fully dedicate the same to the Village, its successors and assigns, forever, free and clear of all encumbrances whatever, together with, including without limitation because of encumbrances wherever, together with, including without limitation because of enumeration, all land, buildings, structures, mains, conduits, pipes, lines, plant machinery, equipment appurtenances, and habiliments which may in any way be a part of or pertain to such improvements and together with any and all necessary easements for access thereto. After such dedication, the Village shall have the right to connect or integrate other sewer or water facilities provided hereunder as the Village decides, with no payment or award to, or consent required of the Subdivider.

BA. GENERAL INDEMNITY

In addition to, and not to the exclusion or prejudice of any provisions of this Agreement or documents incorporated herein by reference, SubdividerDeveloper shall indemnify and save harmless the Village, its officers, agents, and employees, and shall defend same from and against any and all liability, claims, loss, damages, interest, actions, suits, judgments, costs, expenses, attorneys fees, and the like, which may in any manner result from or arise in the course of, out of, or as a result of the negligent construction or operation of improvements covered hereby, the violation of any law or ordinance, the infringement of any patent, trademark, trade name or copyright, and the use of road improvements prior to their formal dedication to the Village as provided herein, in every case where there is a judgment recovered against the Village, if notice and the opportunity to defend has been given to SubdividerDeveloper within 10 days after the commencement of a suit, the judgement shall be conclusive upon the SubdividerDeveloper not only as to the amounts of damages, but also as to its liability to the Village.

CB. BONDS/LETTERS OF CREDIT

1. Prior to the execution of this Agreement by the Village Board, the SubdividerDeveloper shall file with the Village cash or a letter of credit setting forth terms and conditions in a form approved by the Village Attorney and in the amount equivalent to the value of the implementation of erosion control practices and landscaping plan as the paving work to be performed, as a guarantee that the SubdividerDeveloper will perform all of the terms of this Agreement no later than one (1) year from the signing of this Agreement except as otherwise set

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forth in the Agreement. If at any time: *This letter of credit may not be necessary based on phasing and scope of work of the development. Developer is not responsible for any public improvements.*

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a4. The Subdivider~~Developer~~ is in default of any aspect of this Agreement; or

b2. The Subdivider~~Developer~~ does not complete the installation of the improvements within one year from the signing of this Agreement unless otherwise extended by this Agreement or by action of the Village Board; or

c3. The Subdivider~~Developer~~ fails to maintain a cash deposit or letter of credit in an amount approved by the Village Engineer and in a form approved by the Village Attorney, to pay the costs of the improvements of the subdivision~~development~~;

The Subdivider~~Developer~~ shall be deemed in violation of this Agreement and the Village Board shall have the authority to draw upon the letter of credit. The amount of the cash or letter of credit may be reduced by resolution of the Village Board as the improvements are completed by the Subdivider~~Developer~~, provided that the remaining cash or letter of credit is sufficient to secure completion of the remaining improvements. The letter of credit shall remain in full force and effect for a period of one year from the date of dedication of all of the improvements set forth within this Agreement to the Village. The lending institution providing the irrevocable letter of credit shall pay to the Village Board all sums available for payment under the letter of credit upon demand, subject to the terms and conditions of the letter of credit, and upon its failure to do so, in whole or in part, the Village shall be empowered in addition to its other remedies, without notice or hearing, to impose a special charge for the amount of said completion costs, upon each and every lot in the development payable with the next succeeding tax roll. The Village is herein authorized to contact directly the Subdivider~~Developer~~'s lending institution from time to time regarding the sufficiency of the irrevocable letter of credit in force.

2. The letter of credit may be reduced as implementation of the erosion control and landscaping is implemented upon approval of the Village Board.

C. FAILURE TO DEVELOP THE PROPERTY

At the sole discretion of the Village, if the developer fails to develop the property as agreed in the timeframe agreed upon, The Village may purchase the property back at \$25,000/acre.

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SECTION III: MISCELLANEOUS REQUIREMENTS

A. Survey Monuments. The Subdivider hereby agrees to properly place and install all survey or other monuments required by statute or ordinance. All

property corners and survey monuments shall be in place prior to issuance of building permit.

B. ~~Deed Restrictions.~~ The Subdivider hereby agrees to execute and record deed restrictions in the form of Exhibit C attached hereto. Such restrictions shall include a covenant that there shall be no future division or subdivision of lots on this plat without the approval of the Plan Commission of the Village of Fredonia.

