



TOWN COUNCIL WORK SESSION

Monday, May 20, 2019 @ 7:00 p.m in Town Hall Council Chambers

TOWN/STAFF RELATED ITEMS

1. Update on Community Development Block Grant (CDBG) – *Director of Planning/Zoning*
2. Discussion of Land Exchange Agreement pertaining to former Town Hall – *Town Manager*

COUNCIL/MAYOR RELATED ITEMS:

3. Council Discussion/Goals (*time permitting*)
4. CLOSED MEETING – 1) Expansion of Existing Business, 2) Sale of Public Property and 3) Council Vacancy

Motion to Go Into Closed Meeting

I move that Town Council go into Closed Meeting for the following purposes:

1) a. The discussion or consideration of the possible disposition of the Town of Front Royal's publicly held real property, pursuant to Section 2.2- 3711. A.3., where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the Town; b. Discussion concerning the expansion of an existing business or industry where no previous announcement has been made of the business or industry expanding its facilities in the community, pursuant to Section 2.2-3711. A. 5. of the Code of Virginia; and c. Consultation with legal counsel employed or retained by the Town regarding specific legal matters, specifically, a possible award of a franchise agreement with a company or its wholly owned subsidiaries, requiring the provision of legal advice by such counsel, pursuant to Section 2.2-3711. A. 8. of the Code of Virginia.

2) a. The discussion or consideration of the disposition of publicly held real property, specifically, the consideration of bids for the purchase from the Town of 179 square feet, more or less, located behind the Front Royal Brewing Company, pursuant to Virginia Code Section 2.2- 3711. A.3., where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body; and, b. Consultation with legal counsel employed or retained by the Town regarding specific legal matters requiring the provision of legal advice by such counsel, specifically the same matter as above, pursuant to Section 2.2-3711. A. 8. of the Code of Virginia.

3) a. The possible appointment of a specific public appointee of Town Council, namely, a citizen of Front Royal or a sitting Town Council Member, to fill the seat vacated by the resignation of former Mayor Hollis L. Tharpe, pursuant to Section 2.2 3711. A. 1. of the Code of Virginia; b. the possible appointment of a specific public appointee of Town Council, namely, a citizen of Front Royal, to fill a seat vacated by the possible appointment of a Town Council Member, should a sitting Member of Town Council be appointed to fill the seat of Interim Mayor, due to the resignation of former Mayor Hollis L. Tharpe, pursuant to Section 2.2 3711. A. 1. of the Code of Virginia; and, c. for the purpose of consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel, specifically, the law regarding filling vacancies on positions of the governing body of the Town, pursuant to Section 2.2-3711. A. 8. of the Code of Virginia.

Motion to Certify Closed Meeting at its Conclusion [At the conclusion of the Closed Meeting, immediately re-convene in open meeting and take a roll call vote on the following:]

I move that Council certify that to the best of each member's knowledge, as recognized by each Council member's affirmative vote, that only such public business matters lawfully exempted from Open Meeting requirements under the Virginia Freedom of Information Act as were identified in the motion by which the Closed Meeting was convened were heard, discussed or considered in the Closed Meeting by Council, and that the vote of each individual member of Council be taken by roll call and recorded and included in the minutes of the meeting of Town Council.

1



Work Session Agenda Form

Item # 1

DATE: May 20, 2019

AGENDA ITEM: Update on CDBG Envision 2.0
Director of Planning/Zoning

SUMMARY: Town Staff will provide a brief presentation on May 20th to update Town Council on the Community Development Block Grant (CDBG) Envision 2.0.

BUDGET/FUNDING: No change.

STAFF RECOMMENDATION: No action required by Town Council.

Work Session

2



Work Session Agenda Form

Item # 2

DATE: May 20, 2019

AGENDA ITEM: Discussion of Land Exchange Agreement Pertaining to Former Town Hall

SUMMARY: On February 10, 2014 Council approved a Resolution and Memorandum of Agreement (MOA) with the Economic Development Authority (EDA) that incorporates a Land Exchange Agreement between the EDA and Afton Inn, LLC specific to the Afton Inn (2 E Main St) and the former Town Hall (16 N Royal Avenue). Per the Resolution, **“the Town Council found that the economic development of the Town and County and the public benefit and common good would be more timely and accurately served by allowing the EDA to select the ultimate owner and user of the Afton Inn property; and by gifting and donating the former Town Hall property to the EDA”**

In June 2014 the MOA and the Land Exchange Agreement were signed, including the seven (7) Restrictive Covenants, acknowledged by Afton Inn, LLC and shall pass with the title and run with the land.

Of particular interest tonight is **#2. Exchange Terms** (e) the Five (5) Year Right of First Refusal which expires from the date of closing (Deed was recorded June 24, 2014)

Attached are the minutes of February 10, 2014, Resolution, MOA, Deed, Land Exchange Agreement and Real Estate Listing

BUDGET/FUNDING: None

STAFF RECOMMENDATION: Council takes desired action

Work Session

LAND EXCHANGE AGREEMENT

THIS LAND EXCHANGE AGREEMENT ("AGREEMENT") is made as of this day of June 11th, 2014, by and between **AFTON INN, L.L.C.**, a Virginia Limited Liability Company; party of the first part, hereinafter referred to as "Afton Inn, L.L.C.", and the **ECONOMIC DEVELOPMENT AUTHORITY**, a political subdivision of the Town of Front Royal and the County of Warren as authorized by the Commonwealth of Virginia, party of the second part, hereinafter referred to as the "EDA".

WHEREAS, Afton Inn, L.L.C. is the owner of the real property located within the Town of Front Royal, County of Warren, Virginia 22630 (hereinafter, the "Town") at the intersection of East Main Street and Crescent Street with an official property address of 2 East Main Street, Town of Front Royal, Warren County, Virginia, 22630, also known as Tax Map 20A8 4 14, upon which is located a structure commonly known as the "Afton Inn", or as the "Afton Inn Hotel", and is hereinafter referred to as the "Afton Inn"; and

WHEREAS, the EDA is the owner or contract owner of the building situate on real property located at 16 North Royal Avenue, Town of Front Royal, Warren County, Virginia 22630, formerly being the Town Hall for the Town of Front Royal, situate between the Front Royal United Methodist Church and the First Baptist Church of Front Royal, as well as a two story building immediately to the west (rear) of the former Town Hall, both of which buildings are hereinafter referred to as the "Town Hall", which said property does not include the parking lot on the west side of Union Street that has heretofore served the Town Hall property; and

WHEREAS, Afton Inn, L.L.C. and the EDA wish to exchange their properties under the terms and conditions set forth herein.

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

1. DEFINITIONS.

The Afton Inn and the Town Hall are hereinafter sometimes individually referred to as the "Exchange Property" or collectively as the "Exchange Properties."

A party who is intending to convey title to an Exchange Property at Closing is sometimes referred to hereinafter as "Grantor Party" and a party who is intending to accept title to an Exchange Property at Closing is sometimes referred to hereinafter as "Grantee Party."

2. THE EXCHANGE TERMS.

Afton Inn, L.L.C. and the EDA acknowledge that the Afton Inn and the Town Hall are of like kind and equal value. Pursuant to Section 1031 of the Internal Revenue Code (26 U.S.C. § 1031), Afton Inn, L.L.C. will convey the Afton Inn to the EDA and the EDA will convey the Town Hall to the Afton Inn, L.L.C. at closing. At closing, each Grantor Party will execute and deliver at that Grantor Party's expense a special warranty deed with English covenants of title conveying marketable title to each respective Exchange Property to the other Grantee Party, as follows: Title to the Exchange Property shall be good of record and fact, free of liens and encumbrances, subject only to those restrictions to which Buyer has not objected in accordance with Section 7 (the "Permitted Exceptions").

Afton Inn, L.L.C. shall convey to the EDA all of the Afton Inn, L.L.C.'s right, title and interest to the Afton Inn, which includes the improvement thereon, together with all easements, rights, privileges, and appurtenances belonging to same, together with any restrictions of record which do not interfere or prevent the EDA from utilizing the Afton Inn in any manner deemed appropriate by the EDA, but free and clear of all liens, encumbrances, encroachments and special assessments levied or assessed. The EDA shall convey the Town Hall to the Afton Inn, L.L.C. all of the EDA's right, title and interest to the Town Hall, which includes the improvements thereon, together with all easements, rights, privileges, and appurtenances belonging to same, together with any restrictions of record (except the "Restrictive Covenants" hereinafter described) which do

not interfere or prevent Afton Inn, L.L.C. from utilizing the Town Hall in any manner permitted by the Town's Zoning Ordinance or other applicable laws or regulations, but free and clear of all liens, encumbrances, encroachments and special assessments levied or assessed, and subject to the restrictive covenants (the "Restrictive Covenants") hereinafter set forth. Afton Inn, L.L.C. acknowledges the exterior of the Town Hall has historical and aesthetic value that the Town Council of Front Royal, Virginia (hereinafter, the "Town Council") requires to be preserved in accordance with said Restrictive Covenants, which Restrictive Covenants shall not merge with the deed to the Town Hall from the EDA to Afton Inn, L.L.C. or any subsequent deed, and shall be covenants real and shall pass with the title to the Town Hall and shall run with the land and shall be binding upon all parties having or acquiring any right, title or interest in and to the real property or any part or parts thereof subject to such Restrictive Covenants. These Restrictive Covenants shall be as follows:

(a) The Town Hall shall be photographed contemporaneously with Closing, and copies given to Afton Inn, L.L.C. and the EDA. The exterior appearance of the Town Hall shall retain the stone face appearance, the white trim, the appearance and style of windows and doors, including the historic, multi-pane appearance thereof, that they had at the time of Closing (provided, however, that replacement windows and doors may be of currently manufactured material that maintains the aesthetic appearance of wood).

