

**DEVELOPMENT AGREEMENT FOR SITE PLAN REVIEW AND PUBLIC
IMPROVEMENTS AT 209 W. MAIN STREET**

This Development Agreement ("Agreement") is entered into as of the ____ day of _____, 2025, by and among the Village of Winnebago, an Illinois municipal corporation ("Village") and Robert Faherty, owner of 209 W. Main St and the adjoining vacant lot ("Owner"), and Table Talk Supper Club Inc., an Illinois corporation ("Developer") for the property located at 209 W. Main Street, Winnebago, Illinois, and the adjoining vacant lot to the East.

RECITALS

WHEREAS, Owner is the owner of record of the property commonly known as 209 W. Main Street, Winnebago, IL, and the adjoining vacant lot to the east ("Subject Property"); and **WHEREAS**, the Developer is a tenant of the Owner at the aforesaid premises pursuant to a written lease dated _____ for a lease term of _____ years from _____ through _____; and

WHEREAS, the Developer has the intention of operating a restaurant known as the Table Talk Supper Club at the aforementioned 209 W. Main St premises ("Project"); began initial renovations of the interior space in 2024, and a building permit was issued on September 30, 2024, based on architectural plans only, without undergoing a full site plan review, due to an internal oversight by Village staff; and

WHEREAS, the Unified Development Ordinance (UDO) of the Village requires a full site plan review for any substantial improvements or change in use, which should have been triggered by the scope of work proposed, since the operation of a supper club or restaurant at the aforesaid premises would constitute a change in use; and

WHEREAS, the Developer has also expressed interest in constructing and improving the public alley directly north of the subject property, within the existing Village right-of-way, to support site access and service; and

WHEREAS, the Village has determined that vacating the public alley would not be practical, as legally it would require splitting the right-of-way between adjacent property owners, making it unsuitable for continued or future public alley use and any needed utility placement; and

WHEREAS, allowing private improvements within the existing alley right-of-way is the most feasible solution to support the property owner's planned construction while preserving the Village's ability to extend the alley to Pecatonica Street in the future at a reduced cost and place any needed future utility; and

WHEREAS, the Village supports such private improvements provided all applicable Village standards and review procedures are met, the Village retains ownership of the alley, and the Developer provides ongoing maintenance to the alley; and

WHEREAS, the Village issued a letter to the developer dated April 30, 2025, outlining the need for a full site plan review in light of the expanding project scope, including drainage, parking, and site access concerns, a copy of which April 30 2025 letter marked Exhibit “A” is attached hereto and incorporated herein, and made part hereof; and

WHEREAS, the Developer has since engaged CES Inc, a licensed professional engineering firm, to prepare an engineered site plan for submission and review by the Village, and such engineered site plan a copy of which marked Exhibit “B” is attached hereto incorporated herein, and made a part hereof, was submitted to the village on July 7, 2025, subject to village review; and

WHEREAS, in recognition of the Village’s role in the initial permitting oversight, the Village agrees to provide up to twelve (12) hours of engineering review by its consultant, Fehr Graham, at no cost to the Developer; and

WHEREAS, Owner has no objection to the material alterations to the land or building owned by Owner that all are proposed by the Developer; and

WHEREAS, all parties agree that any future development, including, but not limited to, any build-out or development of the vacant lot, or any new scope of work beyond the current alley proposal, shall comply fully with the Village’s established permitting and site plan requirements, along with the required escrow as established by the Village’s Unified Development Ordinance in effect at the time.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the parties agree as follows:

SECTION I: RECITAL INCORPORATION

The recital paragraphs above shall be, and hereby are, incorporated herein by reference and made a part hereof of this agreement.

SECTION II: ALLEY DEVELOPMENT AND SITE PLAN REVIEW

- a) The Developer shall submit a formal engineered site plan, prepared and sealed by CES, depicting the proposed alley improvements and all associated site features, in accordance with Article 11 of the Village’s Unified Development Ordinance (UDO).
- b) Upon receipt of the site plan, the Village shall initiate a coordinated technical review to be conducted by the Village Engineer (Fehr Graham), Village Director of Public Works, Village Building Official, Win-Bur-Sew Fire Protection District, and Four Rivers Sanitary Authority, to ensure compliance with applicable codes, access standards, drainage requirements, and infrastructure design.
- c) The Developer must obtain a Right-of-Way (R-O-W) permit from the Village, which clearly delineates the permitted area and scope of construction activity. The permit application includes, but is not limited to, required submission of construction plans for

review (the Site Plan attached as Exhibit “B”, subject to Village review and approval, shall suffice for this purpose) and provision of a performance bond or irrevocable letter of credit, in a form and amount acceptable to the Village, to ensure proper completion of the work and restoration of the right-of-way to Village standards.

