

COOPERATIVE AGREEMENT
CITY OF TWO RIVERS AND WINE NOT, LLC

This Agreement is entered into this 6th day of October, 2022 between the City of Two Rivers, a Wisconsin Municipal Corporation having offices located at 1717 East Park Street, Two Rivers, Wisconsin 54241 ("City") and Wine Not, LLC, a Wisconsin Limited Liability Company, having offices located at 1718 West Park Street, Two Rivers, Wisconsin 54241 ("Developer").

WITNESSETH

WHEREAS, Developer is the owner of the property located at 1718 West Park Street, the former Wells Fargo Bank property, and is redeveloping said property as Cool City Brewing Company, a restaurant and microbrewery; this project that represents an investment of more than \$2 million in an important redevelopment property in downtown Two Rivers; and

WHEREAS, Developer is also the owner of surface parking lots located at the northeast corner of Adams and 18th Streets, and on the west side of Adams Street in the 1700 block of that street, as also depicted on the attached Exhibit A; and

WHEREAS, the City of Two Rivers is the owner of properties located immediately adjacent to the Developer's property, within the same block, consisting of City's J.E. Hamilton Community House and Senior Center located at 1520 17th Street and an adjacent surface parking lot, as also depicted on the attached Exhibit A; and

WHEREAS, the City and the Developer have recently engaged in discussions regarding cooperation in the use of their properties for public parking, for parking of City-owned vehicles, placement of a City-owned storage shed and placement of solid waste dumpsters to serve City's and Developer's facilities; and

WHEREAS, the terms for such mutually beneficial use of these properties were approved by action of the Two Rivers City Council at its meeting on April 4, 2022; that action of the City Council further authorized the City Manager to prepare and sign an agreement with Developer, consistent with such terms;

NOW, THEREFORE, the parties hereto agree as follows:

1. **Public Parking in City Parking Lot.** The City shall designate the 10 spaces in the easternmost row of parking spaces in the City parking lot as "Public Parking, Two-Hour Limit," and install appropriate signage at its expense.

The City shall designate the balance of the City parking lot as "Community House Parking Weekdays/Public Parking After 4:30 PM Weekdays and All Day Weekends" and install appropriate signage at its expense.

City shall continue to be responsible for all repair and maintenance of the City parking lot.

2. **City Use of Developer's Adams Street Parking Lot.** Developer shall allow the City the exclusive use of 10 parking spaces along the west side of Developer's Adams Street Parking Lot, on all days and at all times, for the parking of City-owned Parks and Recreation vehicles and equipment. City shall install signs along the fence at the west edge of such parking lot, indicating that the spaces are for "City Vehicles Only." Such parking spaces shall be immediately north of the storage shed location cited in 4. below.

Developer shall allow the City the exclusive use of the southernmost parking space in the row of parking spaces along west side of Developer's Adams Street parking lot, cited in 3. above, for placement of a City-owned storage shed to be used by the City's Parks and Recreation Department.

Developer shall be responsible for all repair and maintenance of the Developer's Adams Street parking lot; provided, however, that the City shall be responsible for snow plowing, snow removal and winter sanding/salting of Developer's Adams Street parking lot.

3. **Developer Placement of Dumpster in City Parking Lot.** Developer shall have the right to have a solid waste hauling contractor licensed to do business in the City of Two Rivers place a 6-yard dumpster for use by contractor's business, Cool City Brewing Company, next to the dumpster used by the City and located at the southeast corner of the City parking lot. Such dumpster shall not extend any further into the City parking lot than the City's dumpster and shall not obstruct the pedestrian access to the City Parking lot at that corner of the City parking lot.

The servicing of the dumpster for use by Cool City Brewing must occur between the hours of midnight and 7:00 AM; Developer will arrange for time and frequency of such servicing based on the volume of solid waste generated by its business. No solid waste from Cool City Brewing Company can be placed at locations on the City parking lot other than inside said dumpster.