C. ~~Park Dedication.~~ The Subdivider agrees to dedicate Outlot 9 as park space and to install agreed upon improvements.

D. ~~The Subdivider agrees to substantially eliminate the existing ditch that drains to the existing detention pond along STH 57. The Subdivider may use this ditch to place a storm drain or construct a shallow swale.~~

E. ~~Record Drawings.~~ The SubdividerDeveloper hereby agrees to furnish to the Village Engineer a record drawings of all utility and structures. The SubdividerDeveloper shall provide one set of record drawings in AutoCAD format, one set in a PDF, and two hard copies to scale. The record drawings shall show in red the grade, location and elevation as appropriate of each structure, fitting, pipe line, road centerline. The record drawings shall also show the street grade in front of each lot and the recommended basement floor grade and finished rear grade. The Village will be responsible for creation of record drawings for the public improvements.

F. Fees and Costs. SubdividerDeveloper shall pay to the Village all, inspection fees and other administrative expenses within fifteen (15) days of being invoiced for the same by the Village. In the event that said costs are not paid within that time by SubdividerDeveloper, then said amount may be assessed against the subdivision land as a special charge pursuant to Section 66.6006), Wis. Stats. Additionally, it is agreed that the SubdividerDeveloper shall pay to the Village all costs involved in the successful enforcement by the Village of any of the terms or conditions of this agreement, said costs to include reasonable attorney's fees. ~~To help defray the costs of the development, the Village will be responsible for the cost of inspection of public infrastructure inspect the installation of roads, water main, sanitary sewer, storm sewer, and rough grading with its staff. This is not intended to function as quality control for the SubdividerDeveloper or to relieve the SubdividerDeveloper's engineer of their duty. The Village's staff will not function as the resident engineer.~~

No fees are anticipated.

G. Indemnification. In addition to and not to the exclusion or prejudice of any provisions of this Agreement, or documents incorporated herein by reference, SubdividerDeveloper shall indemnify and save harmless the Village, its officers, agents, and employees, against any and all liability, claims, losses, damages,

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Commented [VoF-RS1]: Is this indemnity the same as Section II A?

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interests, actions, suits, judgments, costs, expenses, reasonable attorneys fees and the like, to whosoever owed and by whosoever and whatever brought and obtained which may in any manner result from or arise in the course of, out of, or as a result of SubdividerDeveloper's negligent performance of the Agreement, for SubdividerDeveloper's negligent construction or operation of improvements covered hereby, or its violation of any law or ordinance or the infringement of any patent, trademark, trade name, or copyright.

The parties mutually agree that the Village President and/or the Village Clerk, entered into and are signatory to this Agreement solely in their official capacity and not individually and shall have no personal liability or responsibility hereunder; and personal liability as may otherwise exist, being expressly released and/or waived.

H. Binding Effect. This Agreement shall bind not only the parties hereto, but their respective heirs, administrators, successors and assigns.

I. Entire Agreement. This Agreement, and the exhibits attached hereto, sets forth all the covenants, promises, agreement, conditions and understandings between the parties concerning the subdivision and there are no covenants, promises, agreements, conditions or understandings, either oral or written, between them other than are herein set forth. No alteration, amendment, change or addition to this Agreement shall be binding upon either party unless reduced to writing and signed by both parties.

J. Authorized Representative. SubdividerDeveloper warrants and represents that this Agreement has been executed by an agent, employee, or other representative acting by, through, and on behalf of Hillcrest Fredonia Meadowlark Storage, LLC, and who has been authorized by Hillcrest Fredonia Meadowlark Storage, LLC to enter into the Agreement outlined above.

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K. Insurance. The subdividerdeveloper, its contractors, suppliers and any other individual working on the development shall maintain at all times until the expiration of the guarantee period, insurance coverage in the forms and in the amounts as required by the Village.

L. Application of Village Ordinances. All provisions of the Village Ordinances are incorporated herein by reference, and all such provisions shall bind the parties hereto and be a part of this Agreement as fully as if set forth at length herein. This Agreement and all work and improvements required hereunder shall be performed and carried out in strict accordance with and subject to the provisions of said ordinances which, if amended after this Agreement is signed, shall not act retroactively but only to the extent that they would impact the terms of this Agreement relating to the improvements as required by the SubdividerDeveloper set forth in Section I and other obligations of the SubdividerDeveloper contained in this Agreement.