- d) In consideration of the public improvements being constructed within the Village’s right-of-way at the developer’s expense, and in recognition of a Village administrative oversight during the initial permitting process, the Village agrees to waive the cost to the Developer for up to twelve (12) hours of professional review time by Fehr Graham, generally calculated at a rate of \$141 per hour. This number of hours, as estimated in consultation with the Village Engineer, Fehr Graham, is representative of the total number of hours the site plan review should take, provided it is determined by the Village Engineer the site plan was comprehensively prepared within the provided standards of the Village’s Unified Development Ordinance. Any review time in excess of the twelve (12) hour allowance shall be paid by the Developer through the establishment of a review escrow. Taking into account the Village’s waiver of twelve (12) hours of Village Engineer review time, the Developer shall establish an escrow account with the Village in the amount of \$500.00 prior to the start of site plan review instead of the \$5,000.00 amount required under the UDO. Should the balance fall below \$250.00 during the site plan review process, the Developer agrees to deposit additional increments of \$500.00 as needed to maintain a positive escrow balance. The Village shall provide timely notice when additional funds are required to avoid delays, as further renewals shall not proceed until the required escrow balance is reached.
- e) The Developer shall be solely responsible for the physical maintenance, including but not limited to, snow and ice removal, general surface upkeep, and any necessary repairs to the constructed alley segment, in accordance with all applicable Village codes and standards. This obligation shall remain in effect until such time as the Village determines, in its sole discretion, to connect the alley to Pecatonica Street, and only then shall the Village assume full maintenance responsibilities. Until that time, the alley shall be primarily a private access drive for the benefit of the subject property, and no public maintenance obligation shall be implied or assigned to the Village.
- f) For purposes of this Agreement the terms “**Village Right-of-Way or Rights-of-Way**” shall mean any street, alley, other land or waterway, dedicated or commonly used for pedestrian or vehicular traffic or other similar purposes, including Village utility easements, in which the Village has the right and authority to authorize, regulate, or permit the location of facilities other than those of the Village.
- g) “Right-of-way” or “rights-of-way” shall not include any real or personal Village property that is not specifically described in the previous sentence, and shall not include Village buildings, fixtures, and other structures or improvements, regardless of whether or not they are situated in a Village right-of-way.

- h) For purposes of this Agreement, the term **“Public Right-of-Way” or Rights-of-Way** shall mean the area on, below, or above any street, alley, other land or waterway, dedicated or commonly used for pedestrian or vehicular traffic or other similar purposes, in which a public entity has the right and authority to authorize, regulate, or permit the location of facilities or entities other than its own.

SECTION III: FUTURE ESCROW REQUIREMENT

The Developer shall deposit site plan review escrow funds in accordance with Village UDO requirements prior to any additional review commencement associated with this project or any other project on the subject premises. This escrow will cover review time exceeding the initial 12 hours, as well as any supplemental services required.

SECTION IV: CONSTRUCTION OF PUBLIC IMPROVEMENTS

- a) The Developer may construct alley improvements within the Village right-of-way at the Subject Premises conditioned upon the following:
- i. The improvements must conform to all applicable Village construction standards and receive final written approval by the Village Engineer, Village Building Official, Four Rivers Sanitary Authority, Win-Bur-Ser Fire District Fire Chief, and Village Director of Public Works.
 - ii. Developer shall be responsible for repairing any damage caused during construction, and shall provide the Village with a Certificate of Insurance from the contractor in an amount not less than Two (2) million dollars for liability insurance, with the Village named as an additional insured.
 - iii. The materials used in constructing facilities within right-of-way shall be those meeting the accepted standards of the appropriate industry, the applicable portions of IDOT’s “Standard Specifications for Road and Bridge Construction”, the requirements of the Illinois Commerce Commission, or the standards established by other official regulatory agencies for the appropriate industry.
 - iv. No material shall be stored on the Right-of-Way without the prior written approval of the Director of Public Works or his or her designee. When such storage is permitted, all pipe, conduit, wire, poles, cross arms, or other materials shall be distributed along the right-of-way prior to and during installation in a manner to minimize hazards to the public or an obstacle to right-of-way maintenance, or damage to the right-of-way and other property. If material is to be stored on right-of-way, prior written approval must be obtained from the Village.
 - v. The allowing of construction within a specific portion of the Village’s Right-of-Way shall not create a property right, or grant authority for the permittee to impinge upon the rights of others who may have an interest in the public Right-of-Way.

