

VILLAGE OF WINNEBAGO

RESOLUTION NO. 2024 - 04 R

RESOLUTION AUTHORIZING THE EXECUTION OF AN AGREEMENT BETWEEN
THE VILLAGE OF WINNEBAGO, ILLINOIS AND JOSEPH D. DIENBERG FOR
EMPLOYMENT AS THE VILLAGE ADMINISTRATOR

ADOPTED BY THE BOARD OF TRUSTEES

VILLAGE OF WINNEBAGO

THIS 12th DAY OF February, 2024

Published in pamphlet form by authority of the Village Board of Trustees of the
Village of Winnebago, Illinois, this 13th day of February, 2024

RESOLUTION NO. 2024- 04R

**RESOLUTION AUTHORIZING THE EXECUTION OF AN AGREEMENT BETWEEN
THE VILLAGE OF WINNEBAGO, ILLINOIS AND JOSEPH D. DIENBERG FOR
EMPLOYMENT AS THE VILLAGE ADMINISTRATOR**

WHEREAS, the Village of Winnebago, Illinois (the "Village") is a duly organized and existing municipal corporation created under the provisions of the laws of the State of Illinois and under the provisions of the Illinois Municipal Code, as from time to time supplemented and amended; and

WHEREAS, the Village's Board of Trustees ("Village Board or Corporate Authorities") on October 9, 2023 passed an ordinance establishing the position of Village Administrator ("Administrator"); and

WHEREAS, advertisement for the position was duly made, applications vetted, and three (3) individuals were interviewed for the position; and

WHEREAS, the Corporate Authorities desire to employ Joseph D. Dienberg as the Village Administrator of the Village; and

WHEREAS, Joseph D. Dienberg is willing and able to be employed by the Village as Administrator pursuant to the covenants, terms, and conditions set forth in the Village Administrator Employment Agreement, attached hereto as Exhibit "A"; and

WHEREAS, the Corporate Authorities deem it advisable and in the best interest of the health, safety, and welfare of the residents of the Village to enter into the Village Administrator Employment Agreement; and

WHEREAS, it is the desire of the Corporate Authorities of the Village to provide certain benefits, establish certain conditions of employment, and to set working conditions for the Administrator.

NOW, THEREFORE, BE IT RESOLVED by the President and Board of Trustees of the Village of Winnebago, Illinois, as follows:

Section 1. The above recitals and findings are found to be true and correct and are hereby incorporated herein and made a part hereof, as if fully set forth in their entirety.

Section 2. The Agreement, a copy of which is attached hereto as Exhibit "A", is hereby approved in substantially the form presented to the Village Board and that the Village President is hereby authorized to execute the Agreement on behalf of the Village.

Section 3. The officials and officers of the Village are further hereby authorized to undertake actions on the part of the Village as contained in the Agreement to complete satisfaction of the provisions, terms, or conditions stated herein.

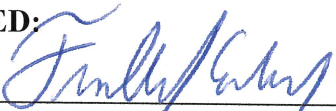
Section 4. If any section, paragraph, clause, or provision of this Resolution shall be held invalid, the invalidity thereof shall not affect any other provision of this resolution.

Section 5. All ordinances, resolutions, motions, or orders in conflict with this Resolution are hereby repealed to the extent of such conflict.

Section 6. This Resolution shall be in full force and effect upon its passage, approval, and publication in the manner provided by law.


Passed this 12th day of February, 2024.

APPROVED:



Franklin J. Eubank, Jr., President of the Board of
Trustees of the Village of Winnebago, Illinois

ATTEST:



Sally Jo Huggins, Village Clerk

INTRODUCED: 2-12-2024

PASSED: 2-12-2024

APPROVED: 2-12-2024

VILLAGE OF WINNEBAGO, ILLINOIS
VILLAGE ADMINISTRATOR EMPLOYMENT AGREEMENT

THIS AGREEMENT (hereinafter referred to as "Agreement") made and entered into this ____ day of February, 2024, by and between the VILLAGE OF WINNEBAGO, an Illinois municipal corporation (hereinafter referred to as "PARTY" or "VILLAGE"), and Joseph D. Dienberg (hereinafter referred to as "PARTY" or "ADMINISTRATOR")

SECTION 1. Employment and Duties. The VILLAGE hereby agrees to employ the ADMINISTRATOR as Village Administrator of the VILLAGE, and the ADMINISTRATOR hereby accepts such employment and engagement, as directed by the Corporate Authorities of the VILLAGE. The ADMINISTRATOR'S services shall be rendered on a full-time basis.