(b) Roofing material of the Town Hall shall be metal.

(c) No portion of the Town Hall or the building to the immediate west (rear) of the former Town Hall building itself (which will convey to Afton Inn, L.L.C. with the Town Hall itself) shall be demolished without the written consent of the Town Council.

(d) The former Town Hall building itself and the building to the immediate west (rear) of the former Town Hall building itself shall at all times be kept and maintained in a good state of repair.

(e) Five (5) Year Right of First Refusal. During the first five (5) years from the date of closing hereunder, prior to the consummation of a sale or other conveyance of the Town Hall to any other person or entity, Afton Inn, L.L.C. shall notify the Town Manager of the Town, by personal delivery or by certified mail, return receipt requested, at 102 East Main Street, Front Royal, Virginia 22630, as to the terms and conditions of the proposed sale or other conveyance. Within thirty (30) days of delivery or receipt of said notice the Town shall notify Afton Inn, L.L.C. of the Town's intention to purchase the Town Hall upon identical terms and conditions as the proposed sale or other conveyance; subject, however, to the provision that, if Afton Inn, L.L.C. notifies Town Council's of its intent to sell or convey the Town Hall to any other person within five (5) years from the date Afton Inn, L.L.C. acquires title to the Town Hall, Town Council must vote, by not less than an ordinance or resolution passed by a recorded affirmative vote of three fourths of all members elected to Town Council, to purchase or accept title to the Town Hall upon such terms and conditions as aforesaid. The Town shall then consummate the purchase of the Town Hall within Sixty (60) days of the receipt of notification of the proposed sale or other conveyance.

(f) A metal plaque signifying the historical significance of Town Hall, approved in advance prior to its placement upon Town Hall by Town Council as to the plaque's appearance, informative content, and place of placement, which approval shall not unreasonably be withheld, shall be erected, at the expense of Afton Inn, L.L.C. within one (1) year of Afton Inn, L.L.C.'s acquisition of Town Hall, and permanently maintained on the exterior premises of Town Hall. Employees, officers, agents, and contractors of the Town shall have and retain the right in perpetuity to enter upon, go onto, and remain upon the exterior premises of the Town Hall Property from time to time, at reasonable times upon the giving of reasonable advance notice to the owner of the Town Hall, using reasonable care not to unreasonably damage the Town Hall Property, for the purpose of maintaining, repairing, or replacing the plaque, and to cut or remove any shrubbery, plant material or other items that may be obstructing the view of the plaque from ordinary observation from passersby from North Royal Avenue or from the

sidewalk on the West side of North Royal Avenue, and without liability to the owner of the Town Hall property for the same and, further, without liability to the Town its employees, officers, agents, and contractors by the owner of the Town Hall property for the same.

(g) The Restrictive Covenants may be amended from time to time by written mutual agreement by the then owner of the Town Hall property and the Town Council.

3. NO FURTHER ENCUMBRANCES.

Each Grantor Party covenants that it will not further encumber its Exchange Property prior to Closing without the written consent of the Grantee Party and that it will not voluntarily create or cause or permit a lien or encumbrance to attach to the Exchange Property between the date of this Contract and Closing; any monetary lien or encumbrance so attaching, as well as any existing monetary lien or encumbrance, including any existing mortgage, deed of trust, judgment lien or similar lien against the Exchange Property which can be discharged by the payment of money, shall be discharged by the Grantor Party at or prior to Closing.

4. DEDICATIONS AND EASEMENTS.

After the Effective Date of this Agreement, but prior to Closing, neither Grantor Party will dedicate, gift, transfer, mortgage or convey any interest in Grantor Party's Exchange Property without written consent from Grantee Party, which may be withheld for any reason.

5. DELIVERIES OF MATERIALS.

Promptly, but in no event later than five (5) days following the Effective Date of this Agreement, each party shall deliver to the other party the following:

(a) A true and complete copy of all owners' policies of title insurance, if any, previously obtained by or in the actual or constructive possession of the Grantor Party with respect to the Grantor Party's Exchange Property.

(b) All surveys, engineering, geotechnical, environmental or similar reports in the Grantor Party's actual or constructive possession relating to the Exchange Property.

(c) Copies of all notices of any violation relating to the Exchange Property which is uncorrected, if any.

(d) Copies of documents related to work done on the Exchange Property by Grantor Party, its agents or contractor, of which the Grantor Party has in its actual or constructive possession or control.

(e) Copies of any development plans, whether complete or preliminary, for any past or present contemplated repairs, renovations and/or improvements to the Exchange Property, including, but not limited to, past plans for the redevelopment of the Alton Inn for mixed commercial uses.

6. TESTS AND INSPECTIONS.

(a) Each Exchange Party, its respective agents, servants, employees, engineers, invitees and/or designees, at each's respective risk and expense, shall have the full right from and after the Effective Date to enter upon the other Exchange Party's Exchange Property at any reasonable time and from time to time, for purposes of conducting studies, environmental audits, investigations and the like with respect to such Exchange Property.

(b) Each Exchange Party shall have the right to terminate this Contract, by written notice to the other Exchange Party sent on or before **Thirty (30)** days after the Effective Date (the "Study Period"), in its sole and absolute discretion, (i) if an Exchange Party is dissatisfied with the results of any inspections, studies or due diligence conducted with respect to the Exchange Property or (ii) if an Exchange Party is dissatisfied with any materials furnished to it pursuant to the terms of this Contract. In the event that one Exchange Party shall terminate this Contract pursuant to the provisions of this paragraph, this Agreement shall immediately become null and void and no party shall have any further liability to the other. The failure of the a respective Exchange Party to give the other Exchange Party written notice of termination by the end of the Study Period shall constitute a waiver of this contingency by that Exchange Party.

(c) If a Grantee Party enters the Exchange Property prior to settlement, the Grantor Party shall: (i) keep the Exchange Property free and clear of any and all liens or claims resulting therefrom; (ii) to the extent allowed by the Constitution and laws of Virginia, defend, indemnify and hold harmless the other Grantor Party against and from any claim or liability imposed or sought to be imposed upon the entering Exchange Party as a result of actions by the entering Grantee Party, its employees, agents, architects and engineers on the Exchange Property; and (C) agree not to unreasonably damage or harm the Exchange Property.

(d) Afton Inn L.L.C. acknowledges that it has received and has had the opportunity to review all currently-available environmental and asbestos-testing reports in the possession of the EDA or in the possession of the Town of Front Royal, and that Afton Inn L.L.C. agrees to complete the exchange of the properties in their as-is, where-is condition with full knowledge of the contents of such reports.

(e) Afton Inn L.L.C. acknowledges that it has had the opportunity to tour and inspect the interior and exterior of the former Town Hall building and property, and that Afton Inn L.L.C. agrees to complete the exchange of the properties in their as-is, where-is condition with full knowledge of the physical condition of the former Town Hall buildings, including the present condition of the electrical, plumbing, heating and air conditioning systems of the buildings, as well as the physical condition of the windows, window sills, doors, framing, floors and stairs of the buildings.

(f) Afton Inn L.L.C. acknowledges that it will make no demands for repairs, maintenance, upkeep, demolition, remodeling, or renovations of the former Town Hall buildings as a condition of the completion of the exchange.

(g) Afton Inn L.L.C. acknowledges that, as a result of the exchange, it will acquire no rights to any parking spaces other than those contained within the Town Hall

property, as defined above, and that the lack of other parking spaces shall not be an impediment to the completion of the property exchange.

7. TITLE INSURANCE.

Within a reasonable time, not to exceed thirty (30) days after the Effective Date, each Grantee Party shall obtain a title insurance commitment (the "Commitment") from a title insurance company of the Grantee Party's choice and at the cost of each Grantee Party, on the Exchange Property to be acquired by each Grantee Party. Within fifteen (15) days after receipt of such Commitments, each Grantee Party shall deliver to Grantor Party a copy of a title insurance commitment (the "Commitment") bearing an effective date subsequent to the Effective Date hereof in favor of Grantee Party for an owner's title insurance policy insuring marketability of the title to the Exchange Property in the amount of the Exchange Property's appraised value underwritten by a title insurance company acceptable to and selected by Grantee Party which is licensed to do business in the Commonwealth of Virginia for an owner's title insurance policy on the most recent Standard ALTA Policy form. The copy of the Commitment shall be accompanied by a written statement of any objections to Grantor Party's title to the Exchange Property as disclosed by the Commitment. Any matter not objected to by Grantee Party within fifteen (15) days of its receipt of such Commitment shall be deemed approved exceptions to title by Grantee Party. Prior to Closing, Grantor Party shall deliver to Grantee Party a written statement of any objections which Grantor Party could not, upon the exercise of due diligence in good faith, cure prior to or concurrent with Grantee Party's acquisition of the Exchange Property. If Grantor Party gives notice to Grantee Party of any objections which cannot be cured, then Grantee Party shall have the option of: (i) waiving such objections and proceeding with this Agreement or (ii) terminating this Agreement, and thereupon this Agreement shall be null and void and neither Grantor Party nor Grantee Party shall have any further obligations hereunder. In addition to the terms and conditions of this Agreement, land title law of Virginia and the title standards approved by the Virginia Bar Association to the date of examination of title shall serve as a guide of marketability of title. Grantee Party shall be responsible for the expense of a title

insurance policy issued on the Exchange Property to be transferred to the Grantee Party.