- b) By occupying or constructing facilities in the Right-of-Way, Owner and Developer shall be deemed to agree to defend, indemnify, and hold the Village and its elected and appointed officials, and officers, employees, agents, and representatives, harmless from and against any and all injuries, claims, demands, judgments, damages, losses, and expenses, including reasonable attorney fees and costs of suit or defense, arising out of, resulting from, or alleged to arise out of, or result from, the negligent, careless, or wrongful acts, omissions, failures to act, or misconduct of the Owner and/or Developer, or their affiliates, officers, employees, agents, contractors or subcontractors in the construction of facilities or occupancy of the rights-of-way, whether such acts of omissions are authorized, allowed, or prohibited by this Agreement; provided, however, that the Owner and Developer's indemnity obligations hereunder shall not apply to any injuries, claims, demands, judgments, damages, losses, or expenses arising out of, or resulting from, the negligence, misconduct, or breach of this Agreement by the Village, its officials, officers, employees, agents, or representatives. No occupancy or use of the alley shall commence until final inspection and written acceptance by the Village.

SECTION V: FUTURE PROJECTS

The Developer agrees that any future development, including any changes to the site plan, restaurant expansion, construction on the adjacent lot, or new development proposals, shall follow the Village's standard procedures, and comply with all Unified Development Ordinance requirements, as amended from time to time, including, but not limited to, site plan review, zoning compliance, building permits, and engineering approvals.

SECTION VI: PARKING REQUIREMENTS

Developer is in the process of remodeling the building on the Subject Property for use as a restaurant or supper club with 48 seats, triggering a requirement under the Village's Unified Development Ordinance (UDO) for there to be 16 off-street parking spaces. The Subject Property is located within the Village's downtown core, where traditional lot widths, zero-lot-line construction, and existing infrastructure make construction of on-site off-street parking impractical at the aforesaid location. The Village recognizes the character of downtown Winnebago has historically relied on shared public parking, and no nearby businesses currently provide off-street parking, but rather instead utilize on-street and municipal lots for parking. Since Section 12.04.04 of the UDO permits the Village Board to approve alternate parking arrangements by ordinance when practical difficulties exist and public convenience is served, the Village has adopted Ordinance 2025-__ an ordinance authorizing designated on-street and municipal parking to satisfy the parking requirements for any new downtown business developed, including the one on the Subject Property at 209 W. Main Street, Winnebago, IL. Therefore, the Developer will not have to provide one (1) off-street parking space for every three (3) seats of customer capacity as would otherwise be required per UDO Section 12.10, in Table 12.1: "Minimum Parking Requirements by Use". The Developer's proposed site plan includes eleven (11) on-street parking spaces adjacent

to the property within the Village right-of-way, and an additional five (5) on-street spaces are located along Benton Street near Memorial Park in the Village, which are located within approximately 250 feet of the Subject Property, effectively satisfying the sixteen (16) space requirement through nearby public accommodations.

SECTION VII: SMOKER USE

a) The Owner and Developer agree that any use of an outdoor smoker on the Property shall be conducted in a manner that minimizes unreasonable smoke or odor impacts on adjacent properties, including, but not limited to, residential dwellings or neighboring businesses. In the event the Village receives a substantiated complaint of excessive smoke or odor that materially interferes with the reasonable use and enjoyment of nearby properties, the Village may require the Developer to take commercially reasonable steps to mitigate such impacts. These steps may include, but are not limited to, altering the smoker's location, modifying its use schedule, or installing enhanced filtration or ventilation measures.

b) The Village shall notify the Developer in writing of any such complaint and allow a reasonable opportunity (not less than 5 business days of receipt of such notice) for the Developer to investigate and respond. Any determination of whether mitigation is necessary shall be made by the Village Building official or his or her designee, in consultation with applicable local code or health officials. Nothing in this section shall be construed to prohibit lawful smoking activities conducted in accordance with applicable federal, state, and local regulations, provided such use does not create a nuisance as defined under applicable law.

SECTION -VIII: NO WAIVER OF ORDINANCES

Nothing in this Agreement shall be interpreted as a waiver or amendment of the Village's UDO, building codes, or any applicable ordinance. Any variance, text amendment, or deviation must follow the appropriate statutory and procedural steps.

SECTION IX: REMEDIES

c) Upon a breach of this Agreement, any of the Parties, in any court of competent jurisdiction, by an action or proceeding at law or in equity, may secure the specific performance of the covenants and agreements herein contained, and may be awarded damages for failure of performance. No action taken by any party hereto pursuant to the provisions of this Section X, or pursuant to the provisions of any other Section of this Agreement shall be deemed to constitute an election of remedies, and all remedies set forth in this Agreement shall be cumulative and non-exclusive of any other remedy either set forth herein or available to any party at law or in equity.

d) In the event of a material breach of this Agreement, the parties agree that the party alleged to be in breach shall have thirty (30) days after written notice of said breach to correct the same prior to the non-breaching party's seeking of any remedy provided for herein (provided, however, that said thirty (30) day period shall be extended for not less than thirty (30) days, with

the exact time frame determined by the non-defaulting party, if the defaulting party has initiated the cure of said default, and is diligently proceeding to cure the same).

