

TOWN OF DALLAS
MINUTES FOR BOARD OF ALDERMEN MEETING
SPECIAL MEETING
JUNE 25, 2018
5:00 PM

The following elected officials were present: Mayor Coleman, Alderwoman Thomas, Alderman Huggins, Alderman Withers, Alderman Cearley, and Alderwoman Morrow.

The following staff members were present: Tom Hunn, Town Attorney; Da'Sha Leach, Town Clerk; Allen Scott, Police Chief; Doug Huffman, Electric Director; Bill Trudnak, Public Works Director; Jonathan Newton, Finance Director; Tiffany Faro, Development Services Director; Steve Lambert, Fire Chief; Barry Webb, Project Coordinator, and Steven Aloisa, Recreation Director. Maria Stroupe, Town Manager was absent.

Mayor Coleman called the meeting to order at 5:00 pm. He opened with the Pledge of Allegiance to the Flag.

Mayor Coleman read a letter he received by email from Mr. Mike Croft to withdraw his offer to purchase 130 W. Trade Street to build a restaurant. (Exhibit A)

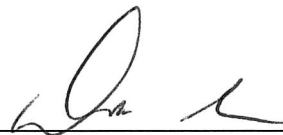
Public Hearing:

Item 3A – The Downtown Development Project Agreement public hearing never opened due to the offer being withdrawn by Mr. Mike Croft. (Exhibit B)

Alderwoman Thomas made a motion to adjourn, seconded by Alderman Withers, and carried unanimously. **(5:05)**



Rick Coleman, Mayor



Da'Sha Leach, Town Clerk



This is Mike Croft, Owner of Whiskey Mill Bar & Grill in Bessemer City, NC.

For two years we have been in talks with the city of Dallas, NC concerning the property at 130 W. Trade Street. We originally contacted the city about the property in June of 2016. Since then we have had several meetings onsite with various city officials. We paid an architect to come and inspect the building/property in August 2016. Also, in the same month, paid said architect to come back to the site with a structural engineer. We've had meetings with 3 different demolition companies onsite to quote the demo of the existing structure. We've had 2 separate meetings with 2 builders on site. We've had several meetings with town officials with our lawyer present which has turned into a substantial amount of money. We officially submitted an offer for the property in December 2017.

The offer was voted on and unanimously passed by the city council directly after. A few days later they cashed our down payment check, which they have been holding ever since. At which time we felt like the property was secured. So, we began ordering advertising material to jumpstart our marketing campaign. We began purchasing restaurant equipment, tables, chairs, trashcans, décor, etc. It was then that the city informed us of an upset bid of \$2000.00.

We never approached the city about any loan, they informed us that they had \$400,000.00 to offer as incentive for a restaurant downtown; in the form of a loan they would be receiving 3x the interest that they are now receiving on the money. If there was a default, then they would acquire the property and its contents back. For us it was only a good business decision because it came at a better interest rate than the bank.

As we are businessmen and not politicians, we don't rally people to create false narratives to excel in business. My dad and I started Whiskey Mill with our own money and no loans. At times during construction I went without to complete it because I had a vision. We built our business from nothing. With that being said, Whiskey Mill carries almost no debt. We didn't buy a functioning business or brand name. We created our brand name and business. There will be other Whiskey Mills and Whiskey Mill will prosper. We've brought notoriety to Bessemer City in the form of numerous awards and will continue to do so.

We are good to everyone. We have been nothing short of blessed and try to pass that along to others. We are very thankful for our family, customers and good fortune. We are a true testament that hard work does pay off. I feel like my family and business have endured enough. That being said; we regretfully withdraw our bid for the property at 130 W. Trade. We would like to wish whomever obtains the property good luck and best wishes to the town of Dallas, NC as well.

All that glitters is not gold; respectfully Mike Croft.