M. Assignment. The Subdivider~~Developer~~ shall not assign this Agreement without the written consent of the Village. The assignee must agree to all terms and conditions of this document in writing.

N. Amendments. The Village and the Subdivider~~Developer~~, by mutual consent, may amend this Subdivider~~Developer~~'s Agreement at any meeting of the Village Board. The Village shall not, however, consent to an amendment until after first having received a recommendation from the Village's Plan Commission.

O. Noise. The Subdivider~~Developer~~ shall make every effort to minimize noise, dust and similar disturbances while constructing and installing the improvements in the development.

P. Debris. The Subdivider~~Developer~~ acknowledges that it has ultimate authority for cleaning up debris that has blown from buildings under construction within the development until such time as all improvements have been installed, dedicated to, and accepted by the Village Board. The Village shall make a reasonable effort to require the contractor, who is responsible for the debris, to clean up the same or to hold the subject property owner who hired the contractor responsible. The Subdivider~~Developer~~ and/or subject property owner shall clean up the debris within forty- eight (48) hours after receiving a notice from the Village staff or Village Engineer. If said debris is not cleaned up after notification, the Village will do so at the Subdivider~~Developer~~'s and/or subject property owner's expense.

Q. Deed Restrictions. It is expressly understood and agreed that no building or occupancy permit shall be issued for any homes, including model homes, until the Village has determined that the Subdivider has prepared appropriate deed restrictions which are approved by the Village, filed with the Village Clerk and recorded with the Register of Deeds. In addition, ~~n~~No permits of any kind shall be issued until the Subdivider~~Developer~~ has paid in full all permit fees and park dedication fees as required by this Agreement. No building or occupancy permits shall be issued by the Village in the event that the Subdivider~~Developer~~ is in default of any aspect of this Agreement.

R. Covenants. ~~The Developer shall submit for approval covenants and rules for tenants us of the property.~~

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SECTION IV: GUARANTEE OF IMPROVEMENTS

~~—The Subdivider shall guarantee after dedication the public improvements and all other improvements described in Section I hereof against defects due to faulty materials or workmanship, provided that such defects appear within a period of one year from the date of dedication. Such guarantee shall be~~

confirmed by the Subdivider providing the Village with the cash or letter of credit required herein. The Subdivider shall pay for any damages to Village property and/or improvements resulting from faulty materials or workmanship. This guarantee shall not be a bar to any action the Village might have for negligent workmanship or materials. Wisconsin Law and negligence shall govern such situations. If the Subdivider fails to pay for any damages or defects to Village property and/or improvements and the Village is required to draw against the cash or letter of credit on file with the Village, the Subdivider is required to replenish said monies up to the aggregate amount of the total cost of all improvements within fourteen (14) days of the Village drawing against the cash or letter of credit.

If during said guarantee period, the improvements shall, in the reasonable opinion of the Village staff, require any repair or replacement which, in their judgment, is necessitated by reason of settlement of foundation, structure of backfill, or other defective materials or workmanship, the Subdivider shall, upon notification by the Village of the necessity for such repair replacement, make such repair or replacement, at its own cost or expense. Should the Subdivider fail to make such repair or replacement within the time specified by the Village in the aforementioned notification, after notice has been sent as provided herein, the Village Board may cause such work to be done, but has no obligation to do so, either by contract or otherwise, and the Village Board may draw upon such guarantee security to pay any costs or expenses incurred in connection with such repairs or replacements. Should the costs or expenses incurred by the Village Board in repairing or replacing any portion of the improvements covered by this guarantee exceed the amount of the guarantee security, then the Subdivider shall immediately pay any excess cost or expense incurred in the correction process. Not Used

SECTION V: METHOD OF IMPROVEMENT

The Subdivider hereby agrees to engage contractors for all work included in this Agreement who are qualified to perform the work and who shall be listed as qualified for such work by the Village Board or by one of its commissions in the event said Board or commissions has published such lists prior to this date. The Subdivider further agrees to use materials and make the various installations in accordance with the approved plans and specifications made a part of this agreement by reference and including those standard specifications as the Village Board or its commissions may have adopted and published prior to this date. Withdrawal of all or any part of escrowed or secured funds as set forth in Section II of this Agreement shall be made only with the approval of the Village Board. Not Used

SECTION VI: PLAT APPROVAL

The Subdivider Developer acknowledges that the subject land is subject to a

conditional preliminary plat approval and a conditional final plat approval by the Village of Fredonia. The Subdivider~~Developer~~ further agrees that it is bound by these conditions. If there is a conflict between the conditions as set forth in said conditional approvals and the Subdivider~~Developer~~'s Agreement, the more restrictive shall apply.