8. COVENANTS, REPRESENTATIONS AND WARRANTIES OF GRANTOR PARTIES.

In order to induce the Grantee Parties to enter into this Agreement and to exchange the Exchange Properties, and in addition to the warranties and representations contained elsewhere in this Agreement, the Grantor Parties make the following representations, warranties and covenants, each of which is material and is relied upon by the Grantee Parties, and each of which shall be true as of the date hereof and as of the date of Closing.

(a) Grantor Party owns good and marketable fee simple title to its Exchange Property, free and clear of liens, encumbrances, restrictions and easements of any kind whatsoever, excepting only those matters disclosed herein.

(b) No actions, suits or proceedings have been instituted or threatened against or affecting the Grantor Property or the Exchange Property at law or in equity or before any federal, state, municipal or local governmental authority, department, commission, board, bureau, agency or instrumentality thereof.

(c) Grantor Party has not received notice of violation of any building, zoning, health or other ordinances, resolutions, statutes or regulations of any government or governmental agencies, with respect to the use, occupation, maintenance, condition or operation of the Property or any part thereof which has not been cured.

(d) None of the materials which have been provided to Grantee Party pursuant to the terms of Paragraph 5 hereof are untrue or incomplete in any material adverse respect as of the date they were prepared, and that none of the materials, documents and financial information which have been provided to Grantee prior to execution of this Contract are untrue or incomplete in any material adverse respect as of the date they were prepared. Grantor Party shall continue to provide Grantee Party with

copies of all material documents of the nature described in Paragraph 4 hereof, which Seller receives prior to Closing.

(e) Neither the execution of this Contract nor the consummation of the transactions contemplated hereby will: (A) conflict with, or result in a breach of, the terms, conditions or provisions of, or constitute a default under, any agreement or instrument to which the Grantor Party is a party; or (B) violate any restriction to which the Grantor Party is subject.

(f) Grantor Party, its agents, tenants or licensees have not placed or allowed to be placed on the Exchange Property, and Grantee Party's inspection during the Study Period reveals the Exchange Property (including the land, and any improvements) are free of, any material amounts of waste or debris, and Grantor Party, its agents, employees, members and managers have not placed or allowed to be placed on the Exchange Property, and to the knowledge of the Grantor Party, the Exchange Property is free of all contamination including: (i) any "Hazardous Waste" as defined by the Resource Conservation and Recovery Act of 1976, as amended from time to time, and regulations promulgated thereunder; (ii) any "hazardous substance" as defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended from time to time, and regulations promulgated thereunder; (iii) any substance the presence of which on the Exchange Property is prohibited by any other federal, state, or local law applicable to the Exchange Property; (iv) underground storage tanks; and (v) no landfill has occurred on the Exchange Property and no debris has been buried or placed on the Exchange Property .

(g) The Exchange Property does not contain any cemeteries or graveyards, and the Exchange Property is not subject to any easements for access to any cemeteries or graveyards.

(h) Grantor Party is not bankrupt or insolvent under any applicable federal or state standard, nor has filed for protection or relief under any applicable bankruptcy or creditor protection statute nor has any such Party been threatened by creditors with an involuntary application of any applicable bankruptcy or creditor protection statute.

Grantor Party is not entering into the transactions described in this Agreement with intent to defraud any creditor or to prefer the rights of one creditor over any other. The Exchange Parties have each negotiated this Agreement at arms'-length and the consideration to be exchanged represents fair value for the assets to be transferred.

(i) No petition, application or proceeding is pending or threatened to alter the zoning of the Exchange Properties. Except for the Permitted Exceptions, Grantor Parties have made no commitments relative to the Exchange Properties whether verbally or in writing, to any governmental authority or any neighboring property owner, which would be binding on the Exchange Parties, except as contained herein, after the Closing.

(j) There are not now pending or threatened eminent domain or condemnation proceedings which would affect the Exchange Properties or any part thereof.

(k) There is no pending moratorium on, or other impediment to, immediate public sewer and water availability which is applicable to any portion of the Exchange Properties.

(l) The Exchange Properties have not been used for purposes of mining or explorations for mineral, chemicals or other natural resources.

(m) The Grantor Parties will not take or cause to be taken any action, or fail to perform any obligation, which would cause any of the foregoing representations or warranties to be untrue as of the Closing. The Grantor Parties shall immediately notify the Grantee Party, in writing, of any event or condition known to Grantor Party which occurs prior to Closing hereunder, which causes a change in the facts relating to, or the truth of, any of the above representations or warranties.

(n) In addition to, but not in limitation of, other default remedies herein elsewhere stated, in the event that any of the aforesaid representations and/or warranties are not true, shall not have been complied with or shall not have transpired now or at the time of Closing, Grantee Party, at any time prior to or at Closing, may declare this Agreement null and void and of no further effect. In addition, Grantee Party may

exercise any and all of its other rights at law or in equity with respect to any breach or untruth concerning said covenants, representations and/or warranties.

9. POSSESSION; RISK OF LOSS.

(a) Except for Grantee Party's right of inspection as set forth in paragraph 6 above, possession of the Exchange Property shall be given to the Grantee Party as of the date of Closing, free and clear of any personal property and/or possessory interests of any parties, other than demolition debris and materials within the interior of the Afton Inn.

(b) The Exchange Property shall be held at the risk of Grantor Party until Closing hereunder or possession has been given to Grantee Party, whichever occurs first.

10. GRANTOR PARTY'S DELIVERIES AND CONDITIONS PRECEDENT TO GRANTEE PARTY'S OBLIGATIONS.

In addition to other conditions precedent set forth elsewhere in this Agreement, Grantor Party shall deliver to Grantee Party at the Closing all of the following, the delivery of which shall be a condition to Grantee's obligation to consummate the purchase of the Property.

(a) Warranty Deed. A General Warranty deed containing English Covenants of Title, said document shall be prepared by Grantor Party at its expense.

(b) Original Documents. Originals of all surveys, plats, engineering reports, studies, environmental studies and other documents delivered by Grantor Party to Grantee party under Paragraph 5 hereof, together with an assignment of all of Grantor Party's right, title and interest in any construction drawings and subdivision documents, and an assignment of Grantor Party's contract with the engineer preparing such documents (with all obligations of Grantor Party paid in full) in a form reasonably acceptable to Grantor Party.

(c) Additional Documents. Such additional customary documents as may be reasonably requested by Grantee Party or Grantee Party's title company to consummate the transactions described herein and to cause the title company to issue and deliver its title policy subject only the Permitted Exceptions and such other exceptions to which Grantee party consents.

(d) Conditions to Grantee's Obligation. Grantee Party's obligation hereunder to complete Closing shall be conditioned upon the following:

- (i) Each of Grantor Party's representations and warranties as set forth in Section 8 being true as of the date of Closing. Notwithstanding that certain of Grantor Party's representations and warranties may be limited to the extent of Grantor Party's knowledge of the facts stated therein, the condition precedent to Grantee Party's obligation to settle hereunder set forth in this Section 8(b) shall not be so limited [except as to paragraphs 6(g), 6(h) 6(j), and 6(o)], and the satisfaction of said conditions shall depend upon the actual correctness as of the time of settlement of the facts stated in all such representations and warranties.

(e) Restrictive Covenants. EDA must have delivered, no less than twenty (20) days after the effective date hereof, in writing to Afton Inn, LLC for its review and approval, which approval shall not be unreasonably withheld in the form and content in which they are to be recorded, Restrictive Covenants as referred to herein and listed above in Section 2(a) through 2(g), both inclusive. If, after having received such written Restrictive Covenants in a timely fashion, Afton Inn has raised no objection in writing with EDA prior to the end of the Study Period, said Restrictive Covenants shall be deemed to be agreed to by Afton Inn, LLC on behalf of itself and/or its successors in title. Said Restrictive Covenants shall not be personal to Afton Inn, LLC but shall be considered to be covenants running with the land.

11. TAXES.

Real estate taxes on the Exchange Property prior to the date of Closing shall be paid by Grantor Party. Real estate taxes on the Exchange Property after the date of Closing shall be paid by Grantee Party. The taxes for the year of the date of Closing shall be prorated based upon the then most current property valuations and upon the most current tax rate as determined by law.

12. CLOSING.

Closing shall occur within Ninety (90) days from the Effective Date of this Agreement; provided that the title commitments have been completed and the agreed Closing Agent shall be prepared to conduct the Closing within that time.

13. ADJUSTMENTS, PRORATIONS, AND CLOSING COSTS.

(a) Any taxes, general or special, and all other public or governmental charges or assessments against the Exchange Property which are, or may be, payable on an annual basis (including benefit charges, assessments, liens or encumbrances for sewer, water, drainage or other public improvements, completed or commenced, on or prior to the date hereof, or subsequent thereto), shall be adjusted and apportioned as of the date of Closing and are to be assumed and paid thereafter by Grantee Party, said adjustment apportionment to be on the basis of the fiscal year for which assessed, whether or not such assessments had been levied as of the date of Closing.