Ordinance Authorizing and Implementing Downtown Development Project Agreement

WHEREAS; this ordinance is adopted for the purpose of approving a Development Agreement (the Agreement) between the Town of Dallas NC (the "Town") and Whiskey Mill Grill & Bar, Inc., pursuant to authority granted by N.C.G.S. 160A-400.22, N.C.G.S. 158-7.1, 160A-456, 160A-457, and 160A-458.3; and

WHEREAS; the property and building located at 130 W. Trade Street, Dallas, North Carolina, originally consisting of 0.25 acres ("the property") was conveyed to the Town on or about January 22, 2015 for the tax value of \$76,119.00, and;

WHEREAS; the property was originally purchased to expand, enhance, and develop a parking lot, walkway, and other amenities, as well as giving the Town control over the re-development of the building located on the property, and;

WHEREAS; During 2016 a portion of the property was developed by the Town for Town purposes, which expanded, enhanced, and developed the parking lot and walkway, and;

WHEREAS; during the Summer of 2017, it was determined by Diamond Engineering, PLLC, the building located on the property was in such a state of disrepair that it was not salvageable and needed to be demolished, and;

WHEREAS; during the Fall of 2017, the building and property consisting of 0.25 acres was appraised by Appraisal Services, Inc. for \$22,000.00, and;

WHEREAS; the appraised value took into account the cost of demolition but did not take into account the specific covenants, conditions, restrictions to be placed upon the property nor the subsequent subdivision of the property, and;

WHEREAS; the Town solicited proposals for the sale and redevelopment of the property in the Fall 2017, and;

WHEREAS; the Town received two (2) proposals before December 1, 2017; on December 11, 2018, after review and discussion of the two (2) proposals in closed session, the Board of Alderman after exiting closed session, identified Whiskey Mill Grill & Bar, Inc. as the preferred proposal by unanimous vote, and;

WHEREAS; the Board of Alderman instructed the Town Manager and Town Attorney to negotiate the sale of the property and development agreement with Whiskey Mill Grill & Bar, Inc., and;

WHEREAS; the property was subdivided into a parcel consisting of 0.105 acres for Town purposes, a portion of which had already been developed by the Town in 2016, and;

WHEREAS; the subdivided parcel of property consisting of 0.105 acres was recombined with other adjacent Town owned property consisting of 0.833 acres and after the recombination the tract is now called tract number two, ("track two") consisting of 0.938 acres, located at 210 N.

Ordinance Authorizing and Implementing Downtown Development Project Agreement

Holland Street, Dallas, North Carolina as shown on the subdivision plat file with the Gaston County Register of Deeds, Book 87 page 117, on May 23, 2018, and;

WHEREAS; after publishing of a Notice of Public Hearing and holding a Public Hearing on March 12, 2018 the Board of Alderman approved by unanimous vote, the adoption of a Resolution where the subdivided parcel of the property located at 130 West Trade Street, Dallas, North Carolina as shown on the subdivision plat file with the Gaston County Register of Deeds, Book 87 page 117, on May 23, 2018 and now being called tract number one (“track one”) that the Town does not intend to use, including the building and consisting of 0.145 acres, legally and specifically describe below, would now be held for Economic Development Purposes and/or Community Development Purposes and/or Downtown Development Project Purposes , pursuant to N.C.G.S. 158-7.1, 160A-456, 160A-457, and 160A-458.3, and;

Said tract of property, lying and being in the Town of Dallas, NC and containing the old Setzer building. Beginning at a building corner, said corner being a corner of property owned by Laura J. Stroupe, said corner being north 01 degrees 15 minutes 09 seconds east 263.11 feet from a courthouse stone, and north 32 degrees 16 minutes 32 seconds west 143.73 feet from another courthouse stone, (crossing West Trade Street, and both stones inscribed USGS 1900) to the place and point of beginning. And running thence north 85 degrees 58 minutes 53 seconds west 65.16 feet to a building corner as recorded in Deed Book 4765 pg. 2067, thence north 03 degrees 53 minutes 53 seconds east 110.68 to a new drill hole in walkway, thence south 85 degrees 58 minutes 58 seconds east 57.22 feet to an iron pin set in the line of Laura J. Stroupe said property recorded in Deed Book 4754 pg. 1310, thence with the Stroupe line south 04 degrees 03 minutes 20 seconds west 110.66 feet to the point and place of beginning. Said property being called tract number one and containing 0.145 acres.