SECTION VII: VILLAGE RESPONSIBILITY

The Village ~~will~~ shall not be responsible to perform repair ~~and~~ or maintenance on any public improvements until accepted by the Village Board; except for, snow plowing, exercise of valves, flushing of hydrants, and jetting of sewer s. The Village may take emergency actions to help protect health, safety, and property damage on the Developer's property. The Subdivider~~Developer~~ shall reimburse the Village for emergency efforts within 15 days of receiving the invoice or the Village will assess these costs to the Subdivider~~Developer~~'s property.

SECTION VIII: MAINTENANCE PRIOR TO ACCEPTANCE

A. ~~See Section VII.~~ All improvements shall be maintained by the Subdivider so they conform to the approved plans and specifications at the time of their acceptance by the Village Board. This maintenance shall include routine maintenance, such as regrading unpaved roads to provide a smooth ride, crack filling, roadway patching, cleaning ditches and swales, and similar tasks. In cases where emergency maintenance is required, the Village Board retains the right to complete the required emergency maintenance in a timely fashion and bill the Subdivider for all such associated costs. Said bill shall be paid immediately by the Subdivider. The Subdivider's obligation to maintain all improvements shall expire at the expiration of the guarantee period.

B. ~~Street sweeping and dust suppression shall be done by the Subdivider~~ Street sweeping and dust suppression shall be done by the Subdivider~~Developer~~ on a regular basis as needed to insure a reasonably clean and safe roadway during construction of their improvements until dedication to and acceptance by the Village Board. Should the Subdivider~~Developer~~ fail to meet this requirement, the Village Board will cause the work to be done and will bill the Subdivider~~Developer~~ on time and material basis, such bill shall be paid immediately by the Subdivider~~Developer~~.

C. ~~In the event drainage problems arise within the development, the Subdivider~~ In the event drainage problems arise within the development, the Subdivider~~Developer~~ shall correct such problem to the satisfaction of the Village staff and engineer. Such correction measures shall include, without limitation, cleaning of soil, loose aggregate and construction debris from culverts, drainage ditches and streets; dredging and reshaping of siltation or retention ponds; replacing of siltation fences; sodding and seeding; construction of diversion

ditches, ponds and siltation traps; and restoration of all disturbed areas. This responsibility shall continue until such time as the roads, ditches, and other disturbed areas have become adequately vegetated and the Village Board is satisfied that the SubdividerDeveloper shall restored all areas which were disturbed because of this development.

IN WITNESS WHEREOF, the SubdividerDeveloper has caused this Agreement to be signed this of _____, 20224

Hillcrest FredoniaMeadowlark Storage, LLC

Formatted: Highlight

By: _____
Oyvind SolvangLaura Logan, Member

STATE OF WISCONSIN
S.S.
COUNTY OF OZAUKEE)

Personally came before me on _____, 20224 the above-named Oyvind SolvangLaura Logan known to me to be the person who executed the foregoing and who acknowledged the same.

Notary Public, State of Wisconsin
My commission expires/is _____

Accepted pursuant to Resolution adopted by the Village Board of the Village of Fredonia this _____ day of _____, 20224.

VILLAGE BOARD OF THE VILLAGE
OF FREDONIA

By: _____
Donald Dohrwardt, President

ATTESTED TO:

By: _____
Sandra Tretow Melissa Depies, Village Clerk

Approved:

Village Attorney

Prepared by:

Roger Strohm
Village of Fredonia.