(b) All other charges, if any and fees customarily pro-rated and adjusted in similar transactions shall be pro-rated and adjusted in similar transactions shall be pro-rated at Closing and thereafter assumed by the Grantee party. In the event that accurate prorations and other adjustments cannot be made at Closing because current bills or statements are not obtainable, the parties shall pro-rate on the best available information, subject to adjustment upon receipt of the final bill or statement.

(c) The parties shall each pay the cost of all documentary stamps, recordation taxes and transfer taxes in accordance with their respective obligations imposed by applicable provisions of the Code of Virginia.

14. NO REAL ESTATE COMMISSION AND FINDER'S FEE.

The parties agree that no party hereto shall be liable for any real estate broker's commission, agent's commission, or finder's fee, in connection with the transaction contemplated by this Agreement. Each party warrants to the other party that it shall indemnify and hold harmless for any and all claims of any person for broker's or agent's commissions or finder's fees in connection with this transaction.

15. CONDITION OF EXCHANGE PROPERTY.

(a) Grantee Party acknowledges that its representatives or agents have examined the Exchange Properties prior to entering into this Agreement. This Agreement is based upon Grantee Party's inspection of the Exchange Property and not upon any representation or warranties or conditions by Grantor Party's agents. Grantee Party acknowledges Grantor Party is conveying the Exchange Property on an "as is" basis, except for the warranties and representations as provided in this Agreement and the warranties in the general warranty deed.

(b) Afton Inn LLC represents and warrants to EDA that its intentions with respect to the Town Hall are to accomplish the highest and best use of the property with all deliberate speed and consistent with all applicable statutes, codes, rules and regulations affecting the property. Afton Inn LLC agrees that it and its successors and assigns, will submit to the appropriate governmental authority all required applications and permits with supporting documentation required by any and all statutes, code, rules and regulations, observe the standards of applicable building codes, submit to any and all required inspections by appropriate governmental authority and at all times abide by the Restrictive Covenants imposed upon the Property as described hereinabove.

(c) Afton Inn, LLC, and its successors and assigns, at all times after Closing shall keep and maintain the former Town Hall building and the building to the immediate west (rear) of the former Town Hall building in a good state of repair. Within fifteen (15) days immediately prior to Closing, the County Building Code Official or his designee shall inspect the former Town Hall building and the building to the immediate west (rear) of the former Town Hall building, and shall make a record, including photographs, of the conditions of the said buildings. The same Official or his designee, or a Town Building Codes Official or his designee in the event the Town creates such a position, shall have the right, at reasonable times thereafter and upon reasonable advance notice to Afton Inn LLC, its successors and assigns, periodically to re-enter the buildings for further inspection to ensure that the buildings are being kept and maintained in a good state of repair, without deterioration, and that necessary repairs are being accomplished to maintain the good state of repair.

(d) In the event Afton Inn, LLC, and its successors and assigns fail to maintain the said buildings described in subparagraphs (b) and (c) above, the Town Council and/or the EDA shall have the right to purchase the Town Hall from the owner thereof at a price to be determined by the average of three independent appraisers, one retained by the Town Council or EDA, one retained by the owner of Town Hall, and a third to be selected by the first two and paid equally by the Town Council or EDA and the owner of Town Hall. This term shall survive Closing.

16. DEFAULT.

If all conditions and other events precedent to the Grantor Party's obligations to consummate the transactions contemplated by this Contract have been satisfied or waived, but the Grantor Party fails, refuses or is unable to consummate the exchange contemplated by this Agreement, or to perform any other obligation required by this Agreement, then the Grantee Party shall be entitled to any right or remedy at law or equity, including actions for specific performance and/or damages.

17. NON-FOREIGN STATUS.

At the date of Closing, Afton Inn, L.L.C. shall deliver to the EDA the Certification of Non-Foreign Status duly executed and containing such other information as may be required by Internal Revenue Code Section 1445 and the Regulations issued thereunder.

18. ASSIGNMENT.

In the case of the assignment of this Agreement by either of the parties, prompt notice shall be given to the other party, who shall at the time of such notice be furnished with a duplicate of such assignment by such assignors. Any such assignment shall not terminate the liability of the assignor to perform, unless a specific release in writing is given and signed by the other party to this Agreement.

19. SEVERABILITY.

If any non-economic mutual term or provision of this Agreement or the application thereof to any person or circumstances shall to any extent be invalid or unenforceable, the remainder of this Agreement or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforced to the fullest extent permitted by law.

20. FURTHER ASSURANCES.

Each undersigned party will, except as otherwise provided herein, whenever it shall be necessary to do so by the other, promptly execute, acknowledge, and deliver, or cause to be executed, acknowledged, or delivered, documents as may be necessary or proper to effectuate the covenants, contingencies and agreements herein provided. The Exchange Parties agree to use their best efforts in cooperation to carry out the intent of this Agreement and to provide quality and efficient development sites for both Exchange Parties.

21. INTERPRETATIONS.

Any uncertainty or ambiguity existing herein shall not be interpreted against either party because such party prepared any portion of this Agreement, but shall be interpreted according to the application of rules of interpretation of contracts generally.

22. CONSTRUCTION.

Whenever used herein including acknowledgments, the singular shall be construed to include the plural, the plural the singular, and the use of any gender shall be construed to include and be applicable to all genders as the context shall warrant.

23. MERGER.

All representations and warranties made herein are **not** intended to survive Closing and shall be merged in the deed unless otherwise stated in this Agreement.

24. ENTIRE AGREEMENT.

This Agreement contains the entire agreement of the parties relating to the transaction contemplated hereby, and all prior or contemporaneous agreements, understandings, representations, warranties and statements, oral or written, are merged herein. This Agreement cannot be modified or altered unless reduced to writing and consented to by all the undersigned parties.

25. NOTICE AND DEMANDS.

Notice, demand, or other communication mandated by this Agreement by either party to the other shall be sufficiently given or delivered if it is sent by registered or

certified mail, postage prepaid, return receipt requested, or delivered personally at the address stated below.

26. EXECUTION IN COUNTERPARTS.

This Agreement may be executed in two (2) or more counterparts, each of which shall be an original but all of which shall constitute one and the same instrument.

27. GOVERNING LAW.

All aspects of this Agreement shall be governed by the laws of the Commonwealth of Virginia.

28. SUCCESSORS AND ASSIGNS.

This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, legatees, devisees, personal representatives, successors and assigns.

29. NOTICES.

Neither party shall be deemed to be in default hereunder, unless and until, it shall have been sent Notice of such default by the other party, and shall have failed to cure the default within ten (10) days of the date of such notice. Each party shall be responsible for Notices. Any notice or demand under this Agreement shall be in writing and sent by (a) registered or certified mail, return receipt requested, postage prepaid, (b) by recognized overnight courier service such as Federal Express, as follows, or (c) by facsimile transmission as long as a copy is sent by the methods described in clauses (a) or (b).

Notice to Afton Inn, L.L.C:

**Afton Inn, LLC
8201 Euclid Avenue
Manassas Park, VA 20111**

**With a copy to:
John E. Carter, PC.
4103 Chain Bridge Road - Suite 101
Fairfax, VA 22030**

Notice to EDA:

**Executive Director
400-D Kendrick Lane
Front Royal, VA 22630**

**With a copy to:
Blair D. Mitchell, Esq.
County Attorney
220 N. Commerce Avenue, Suite 100
Front Royal, VA 22630**

Notice to Town:

**Town Manager
102 East Main Street
Front Royal, VA 22630**

**With a copy to
Town Attorney
102 East Main Street
Front Royal, VA 22630**

Any such notice or demand shall be deemed given three (3) days after same has been deposited in the United States mail as aforesaid, or the next business day after deposited with a recognized overnight courier. Either party by notice to the other in accordance with the above, may designate a substitute address for such notice or demand and thereafter such substitute address shall be used for the giving of notice or demand.

30. EFFECTIVE DATE OF AGREEMENT.

The Effective Date of this Agreement shall be the date upon which both Parties agree to all of the terms and conditions set forth herein, as evidenced by the latest date set forth next to the parties signatures below.

31. MISCELLANEOUS.

(a) The titles of the paragraphs are inserted as a matter of convenience and for reference and in no way define, limit or describe the scope of this Agreement or the intent of any provision thereof.

(b) This Agreement is the result of the combined draftsmanship and/or review of both parties and/or their respective agents; accordingly, there shall be no presumption or interpretation of this Contract based on its having been drafted by one or the other.

(c) Each party shall reasonably cooperate with the other in connection the satisfaction of any condition or obligation which must be satisfied by closing pursuant to the terms of this Agreement, and in connection therewith each party agrees to execute any document contemplated by the terms of this Agreement, which may be reasonably requested by the other party. Specifically, each party agrees to sign all applications, documents and governmental submissions in connection with the exchange of the exchange Properties by the Parties, and to appear at any governmental hearings in support of these exchanges.

(d) This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument time shall be of the essence of each and every provision of this Agreement.

(e) No party hereto shall be deemed to have waived the exercise of any right which it holds hereunder unless such waiver is made expressly and in writing (and no delay or omission by any party hereto in exercising any such right shall be deemed a waiver of its future exercise). No such waiver made as to any instance

involving the exercise of any such right shall be deemed a waiver as to any other such instance, or any other such right.