The ADMINISTRATOR shall serve as the chief administrative supervisor of the VILLAGE, and the administrative head of all departments. Based on the terms of Ordinance No. 2023-10 adopted by the Board of Trustees on October 9, 2023, the Village Administrator shall be appointed by majority vote of the Corporate Authorities, with Corporate Authorities including the Village President, serve at the pleasure of the Village President and Board of Trustees, and be removed from office by a majority vote of the Village Corporate Authorities. Accordingly, the ADMINISTRATOR shall be the chief administrative supervisor not an officer of the Village. This distinction is made herein because an officer, per Illinois statute, namely 65 ILCS 5/3.1-30-5, would be appointed by the Village President with the advice and consent of the Trustees, and could, pursuant to 65 ILCS 5/3.1-35.10, be removed by the Village President on any written charge whenever the President is of the opinion that the interests of the municipality demand removal, with the President then reporting the reasons for the removal to the Corporate Authorities at a meeting to be held not less than five (5) nor more than ten (10) days after the

removal. Also, with an officer position, pursuant to 65 ILCS 5/3.1-35.10, if the President fails or refuses to report to the Corporate Authorities the reasons for removal, or if the Corporate Authorities by a two-thirds (2/3) vote of all members authorized by law to be elected disapprove of the removal, the officer shall be restored to the office from which the officer was removed.

The ADMINISTRATOR shall devote ADMINISTRATOR'S best, and substantially full business time, energy, skills, and attention to the business and affairs of the VILLAGE. The ADMINISTRATOR shall be responsible to the Village Corporate Authorities (President and Trustees) for the efficient administration of all offices of the VILLAGE, and shall exercise all powers and duties as granted by the Corporate Authorities, specified by law, and contained in the Job Description of the Village Administrator, a copy of which Job Description marked Exhibit "A" is attached hereto, incorporated herein, and made a part hereof.

The ADMINISTRATOR shall perform all duties required by law and for the furtherance of the VILLAGE'S interests.

SECTION 2. Term of Employment. The term of employment (hereinafter referred to as "Term"), used in this Agreement, shall be that period of time beginning on February 13, 2024, (the "Commencement Date"), and expiring two years from the day of appointment (herein referred to as the "Expiration Date"), unless the Term has been terminated sooner by one of the methods set forth hereinbelow in this Agreement.

SECTION 3. Residency. In accordance with the Village's Personnel Policies Manual, ADMINISTRATOR shall not be required to be a resident of the VILLAGE. However, as an employee deemed to be vital to the operations of the VILLAGE, ADMINISTRATOR shall live within a thirty (30) mile radius of the Village Main Office while employed by the VILLAGE.

SECTION 4. Salary, Immediate Supervisor, and Evaluations.

A. The VILLAGE shall pay the ADMINISTRATOR an annual base salary of Ninety Thousand and 00/100 Dollars (\$90,000.00), payable in equal installments at the same time and in the same manner as other employees of the VILLAGE are paid, effective upon the first pay period under this Agreement (the "Salary"). All salary, benefits, reimbursements, and other payments to ADMINISTRATOR under this Agreement shall be subject to all applicable payroll and withholding taxes and deductions required by law. The ADMINISTRATOR agrees to pay any and all of the ADMINISTRATOR'S share of federal, state, and local taxes. The ADMINISTRATOR position is an exempt position under the Fair Labor Standards Act (FLSA).

B. The VILLAGE President shall be the immediate supervisor of the ADMINISTRATOR, and may discipline the ADMINISTRATOR for cause. The Village President shall report the nature of such discipline and reason for the same in writing to the Trustees within twenty-four (24) hours of taking such action. However, as stated elsewhere herein, no termination of the ADMINISTRATOR with or without cause shall occur without the majority vote of the Corporate Authorities. Also, ADMINISTRATOR shall have the ability to appeal any disciplinary action administered by the Village President to the full Village Board within ten (10) calendar days of the disciplinary action, and the decision of the majority of the Corporate Authorities shall be final.