DRAFT

**DECLARATION OF RESTRICTIONS
AND COVENANTS**

Title of Document

Document Number

Recording Area

Name and Return Address

Michael P. Herbrand

Houseman & Feind, LLP

P. O. Box 104

Grafton, WI 53024

Parcel Identification Number (PIN)

**CITY OF CEDARBURG
HIGHWAY 60 BUSINESS PARK
DECLARATION OF RESTRICTIONS AND COVENANTS
RECITALS**

WHEREAS, the City of Cedarburg ("City") is the sole owner of the Property (as hereinafter defined) located within the City limits, more particularly described in Section 1, herein; and

WHEREAS, the City has determined that it is in the best interests of the City, the prospective owners of the Property, and the City's citizens to provide for controlled development of the Property as a business park; and

WHEREAS, the covenants set forth herein are intended by the City to incorporate portions of the strictest performance standards, as set forth in the Performance Standards in the M-3 Business Park Districts, sections 13-1-169, 13-1-170, 13-1-171, 13-1-172, 13-1-173, 13-1-174, 13-1-175, 13-1-176, and 13-1-177 of the Cedarburg Municipal Code of Ordinances, with an emphasis on aesthetics and high architectural standards;

NOW THEREFORE, LET IT BE KNOWN that each and every person, party or entity hereafter purchasing or owning or in any way taking possession of the Property or any portion thereof shall do so subject to the following restrictions and covenants, to wit:

SECTION 1 – PROPERTY SUBJECT TO THIS DECLARATION

The following property ("Property") shall be subject to this Declaration:

Northwest 1/4 and Southwest 1/4 of the Northeast 1/4 of Section 22, Town 10 North, Range 21 East, in the City of Cedarburg, Ozaukee County, Wisconsin, bounded and described as follows:

Commencing at the Northwest corner of the Northeast 1/4 of said Section 22; thence South 02° 07' 53" East along the West line of said 1/4 Section a distance of 56.00 feet to a point in the South line of State Trunk Highway 60 and the point of beginning of Property to be described; thence North 87° 14' 38" East along said South line 983.53 feet to a point; thence North 86° 44' 38" East along said South line 344.64 feet to a point in the East line of the West 1/2 of the Northeast 1/4 of said Section 22; thence South 02° 10' 31" East along said East line 1943.69 feet to a point; thence South 87° 13' 05" West 1329.62 feet to a point in the West line of the Northeast 1/4 of said Section 22; thence North 02° 07' 53" West along said West line 1941.30 feet to the point of beginning. Containing 2,579,695 square feet or 59.2217 acres.

SECTION 2 - GENERAL PURPOSE

A. PURPOSE: The general purpose of this Declaration is to insure the best use and most appropriate development and improvement of each building site on the Property; to protect owners of building sites against such use of surrounding building sites as will detract from the commercial quality of the property; to guard against the erection thereon of poorly designed or proportioned structures; to obtain harmonious use of materials and color schemes; to insure the highest and best commercial development of said Property; to encourage and secure the erection of attractive buildings thereon with appropriate locations thereof on building sites; to prevent haphazard and inharmonious improvement of building sites; to secure and maintain proper setbacks from streets and adequate open spaces between structures; and in general to provide for a high quality of improvement in said Property, and thereby to preserve and enhance the value of investments made by owners of the building sites.

B. MUNICIPAL CODE: This Declaration shall not abrogate, replace or supersede the City of Cedarburg Municipal Code of Ordinances ("Code"). Any development within the Property shall comply with both this Declaration and the Code. In the event of a conflict between the terms of this Declaration and the Code, the more strict terms of either shall apply.

SECTION 3 - COVENANTS

A. APPROVAL OF BUILDING PLANS: No building, structure or improvement shall be constructed or placed on any lot, nor shall any building, structure or improvement be remodeled or altered, until detailed plans and specifications for such building, structure or improvement or remodeling, alteration or addition thereto, have been reviewed and approved by the City of Cedarburg Plan Commission ("Plan Commission").

B. ARCHITECTURAL STANDARDS: Buildings and structures shall comply with the following standards:

i) Buildings shall be designed by an architect or engineer. All sides, elevations or facades of all buildings and structures shall be visually pleasing and architecturally and aesthetically compatible with the surrounding environment, as determined by the Plan Commission. Building materials shall be selected for their ability to present a visual statement of a building's purpose, attractiveness and permanence. The building materials used shall be harmonious with the general character of other buildings and structures on the Property.

ii) The front, side and rear walls of all buildings shall be faced with brick, decorative masonry, stone, or architecturally-finished (including, without limitation, painted) precast concrete panels or other decorative material approved by the Plan Commission. For the purpose of this architectural standard, light weight or cinder concrete block shall not be considered a decorative masonry material. Exterior gutters and downspouts shall be permitted only along the side and rear of buildings.

