

FORMAL WRITTEN COMMITMENT

This Formal Written Commitment and Use Agreement (“Commitment”) is entered into this _____ day of _____, 20__, by and between the Town Council of the Town of McCordsville, Indiana (“Town”) and _____, a current applicant for an alcoholic beverage Riverfront District permit (“Holder”).

WHEREAS, Indiana Code § 7.1-3-20-16.1 (“Enabling Statute”) allows the Indiana Alcohol and Tobacco Commission (“IATC”) to issue additional on-premises alcoholic beverage permits within the Riverfront District (as defined within the Enabling Statute) of the Town of McCordsville, Indiana (“Riverfront Permits”);

WHEREAS, pursuant to Indiana Code § 7.1-3-19-17 (“Local Approval Statute”), the McCordsville Redevelopment Commission adopted Resolution No. 2020-RDC-06-15-2020, requiring a formal written commitment as a condition of eligibility for all Holders of a Riverfront Permit;

WHEREAS, subject to the Enabling Statute, the Local Approval Statute, and the Resolution, Holder is required to enter into this Commitment regarding the character and type of business that will be conducted on the Permit Premises (as defined below);

WHEREAS, Holder acknowledges that the cost of the District Permit was substantially below the cost of a 3-Way Liquor License and that the reduction in cost was meant, in part, to allow the Holder to expend greater resources on events and community engagement; and

WHEREAS, the intent of this Commitment is to ensure that the Holder operates an establishment within the riverfront area that is consistent with the Holder’s representations to the Town.

Now, therefore, in consideration of receiving favorable continued support from the Town for its District Permit, Holder hereby agrees to the following requirements, covenants, and restrictions on the use of the Permit Premises licensed by the Indiana Alcohol and Tobacco Commission:

Section 1. Recitals. The Recitals set forth above are hereby fully incorporated in and made a part of this Commitment by reference.

Section 2. Location. The location where alcoholic beverages will be dispensed is _____ (“Permit Premises”). A District Permit may not be transferred to a new location without the written consent of the Town. Any attempt to transfer the District Permit to a new location, without written consent, shall be void and shall constitute a violation of this Commitment, which could cause the District Permit to be revoked by the IATC. Any change in location renders this Commitment voidable at the sole discretion of the Town. The

Town may publicly advise against the renewal of the District Permit in lieu of formally voiding this Commitment.

Section 3. Ownership and Management. A District Permit is nontransferable in accordance with Indiana Code § 7.1-3-20-16.1. Any attempt to transfer a District Permit, shall be void and shall constitute a violation of this Commitment, which could cause the District Permit to be revoked by the IATC. Any Holder that is a business entity is required to disclose a list of all owners. To the extent that any change in ownership occurs, Holder must provide written notice to the Town within 30 days of the effective date. Any material change in the equity ownership or management of the Holder or Permit Premises renders this Commitment voidable at the sole discretion of the Town. The Town may publicly advise against the renewal of the District Permit in lieu of formally voiding this Commitment.

Section 4. Permit Application and Renewals. Holder will provide the Town with its IATC Application for Permit. All additional renewals, forms, applications, questionnaires, and disclosures that Holder submits to the IATC, at any time, must be submitted to the Town of McCordsville Town Manager's Office Attention Town Attorney within two (2) business days following submission to the IATC.

Section 5. Character and Uses. Holder may use the Permit for the operation of a bar or restaurant up to seven (7) days a week. Holder shall ensure that all alcohol service is conclude by 2 a.m. The Holder agrees to continue to serve food and when appropriate to expand food services. If the Holder desires to change or amend its use of the Permit Premises, Holder must first receive Town's written consent, which shall become a part of this Commitment. Any unauthorized change in use renders this Commitment voidable at the sole discretion of the Town. The Town may publicly advise against the renewal of the permit in lieu of formally voiding this Commitment.

Section 6. Additional Obligations. Holder covenants the following:

- (a) Permit Premises shall be nonsmoking and Holder must operate the Permit Premises in strict compliance with the Town and County's Smoking Ordinance,
- (b) Both Holder and the Permit Premises must remain in compliance with all State and Town laws and ordinances, including, but not limited to, all building, health, and zoning laws. The burden of evidencing compliance is on the Holder.
- (c) Holder agrees to comply with the Enabling Statute, the Local Approval Statute, and the Ordinance, as amended, regardless of whether such provisions are specifically expressed in this Commitment.
- (d) Holder acknowledges the benefit of collaboration with other restaurants in the McCordsville downtown.
- (e) Any breach of the foregoing covenants renders this Commitment voidable at the sole discretion of the Town. The Town may publicly advise against the renewal of the District Permit in lieu of formally voiding this Commitment.

Section 7. General Provisions. The Parties agree as follows:

- (a) This Commitment shall extend to and be binding upon the heirs, personal representatives, and successors of the Holder.
- (b) This Commitment may not be modified or amended unless agreed upon in writing and signed by the Parties.
- (c) This Commitment may be executed in counterparts, each of which shall be an original but all of which shall constitute one and the same instrument.
- (d) This Commitment and its Appendices constitute the entire agreement of the Parties with respect to this matter, and it supersedes all prior negotiations, representations, or agreements, either written or oral, between the Parties.
- (e) The Commitment shall be governed by and interpreted in accordance with the laws of the State of Indiana and the Town of McCordsville Ordinances. Any proceeding seeking to enforce any provision of this Commitment may only be brought in a court sitting in Hancock County, Indiana.
- (f) The IATC and its associated Local Board has independent regulatory authority over these matters and the Town of McCordsville cannot be held liable or responsible for any act of the IATC. Furthermore, the Town of McCordsville has not duty or responsibility to advocate or intervene in any proceeding before the IATC or its associated Local Board.

Section 8. Notice. Whenever any notice, statement or other communication is required under this Commitment, it shall be sent by first class mail or via an established courier or delivery service to the following addresses, unless otherwise specifically advised.

Notices to the Town shall be sent to:

Town of McCordsville Town Manager's Office
Attention: Town Attorney
6280 W. 800 N.
McCordsville, IN 46055

Notices to the Holder shall be sent to:

Section 9. Term. The Commitment shall become effective upon approval by the Town and shall remain effective so long as the Holder continues to hold an active unexpired District Permit with the IATC.

Section 10. Breach and Remedies. Notwithstanding anything to the contrary contained herein, the Town shall have the right to seek legal, injunctive, or other equitable relief from a court of competent jurisdiction in the event of a breach. All rights and remedies provided in this Commitment are cumulative and not exclusive of any other rights or remedies that may be

available herein. The Town is not required to exhaust remedies with the IATC before proceeding against Holder in event of breach.

Section 11. Authorized Party. Each individual executing this Commitment represents that he/she has the requisite authority to sign this Commitment.

Section 12. Additional Commitments. None.

All of this having been agreed to by the Parties on the date first indicated above and memorialized by the signatures contained herein.

_____ Date

_____ Date

Town Manager, Town of McCordsville, Indiana

_____ Date