

LEASE
BETWEEN THE
CITY OF WHITEWATER

AND

WHITEWATER COMMUNITY FOOD PANTRY

This Lease is entered into by and between the City of Whitewater, a Wisconsin Municipal Corporation , (hereinafter at times referred to as the City or Landlord), and **Whitewater Community Food Pantry**, an entity whose expected business activities of **operating a food pantry** are determined to be consistent with the operation of the Whitewater Armory located in the City of Whitewater, Walworth County, Wisconsin, and more particularly described below.

Therefore, based upon the mutual covenants contained herein, THE PARTIES AGREE AS FOLLOWS:

ARTICLE 1
GRANT AND TERM

1.1 **Premises.** In consideration of the rents, terms, and agreements to be performed and observed by Tenant, Landlord rents to Tenant and Tenant rents from Landlord the below described property, "Premises", as follows: Tenant shall have exclusive use of the Kitchen, the storage area located immediately outside of the Kitchen, and two small storage areas located off the foyer area of the Armory. During food drives and Thanksgiving basket preparation and distribution, additional space within the building will be made available to Tenant as needed. During such activities, Tenant shall be permitted to use the elevator. The City of Whitewater shall remove the cabinetry from the Kitchen, provide the necessary electrical outlets, and assist with moving the appliances from the existing space to the Kitchen of the Whitewater Armory located at 146 West North Street.

1.2 **Common Areas.** In addition to the above, Tenant and its employees, agents, customers and invitees, shall have the nonexclusive right, in common with Lessor and all others to whom Lessor has or may hereafter grant rights, to additional access to, but not have exclusive use of, the ball storage area solely for the purpose of accessing the slop sink, mop, bucket, and related custodial equipment. Tenant shall also have nonexclusive use of the foyer area during food distribution for the setup of tables. However, such use shall not impede access to or egress from the building or impede access to any other functions, areas, or activities within the Armory. The foyer area must be cleaned and cleared of all tables and other furnishings at the end of each day, and tables or other furnishings may not be stored or kept in the foyer area. Tenant shall be provided access to one bulletin board in the foyer area, and Tenant's postings shall be limited to that designated bulletin board. Taping of postings to the walls is prohibited, and Tenant shall not use any other bulletin boards within the building.

1.3 **Other Common Areas.** In addition, Tenant shall also have the nonexclusive right to use other areas and facilities of common benefit to the tenants and occupants such as the parking lot, and restrooms. Except as otherwise provided for herein, Landlord shall operate, manage, equip, light, insure, repair and maintain the Other Common Areas for their intended purpose in such manner as Landlord shall in its sole discretion determine, and may from time to time change the size, location and nature of any Other Common Areas, and may make installations therein, and alter, move and remove the same, and Landlord shall not

be subject to liability therefore, nor shall Tenant be entitled to any compensation, or diminution or abatement of rent, nor shall any such action be deemed an actual or constructive eviction of Tenant. Landlord reserves the right to make changes to the Other Common Areas and the layout of the Other Common Areas, including the construction of additional buildings and any other improvements therein and to place signs on the Center and to change the name, number or designation by which the Center is commonly known. Landlord shall provide parking to allow Tenant to use at least 3 on-site parking spaces per day, and sufficient on site and/or street parking to accommodate tenant's occasional need for additional parking spaces.

1.4 Original Term. The original term of this Lease shall be one year and begin on January 1, 2027 and shall end on December 31, 2032, at 12:00 midnight, unless otherwise terminated earlier hereunder.

1.5 Use. It is understood that Tenant shall use the leased premises for the operation of food pantry. Tenant shall not conduct any other business operations on the leased premises without the prior written consent of Landlord.

1.6 Surrender of Premises. At the expiration or any termination of this Lease, Tenant shall, without notice or demand, surrender the Premises in the same condition as at the commencement of the term, reasonable wear and tear excepted, and shall surrender all keys to Landlord. Subject to the provisions of Article 3 hereof, all alterations, additions and improvements constructed by or on behalf of Tenant on the Premises and all permanent fixtures shall, upon the expiration or termination of this Lease, become the property of Landlord.

ARTICLE 2 RENT

2.1 Rent. Tenant agrees to pay rents of \$1.00 per year to the City of Whitewater on or before the 1st day of each original term.