Metal siding shall be used only as a minor building component not to exceed twenty-five percent (25%) of exterior wall surface, excluding roofing, in combination with one of the above materials unless there is Plan Commission approval to exceed this amount. The metal panels must be attractive, durable, of an earth tone or compatible color and not merely an inexpensive method of building.

iii) No building, structure or improvement shall be in excess of forty-five (45) feet in height above grade, excluding any utility penthouse.

iv) The architectural standards and design of any accessory buildings shall be consistent with the design and materials of the principal buildings(s).

v) Prefinished metal siding on rear or side walls shall be permitted until all expansions have been completed. At the time of completion, all side and rear walls shall have finished materials as agreed upon by the Plan Commission.

C. SITE DESIGN STANDARDS: Sites shall be designed to comply with the following standards:

i) With the exception of any lot line abutting State Highway 60, no part or portion of any building shall be erected, constructed or extended nearer than forty (40) feet from the front lot line of the subject site. Parking of motor vehicles and storage of materials, products or equipment shall be prohibited at all times within twenty-five (25) feet from the front lot line of the subject site.

ii) With the exception of any lot line abutting State Highway 60, no part or portion of any building shall be erected, constructed or extended nearer than twenty-five (25) feet to any interior side lot line in said property. Side yards on the street side of corner lots shall be a minimum of forty (40) feet and the use and treatment of such street side yard areas shall be in accordance with the provisions of Section 3(C)(i) above.

iii) With the exception of any lot line abutting State Highway 60, no part or portion of any building shall be erected, constructed or extended nearer than twenty-five (25) feet to any rear lot line.

iv) No part or portion of any building shall be erected, constructed or extended nearer than thirty (30) feet from the lot line abutting State Highway 60, regardless of whether or not the area is a front, side or rear lot line.

v) The entire front, side or rear lot line setback area shall be sodded or seeded and suitably landscaped not later than twelve (12) months after occupancy with materials approved by the Plan Commission. The setback landscaping shall include all areas between side lot lines from the front property line to the building face, excepting only such areas as may be required for driveways or walks.

vi) To achieve a park like appearance, site coverage by principal and accessory

buildings, parking areas and driveways shall not exceed seventy percent (70%) of the lot area, and open space shall comprise a minimum of thirty percent (30%) of the lot area including proper setbacks and offsets. All Property landscaped space in the parking lot shall be considered part of the open space requirement.

vii) All trash must be kept in proper containers enclosed by a fence of solid decorative material that will provide a visual screen. Such fence shall be a minimum of six (6) feet in height, and a maximum of 10 feet in height, and shall be painted or otherwise maintained so as to present a good appearance and be in good repair at all times. Planting shall be provided at the base of all fencing where such base is visible from any dedicated or reserved public street. All fencing exceeding 6 feet in height shall require prior approval by the Plan Commission.

viii) All utility lines within said property shall, where feasible, be installed underground in easements provided, therefore.

D. SIGNAGE STANDARDS: Subject to a variance to these standards being granted by the Plan Commission, at its discretion, signs shall be in accord with the following standards:

i) One (1) wall sign may be allowed on the exterior wall of the principal building. The maximum area of such a wall sign shall be one hundred (100) square feet. In a multi-tenant building, each tenant may share a portion of the maximum total of one hundred (100) square feet of wall signage. On a corner lot, each exterior wall facing a public street may share a portion of the maximum total of the one hundred (100) square feet of wall signage.

ii) One (1) ground-mounted sign may be allowed per premises (not including a pole sign or pylon sign). The maximum area of such a ground-mounted sign shall be fifty (50) square feet per side or one hundred (100) square feet for both sides, and the maximum height shall be six (6) feet.

iii) The color and materials used in structural elements of signage (not including the message area) should be consistent with and related to the building façade materials on the site. The colors used in message areas for all signage on a site should be similar or complementary to create a unified and coordinated appearance.

iv) Internally lit signage must be submitted for approval by the plan commission upon submission of building plans.

v) On-premises directional signage may be allowed giving directions to areas such as employee or visitor parking, and shipping or loading zones. The maximum size of each such directional sign shall be two (2) square feet per side or four (4) square feet for both sides.

vi) Temporary construction signs and banners, real estate signs, and election campaign signs shall be permitted in accord with the provisions of the City of Cedarburg Sign Code.

vii) Specifically prohibited signs include billboards, roof signs, pole or pylon signs, and electronic, flashing, or moving signs of any kind.

viii) The City, through the Plan Commission, may grant additional and/or larger signage rights or standards in its discretion, including, without limitation, in the form of a variance to the foregoing signage standards.