(f) No determination by any court, governmental or administrative entity or otherwise that any provision of this Agreement or any amendment hercof is invalid or unenforceable in any instance shall affect the validity or enforceability of (i) any other such provision, or (ii) such provision in any circumstance not controlled by such determination. Each such provision shall be valid and enforceable to the fullest extent allowed by, and shall be construed wherever possible as being consistent with, applicable law.

(g) Nothing in the provisions of this Agreement shall be deemed in any way to create between the parties hereto any relationship of partnership, joint venture or association, and the parties hereto hereby disclaim the existence of any such relationship.

SIGNATURE LINES APPEAR ON THE FOLLOWING PAGES

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day and year below shown.

AFTON INN, LLC
a Virginia Limited Liability Company

By: *Francisco S. S.*
Managing Member

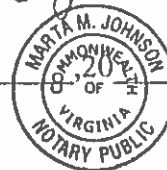
STATE OF VIRGINIA
CITY/COUNTY OF *Fauquier*, TO-WIT:

The undersigned, a Notary Public in and for the jurisdiction aforesaid, does hereby certify that *Francisco S. S.* whose signature as Managing Member of Afton Inn, L.L.C., a Virginia limited liability company, is affixed to the foregoing document, appeared before the undersigned in said jurisdiction and acknowledged the same to be his free act and deed on behalf of said limited liability company

WITNESS the following signature and seal this *2nd day of June*, 2014.

My Commission expires on the ___ day of _____

Marta M. Johnson
Notary Public
Registration Number _____



Marta M. Johnson
NOTARY PUBLIC
Commonwealth of Virginia
Reg. #127647
My Commission Expires
August 31, 2014



Marta M. Johnson
NOTARY PUBLIC
Commonwealth of Virginia
Reg. #127647
My Commission Expires
August 31, 2014

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day and year below shown.

**ECONOMIC DEVELOPMENT AUTHORITY, a
political subdivision of the Town of Front
Royal and the County of Warren**

By: Patricia S. Wines
Patricia S. Wines, Chairman

**STATE OF VIRGINIA
COUNTY OF WARREN, TO-WIT:**

The undersigned, a Notary Public in and for the jurisdiction aforesaid, does hereby certify that PATRICIA S. WINES, Chairman of the Board of Directors of the EDA, whose signature as such is affixed to the foregoing document on behalf of the Economic Development Authority acknowledged the same to be her free act and deed on behalf of said Authority.

WITNESS the following signature and seal this June 11, 2014.

My commission expires on the 30 day of April, 2018.

Michael D. Henry
Notary Public
7360170
Registration Number

THIS MEMORANDUM OF AGREEMENT ("AGREEMENT" or "MOA")
is made as of this day of 23rd day of June 2014, by and between THE TOWN OF FRONT ROYAL, VIRGINIA, a Virginia Municipal Corporation and political subdivision of the Commonwealth of Virginia, hereinafter referred to as the "Town", party of the first part, and the ECONOMIC DEVELOPMENT AUTHORITY, a political subdivision of the Town of Front Royal and the County of Warren as authorized by the Commonwealth of Virginia, party of the second part, hereinafter referred to as the "EDA".

WHEREAS, Afton Inn, LLC, a Virginia limited liability company, is the owner of the real property located within the Town of Front Royal, County of Warren, Virginia 22630 (hereinafter, the "Town") at the intersection of East Main Street and Crescent Street with an official property address of 2 East Main Street, Town of Front Royal, Warren County, Virginia, 22630, also known as Tax Map 20A8 4 14, upon which is located a structure commonly known as the "Afton Inn", or as the "Afton Inn Hotel", and is hereinafter referred to as the "Afton Inn" or "Afton Inn property".

WHEREAS, the Town is the owner of that real property between Union Street and North Royal Avenue improved by building situate located at 16 North Royal Avenue, Town of Front Royal, Warren County, Virginia 22630, formerly being the Town Hall for the Town of Front Royal, situate between the Front Royal United Methodist Church and the First Baptist Church of Front Royal, as well as a two story building immediately to the west (rear) of the former Town Hall, both of which buildings are hereinafter referred to as the "Town Hall", or "Town Hall property".

WHEREAS, the Town is also owner of a parking lot on the west side of Union Street between the Maddox Funeral Home and the First Baptist Church of Front Royal, which said parking lot is **not** included as a part of the Town Hall property to be exchanged pursuant to this Agreement, but which the Town intends to maintain as a municipal parking lot available to all persons, subject only to reasonable time restraints described on posted signs.

WHEREAS, Afton Inn and the Town wish to exchange their properties under the terms and conditions set forth herein.

WHEREAS, in accordance with the express authority granted by the in Virginia Code § 15.2- 4901, the EDA has been formed by ordinances of the Town and the County of Warren, Virginia, among other things, for the purposes of inducing commercial enterprises to locate and remain in the Commonwealth of Virginia and for developing trade, increasing commerce, and promoting industry, and the safety, health, welfare, convenience, and prosperity of the inhabitants of the Commonwealth, which powers shall be exercised for the benefit of said inhabitants.

WHEREAS, all parties hereto wish to see the Afton Inn property ultimately put to a use, especially economic development, that especially benefits to the maximum degree the inhabitants of the Town of Front Royal and the County of Warren, and the parties agree that under the statutory framework applicable to the parties, and given the parameters given the EDA as to how the EDA might be able to deal with the Afton Inn property as set forth in this MOA, the parties agree that economic development of the Town and County and the public benefit and common good will be more timely and accurately served by allowing the EDA to select the ultimate owner and user of the Afton Inn property

WHEREAS, Virginia Code § 15.2- 953 expressly provides that any locality may make gifts, donations and appropriations of public funds, of personal property or of any real estate and donation to industrial development authorities, such as the EDA, for the purposes of promoting economic development.

NOW, THEREFORE, WITNESSETH, to that end, and in consideration of the premises and the mutual covenants contained herein, the Town and EDA agree as follows:

1. Provided that Afton Inn, LLC, has agreed, in a legally binding agreement, to deed the Afton Inn property to the EDA as set forth in paragraph no. 2 below, the Town will deed, by deed of gift with special warranty of title, the Town Hall property to the EDA, in accordance with the terms and conditions of that certain Land Exchange Agreement (the "Land Exchange Agreement") between Afton Inn, LLC, and the EDA, including the Restrictive Covenants contained therein, which Land Exchange Agreement is attached hereto and incorporated by reference herein and made a part hereof.

2. Paragraph no. 1 above is conditioned upon the condition that Afton Inn, LLC, has agreed, in a legally binding agreement, to deed, by deed of general warranty of title, the Afton Inn property to the EDA, in accordance with the terms and conditions of said Land Exchange Agreement.

3. The Afton Inn property is in close physical proximity and next door to the current Town Administration Building located at 102 East Main Street, Town of Front Royal, Virginia. The Town has clearly identifiable interests in the use to be made, and the appearance, of the Afton Inn property, as the General Assembly has recognized, among other places, in Virginia Code § 15.2- 1801. Therefore, the parties agree that EDA will not convey the Afton Inn property to any party to be used for any purpose ("future purpose") not approved in writing by the Town Council of the Town ("Town Council") not less than forty five (45) days in advance of said conveyance, said approval to not unreasonably be withheld; provided that the Town shall not withhold approval for any use now allowed by-right or by special use permit within the Downtown Business Zoning District (C-2) under the Town Code, with the exception of *[whatever Council may feel is inappropriate for the site, which may include fire/rescue station, libraries, billiard parlors and pool rooms, recreation centers, funeral homes, single-family and two-family units, auto service stations, farmers' markets, boarding house, new and used auto and truck sales]*. Further, the parties agrees that no deed or lease or other written instrument or document concerning the future use of the Afton Inn property by any party ("future use document"), whether improved by the current structure or to become improved by a new structure or no structure, or whether the property is to become unimproved, shall have any legal force or effect or validity, unless said future use document shall contain written restrictions and conditions concerning the permissible uses and external appearances of said Afton Inn property which are approved in writing by Town Council not less than forty five (45) days in advance of execution of said future use document, which approval shall not unreasonably be withheld, which said future use document shall be recorded among the land records of the County of Warren. EDA shall, and shall be responsible for, giving the Town timely notice in writing of such future purpose and future use document.

4. During the EDA's ownership of the Afton Inn property the Town will be responsible for the payment of any and all repairs, maintenance, upkeep and insurance policies for the Afton Inn property incurred by the EDA, provided the Town has agreed in writing to the incurring of such expenses by the EDA, and shall pay any invoices therefor within thirty (30) days of receipt of such invoices from the EDA, or its vendors.

5. Upon sale or lease of the Afton Inn property, the proceeds therefrom will be paid over by the EDA to the Town, subject to the following in paragraphs 5.A., 5.B., 5.C. and 5.D. below:

A. EDA shall pay for, or cause for the payment of at the expense of some party other than the Town, the release of any deeds of trust or other monetary liens encumbering the Afton Inn property, if any such shall remain, and for the Virginia grantor's tax on the deed of conveyance, if such should at the time be applicable. In addition, EDA shall be obligated to pay for all legal fees, if any, for attorneys representing EDA who have been retained by EDA, if any.

B. Town shall not be obligated to pay for any cost, fees, or expenses relative to the sale, conveyance, transfer of, or the settlement of Closing on the Afton Inn property by the EDA to any party.

C. No realtor's or broker's or similar fees or commissions will be paid by the Town, as no realtor has been used or employed by the Town or on the Town's behalf in conjunction with this transaction.