4. **Term.** This agreement shall be full force and effect for a term of five years following the date of signing by the parties; provided, however, that either party may terminate this Agreement after first providing a minimum of 365 days advance written notice to the other party.
5. **Notice of Default and Right to Cure.** In the event of any default in or any breach of this Agreement or any of its terms or conditions by either party hereto, the non-defaulting party shall give written notice of the default to the defaulting party. The defaulting party may then cure such default or breach within five (5) business days after receipt of such notice. If the default or breach is not timely cured under this subsection, the non-defaulting party may exercise any right or remedy provided for herein.
6. **Remedies.** Subject to the notice of default and opportunity to cure provisions above, the parties may exercise any rights or remedies provided for by law or equity in the

event of any default in or breach of this Agreement by the other party, including but not limited to termination of this Agreement, an action for specific performance and an action for the recovery of damages. All rights and remedies may be exercised independently or concurrently. The election of one remedy does not preclude the pursuit of other remedies, unless otherwise provided for by law.

7. **Assignment by Developer.** During the term of this Agreement, Developer shall not have the right to assign this Agreement.

8. **Miscellaneous**

- a. **Approvals.** Whenever under this Agreement approvals, authorizations, determinations, satisfactions or waivers are authorized or required, such approvals, authorizations, determinations, satisfactions or waivers shall be effective and valid only when given in writing, signed by the party's duly authorized representative. Except as otherwise set forth herein, wherever any approval is required by the terms of this Agreement and request or application for such approval is duly made, such approval shall not be unreasonably withheld.
- b. **Waiver; Amendment.** No waiver, amendment, or variation in the terms of this Agreement shall be valid unless in writing and signed by the City and Developer, and then only to the extent specifically set forth in writing.
- c. **Entire Agreement.** This Agreement and the documents executed pursuant to this Agreement contain the entire understanding of the parties with respect to the subject matter hereof. There are no restrictions, promises, warranties, covenants or undertakings other than those expressly set forth in this Agreement and the documents executed in connection with this Agreement. This Agreement and the documents executed in connection herewith supersede all prior negotiations, agreements and undertakings between the parties with respect to the subject matter hereof.
- d. **No Third-Party Beneficiaries.** This Agreement is intended solely for the benefit of Developer and the City, and no third party (other than successors and permitted assigns) shall have any rights or interest in any provision of this Agreement. Without limiting the foregoing, no approvals given pursuant to this Agreement by Developer or the City, or any person acting on behalf of any of them, shall be available for use by any contractor or other person in any dispute relating to the Project.
- e. **Severability.** If any provision of this Agreement is held invalid, it shall be considered deleted from this Agreement and shall not invalidate the remaining provisions of this Agreement, which shall continue in full force and effect.
- f. **Successors and Assigns.** The terms and provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto, as well as their respective successors, transferees and permitted assigns.

- g. **Municipal Approvals; Compliance with Law.** The provisions of this Agreement shall not vest any rights on the Developer to any municipal approvals required under applicable law. Nothing contained in this Agreement is intended to or has the effect of releasing Developer from compliance with all applicable laws, rules, regulations and ordinances in addition to compliance with all terms, conditions and covenants contained in this Agreement.
- h. **City's Right of Immunity.** Nothing contained in this Agreement constitutes a waiver of the City's ability to assert its rights of immunity to tort claims under applicable law. Under no circumstances shall any alderperson, council member, officer, official, director, attorney, employee or agent of the City have any personal liability arising out of this Agreement, and no party shall seek or claim any such personal liability.
- i. **Relationship of Parties.** This Agreement does not create the relationship of principal and agent, or of partnership, joint venture, or of any association or relationship between the City and Developer.
- j. **Governing Law.** This Agreement is governed by, and must be interpreted under, the internal laws of the State of Wisconsin. Any suit arising or relating to this Agreement must be brought in Manitowoc County, Wisconsin.

9. Notices and Demands. A notice, demand or other communication under this Agreement by either Party to the other Party shall be sufficiently given or delivered if it is dispatched by registered or certified mail, postage prepaid, return receipt requested, or delivered personally and:

In the case of the Developer: Wine Not, LLC
1718 West Park Street
Two Rivers, WI 54241
Attn: Managing Member

In the case of the City: City of Two Rivers
1717 East Park Street
Two Rivers, WI 54241
Attn: City Clerk

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date first written above.

DEVELOPER:

Wine Not, LLC

By: 

Name: CURT ANDREWS

Title: MEMBER / OWNER

CITY:

THE CITY OF TWO RIVERS, WISCONSIN

By: 

Name: Gregory E. Buckley

Title: City Manager

By: 

Name: Jamie Jackson

Title: City Clerk

H. 4x4