E. PARKING STANDARDS: Parking shall be in accord with the following standards:

i) Amount of parking spaces provided shall be in accord with applicable requirements of the City of Cedarburg Zoning Ordinance.

ii) All parking lots, roadways, driveways and loading areas shall be surfaced with either asphalt or concrete within twelve (12) months after occupancy of the site.

iii) Parking lots shall incorporate the following landscaping design standards:

a. Perimeter and interior lot line greenbelt. A perimeter greenbelt of at least five (5) feet in width shall be installed along all interior lot lines. Perimeter edges should be landscaped with a combination of plant material and earth berming whenever possible. Perimeter greenbelt landscaping may be omitted alongside lot lines which have shared driveways with adjacent lots. The omitted area is limited to that portion from the street to the required minimum building setback line or as necessary to accommodate access cuts.

b. Additional interior greenspace. The interior of parking lots shall be provided with landscape areas consisting of at least five percent (5%) of the total surface area intermittently placed throughout the parking area.

c. Location. Interior landscape plantings may be located in protected areas such as along walkways, in center islands, in end islands, or between parking stalls. Perimeter edge screening and berming should be limited in height to allow a line of sight to the buildings and not obstruct sight distance at entry drives. Parking areas located beyond the twenty-five (25) foot setback or offset required from a dedicated or reserved public street shall be screened by berm and/or landscaping.

d. Landscape Materials. Landscape materials may include shrubs, hardy flowering trees and/or decorative evergreen and deciduous trees. New trees shall have a minimum caliper of two inch (2") to two and one-half inches (2 ½") for canopy trees. The area around trees and planting beds shall be planted with shrubs or ground cover and covered with mulch, bark or appropriate landscape stones.

F. LANDSCAPING STANDARDS: The following landscaping standards shall be adhered to for all developments within the business park:

i) All developed areas of any lot not used for building, parking, driveways, or storage shall be landscaped with a combination of grass, trees, shrubs, berms and planted ground covers. Areas of the site held or designated for expansion shall be planted with grass and maintained as specified herein. Parking lots shall be landscaped as indicated above in Section 3(E)(iii). In addition, landscape plantings shall be provided in accord with a landscape plan prepared by the owner and approved by the Plan Commission. Street trees will be provided by the City.

ii) A landscaping plan shall be prepared and submitted for approval by the Plan Commission at the plan review stage. All landscaping shall be installed prior to the occupancy of any building or the end of the first planting season, whichever occurs first. If any landscaping from the approved plan is not completed at the City's occupancy inspection, the owner shall submit a bond or letter of credit to the City in an amount equal to the estimated cost of the uncompleted landscaping as specified in the landscaping plan prior to the City issuing a certificate of occupancy to the owner. The bond will be refunded to the owner or letter of credit released, by the City Building Inspector, or his designee, upon satisfactory installation of all uncompleted landscaping elements as specified in the approved landscaping plan.

iii) It is the owner's responsibility to maintain all landscaping in an attractive and well-trimmed condition at all times. The owner shall also replace any dead or damaged trees or shrubs with a similar species. Any dead or damaged sod shall also be replaced.

iv) All unused Property area that is planned for future building expansion or other purposes shall be maintained and kept free of unsightly plant growth, stored material, rubbish, refuse, or debris.

SECTION 4 – GENERAL PROVISIONS

A. TERM: The restrictions and covenants herein contained shall be deemed to be running with the Property and shall be binding upon all persons, parties and entities having an interest in the Property affected thereby, or claiming such rights for a period of twenty-five (25) years from the date hereof, after which time this Declaration shall be automatically extended for a successive period of five (5) years unless an instrument signed by a majority of Lot Owners has been recorded changing or terminating these restrictions or covenants or reducing the term thereof. For the purpose of calculating votes and determining a majority of Lot Owners under this Declaration of Restrictions and Covenants, each Lot Owner (defined herein as an owner of a parcel of land within the Property, but specifically excluding any outlots) will be allocated votes on a per acre basis (e.g. an owner of 20 acres of the Property – excluding outlots - is entitled to 20 total votes).