D. Except as provided in paragraph no. 5.A., B. and C. herein, EDA shall be entitled to retain from the sales proceeds an amount equal to any sums it has paid without reimbursement from the Town during its ownership of the Afton Inn property for documented expenses relating to the ownership, management, maintenance, repairs, and marketing for sale or lease of the Afton Inn property.

6. The Town agrees to waive any and all fees associated with the application for and granting of any special use permit for the Afton Inn property that is filed by the EDA.

7. The Town agrees to waive any off-street parking requirements for the development and use of the Afton Inn property, or to count parking spaces in the Peyton Street parking lot immediately behind the Town Administration Building as spaces available for the user of the Afton Inn property.

8. The Town agrees that, during the ownership of the Afton Inn property by the EDA, the Town shall not require the EDA to perform any repairs, maintenance or demolition of any part of the Afton Inn building unless the Town agrees to bear the cost of such repairs, maintenance and/or demolition.

9. The Town agrees to grant a demolition permit to the EDA, without charging any fees therefor to the EDA, for the demolition of the Afton Inn building in the event that the EDA is unable to sell the Afton Inn property to an acceptable buyer within a reasonable period of time after the property exchange, and the EDA and Town agree that demolition of the building is in the best interests of the EDA and the Town.

10. Each party will, except as otherwise provided herein, whenever it shall be necessary to do so by the other, promptly execute, acknowledge, and deliver, or cause to be executed, acknowledged, or delivered, documents as may be necessary or proper to effectuate the covenants, contingencies and agreements herein provided. The parties agree to use their best efforts in cooperation to carry out the intent of this Agreement.

11. Any uncertainty or ambiguity existing herein shall not be interpreted against either party because such party prepared any portion of this Agreement, as the parties shall be deemed to have jointly prepared this Agreement, but shall be interpreted according to the application of rules of interpretation of contracts generally.

12. Whenever used herein including acknowledgments, the singular shall be construed to include the plural, the plural the singular, and the use of any gender shall be construed to include and be applicable to all genders as the context shall warrant.

13. All representations and warranties made herein are intended to survive all settlement closings on the Afton Inn property and shall not be merged in the deed unless otherwise stated in this Agreement.

14 This Agreement contains the entire agreement of the parties relating to the transaction contemplated hereby, and all prior or contemporaneous agreements, understandings, representations, warranties and statements, oral or written, are merged herein. This Agreement cannot be modified or altered unless reduced to writing and consented to by all the undersigned parties.

15. Notice, demand, or other communication mandated by this Agreement by either party to the other shall be sufficiently given or delivered if it is sent by registered or certified mail, postage prepaid, return receipt requested, or delivered personally at the address stated below.

16. This Agreement may be executed in two (2) or more counterparts, each of which shall be an original but all of which shall constitute one and the same instrument.

17. All aspects of this Agreement shall be governed by the laws of the Commonwealth of Virginia.

18. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

19. Any notice or demand under this Agreement shall be in writing and sent by (a) registered or certified mail, return receipt requested, postage prepaid, (b) by recognized overnight courier service such as Federal Express, as follows, or (c) by facsimile transmission as long as a copy is sent by the methods described in clauses (a) or (b).

Notice to EDA:

Executive Director

Economic Development Authority
404 Kendrick Lane
Front Royal, VA 22630

Notice to Town:

Town Manager
Town of Front Royal
102 East Main Street
Front Royal, VA 22630

Any such notice or demand shall be deemed given three (3) days after same has been deposited in the United States mail as aforesaid, or the next business day after deposited with a recognized overnight courier. Either party by notice to the other in accordance with the above, may designate a substitute address for such notice or demand and thereafter such substitute address shall be used for the giving of notice or demand.

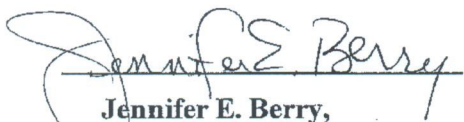
WITNESS the following:

[SIGNATURES AND ACKNOWLEDGEMENTS NEXT TWO PAGES FOLLOWING]

"TOWN"

**Town of Front Royal, Virginia,
a Municipal Corporation**

ATTEST:


Jennifer E. Berry,
Clerk of Council

By: 
Timothy W. Darr, Mayor

*APPROVED AS TO FORM
Daglas W. Nelson
TOWN ATTORNEY*

STATE OF VIRGINIA

COUNTY OF WARREN, TO-WIT:

The foregoing instrument was acknowledged before me this 23 day of June, 2014, by Timothy W. Darr, Mayor of the Town of Front Royal, Virginia, a Municipal Corporation, on behalf of said municipal corporation.

Tina L. Presley

Notary Public

Registration No: 173753

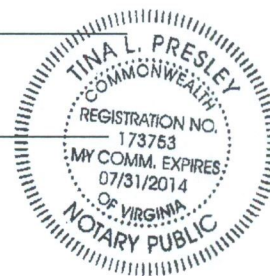
"EDA"

A Political Subdivision

of the Town of Front Royal

and The County of Warren as

authorized by the Commonwealth of Virginia.



By: _____

Patricia S. Wines, Chairman

STATE OF VIRGINIA

COUNTY OF WARREN, TO-WIT:

The foregoing instrument was acknowledged before me this _____ day of _____, 2014 by Patricia S. Wines, Chairman, on behalf of the EDA.

Notary Public

Registration No: _____

RESOLUTION

WHEREAS, Town Council finds that Virginia Code § 15.2- 953 expressly provides that any locality may make gifts, donations and appropriations of public funds, of personal property or of any real estate and donation to industrial development authorities, such as the Front Royal-Warren County Economic Development Authority (the “EDA”) ; and that the state of the law is that such gifts and donations fulfill a permissible public purpose by promoting the economic development of the Commonwealth, and in particular, the Town of Front Royal (the “Town”).

WHEREAS, Town Council finds that, in accordance with the express authority granted by Virginia Code § 15.2- 4901, the EDA has been formed by ordinances of the Town and the County of Warren, Virginia, among other things, for the purposes of inducing commercial enterprises to locate and remain in the Commonwealth of Virginia and for developing trade, increasing commerce, and promoting industry, and the safety, health, welfare, convenience, and prosperity of the inhabitants of the Commonwealth, which powers shall be exercised for the benefit of said inhabitants.

WHEREAS, Town Council finds that all parties hereto wish to see the Afton Inn property, located at the intersections of East Main Street, North Royal Avenue, and Crescent Streets, and the former Town Hall properties, located at 16 North Royal Avenue, both in the Town, ultimately put to uses, especially economic development, that especially benefit to the maximum degree the inhabitants of the Town of Front Royal and the County of Warren, and Town Council finds that under the statutory framework applicable to the Town Council and the EDA, and given the legal parameters given the EDA under the Code of Virginia as to how the EDA might be able to deal with the Afton Inn property, and the legal parameters given Town Council as to how Town Council might be able to deal with the former Town Hall property, the Town Council finds that economic development of the Town and County and the public benefit and common good will be more timely and accurately served by allowing the EDA to select the ultimate owner and user of the Afton Inn property; and by gifting and donating the former Town Hall property to the EDA.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Town Council of the Town of Front Royal, Virginia that the agreement entitled Memorandum of Agreement ("Agreement" or "MOA") between the Town of Front Royal, Virginia, as headed "Marketing edit 02-10-2014"; and the Agreement entitled "Land Exchange Agreement" ("Agreement"), , are: hereby authorized, approved, and agreed to by Town Council, and both said Agreements are attached to this Resolution and both said Agreements in their entirety are made a part of this Resolution;

BE IT FURTHER RESOLVED by the said Town Council that both said Agreements are found and determined by the Town Council to promote the economic development of the Town of Front Royal, the County of Warren, and the Commonwealth of Virginia;

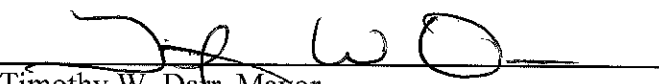
BE IT FURTHER RESOLVED that the Mayor and Clerk of Council, the Town Manager, and the Town Attorney, all of the Town, are hereby authorized to execute and sign said Agreements on behalf of the Town where appropriate; and are authorized to make any non-substantive corrections or changes where appropriate or necessary.

THIS RESOLUTION was approved at the Regular Meeting of the Town of Front Royal, Virginia, Town Council conducted on Feb 10th, 2014, upon the following recorded vote:

Daryl L. Funk AO
Bret W. Hrbek yes
Thomas H. Sayre yes

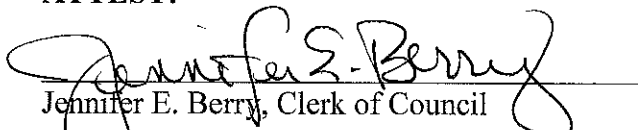
N. Shae Parker yes
Hollis L. Tharpe yes
Eugene R. Tewalt yes

APPROVED:



Timothy W. Darr, Mayor

ATTEST:



Jennifer E. Berry, Clerk of Council

Approved as to form and legality:



Douglas W. Napier, Town Attorney

Date: 2/10/14

February 10, 2014

COUNCIL APPROVAL – Resolution and Memorandum of Agreement with EDA that Incorporates a Land Exchange Agreement between the EDA and Afton Inn, LLC

Summary: Council is requested to approve a Resolution and Memorandum of Agreement (MOA) with the Economic Development Authority (EDA) that incorporates a Land Exchange Agreement between the EDA and Afton Inn, LLC as presented

*Councilman Funk moved to refer the matter to the Planning Commission.
Motion failed for lack of a second.*

Vice Mayor Parker moved, seconded by Councilman Hrbek, that Council approve a Resolution and Memorandum of Agreement (MOA) with the Economic Development Authority (EDA) that incorporates a Land Exchange Agreement between the EDA and Afton Inn, LLC as presented.