WHEREAS; to ensure the development progresses as approved and remains consistent with the Town’s vision for the Downtown and Central Business District, fulfillment of all obligations, commitments and promises as provided for in Agreement, also to ensure the front exterior of any new development/construction of any structure, to the extent possible, maintains the Town’s historic appearance and matches other buildings front exteriors that are located next to or near any new development/construction of any structure on tract one, it is necessary to place upon tract one, deed restrictions, covenants and other conditions, including but not limited to the remedies of the right of re-entry and reversion, all of which would result in Whiskey Mill Grill & Bar, Inc., agreeing to re-convey tract one to the Town with all improvements and equipment. and;

WHEREAS; That tract one, being reduced from 0.25 acres to 0.145 acres, subject to covenants, conditions, restrictions, remedies and demolition expense, has a current appraised value equal to or less than \$22,000.00 and has a fair market value equal to or less than \$22,000.00.

WHEREAS; That the selling price of the tract one for \$22,000.00 is not less than then the appraised valued or the fair market value of tract one.

Ordinance Authorizing and Implementing Downtown Development Project Agreement

WHEREAS; the Town has agreed to sell tract one for \$22,000.00, and;

WHEREAS; Whiskey Mill Grill & Bar, Inc. has agreed to (1) purchase tract one consisting of 0.145 acres for \$22,000.00, subject to covenants, conditions and restrictions and remedies, (2) the demolition of the building located on tract one and pay the cost of said demolition, (3), fulfilling the obligations as provided for in the attached Downtown Development Project Agreement (“Agreement”), and;

WHEREAS; Whiskey Mill Grill & Bar, Inc. is in need of a \$400,000.00 loan from the Town to develop and construct a minimum 4,000 square foot restaurant on tract one; but for the Town’s agreement to sell tract one and provide the \$400,000.00 loan, Whiskey Mill Grill & Bar, Inc. would not locate the restaurant in the Town, and;

WHEREAS; Whiskey Mill Grill & Bar, Inc. has other prospects and locations in Shelby and Hickory, North Carolina they are considering for development of a restaurant, and;

WHEREAS; Whiskey Mill Grill & Bar, Inc. has committed and agreed to the construction and development of a minimum 4,000 square foot restaurant on tract one, employment of at least 10 full time employees with a probable hourly wage of \$8.00 per hour at the restaurant to be located on tract one, all of which are provided for in the Agreement, and;

WHEREAS; Whiskey Mill Grill & Bar, Inc. has committed and agreed to a secured loan from the Town, in the amount of \$400,000.00 for the sole and only purpose of the construction and development of a minimum 4,000 square foot restaurant on tract one, which shall be paid back to the Town with interest at a rate of three percent (3%) per annum in one hundred twenty (120) monthly equal payments of principle and interest as determined by a standard loan amortization calculation (the “Loan”) and shall commence on the first day of the calendar month occurring after a certification of occupancy is issued for the building and improvements being constructed as part of the project and until that time, Owner will make interest only payments to the Town at the same rate applied to any amounts advanced by the Town, and;

WHEREAS; the Town has committed and agreed to develop public facilities and other amenities on the undeveloped portion of the 0.938 acres of tract two for Town purposes and for the use and benefit of the Citizens of the Town, as provided for in the Agreement, and;

WHEREAS; That the sale of tract one to Whiskey Mill Grill & Bar Inc. will increase the taxable property of the Town, will increase the employment of the Town, will increase the business prospects of the Town, and will likely have a significant effect on the revitalization of the Central Business District, and;

WHEREAS; That the loan of \$400,000.00 to Whiskey Mill Grill & Bar Inc. for the sole and only purpose of the construction and development of the restaurant on tract one will increase the

Ordinance Authorizing and Implementing Downtown Development Project Agreement

taxable property of the Town, will increase the employment of the Town, will increase the business prospects of the Town, and will likely have a significant effect on the revitalization of the Central Business District, and;

WHEREAS; That the construction and development of the restaurant on tract one will increase the taxable property of the Town, will increase the employment of the Town, will increase the business prospects of the Town, and will likely have a significant effect on the revitalization of the Central Business District, and;

WHEREAS; That the employment by Whiskey Mill Grill & Bar, Inc. of a minimum of ten (10) people with a probable wage of \$8.00 per hour at the restaurant located on tract one and in the Town's Central Business District will increase the taxable property of the Town, will increase the employment of the Town, will increase the business prospects of the Town, and will likely have a significant effect on the revitalization of the Central Business District, and;