B. ENFORCEMENT OF DECLARATION:

i). City, any of its individual Alderpersons, Officers, employees, agents or assigns, any owner of real property within the Property, any member of the public, or any

governmental entity of any kind shall have the right to enforce, by proceedings at law or in equity, all the terms, conditions, and provisions of this Declaration. Any owner of all or any portion of the Property violating any of the terms, conditions or provisions of this Declaration shall pay all costs, expenses and actual attorney's fees incurred by any prosecuting individual or governmental entity. Neither the City, its individual Alderpersons, Officers, employees, agents or assigns, any owner of real property within the Property, any member of the public, or any governmental entity of any kind shall be subject to any suit or claim for failure to take any action allowed or required herein.

ii). Each remedy set forth in this Declaration shall be in addition to all other rights and remedies available at law or in equity. All such remedies shall be cumulative and the election of one shall not constitute a waiver of any other. Any forbearance or failure to exercise any such right or remedy for any violation shall not be a waiver of such right or remedy under any circumstances.

C. INVALIDATION: Invalidity of any of the restrictions or covenants herein contained, or any part thereof, by any judgment or court order shall not affect any of the other provisions herein contained, which shall remain in full force and effect.

D. GOVERNING LAW: The Laws of the State of Wisconsin shall apply to and be interpreted as to any dispute arising under this document.

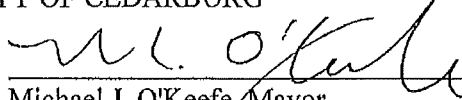
E. DIVIDING OR COMBINING LOTS PROHIBITED WITHOUT PLAN COMMISSION CONSENT: No portion of the Property shall be divided or combined during the term of these restrictions and covenants without the prior approval of the Plan Commission.

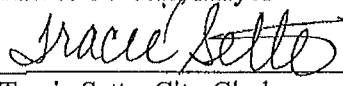
F. AMENDMENT: Any of the provisions of this Declaration may be annulled, waived, changed, modified or amended at any time by written document setting forth such annulment, waiver, change, modification or amendment, executed by the owners of at least seventy-five percent (75%) of the total number of lots comprising the Property. During that period of time that the City owns any undeveloped parcel of land within the Property (not including any outlot for stormwater control), no proposed amendment or termination shall be binding or effective without the prior approval of the Plan Commission and prior written consent of the City.

G. BINDING EFFECT: This Declaration and all amendments shall be executed as required by law so as to entitle it to be recorded and shall be effective upon recording in the office of the Register of Deeds for Ozaukee County, Wisconsin. This Declaration shall be binding upon and inure to the benefit of the City and its successors and assigns, and all persons, parties or entities who may hereafter become owner(s) of the Property or any portion thereof, and their legal representatives, heirs, successors and assigns.

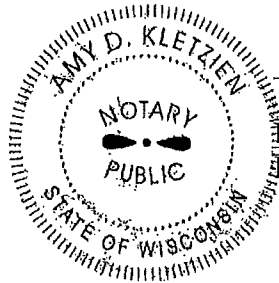
IN WITNESS WHEREOF, the City of Cedarburg has caused these presents to be signed
this 13th date of October, 2020.

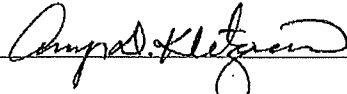
CITY OF CEDARBURG

by: 
Michael J. O'Keefe, Mayor

Attest: 
Tracie Sette, City Clerk

Came before me this 13th day of October, 2020 the above-named Michael J. O'Keefe and Tracie Sette, Mayor, and City Clerk of the City of Cedarburg, and acknowledged the same.




Notary Public, State of Wisconsin
My commission: 4/15/23

This instrument was drafted by:
Michael P. Herbrand
Houseman & Feind, LLP
1650 9th Avenue
P.O. Box 104
Grafton, WI 53024
(262) 377-0600
(262) 377-6080 (fax)
mike.herbrand@housemanlaw.com