e) If any of the Parties shall fail to perform any of its obligations hereunder, and the party affected by such default shall have given written notice of such default to the defaulting party, and such defaulting party shall have failed to cure such default within thirty (30) days of such default notice (or within any extended time period allowed as provided in this Article), then, in addition to any and all other remedies that may be available, either in law or equity, the party affected by such default shall have the right (but not the obligation) to take such action as in its reasonable discretion and judgment shall be necessary to cure such default. In such event, the defaulting party hereby agrees to pay and reimburse the party affected by such default for all reasonable costs and expenses (including attorneys' fees and litigation expenses) incurred by it in connection with action taken to cure such default.

f) The failure of the Parties to insist upon the strict and prompt performance of the terms, covenants, agreements, and conditions herein contained, or any of them, upon any other party imposed, shall not constitute or be construed as a waiver or relinquishment of any party's right thereafter to enforce any such term, covenant, agreement, or condition, but rather such right shall continue in full force and effect.

g) If the performance of any covenant to be performed hereunder by any Party is delayed as a result of circumstances which are beyond the reasonable control of such Party (which circumstances may include acts of God, war, acts of civil disobedience, strikes, or similar acts) the time for such performance shall be extended by the amount of time of such delay.

SECTION X: TERM

This Agreement shall be binding upon the Parties and their respective successors and assigns for twenty (20) years, commencing as of the date of this Agreement hereof, and for such further terms as may hereinafter be authorized by statute and by Village ordinance. If any of the terms of this Agreement are challenged in a court proceeding, then, to the extent permitted by law, the period of time during which such litigation is pending shall not be included in calculating said twenty (20) year period. The expiration of the term of this Agreement shall not affect the continuing validity of the zoning of the Property, or any ordinance enacted, or other obligations of the Village pursuant to this Agreement as to the same.

SECTION XI: MISCELLANEOUS

a) **Amendment.** This Agreement, and any exhibits attached hereto, may be amended only by the mutual consent of the Parties, by adoption of an ordinance by the Village approving

said amendment as provided by law, and by the execution of said amendment by the Parties or their successors in interest.

b) Entire Agreement. This Agreement sets forth all agreements, understandings, and covenants between and among the Parties. This Agreement supersedes any and all prior agreements, negotiations, and understandings, written and oral, and is a full integration of the entire agreement of the Parties.

c) Successors and Assigns. This Agreement shall inure to the benefit of, and be binding upon, successor of the Owner and Developer, and their respective heirs, successors, grantees, lessees, and assigns, and upon successor corporate authorities of the Village, and successor municipalities, and shall constitute a covenant running with the land. This Agreement shall only be assigned with Village approval, and upon said assignment and acceptance by an assignee and the Village, the assignor shall have no further obligations hereunder.

d) Notices. Any notice required or permitted by the provisions of this Agreement shall be in writing and sent by certified mail, return receipt requested, or personally delivered, to the Parties at the following addresses, or at such other addresses as the Parties may, by notice, designate:

If to the Village:

Village of Winnebago
108 West Main Street
P. O. Box 557
Winnebago, IL 61088

With a copy to:

Attorney Mary J. Gaziano
One Court Place—Suite 200
Rockford, IL 61101

If to Developer:

Table Talk Supper Club, Inc.
Mr. Mike Woolbright

If to Owner:

Mr. Robert Faherty

Notices, if given by certified mail as aforesaid, or if personally delivered, shall be deemed given upon receipt, except if the notice is sent by certified mail, return

receipt requested and returned to sender as refused, such notice shall be deemed to have been given on the date of refusal.

- e) **Time of Essence.** Time is of the essence of this Agreement and of each and every provision hereof.
- f) **Village Approval.** Wherever any approval or consent of the Village, or any of its departments, officials, or employees, is called for under this Agreement, the same shall not be unreasonably withheld or delayed.
- g) **Validity.** The Village, Owner, and Developer all agree that this Agreement shall be effective and binding between and among them. In the event any provision of this Agreement or any part of a provision shall be deemed invalid, the invalidity of that provision or part shall not affect the validity of any other provision.

SECTION XII: EFFECTIVE DATE AND EXECUTION

This Agreement shall become effective upon execution by all parties and may be amended only in writing with consent of all parties.

SECTION XIII: OWNER AGREEMENT

By signature hereunder, the Owner of the 209 W Main St. premises with building contained thereon, and adjoining vacant lot to the East, affirms he has no objection to the scope of the work proposed by the Developer, and agrees to be bound by the terms and conditions of this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

**VILLAGE OF WINNEBAGO,
a Municipal Corporation**

By: _____
Name: Franklin J. Eubank, Jr.
Title: Village President
Date: _____

OWNER:

Name: Robert Faherty
Date: _____

**TABLE TALK SUPPER CLUB, Inc.,
an Illinois Corporation**

By: _____
Name: Mike Woolbright
Title: _____
Date: _____