2.2 Utilities. In addition to rent, Tenant shall be responsible for the actual cost of electricity used in the Premises. The City of Whitewater shall furnish and maintain an electrical measuring device for the Premises, which shall be read monthly to determine Tenant's electricity usage. Tenant shall be responsible only for the cost of the electricity actually used in the Premises, calculated based upon the kilowatt-hours (KW/H) recorded by the measuring device. Tenant shall pay per month the calculated amount to the City of Whitewater on or before the 1st day of each month as reimbursement for all utilities it uses.

ARTICLE 3 CONSTRUCTION AND ALTERATIONS

3.1 Fixtures and Equipment. At its own expense, Tenant may furnish and install such additional business and trade fixtures and equipment in the Premises as may be necessary or desirable for Tenant's business. Such additional fixtures and equipment shall remain the personal property of Tenant and shall be removed by Tenant at the expiration or termination of this Lease. Upon removal of such fixtures and equipment, Tenant shall restore the Premises to its condition at the beginning of this Lease, reasonable wear and tear excepted.

ARTICLE 4 MAINTENANCE, REPAIRS AND DESTRUCTION

4.1 No Warranties by Landlord. The parties acknowledge that Tenant has had, prior to its occupancy, reasonable opportunity to inspect the Premises. Tenant takes the Premises pursuant to this Lease in AS IS condition, without warranty, express or implied, by Landlord as to any aspect of the physical condition of the Premises or its suitability for the Tenant's intended use.

4.2 Maintenance and Repair by Tenant. Subject to Section 4.3 below, Tenant shall keep the premises in good condition, and shall maintain and repair the Premises at its own cost and expense. Tenant shall keep the Premises sanitary, clean and neat.

4.3 Damage or Destruction. If the Premises or any portion thereof shall be partially or wholly destroyed or damaged by fire or other casualty to the extent of less than fifty percent (50%) of the total value of the Premises as a whole, then Landlord shall promptly restore or replace the Premises to the condition existing prior to such damage or destruction, regardless of whether or not the same is covered in whole or in part by insurance then in effect, and this Lease shall continue in full force and effect and rent due hereunder shall equitably abate. Such restoration shall be commenced promptly and pursued by Landlord with reasonable diligence to completion. All insurance proceeds received by Landlord or Tenant on account of such damage or destruction shall be applied to payment of said restoration to the extent that such proceeds will pay the same, with any deficiency to be paid by Landlord and with any excess insurance proceeds to be paid to Tenant.

If the Premises or any portion thereof shall be partially or wholly destroyed or damaged by fire or other casualty to the extent of fifty percent (50%) or more (as determined by Landlord's consultant in accordance with the standards of the Construction industry) of the total value of the premises as a whole, then Landlord shall have the sole and exclusive option, after consulting with tenant, to be exercised within 30 days of the damage to either rebuild or replace the Premises or not rebuild or replace the Premises. If Landlord elects to rebuild or replace the Premises, then this Lease shall remain in full force and effect, and Landlord shall commence said rebuilding or replacement immediately following the exercise of such option and shall proceed with the same with reasonable diligence to completion. If Landlord elects to rebuild or replace the Premises, the rent due shall equitably abate. If Landlord elects not to rebuild or replace the Premises, then this Lease shall terminate upon the exercise of such option by Landlord.

ARTICLE 5 UTILITIES

5.1 Utilities. The Landlord shall promptly pay for all water, sewer, heat, light and power furnished to the Premises. Tenant shall be responsible for the actual cost of electrical usage attributable to the Premises, based on the measured kilowatt-hours (KW/H) used within the premises. The City shall furnish and maintain an electrical measuring device for the Premises, which shall be read monthly, and Tenant shall be charged for the KW/H used. The City shall be responsible for all applicable electrical service charges and other charges not directly connected to Tenant's actual KW/H usage. If Landlord fails to pay the utilities on a timely basis, Tenant may pay them and receive a credit on its next lease payment for the amount paid. Landlord shall not be liable to Tenant for any interruption in the utility service not the fault of Landlord.

Tenant shall be solely responsible for any utility not mentioned above, including but not limited to telephone, internet, or cable.