C. Before the end of February of each year of the Term, the President and Trustees shall schedule a review of the ADMINISTRATOR'S performance. The written performance evaluation of the ADMINISTRATOR shall be completed by the Village President, with input from the Trustees, and anyone else deemed appropriate, and then presented to the Trustees for review in Executive Session at a duly legally convened meeting. The

ADMINISTRATOR'S salary review shall occur in conjunction with this performance review, and the Corporate Authorities by majority vote may adjust the ADMINISTRATOR'S annual compensation based on the performance review as they deem appropriate.

SECTION 5. Criminal Background Check, Credit Check, and Ability to be

Bonded. The employment of ADMINISTRATOR by the VILLAGE shall be subject to successful results from a criminal background check and credit check to be conducted by the VILLAGE prior to the commencement of employment, as well as the ability to be bonded for at least the amount of Fifty Thousand and 00/100 Dollars (\$50,000.00), or such other amount to be set in the future by the Village Board for employees dealing with finances of the VILLAGE. The VILLAGE shall pay the premium for the fidelity bond required of the ADMINISTRATOR.

SECTION 6. Other Terms and Conditions of Employment.

A. The ADMINISTRATOR shall work at the Village Office currently located at 108 W. Main St., Winnebago, IL, as his main office. Any remote work shall be as stated in the Village Personnel Policies Manual, as amended from time to time, and as set by the Village Board of Trustees.

B. The VILLAGE shall defend, hold harmless, and indemnify the ADMINISTRATOR from and against any liability, claim, demand, or other legal action arising out of any alleged act or omission occurring in the performance of the ADMINISTRATOR'S duties as Village Administrator of the VILLAGE; provided however, that such indemnification shall not extend to or cover any illegal act or willful or wanton misconduct of the ADMINISTRATOR.

C. At the VILLAGE'S expense, The VILLAGE shall provide the ADMINISTRATOR with a laptop computer and the necessary software to perform his duties. The Village shall be responsible for all maintenance and repairs on said laptop. The laptop shall remain property of the VILLAGE, the content subject to Freedom of Information Act (FOIA) requests, and the laptop shall be surrendered by the ADMINISTRATOR to the VILLAGE at the time of separation from the VILLAGE in the ADMINISTRATOR position.

D. The VILLAGE shall pay for a cell phone to be used by the ADMINISTRATOR, primarily for Village administration purposes, and shall also pay the monthly charge for use of the cell phone, as well as for any reasonable and necessary repairs and usage related expenses. The cell phone shall remain property of the VILLAGE, the content subject to Freedom of Information Act (FOIA) requests, and shall be surrendered by the ADMINISTRATOR to the VILLAGE at the time of separation from the VILLAGE in the ADMINISTRATOR position.

E. Except as otherwise provided in this Agreement, the ADMINISTRATOR shall comply with the Village Personnel Policies Manual.

SECTION 7. Vacation. The VILLAGE agrees to provide the ADMINISTRATOR with two (2) weeks of vacation the first year of the term based on the provisions of the Village Personnel Policies Manual, and with the ADMINISTRATOR to be considered to start as a six (6) year employee for such purposes due to prior municipal experience, as opposed to being considered a new (zero year) full-time salaried employee. The second year of the two (2) year term the vacation time shall increase to a total of three (3) weeks. The provision and use of such vacation time shall otherwise follow the provisions of the Village Personnel Policies Manual.

SECTION 8. Paid Holiday and Sick Leave. The ADMINISTRATOR shall be entitled to the same paid holiday and sick leave provided to other full-time salaried employees of the Village, pursuant to the terms of the Village Personnel Policies Manual. The ADMINISTRATOR shall accrue the foregoing paid holiday and sick leave in the same manner as other full-time salaried employees of the Village, pursuant to Section 11-4 of the Village Personnel Policies Manual, as amended from time to time.

SECTION 9. Health, Dental, and Vision Insurance. At this time the ADMINISTRATOR declines coverage under Village health, dental, and vision insurance provisions for full-time employees, as he has elected to be insured under his spouse's health insurance. In the event the ADMINISTRATOR desires to be covered by the Village's health, dental, and vision insurance in the future the terms of the same shall be as provided at the time of election for other full-time employees of the Village.

SECTION 10. Accidental Death and Dismemberment (AD&D), Basic Life, and Short-Term Disability (STD) Insurance. The ADMINISTRATOR shall be provided with Accidental Death and Dismemberment (AD&D), Basic Life, and Short-Term Disability (STD) Insurance according to the terms stated in the Village Personnel Policies Manual for other full-time employees, as amended from time to time.

SECTION 11. Retirement. ADMINISTRATOR shall be eligible for Illinois Municipal Retirement Fund (IMRF) participation as outlined in the Village Personnel Policies Manual, as amended from time to time.

SECTION 12. Other Benefits. ADMINISTRATOR shall be entitled to any other benefits as afforded by the Village Personnel Policies Manual to full-time salaried employees not

specifically mentioned herein, as amended from time to time, or as set by the Corporate Authorities through ordinance, resolution, or approval of a motion.

SECTION 13. Applicability of Village Handbook to Administrator. The Village Personnel Policies Manual shall be applicable to the ADMINISTRATOR, except with conflict with the specific provisions of this Agreement, and in that case the specific provisions of this Agreement shall control.

SECTION 14. Dues, Subscriptions, and Memberships. The VILLAGE shall budget and pay for the professional dues, subscriptions, and memberships of the ADMINISTRATOR as approved by the Board of Trustees from time to time, that are necessary for his continuation of participation in national, regional, state, and local associations and organizations related to the management of municipal corporations and/or necessary and desirable for his continued professional participation, growth, and advancement as ADMINISTRATOR, and for the good of the VILLAGE. At a minimum the VILLAGE shall pay for ADMINISTRATOR'S annual membership dues in Illinois City/County Management Association (ILCMA) and International City/County Management Association (ICMA).

SECTION 15. Attendance at Workshops. The VILLAGE shall pay all reasonable and necessary expenses for ADMINISTRATOR'S attendance at the ILCMA, ICMA, and/or Illinois Municipal League (IML) annual meetings. Additionally, the VILLAGE shall pay for the ADMINISTRATOR'S participation in continuing education classes and opportunities that relate directly to his profession and position, subject to budget approval for such professional activities.

SECTION 16. Professional Development. The VILLAGE shall budget and pay the travel and subsistence expenses of the ADMINISTRATOR for professional and office travel and

meetings to continue the professional development of the ADMINISTRATOR, and to pursue necessary official and other functions for the VILLAGE, including such other national, regional, state, and local governmental groups and committees thereof of which the ADMINISTRATOR or the VILLAGE is a member, as the VILLAGE may designate, and as approved from time to time by the Board of Trustees, and with the VILLAGE reserving the right to limit such expenditures based on budget constraints at any given time.

SECTION 17. Indemnification. The VILLAGE shall defend, save harmless, and indemnify the ADMINISTRATOR against any and all losses, damages, judgments, interest, and court costs arising out of an alleged act or omission occurring within the scope of the ADMINISTRATOR'S employment and in performance of the ADMINISTRATOR'S duties as ADMINISTRATOR, or resulting from the exercise of judgment or discretion in connection with the performance of his duties or responsibilities, unless the act or omission involved intentional, illegal, willful, or wanton misconduct. The VILLAGE shall have the right to compromise and settle any claim or suit.

SECTION 18. Official Bond. The ADMINISTRATOR shall execute and file with the Village Clerk a bond with a surety company authorized to do business in Illinois under the laws of Illinois, payable to the VILLAGE in the amount of Fifty Thousand and 00/100 Dollars (\$50,000.00) conditioned upon the faithful performance of the duties of the office of ADMINISTRATOR of the VILLAGE and the payment of all monies received by the ADMINISTRATOR, according to law and the ordinances of the VILLAGE. The security of the bond is hereby approved by the VILLAGE. The VILLAGE shall pay the full cost of the bond. The VILLAGE'S insurer shall provide such bond, if the agency is willing to provide such bond and the VILLAGE continues to be a member thereof. Should such insurer be unwilling to

provide such bond, or if the VILLAGE discontinues membership, the VILLAGE shall otherwise arrange for the issuance of an official bond for the ADMINISTRATOR,

SECTION 19. Certifications. The ADMINISTRATOR certifies by his signature hereunder that the ADMINISTRATOR:

A. Is not delinquent in the payment of taxes to the Illinois Department of Revenue in accordance with 65 ILCS 5/11-42.1-1;

B. Is not in default, as defined in 5 ILCS 385/2, on an educational loan, as defined in 5 ILCS 385/1;

C. Has not received solicitation from any officer or employee of the VILLAGE for any gratuity, discount, entertainment, hospitality, loan, forbearance, or other tangible or intangible item having monetary value, including, but not necessarily limited to, cash, food and drink, and honoraria for speaking engagements related to or attributable to the government employment or the official position of the employee or officer, in violation of any ordinance adopted by the VILLAGE pursuant to the requirements of the State Officials and Employees Ethics Act, or the Act itself;

D. Has not given to any officer or employee of the VILLAGE any gratuity, discount, entertainment, hospitality, loan, forbearance, or other tangible or intangible item having monetary value including, but not necessarily limited to, cash, food, and drink, and honoraria for speaking engagements related to or attributable to the government employment or the official position of the employee or officer in violation of any ordinance adopted by the VILLAGE pursuant to the requirements of the State Officials and Employees Ethics Act, or the Act itself;

E. Is not a person named as a Specially Designated National and Blocked Person (as defined in Presidential Executive Order 13224) and that he is not acting, directly or indirectly, for or on behalf of a Specially Designated National and Blocked Person;

F. Is not, directly or indirectly, engaged in, and is not facilitating, the transactions contemplated by this Agreement on behalf of any person or entity named as a Specialty Designated National and Blocked Person;

G. Is not acting, directly or indirectly, for or on behalf of any person, group, entity, or nation named by the United States Treasury Department as a Specially Designated National and Blocked Person, or for or on behalf of any person, group, entity, or nation designated in Presidential Executive Order 13224 as a person who commits, threatens to commit, or supports terrorism; and that he is not engaged in this transaction directly or indirectly on behalf of, or facilitating this transaction directly or indirectly on behalf of, any such person, group, entity, or nation.

If any above certification or term or condition in this contract changes, the ADMINISTRATOR shall notify the VILLAGE in writing within seven (7) calendar days.

SECTION 20. Termination. This Agreement, and the ADMINISTRATOR'S employment may be terminated at any point during the Term or any Renewal Term under the following circumstances:

A. The death of the ADMINISTRATOR; or

B. Termination of the ADMINISTRATOR by the Corporate Authorities without cause. Nothing in this Agreement shall prevent, limit, or otherwise interfere with the right of the Corporate Authorities to terminate the services of the ADMINISTRATOR at any

time without hearing, without cause, and with notice, subject only to the provisions set forth in the Agreement, and the Village Personnel Policies Manual; or

C. Termination of the ADMINISTRATOR by the Corporate Authorities with cause. Nothing in this Agreement shall prevent, limit, or otherwise interfere with the right of the Corporate Authorities to terminate the services of the ADMINISTRATOR at any time with cause and with notice, subject only to the provisions set forth in this Agreement, and the Village Personnel Policies Manual; or

D. Resignation by the Administrator. In the event that the ADMINISTRATOR desires to terminate this Agreement, he shall deliver a written notice of termination to the Village President not less than ninety (90) days prior to the effective date of his resignation. Notwithstanding any provision of the Winnebago municipal ordinances or Personnel Policies Manual, any failure by the ADMINISTRATOR to give the required ninety (90) day notice of termination shall result in a pro-rata reduction of his entitlement to payment for accrued sick leave upon separation from employment (e.g., if the ADMINISTRATOR provides sixty (60) days' notice of termination instead of ninety (90) days, then his sick leave payout shall be reduced by 30/90 or 1/3rd. Zero (0) days' notice of termination would negate any payout for accrued sick days). Voluntary resignation by the ADMINISTRATOR will result in loss of all further salary or other severance pay to him by the VILLAGE, except payment for accrued, but unused vacation.

E. If the ADMINISTRATOR should become permanently disabled or is otherwise unable to perform the necessary functions of his position because of sickness, accident, injury, or mental incapacity for a period of sixty (60) days, the VILLAGE shall have the option to remove the ADMINISTRATOR from office and terminate this Agreement, with

written notice to the ADMINISTRATOR. In such case ADMINISTRATOR shall be entitled to COBRA coverage at VILLAGE'S expense for an additional sixty (60) days.

SECTION 21. Severance Pay Upon Termination.

A. Upon the death of the ADMINISTRATOR, the named beneficiary designated by the ADMINISTRATOR shall be entitled to the insurance, severance, and accrued benefits set forth in this Agreement.

B. In the event the services of the ADMINISTRATOR are terminated by the Corporate Authorities with cause, the VILLAGE shall have no obligation to pay the severance sum designated in this Agreement or any other compensation whatsoever. For purposes of this Agreement, "cause" means a finding by a majority of the Corporate Authorities of any of the following.

- i. the ADMINISTRATOR committed misfeasance or malfeasance in office, fraud, misappropriation, or embezzlement involving property of the VILLAGE, or any other intentional, wrongful acts which involve personal gain to the ADMINISTRATOR; or
- ii. conviction by the ADMINISTRATOR of a felony; or
- iii. the ADMINISTRATOR'S involvement in any activity or conduct which is likely to bring dishonor or disrepute to the position of ADMINISTRATOR or to the VILLAGE, including, but not necessarily limited to, theft, dishonesty, or conviction of a crime involving drug abuse or moral turpitude; or

- iv. the ADMINISTRATOR violates the terms and conditions of the Village Personnel Policies Manual.

C. In the event the services of the ADMINISTRATOR are terminated by the Corporate Authorities without cause, or the position is eliminated before the ADMINISTRATOR has the opportunity to finish out the term of this Agreement, the VILLAGE shall exercise one of the following two severance options, which option shall be the full extent of the liability of VILLAGE to the ADMINISTRATOR resulting from this Agreement or his employment as ADMINISTRATOR:

- i. The VILLAGE may deliver to the ADMINISTRATOR a written notice of termination that will allow the ADMINISTRATOR to remain in the employment of the VILLAGE as a consultant with all the salary, health, dental, and life insurance, and pension benefits provided for herein for a period of three (3) months. In addition, within fifteen (15) calendar days after delivery of such notice of termination, the ADMINISTRATOR shall be entitled to receive a lump sum payment for one hundred percent (100%) of his accrued and unused vacation time and one (1) day of pay for every three (3) days of accrued and unused sick leave earned over sixty (60) sick days, as of the date of delivery of his notice of termination. For purposes of this Agreement, vacation and sick days shall be calculated and paid in accordance with the Personnel Policies Manual as amended, from time to time, by the VILLAGE, or the policies of the VILLAGE relating to

vacation and sick days for all employees if the Manual is not then in effect, through the date of the ADMINISTRATOR'S separation.

In his role of consultant as herein described, the

ADMINISTRATOR shall perform only those duties as directed by the Village President and/or Village Board and/or their designee, notwithstanding any provision to the contrary in the Winnebago ordinance or Illinois Statutes. During this four (4) month severance period, the ADMINISTRATOR agrees to make no public statements that could be reasonably interpreted as disparaging the VILLAGE, its elected officials, or any Village employees. Failure to abide by this provision shall result in immediate forfeiture of benefits under this provision, with no further legal recourse by the ADMINISTRATOR; or

- ii. The VILLAGE may deliver to the ADMINISTRATOR a written notice of termination that will entitle the ADMINISTRATOR to a gross lump sum cash payment in an amount equal to three (3) months of salary only (as determined at his then current rate of pay), plus payment for one hundred percent (100%) of his accrued and unused vacation time and one day of pay for every three (3) of accrued and unused sick leave earned over sixty (60) sick days, as of the date of delivery of his notice of termination.

D. In the event the services of the ADMINISTRATOR are terminated by the ADMINISTRATOR, then the VILLAGE shall have no obligation to pay the severance.

SECTION 22. Contract Renewal and Notification. In the event the VILLAGE does not intend to renew the contract with the ADMINISTRATOR, the VILLAGE shall provide written notification to the ADMINISTRATOR at least three (3) months prior to expiration of the current contract term. This notification shall outline the decision to not renew the contract and provide details on the termination process and any applicable severance options.

SECTION 23. Other Terms and Conditions of Employment. The VILLAGE, upon mutual agreement with the ADMINISTRATOR, shall fix any such other terms and conditions of employment, as it may determine from time to time, relating to the performance of the ADMINISTRATOR, provided such terms and conditions are not inconsistent with or in conflict with the provisions of this Agreement, the VILLAGE'S ordinances, or any other state or federal law.

SECTION 24. Property of the Village. All tangible personal property, business plans, financial data, reports, memoranda, correspondence, and all other documents pertaining to the current or prospective business of the VILLAGE are and shall at all times remain the property of the VILLAGE. The ADMINISTRATOR covenants that upon the expiration or termination of the Term or any Renewal Term the ADMINISTRATOR shall not retain, and shall return to the VILLAGE, all of the tangible personal property of the VILLAGE, and all of the business plans, financial data or reports, memoranda, and all other documents pertaining to the current prospective business of the VILLAGE that are not publicly available.

SECTION 25. Burden and Benefit. This Agreement shall be binding upon, and shall inure to the benefit of the PARTIES, and their respective heirs, personal and legal representatives, successors, and assigns.

SECTION 26. Notices. All notices shall be in writing and shall be effective (a) when delivered personally; (b) when received by overnight courier services; (c) four (4) calendar days after being deposited into the United States mail (sent certified or registered, return receipt requested); or (d) the date sent by electronic mail, addressed as follows:

To the Village:

Mr. Franklin J. Eubank, Jr.
Village of Winnebago
108 W. Main St.
Winnebago, IL 61088
feubank@villageofwinnebago.com

To the Administrator:

Mr. Joseph D. Dienberg
102 Harvest Glenn Drive
Davis Junction, IL 61020
jdienberg@villageofwinnebago.com and jdienberg13@gmail.com

Either party may change its mailing address or other contact information by giving written notice to the other party as provided above. Whenever this Agreement requires one party to give the other notice, such notice shall be given only in the form and to the address described in this paragraph.

SECTION 27. Confidentiality. The ADMINISTRATOR shall hold in a fiduciary capacity for the benefit of the VILLAGE all information, knowledge, or data of the VILLAGE, its business, and its operations obtained by the ADMINISTRATOR during his employment which is not subject to disclosure under the provisions of the Freedom of Information Act (FOIA) (5 ILCS 140/1-11 et seq.), and which is not generally known to the public.

SECTION 28. General Provisions.

A. **Vote requirements based on verbiage.** This Agreement purposely references at different points through the agreement the terms, “Corporate Authorities” and “Board of Trustees”. These terms are so referenced in order to designate the level of participation required of the Village President and the Trustees in a particular vote. Per 65 ILCS 5/3.1-45.5, the “Board of Trustees” shall consist of the Village President and Village Trustees. Likewise, although not defined by statute, by practice and interpretation in the municipal legal realm, the Corporate Authorities also consist of the Village President and Village Trustees. However, when a vote is listed to be taken by the Board of Trustees, those voting are the Trustees, with the Village President only voting in the event of a tie. When a vote is to be taken by the Corporate Authorities, the Village President casts a vote along with the Trustees, as opposed to only casting a vote in the event of a tie when a Board of Trustees vote is involved.

B. **Integration.** This Agreement sets forth and establishes the entire understanding between the VILLAGE and the ADMINISTRATOR relating to the employment of the ADMINISTRATOR by the VILLAGE. Any prior discussions or representations by or between parties are merged into and rendered null and void by this Agreement. The parties by mutual written agreement may amend any provision of this Agreement during the life of the Agreement. Such amendments shall be incorporated and made a part of this Agreement.

C. **Captions.** The captions at the beginning of the several sections are for convenience only and shall not control or affect the meaning or construction of any provision of this Agreement.

D. **Binding Effect.** This Agreement shall be binding on the VILLAGE and the ADMINISTRATOR as well as their heirs, assigns, executors, personal representatives, and successors in interest.

E. **Applicable Law.** The laws of the State of Illinois will govern this Agreement. The Parties shall submit all disputes that arise under this Agreement to the Circuit Court of Winnebago County, Illinois, for resolution.

F. **Effective Date.** This Agreement shall become effective and enforceable on February 13, 2024.

G. **Assignment.** This Agreement shall be deemed to be exclusive between the VILLAGE and the ADMINISTRATOR. This Agreement shall not be assigned by either party without first obtaining permission in writing from the other party.

H. **Severability.** The invalidity or partial invalidity of any portion of this Agreement will not affect the validity of any other provision. In the event that any provision of this Agreement is held to be invalid, the remaining provisions shall be deemed to be in full force and effect as if they have been executed by both parties subsequent to the expungement or judicial modification of the invalid provision.

IN WITNESS WHEREOF, the VILLAGE OF WINNEBAGO, ILLINOIS, at a properly convened public meeting and pursuant to authority provided by law, has hereby approved this Agreement by, authorizing the execution of said Agreement by the President with an attestation by the Village Clerk, and the ADMINISTRATOR has voluntarily executed this Agreement, and the Parties hereto have entered their hands and seals the day and year above written.

VILLAGE OF WINNEBAGO,
an Illinois Municipal Corporation

By: _____
Franklin J. Eubank, Jr., Village President

ADMINISTRATOR

Joseph D. Dienberg, Village Administrator

ATTEST:

Sally Jo Huggins, Village Clerk