Councilman Funk moved to postpone the matter until the meeting of February 24th.

Councilman Sayre asked which revision Mr. Parker's motion pertained to. Mr. Napier stated that one version Council reviewed included suggestions that Mr. Sayre presented, and one does *not* contain Mr. Sayre's suggested revisions.

Vice Mayor Parker clarified that he was referring to the handout without any of Mr. Sayre's suggestions.

Without the lack of a second, Mr. Funk's motion to postpone failed.

Councilman Sayre moved, seconded by Councilman Hrbek, that Council amend the motion to use the edited version of the MOA/Land Swap agreement.

Councilman Sayre clarified that there were historic notations he suggested, including having a plaque placed at the Town Hall at the expense of Afton Inn, LLC, within control of Town Council, with an easement granted to the Town. He stated that the easement would allow Town Staff onto the property to maintain the plaque as needed. Mr. Napier noted that was correct. Mr. Napier explained the second change pertained to the wording shown about the owner of Afton Inn, LLC and if they chose to sell within five years.

Mr. Napier stated that by passing the agreements the restrictive covenants would be recorded with the land records and they would be a matter of public record and if the building should be sold, then the Town would have the right to acquire by the same conditions.

Mr. Napier noted that the EDA could only be reimbursed by extraordinary marketing expenses, not normal marketing expenses they generally incur for properties.

Vote: Yes – Funk, Hrbek, Parker, Sayre, Tewalt and Tharpe
No – N/A
Abstain – N/A

Absent – N/A

(Mayor Darr did not vote as there was no tie to require his vote)

(On Motion to Amend)

Councilman Hrbek read comments into the record from various individuals within the community, including:

Mike Tanner of the Happy Creek Knolls area who supported the property swap; Jim Wells who noted that the Council had done their due diligence and he supports the project; Tim Freese of the Downtown Business Association, who support the efforts for the swap of the buildings; John Eulich, a Main Street business owner, who expressed strong support of the project; and George McIntyre, also a Main Street business owner, who noted that the Inn had stood empty for many years and to make this change would improve the quality of life in the community.

Councilman Sayre stated he did not take the matter lightly and he highly respect the people he had spoken with, including: Rhonda North, Lynwood Athey, Matt Tederick, Arnold Williams, Prudence Mathews, Harold Rappaport, Daryl Funk, Patty Wines, Homer Funk, Sharon Smith, Christian Failmezger, Rick Novak, Tom Conkey, David Downes, Chris Holloway and more.

Councilman Sayre asked about whether project would be going outside the scope of the Town. Mr. Napier noted that State Code section expressly permits the EDA to do this type of project. To further answer Mr. Sayre's questions, Mr. Napier stated that a locality may acquire real property in this manner and that Towns do not have the ability regarding blight, as it is not permitted by the General Assembly, and therefore, it is expressly why the Town is joining with the EDA in this process.

Councilman Funk read the following into the record:

Mr. Mayor, as the father of a three year old, I am forced to watch a lot of children's television and read more than my share of children's books, and I'm sure the other fathers on Council can relate to that as well.

Well, while I've watched this extremely abbreviated public debate over the fate of our Town Hall, a line from a Dr. Suess book has kept coming to mind. I don't know how many of you have read the Lorax or seen one of the movies about that book, but one of the most famous lines from that movie is "I am the Lorax, and I speak for the trees." Well, Mr. Mayor, I am Daryl Funk, and I speak for the Town Hall.

And just like the Lorax felt about the trees, I am worried that I am watching the gradual destruction of one of our community's most important assets.

I have insisted that Council include many of the provisions that have been placed in the legal documents surrendering our Town Hall, but ultimately, I do not believe that any legal document is sufficient to protect the Town Hall.

Once we surrender possession of the building, it will be incumbent on the Council to take action to hold the owner of the Afton Inn or his successors in interest to maintain the property. The Town has little protection to guarantee that the Town Hall will not end up as a pay day lender or some other inappropriate commercial enterprise. Any attempt to intervene in the condition of the Town Hall in the manner provided before in these documents will involve an extended legal fight in our local Circuit Court.

While I am a younger attorney, and my experience is much more limited than Mr. Sayre's and Mr. Napier's—I believe that any Court is going to be hesitant to involve itself in a running battle to force a faceless corporation to maintain the Town Hall or to force its sale. Wouldn't you agree?

My concerns are not simply based on the unknown. After this matter was made public, I was made aware of certain allegations concerning our Town Hall's new owner, but I will not repeat them as part of this debate. However, the Council has been provided public court records concerning these allegations. I believe they are serious enough that they warrant a full investigation prior to surrendering our Town Hall.

Mr. Mayor, I do not know if this Council is familiar with Stockholm Syndrome, but as best as I understand it, it is a condition in which a hostage begins to sympathize with his or her captors and even to begin to defend them. We seem to have developed that condition concerning the Afton Inn and its owner. We have perceived ourselves to be hostage to the condition of that building for so long that we believe that if we simply give up our Town Hall that the owner will instantly take interest in Front Royal and give the Town Hall the attention that he has failed to give the Afton Inn. Further, some have made comments that there are tenants waiting to move in to that building, but if there is any evidence that there are prospective tenants for the Town Hall, I have not been provided it.

As for the Afton Inn, we have also heard claims that we have a "prospective buyer" for the Afton Inn. Mr. Mayor, the status of these negotiations has not been provided to Council as a whole beyond the identity of the firm. As a councilman, I am not aware to what extent that this entity has actually been able to inspect the Afton Inn or the nature of this firm's interest in the project. Unless some very significant information has been withheld from Council as a whole, I think we are misleading the public by using this allegation as the support for this project.

Further, many of the people who spoke in favor of this swap at the public hearing last week stated that they believed that the Afton Inn would be renovated and would provide a commercial hub at that end of Main Street to attract business. Mr. Mayor, I do not believe that the community nor this Council will support the huge investment necessary to save that building if a private investor cannot be located.

In addition, the statement that no public money will be spent on the Afton Inn is unsupportable. Our Memorandum with the EDA states that the Town will be responsible for expenditures to maintain the Afton Inn. We are a public entity, and we are not going to be able to allow that building to remain in any hazardous circumstance. We will be responsible for the costs to maintain it, and many on council have expressed the desire to demolish the building, whatever the cost to the Town. I would like to see the Afton Inn saved and remodeled, but if the choice is between spending millions of taxpayer money to save that building and demolishing it for substantially less, I think anyone listening can figure out how that conflict will be resolved.

Mr. Mayor, I could be wrong, and if this passes, I hope that I am. Mr. Mayor, as a Christian, I am called to love each and every member of this Council, and I do. I

speaking these words out of concern and an abiding belief that Front Royal is a great place to live already, and we need to preserve our heritage while working to build a brighter future. Our Town Hall is not replaceable and should be protected for future generations.

Councilman Hrbek asked if previously the EDA had worked with developers and not had a specific plan. Mrs. McDonald noted that at times the EDA has invested in properties and worked with tenants and developers with just a general plan, without specifics. She gave examples, noting the Corridor and the Happy Creek technology Park.

Councilman Hrbek asked about parking related to the Afton Inn site. Mr. Camp detailed that the properties fronting Main Street were exempt from the parking requirements per Town Code.

Councilman Hrbek stated the portion within the agreement pointed out by Mrs. North pertaining to fair market value and three appraisals were actually two separate items entirely.

Councilman Tewalt noted that the Town had previously met with Mr. Barros numerous times and discussed the Afton Inn repeatedly; only to strike a rock wall at every turn. He noted that the height of structure issue was very bad experiences with the Town with regard to the Afton Inn and Mr. Barros even had told Town representatives to not ever contact him again at one point. Mr. Tewalt stated that once the Town Hall situation came forward, and since the Town no longer needs the structure it seems possible that this project could work well. He added that as Public Works Director for over 25 years, he could testify to the derelict condition of the Town Hall's interior condition, noting that the building is in horrible shape for the Town and not in workable use for a Police Department. Councilman Tewalt stated that the structure would deteriorate and the Town would have no use for it, and then it too will stand empty for numerous years.

Councilman Tewalt stated that when Council was elected, they were chosen to make decisions and this is one of the best decisions that has come before the Council since he has been sitting in his current term. He noted that there are other structures that the Town may need to get rid of in the future, and perhaps the Town will not have to go through such a process in order to do so.

Councilman Funk stated that so many individuals feel that the Town Hall resembles the Courthouse. He showed a picture of the Town Hall and noted that the structure was what was being traded for the Afton Inn. Mr. Funk noted that he could be in favor of the trade if it went to the Warren Heritage Society to ensure that it would be taken care of, though he could not support the motion as presented. He added that the Town would be remodeling the Afton Inn, but rather the Town could end up with a hole in the ground.

Vote: Yes – Hrbek, Parker, Sayre, Tewalt and Tharpe

No – Funk

Abstain – N/A

Absent – N/A

(Mayor Darr did not vote as there was no tie to require his vote)

(By Roll Call)

WARREN COUNTY, VIRGINIA
LAND RECORDS

000074 JUN 24 ±

This deed is exempt from the recordation taxes imposed pursuant
to §58.1-811(A)(3) – Grantee's and §58.1-811(C)(4) – Grantor's

Consideration: \$0.00
Assessment \$0.00

Prepared by: Douglas W. Napier
County Attorney
102 E. Main Street
Front Royal, Virginia 22630
Telephone: (540) 635-7872

Tax Map Reference No.: 20A5-11-15

DEED OF DEDICATION OF RESTRICTIVE COVENANTS

THIS DEED OF DEDICATION OF RESTRICTIVE COVENANTS, made and dedicated by the Town Council of the Town of Front Royal, Virginia (the "Town Council"), to and upon that improved real property, being a stone façade building, located on the west side of North Royal Avenue at 16 North Royal Avenue, Town of Front Royal, Warren County, Virginia, formerly being the Town Hall for the Town of Front Royal, Virginia, situate between the current Front Royal United Methodist Church, and the current First Baptist Church of Front Royal, as well as a two story building immediately to the west (rear) of the said stone facade structure which was the former Town Hall building property, both of which buildings and the real estate upon which they are located are hereinafter referred to collectively as the "Town Hall", which said property does not include the current parking lot on the west side of Union Street that has heretofore served the Town Hall property; which restrictive covenants contained herein shall run with the land and shall inure to the benefit of, and be binding upon, the owners, heirs, executors, administrators, successors in title, and assigns of the owners of the Town Hall.

WHEREAS, Town Council acknowledges the exterior of the Town Hall has historical and aesthetic value that the Town Council desires and requires to be preserved in accordance with these Restrictive Covenants, which Restrictive Covenants shall not merge with or be extinguished by any successive deeds or conveyances to the Town Hall from any owner of the Town Hall to any subsequent owner or lien holder, and shall be covenants real and shall pass with the title to the Town Hall and shall run with the land and shall be binding upon all parties having or acquiring any right, title or interest in and to the real property or any part or parts thereof subject to such Restrictive Covenants. These Restrictive Covenants shall be as follows:

WARREN COUNTY, VIRGINIA
LAND RECORDS

000075 JUN 24 ±

(a) The Town Hall shall be photographed contemporaneously with the Closing and settlement of the title from the Economic Development Authority ("EDA") a political subdivision of the Front Royal and the County of Warren as authorized by the Commonwealth of Virginia, and Afton Inn, L.L.C., and copies given to Afton Inn, L.L.C. and the EDA. The exterior appearance of the Town Hall shall retain the stone face appearance, the white trim, the appearance and style of windows and doors, including the historic, multi-pane appearance thereof, that they had at the time of Closing (provided, however, that replacement windows and doors may be of currently manufactured material that maintains the aesthetic appearance of wood).

(b) Roofing material of the Town Hall shall be metal.

(c) No portion of the Town Hall or the building to the immediate west (rear) of the former Town Hall building itself (which will convey to Afton Inn, L.L.C. with the Town Hall itself) shall be demolished without the written consent of the Town Council.

(d) The former Town Hall building itself and the building to the immediate west (rear) of the former Town Hall building itself shall at all times be kept and maintained in a good state of repair.

(e) Prior to the consummation of a sale or other conveyance of the Town Hall to any other person or entity, Afton Inn, L.L.C. shall notify the Town Manager of the Town of Front Royal, by personal delivery or by certified mail, return receipt requested, at 102 East Main Street, Front Royal, Virginia 22630, as to the terms and conditions of the proposed sale or other conveyance. Within thirty (30) days of delivery or receipt of said notice the Town may notify Afton Inn, L.L.C. of the Town's intention to purchase the Town Hall of its intention to purchase the Town Hall upon identical terms and conditions as the proposed sale or other conveyance; subject, however, to the provision that if Afton Inn, L.L.C. notifies Town Council's of its intent to sell or convey the Town Hall to any other person within five (5) years from the date Afton Inn, L.L.C. acquires title to the Town Hall, that Town Council has voted, by not less than by an

000076 JUN 24 11

ordinance or resolution passed by a recorded affirmative vote of three fourths of all members elected to Town Council, to purchase or accept title to the Town Hall upon such terms and conditions as aforesaid. The Town shall then consummate the purchase of the Town Hall within Sixty (60) days of the receipt of notification of the proposed sale or other conveyance.

(f) A metal plaque signifying the historical significance of Town Hall, approved in advance prior to its placement upon Town Hall by Town Council as to the plaque's appearance, informative content, and place of placement, which approval shall not unreasonably be withheld, shall be erected, at the expense of Afton Inn, L.L.C. within one (1) year of Afton Inn, L.L.C.'s acquisition of Town Hall, and permanently maintained on the exterior premises of Town Hall. Employees, officers, agents, and contractors of the Town shall have and retain the right in perpetuity to enter upon, go onto, and remain upon the exterior premises of the Town Hall Property from time to time, at reasonable times upon the giving of reasonable advance notice to the owner of the Town Hall, using reasonable care not to unreasonably damage the Town Hall Property, for the purpose of maintaining, repairing, or replacing the plaque, and to cut or remove any shrubbery, plant material or other items that may be obstructing the view of the plaque from ordinary observation from passersby from North Royal Avenue or from the sidewalk on the West side of North Royal Avenue, and without liability to the owner of the Town Hall property for the same.

(g) The Restrictive Covenants may be amended from time to time by written mutual agreement by the then owner of the Town Hall property and the Town Council.

(h) The right to monitor and enforce these covenants against Afton Inn LLC and its successors is hereby reserved unto the employees, officers and agents of the Town of Front Royal, Virginia.

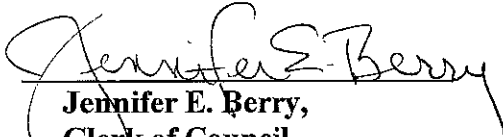
[SIGNATURES AND ACKNOWLEDGMENT PAGE FOLLOWING]

WARREN COUNTY, VIRGINIA
LAND RECORDS

000077 JUN 24 2014

Town of Front Royal, Virginia,
A Municipal Corporation

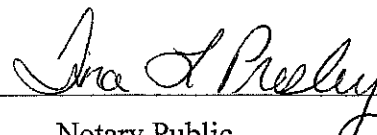
ATTEST:


Jennifer E. Berry,
Clerk of Council

By: 
Timothy W. Darr, Mayor

STATE OF VIRGINIA
COUNTY OF WARREN, TO-WIT:

The foregoing instrument was acknowledged before me this 23 day of June,
2014, by Timothy W. Darr, Mayor of the Town of Front Royal, Virginia, a Municipal
Corporation, on behalf of said Municipal Corporation.

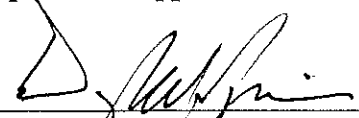

Notary Public

My commission expires: 7/31/14

Registration No: 173753



Prepared and approved as to form:


Douglas W. Napier, Town Attorney

Date 06-24-2014

WARREN COUNTY, VIRGINIA
LAND RECORDS

000078 JUN 24 2014

INSTRUMENT #140002928
RECORDED IN THE CLERK'S OFFICE OF
WARREN COUNTY ON
JUNE 24, 2014 AT 03:30PM

JENNIFER R. SIMS, CLERK
RECORDED BY: JXS





OFFICIAL RECEIPT
WARREN COUNTY CIRCUIT
DEED RECEIPT

DATE: 06/24/14 TIME: 15:30:05 ACCOUNT: 187CLR140002928 RECEIPT: 14000006234
CASHIER: JXS REG: WK35 TYPE: DOD PAYMENT: FULL PAYMENT
INSTRUMENT : 140002928 BOOK: PAGE: RECORDED: 06/24/14 AT 15:30
GRANTOR: TOWN COUNCIL OF THE TOWN OF FRONT ROYAL VA EX: N LOC: CO
GRANTEE: TOWN COUNCIL OF THE TOWN OF FRONT ROYAL VA EX: N PCT: 100%
AND ADDRESS : , .
RECEIVED OF : TOWN OF FRONT ROYAL
CHECK: \$17.00 034561
DESCRIPTION 1: DEED OF DEDICATION PAGES: 5 OP 0
2: NAMES: 0
CONSIDERATION: .00 A/VAL: .00 MAP:
PIN:
301 DEEDS 14.50 145 VSLF 1.50
035 VOF FEE 1.00
TENDERED : 17.00
AMOUNT PAID: 17.00
CHANGE AMT : .00

CLERK OF COURT: JENNIFER R. SIMS

PAYOR'S COPY
RECEIPT COPY 1 OF 2

16 N Royal Avenue, Front Royal, VA 22630

- **\$899,900**
- Year Built: 1936
- Commercial
- Listing #VAWR133718

Property Description

Rare opportunity to own one of the most iconic buildings in Warren County, Property has over 8,500 sq ft and unlimited potential. stone exterior, several outside entrances, great ceiling heights inside. Building design and layout allows for one business or the option to divide the space up for several different users. Several onsite parking spaces and large public parking lot right out back!

Listing Details

Price	\$899,900
Year Built	1936
Property Type	Commercial
Listing #	VAWR133718
Status	Active
County	Warren
Listing Type	For Sale



from NextHome Realty Select