5.2 Taxes and Assessments. Landlord shall pay and discharge as they become due all taxes (with the exception of personal property taxes on Tenant's personal property), assessments (including special assessments), and payments in lieu of taxes levied, assessed, charged or imposed on or against the Premises.

ARTICLE 6 CONDUCT OF BUSINESS

6.1 Waste and Nuisance. Tenant shall comply with all applicable laws, ordinances, regulations and covenants affecting the use and occupancy of the Premises. Tenant shall not commit, or permit to be committed, any waste or nuisance on the Premises. No smoking shall be allowed in any part of the building or on the property..

6.2 Compliance with Laws. The Tenant shall abide by all state and federal laws concerning discrimination including but not limited to laws prohibiting discriminating against persons on the grounds of race, color, national origin, handicap, age, religion or sex.

ARTICLE 7 INSURANCE AND INDEMNITIES

7.1 Public Liability Insurance. Tenant shall keep in full force and effect a policy of public liability insurance on the Premises and its business operated thereon, with combined single limits of not less than \$2,000,000.00 for injury per occurrence and for property damage. Such insurance shall name Landlord and Tenant as co-insureds.

7.2 Tenant's Property. Tenant shall be solely responsible for carrying personal property insurance sufficient to cover the loss of all personal property on the premises. Landlord shall not be liable for any damage to or loss of property on the Premises.

7.3 Hold Harmless and Indemnification. Landlord shall not be liable for any loss, injury, death or damage to persons or property caused by Tenant, and Tenant shall indemnify Landlord against all claims, liability, loss or damage caused by the Tenant.

ARTICLE 8 CONDEMNATION

8.1 Total Condemnation. If the entire Premises, or such part of the Premises (including entrances, exits and parking areas) as will render the remainder unsuitable for Tenant's use, shall be appropriated or taken or condemned under the power of eminent domain by any public or quasi-public authority, this Lease shall terminate as of the date of taking. Tenant shall have no claim against Landlord for the value of any unexpired term of this Lease or any other loss, damage, or expense that may be incurred by Tenant as a result thereof.

8.2 Partial Condemnation. If a partial taking or condemnation occurs not rendering the remainder of the Premises unsuitable for Tenant's use (with or without alterations or renovations to the Premises by Landlord), this Lease shall remain in full force and effect, with the exception that the monthly rent shall equitably abate as to any portion of the Premises taken. The amount of the rent abatement shall be mutually agreed to by Landlord and Tenant, taking into consideration (without limitation) whether or not the Premises

taken included building and improvements, whether the Landlord has exercised its right to alter or renovate the Premises as a result of the taking (and the cost thereof), and the extent and nature of the impact, if any, on the conduct of Tenant's business on the Premises.

8.3 Award. In all events, Landlord shall be entitled to receive and retain the entire amount of any award, compensation or damages resulting from any taking or condemnation. Tenant shall have no claim against Landlord by reason of such taking or termination and shall not have any claim or right to any portion of the award to be paid Landlord. Notwithstanding the foregoing, Tenant shall have the right to claim and recover from the condemning authority such compensation as may be awarded to Tenant for its leasehold interest, including any award for damages to Tenant's business by reason of such condemnation, and/or any cost or loss incurred by Tenant in removing Tenant's trade fixtures, equipment, and furnishings.

ARTICLE 9 DEFAULT

9.1 Events of Default. Each of the following events (and those other events specifically referred to elsewhere in this Lease) shall constitute a default under this Lease by Tenant:

- (a) Tenant's failure to pay monthly rent, or to otherwise pay or discharge any other monetary obligation.
- (b) Tenant's failure to perform, comply with, or observe any other material term or condition of this Lease, which failure shall continue for a period of thirty (30) days after written notice thereof is given to Tenant by Landlord.
- (c) If Tenant shall vacate or abandon the Premises or a substantial portion thereof while this Lease is in effect; provided, however, that such vacation or abandonment shall not constitute an event of default hereunder unless (i) it continues for ninety (90) consecutive days, or (ii) Tenant is otherwise in default hereunder.
- (d) If Tenant shall file a petition in bankruptcy or insolvency for reorganization under any bankruptcy or insolvency law, or make an assignment for the benefit of creditors.
- (e) If any involuntary proceedings under any bankruptcy or insolvency law shall be instituted against Tenant, or if a receiver or trustee shall be appointed for all or substantially all of Tenant's assets, and such proceeding shall not be dismissed or vacated within sixty (60) days.