WHEREAS; That the operation of the restaurant on tract one, for a minimum of five (5) years, will increase the taxable property of the Town, will increase the employment of the Town, will increase the business prospects of the Town, and will likely have a significant effect on the revitalization of the Central Business District, and;

WHEREAS; That the Downtown Development Project and the approved and validly executed Downtown Development Project Agreement will increase the taxable property of the Town, will increase the employment of the Town, will increase the business prospects of the Town, and will likely have a significant effect on the revitalization of the Central Business District, and

WHEREAS; That the Board approves the sale of the property located at 130 W. Trade Street, Dallas, NC to Whiskey Mill Grill & Bar, Inc. for \$22,000.00 subject to all covenants, conditions, agreements, restrictions and remedies contained in Agreement and subject to those covenants, conditions, agreements, restrictions and remedies, contained in the Deed above and beyond and not limited by the Agreement, and;

WHEREAS; the Board of Alderman have reviewed the Agreement and Deed and all of the restrictions, covenants, conditions, agreements and remedies included in the Agreement and Deed and;

WHEREAS; The Agreement and Deed sufficiently outlines the terms and conditions of the sale of tract one, loan, development of the project and remedies available to the Town and Whiskey Mill Grill & Bar, Inc. in the event of nonfulfillment of the obligations outlined in the Agreement and Deed, and;

WHEREAS; A Notice of Public Hearing was properly advertised in the Gaston Gazette on June 13, 2018 and June 20, 2018 and noticed to the public for public consideration and a copy of the Agreement made available for public review, as required by N.C.G.S. 160A-400.24,; and the public hearing was held on June 25, 2018, and;

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WHEREAS; N.C.G.S. 160A-400.22 requires that a Development Agreement be approved by ordinance, and;

WHEREAS; the Town hereby finds that approval of the Agreement is consistent with the requirements N.C.G.S. 160A-400.20 et. Seq., 158-7.1, 160A-456, 160A-457, and 160A-458.3.

NOW, THEREFORE, BASED ON THE FOREGOING FINDINGS, AND THE AUTHORITY GRANTED TO THE TOWN BY 160A-400.20(b), N.C.G.S. 158-7.1, 160A-456, 160A-457, and 160A-458.3, IT IS HEREBY ORDAINED, BY THE BOARD OF ALDERMEN OF THE TOWN OF DALLAS, NORTH CAROLINA, AS FOLLOWS:

Section 1. The recitals set forth hereinabove are incorporated as part of this Ordinance.

Section 2. That the Board approves the Agreement attached to this ordinance labeled Exhibit "A" and consisting of 11 pages.

Section 3. That the Town Manager and Town Attorney are hereby directed to take all necessary action to implement and execute the Agreement on behalf of the Town, and to complete the sale of tract one, located at 130 W. Trade Street, Dallas, North Carolina, as shown on the subdivision plat file with the Gaston County Register of Deeds on May 23, 2018, Book 87 page 117.

Section 4. If this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given separate effect and to that end the provisions of this ordinance are declared to be severable.

Section 5. Any ordinance or part of any ordinance in conflict with this ordinance, to the extent of such conflict, is hereby repealed.

Adopted this the 25th day of June, 2018.

Da'Sha Leach, Town Clerk

Rick Coleman, Mayor

Exhibit "A"

STATE OF NORTH CAROLINA
COUNTY OF GASTON

DOWNTOWN DEVELOPMENT PROJECT AGREEMENT

THIS DOWNTOWN DEVELOPMENT PROJECT AGREEMENT, pursuant to N.C.G.S. 160A-458.3, made and entered into this the _____ day of _____ 2018, by and between **THE TOWN OF DALLAS, NORTH CAROLINA**, a North Carolina municipal corporation (hereinafter referred to as "TOWN") and **WHISKEY MILL GRILL & BAR, INC.**, with an office and place of business in Gaston County, North Carolina (hereinafter referred to as "OWNER");

WITNESSETH:

WHEREAS, OWNER and TOWN intend to engage in and provide a Downtown Development Project located in the Town of Dallas, Gaston County, North Carolina, which will stimulate the local economy, increase the taxable property and business prospects of the Town, create jobs in the Town's Central Business District as a result of the Project; in addition, the project would have a significant effect on the revitalization on the Central Business District; and

WHEREAS, as authorized by N.C.G.S. § 158- 7. 1, 160A-456, 160A-457, and 160A-458.3 the TOWN, has agreed to provide an economic development incentive by loaning four hundred thousand dollars (\$400,000.00) to OWNER as provided for below, selling the surplus property and building located at 130 W. Trade Street, Dallas, NC, subject to restrictions, conditions, covenants, and a right of reversion, for development of restaurant space (minimum of 4,000 square feet), and more particularly described as:

Said tract of property, lying and being in the Town of Dallas, NC and containing the old Setzer building. Beginning at a building corner, said corner being a corner of property owned by Laura J. Stroupe, said corner being north 01 degrees 15 minutes 09 seconds east 263.11 feet from a courthouse stone, and north 32 degrees 16 minutes 32 seconds west 143.73 feet from another courthouse stone, (crossing West Trade Street, and both stones inscribed USGS 1900) to the place and point of beginning. And running thence north 85 degrees 58 minutes 53 seconds west 65.16 feet to a building corner as recorded in Deed Book 4765 pg. 2067, thence north 03 degrees 53 minutes 53 seconds east 110.68 to a new drill hole in walkway, thence south 85 degrees 58 minutes 58 seconds east 57.22 feet to an iron pin set in the line of Laura J. Stroupe said property recorded in Deed Book 4754 pg. 1310, thence with the Stroupe line south 04 degrees 03 minutes 20 seconds west 110.66 feet to the point and place of beginning. Said property being called tract number one and containing 0.145 acres

NOW, THEREFORE, in consideration of the foregoing, the benefits accruing to OWNER, the representations and mutual promises contained herein, the parties hereto agree

Exhibit "A"

as follows:

1. **Term.** The term of this agreement shall begin upon execution and extend, unless sooner terminated as described herein, if all conditions are met, for a minimum of five (5) years and a maximum of ten (10) years as herein after set forth.
2. **Project.** The project (herein "Project") consists of the OWNER's purchase of TOWN owned land and building at 130 W. Trade Street, Dallas, NC, for \$22,000.00, demolition of the existing building, investment of \$400,000.00 in the construction of a new building and grounds, purchase of restaurant equipment, installation of equipment, and operation of a restaurant in the Town of Dallas, Gaston County, North Carolina. The completed project/restaurant when operational will provide new employment for minimum of ten (10) people with a probable average wage of \$8.00_ per hour in the downtown area. The completed project/restaurant when operational will continue uninterrupted as a properly licensed and inspected restaurant for so long as the debt described in Section 3 hereof, but in no event for less than five (5) years. The project also consists of the development by the TOWN of public facilities and other amenities on adjacent TOWN owned property.
3. **Financing.** The OWNER Project will be financed by the TOWN in the form of a Promissory Note secured by a Deed of Trust executed by the OWNER in favor of the TOWN, wherein the TOWN will loan the OWNER up to \$400,000.00 to be paid back to the TOWN with interest at the rate of three percent (3%) per annum in one hundred twenty (120) monthly equal payments of principal and interest as determined by standard loan amortization calculation (the "Loan"). Payments of principal and interest on the Loan will commence on the first day of the calendar month occurring after a certification of occupancy is issued for the building and improvements being constructed as part of the Project. Until that time, Owner will make interest only payments to the TOWN at the same rate applied to any amounts advanced by TOWN for construction. There shall be no penalty for satisfying and paying off the loan by the Owner before the expiration of the one hundred twenty (120) months. The Loan proceeds shall be used exclusively for the Project. The Loan proceeds shall be disbursed to the OWNER within seven (7) days of the issuance of a draw request and approval by the Construction Manager as the Project progresses. The TOWN will not unreasonably delay the approval of a properly requested draw.
4. **Construction.**
 - a. The TOWN will employ the services of a Construction Manager. The Construction Manager will ensure that the construction and development of the restaurant and grounds proceeds according to Plans, Drawings, State and Local Building Codes, Zoning Ordinances, and other laws, regulations, and codes of the State of North Carolina, Gaston County, and the Town of Dallas. The OWNER agrees to cooperate with the Construction Manager in all aspects and will allow the Construction Manager to inspect all aspects of the development, construction, documents, paper writings, etc. to ensure compliance with this Agreement and

Exhibit "A"

any and all State and Local Building Codes, Zoning Ordinances, and other laws, regulations, and codes of the State of North Carolina, Gaston County, and the Town of Dallas. The Construction Manager will not interfere with or communicate with code inspectors. Failure of the agreement to address a particular permit, condition, term, or restriction does not relieve the owner of responsibility of complying with the law governing the permitting requirement, conditions, terms, or restrictions.

- b. The OWNER will employ the services of a General Contractor for the development of the Project.
- c. The OWNER will immediately without delay undertake the properly permitted demolition of the existing building located at 130 W Trade Street within ninety (90) days of the signing of this agreement.
- d. The OWNER will immediately proceed without delay to employ the services of a licensed professional architect/engineer to draft all appropriate plans and drawings for the project within sixty (60) days of signing this agreement. All plans and drawings shall be completed and submitted for inspection and approval by the TOWN, designee, agent, or Construction Manager prior to any construction and/or development of the project and within one hundred eighty (180) days of employing the licensed professional architect/engineer.
- e. The OWNER agrees to immediately proceed without delay in obtaining the proper and appropriate permits from Gaston County and the Town of Dallas for the construction and development of the project and will apply for all appropriate and proper permits within thirty (30) days of the all final plans and drawings being approved TOWN, designee, agent, or Construction Manager. The OWNER will remain diligent in obtaining and procuring all appropriate and proper permits.
- f. After all final plans and drawings are approved by the TOWN, designee, agent and/or the Town's Construction Manager and all appropriate and proper permits are obtained the construction of the project/restaurant shall be completed by the OWNER within one (1) year, weather permitting.
- g. After the completion of construction of the project/restaurant by the OWNER and the issuance of a Certificate of Occupancy, the restaurant shall be properly licensed and inspected as a restaurant by the appropriate government officials.
- h. The TOWN will construct and develop public facilities and other amenities as provided for in Exhibit "A" attached hereto and incorporated herein by reference, on adjacent TOWN owned property. The construction and development of the TOWN owned public facilities will not interfere with the construction and development of the project/restaurant and grounds outlined in the above paragraphs by the OWNER, and will be completed within six (6) months of the OWNER'S completion of the proposed development.

Exhibit "A"

- i. The TOWN and OWNER will coordinate and schedule the construction and development of the projects outlined in the above paragraphs to the extent possible so that the project undertaken by the TOWN will be completed within 6 months of the completion and operation of the project undertaken by the OWNER.
5. **Representations.** OWNER makes the following representations as the basis for the undertakings on its part herein contained:

Standing. The OWNER is a duly organized and existing North Carolina corporation under the laws of the State of North Carolina. The OWNER has the power and authority to enter into this Agreement, to perform its obligations under, and consummate the transactions contemplated by this Agreement, and is authorized the execution and delivery of this Agreement.

Continuity. The OWNER intends to operate the project as restaurant within the TOWN for so long as the Loan is outstanding, but in no event less than five (5) years. OWNER will pay to the TOWN the prospective tax revenues based upon the tax value of the property as determined in the ordinary course.

Inducement. The OWNER hereby certifies that without (BUT FOR) the incentives provided by the TOWN OF DALLAS, N.C., it would not site this project in the TOWN, and that it has contemplated locating in other locations, such as Hickory, N.C.

Timing. The OWNER agrees to close the purchase of the site on or before a date which is thirty (30) days after (i) the Property is legally subdivided and (ii) the Project has been duly approved by TOWN governing body after due notice and public hearing, if required. Both events (i) and (ii) above are express conditions precedent to OWNER's performance hereunder. Furthermore, OWNER shall be entitled to terminate this agreement at any time for any or no reason within sixty (60) days of the date of this agreement. OWNER will commence construction within ninety (90) days after closing. OWNER agrees to create approximately ten (10) full-time jobs and create approximately two (2) part time jobs paying an average wage of \$8.00 per hour at this location of 130 W. Trade Street, Dallas, N.C. In the event OWNER fulfills these goals (above and below) sooner, OWNER may request release from this agreement.

6. **Covenant.** The OWNER covenants and agrees to pay the taxes, create the jobs and make the investment, which are the subject of this Agreement in accordance with the purposes and/ or under the restrictions and conditions as set forth herein and/ or in the deed to the property.
7. **Conveyance.** In exchange for the investment by the OWNER and the creation of new jobs paying the average hourly rate as stated herein, the TOWN OF DALLAS,

Exhibit "A"

N.C. agrees to sell, grant and convey the property at 130 W. Trade Street, Dallas, N.C. for \$22,000.00, subject to a right of re-entry, reversion, restrictions, and covenants that run with the land within the time parameters set forth in Section 5 "Timing" above OWNER shall submit appropriate documentation of expenditures or information needed to show compliance with the investment and job creation requirements of this project.

8. **Limitation.** The Property provided in accordance with this contract is to be used for economic development purposes, community development purposes, and/or downtown development project purposes in accordance with N.C.G.S. § 158- 7.1, 160A-456, 160A-457, and 160A-458.3 of the TOWN for the construction, development, and operation of a restaurant by OWNER at 130 W. Trade Street, Dallas, N.C.
9. **Records.** The OWNER agrees that it will supply to the TOWN, or designee, agent, construction manager, or auditor, good and sufficient, certified and auditable evidence of the OWNER's compliance with the terms and conditions of this Agreement and such records, information, reports and verification relating to expenditures of funds or the operations of the OWNER as may reasonably be requested by the TOWN. The OWNER agrees that the TOWN shall have access to the records and premises of the OWNER at all reasonable times, and the OWNER agrees to submit such reports as the TOWN shall request pertaining to the construction and development and/or the operations of the TOWN necessary to verify compliance. The OWNER shall maintain a written accounting and documentation of all of its receipts and disbursements relating to the project which are the subject of this Agreement.
10. **Audit.** The TOWN reserves the right to require a certified audit, or may perform the audit through the use of its staff.
11. **Termination.** This agreement shall terminate and the OWNER shall be in breach for the following reasons as determined by the TOWN, but not limited to these reasons:
 - a. Failure to use the Property in accordance with this agreement;;
 - b. Failure to pay taxes;
 - c. Failure to comply with the terms and conditions of this Agreement;
 - d. Submission to the TOWN of reports which are incorrect or incomplete in any material respects;
 - e. Frustration or impossibility of performance, rendering the carrying out of this Agreement improper or unfeasible;

Exhibit "A"

- f. Transfer of title to the property prior to fulfillment of all requirements of this agreement, without the prior written consent of the TOWN;
 - g. In addition, failure to make satisfactory progress towards construction, completion and operation of a restaurant per the above construction paragraphs and/or making the investment in the property as set forth herein.
- 12. Clawback, Condition and Right of Re-entry.** If the project as described in this Agreement does not produce the improvements and jobs as anticipated following the execution of this agreement, as set forth herein, specifically:
- i. If the amount of investment made in the grounds and building renovation does not meet or exceed the amount of the Loan as of the date a certificate of occupancy for the Project is issued without modification of this agreement; and/ or
 - ii. The average wage paid to the employees did not equal or exceed \$8.00 per hour, as determined by current N.C. Employment Commission criteria (NCUI 101 form); and/ or
 - iii. The OWNER does not create at least ten (10) full time jobs and two (2) part time jobs by the date Owner opens for business; then, in each event, if the parties hereto do not agree to modify this agreement or extend the time for performance hereunder, the TOWN shall have the right to exercise its right of re- entry and retake the property and/ or OWNER shall re-convey the property, to the TOWN by non-warranty deed, with all improvements thereon and with OWNER bearing all cost of re-conveyance and that such right, title and interest in and to said property by OWNER shall revert to the TOWN. The OWNER agrees that the property, buildings, and grounds will not be encumbered in any way other than the lien and Deed of Trust given to the TOWN by the OWNER and no such encumbrance upon the property, building, and grounds, other than the TOWN'S, shall not prevent or prohibit the TOWN from re-entry or re-conveyance back to the TOWN. TOWN shall not take the property subject to any secondary encumbrance. TOWN agrees, upon request, to consider subordinating its right of re- entry to said property to any mortgage, deed of trust or security instrument to secure loans to improve said property. In the event the Property reverts to TOWN under any of the circumstances described in this Section 12, the LOAN shall be deemed paid in full.
- 13. Job Requirement.** The new jobs to be created by the Project must be filled by employees hired after the effective date of this agreement who work at least 32 hours per week for full time jobs and at least 12 hours per week for part time jobs and whose wages are subject to withholding under Article 4A of Chapter 105 of the North Carolina General Statutes.

Exhibit "A"

14. **Non-Assignment.** This Agreement is expressly non- assignable without the prior written consent and approval of the TOWN.
15. **Extension.** The TOWN may execute an extension of this Agreement in its discretion and in accordance with such additional conditions as it may require.
16. **Waiver or Release.** TOWN may waive violations or release and terminate any of the foregoing requirements at any time. Said Release or Waiver may be recorded in the Gaston County Registry.
17. **Termination.** The TOWN may terminate this Agreement, as set forth herein, for failure to make the investment in the property, for failure of the project, or violation of the terms of this Agreement, in the discretion of the TOWN, without prior notice to OWNER. Furthermore, upon satisfactory fulfillment of the terms of this agreement, the TOWN shall release the OWNER from this agreement and release the right of re-entry by execution of a release recorded in the register of deeds of Gaston County.
18. **Notice.** Notice may be given as follows:

To the TOWN:

Town of Dallas Manager
210 Holland Street
Dallas, NC 28034

To the OWNER:

Mr. Mike Croft
201 W. Pennsylvania Avenue
Bessemer City, NC 28016

19. **Jurisdiction and Venue.** This contract shall be construed under the laws of the State of North Carolina. Any controversy or claim arising out of this agreement shall be settled or resolved by an action initiated in Gaston County, North Carolina.
20. **Severability.** If any provision of this agreement is deemed to be invalid or unenforceable it shall not affect the validity or enforceability of any other provision of this agreement.
21. **Recording.** The TOWN shall record the Downtown Development Project Agreement with the Gaston County Register of Deeds within fourteen (14) days of the execution of this Agreement. The burdens are binding upon, and the benefits of the Downtown Development Project Agreement shall inure to, all successors to interest to the parties of the agreement

IN WITNESS WHEREOF, the TOWN OF DALLAS, N.C. has caused this instrument to be signed in its municipal corporate name by its duly elected Mayor and its seal to be hereunto affixed by the Town Clerk, all by authority of its Board of Alderman and the OWNER has caused this instrument to be executed in its company name by its duly authorized representatives both the day and year first above written.

EXECUTED this ____ day of _____, 20__.

Exhibit "A"

TOWN

Town of Dallas

OWNER

Whiskey Mill Grill & Bar, Inc.

By: _____

Maria Stroupe, Town Manager

By: _____

Rick Coleman, Town Mayor

ATTEST:

Approved As To Form and Legality

Town Clerk

Town Attorney

Exhibit "A"

NORTH CAROLINA
GASTON COUNTY

I, the undersigned, a Notary Public in and for said County and State, do hereby certify that **MARIA STROUPE** personally appeared before me this day and acknowledged the due execution of the foregoing document.

This the _____ day of _____, 2018.

(SEAL)

Notary Public

My Commission Expires: _____

NORTH CAROLINA
GASTON COUNTY

I, the undersigned, a Notary Public in and for said County and State, do hereby certify that **RICK COLEMAN** personally appeared before me this day and acknowledged the due execution of the foregoing document.

This the _____ day of _____, 2018.

(SEAL)

Notary Public

My Commission Expires: _____

Exhibit "A"

NORTH CAROLINA
GASTON COUNTY

I, the undersigned, a Notary Public in and for said County and State, do hereby certify that _____ personally appeared before me this day and acknowledged the due execution of the foregoing document on behalf of OWNER

This the _____ day of _____, 2018.

(SEAL)

Notary Public

My Commission Expires: _____

Exhibit “A”

EXHIBIT “A”

The Town shall develop, construct, and build a public facility and other amenities on the property located at 210 N. Holland Street, Dallas, NC. The public facility and amenities shall consist of a picnic shelter and recreation facilities, including but not limited to: corn hole area. The public facility and other amenities shall be open to the public and designated as a Town of Dallas public park.