9.2 Effect of Default or Breach. If any default or breach is not timely cured after written notice, Landlord shall have the following rights, as well as all rights and remedies under Wisconsin law:

- (a) Landlord may immediately terminate this Lease.
- (b) Landlord may elect, but shall not be obligated, to make any payment required to be made by Tenant hereunder, or to perform any other term or condition required to be performed by Tenant hereunder.
- (c) Landlord may re-enter the Premises and remove the property and personnel of Tenant,

and may store the property of Tenant in any place selected by Landlord at the expense of Tenant.

- (d) Landlord may re-let the Premises or any part thereof upon any terms or conditions. Landlord may make alterations and repairs to the Premises in order to prepare the same for re-renting. Tenant shall be liable to Landlord for all losses and damages incurred by Landlord resulting from Tenant's breach, plus Landlord's expenses for re-letting the Premises and for alterations and repairs made in order to prepare the Premises for re-renting.

9.3 Remedies of Landlord. All of Landlord's rights and remedies are cumulative and not exclusive. Tenant shall pay for any and all costs and expenses, including reasonable attorney's fees, incurred by Landlord in enforcing any term or condition of this Lease.

9.4 Defaults by Landlord. If Landlord defaults under the terms of this Lease, Landlord shall have thirty (30) days to cure the default after written notice thereof is given to Landlord by Tenant.

ARTICLE 10 INSPECTION BY LANDLORD

10.1 Entry by Landlord. Landlord and its agents shall have the right to enter the Premises for the purpose of inspecting the same.

10.2 Notice. Whenever reasonably possible, Landlord shall inspect the Premises at reasonable times during normal business hours and upon reasonable advance notice to Tenant. No notice to Tenant shall be required if Landlord reasonably believes an emergency or other exigent condition exists.

ARTICLE 11 ASSIGNMENT AND SUBLETTING

11.1 Tenant Assignment and Subletting. Tenant shall have the right to assign this Lease or sublet the Premises only with Landlord's prior written consent.

11.2 Landlord Assignment. Landlord shall have the right to assign this Lease at any time, provided that the assignee agrees to be bound by the terms of this Lease.

ARTICLE 12 SUBORDINATION

12.1 Subordination. This Lease is subject and subordinate to all mortgages which may now or hereafter affect the Premises, and to all renewals, modifications, consolidations, replacements, and extensions thereof.

ARTICLE 13 MISCELLANEOUS

13.1 Entire Agreement. This Lease sets forth the entire agreement between the parties, and supersedes all prior agreements and understandings. No subsequent change or addition to this Lease

shall be binding upon Landlord or Tenant unless reduced to writing and signed by them.

13.2 Notices. All notices under this Lease shall be in writing (unless expressly provided otherwise) and shall be by (a) deposit in the United States Mail, registered or certified mail, return receipt requested, or (b) delivery in person or by Federal Express or similar courier service. For purposes of notice, the addresses of the parties are as follows:

Landlord:	City of Whitewater c/o Kevin Boehm, Parks Director 312 W. Whitewater St. P.O. Box Whitewater, WI 53190
	and
	City of Whitewater, c/o Steven T. Chesebro, City Attorney 312 W. Whitewater St. P.O. Box 178 Whitewater, WI 53190
Tenant:	Whitewater Community Food Pantry

Either party may change its address by giving written notice to the other party.

13.3 Partial Invalidity. If any provision of this Lease shall be held invalid or unenforceable by a court, the remainder of this Lease shall not be affected, and each remaining provision shall be valid and enforceable.

13.4 Binding Effect. This Lease shall be binding upon, and shall inure to the benefit of, the parties and their respective successors and assigns.

13.5 Applicable Law. This Lease shall be governed by the laws of the State of Wisconsin.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the parties execute this Lease Agreement as of the date and last signed below.

CITY OF WHITEWATER, CITY MANAGER JOHN WEIDL
By/Date:

TENANT _____, WHITEWATER COMMUNITY FOOD PANTRY
By/Date: