

DEVELOPMENT
AGREEMENT

THIS DEVELOPMENT AGREEMENT, dated as of _____, 2015 (hereinafter, the "Agreement"), is made and entered into by and between the Clinton Industrial Authority, an Oklahoma public trust (hereinafter, the "Authority"), and Jett Distributing Company, an Oklahoma Corporation (hereinafter, the "Company").

WITNESSETH:

WHEREAS, the Authority was created by a Trust Indenture, dated as of the 16th day of September, 1966, as a public trust for the use and benefit of the City of Clinton, Oklahoma, (hereinafter, the "City") pursuant to the provisions of Title 60, Sections 176, et seq., of the Oklahoma Statutes, as amended and supplemented (hereinafter, the "Public Trust Act") and other applicable statutes of the State of Oklahoma; and

WHEREAS, the City, as the beneficiary thereof, acting through its City Council, has adopted a resolution accepting beneficial interest therein on behalf of said City; and

WHEREAS, the purposes of the Authority are, in part, to promote economic and community development, within and without the territorial limits of the City, and to promote additional employment which will benefit and strengthen the economy of the City and the State of Oklahoma; and

WHEREAS, in order to accomplish its designated purposes, the Authority is empowered to provide funds for the costs of acquiring, constructing, rehabilitating, equipping, securing, maintaining and developing real and personal property within and near the City, and to enter into, make and perform contracts for the sale of its bonds, notes or other evidence of indebtedness to finance the costs thereof; and

WHEREAS, the Company owns a piece of property within the city limits of the City of Clinton, as described on Appendix 1 of this Agreement (the "Project Site"), which requires certain improvements in order to safely expand operations and employ more individuals; and

WHEREAS, the Company has requested assistance from the Authority in paying the costs of certain street improvements to the Project Site;

WHEREAS, the Authority has appropriated \$30,000.00 for assistance in the construction of a drive as described the Road Plans and Specifications, as set forth in Appendix 2 (the "Project"); and

WHEREAS, the parties wish to set forth the manner in which the Project is to be undertaken by the Company and the assistance in development financing which the Authority has agreed to provide.

IN CONSIDERATION of the mutual covenants and agreements contained herein, the

Authority and the Company hereby agree as follows:

ARTICLE I

PURPOSE OF AGREEMENT

SECTION 1.01 Purpose of Agreement.

A. Subject to the terms hereinafter set forth and described above, the Company hereby agrees to undertake the following in connection with the Project:

- (i) construct a driveway according to the Road Plans and Specifications (the "Plans"), attached hereto as Appendix 2;
- (ii) maintain the subject drive according to the terms of this Agreement;
- (iii) employ 2 new employees over the next 12 months; and
- (iv) refrain from parking tractor-trailers and other large trucks on and along South 13th Street.

B. Subject to the terms hereinafter set forth, the Authority hereby agrees to contribute \$30,000.00 toward the construction of the driveway, as described in the Plans attached hereto as Appendix 2, to be distributed to the Company immediately upon execution of the Agreement by the parties.

ARTICLE II

REPRESENTATIONS AND WARRANTIES

SECTION 2.01 Status of the Company. The Company represents that it is a corporation duly organized and existing under the laws of the State of Oklahoma. The Company is authorized to conduct business in the State of Oklahoma, and is not in violation of any provisions of its articles of organization, operating agreement, or any other agreement governing the Company, or any law of the State of Oklahoma affecting Company's ability to perform under this Agreement.

SECTION 2.02 Full Power and Authority. The Company represents that it has the full power and authority to execute this Agreement and this Agreement shall constitute a legal, valid and binding obligation of the Company in accordance with its terms, and the consent of no other party is required for the execution and delivery of this Agreement by such Company or the consummation of the transactions contemplated hereby.

SECTION 2.03 No Breach. The Company represents that the execution and delivery of this Agreement, the consummation of the transactions contemplated herein, and the

fulfillment of or compliance with the terms and conditions of this Agreement are not prevented or limited by or in conflict with, and will not result in a breach of, other provisions of its articles of organization, operating agreement or any other agreement governing such Company or with any evidence of indebtedness, mortgages, agreements, or instruments of whatever nature to which the Company is a party or by which it may be bound, and will not constitute a default under any of the foregoing.

SECTION 2.04 Litigation. There is not currently pending any action, suit, proceeding or investigation, nor, to the knowledge of the undersigned representative of the Company, is any such action threatened which, if adversely determined, would materially adversely affect the Company or the Project, or impair the ability of the Company to carry on its business substantially as now conducted or result in any substantial liability not adequately covered by insurance.

SECTION 2.05 Conflicts of Interest. The Company warrants that it has not paid or given and will not pay or give any officer, employee or agent of the City or the Authority any money or other consideration for obtaining this Agreement. The Company further represents that, to its best knowledge and belief, no officer, employee or agent of the City or the Authority who exercises or has exercised any functions or responsibilities with respect to the Project during his or her tenure, or who is in a position to participate in a decision making process with regard to the Project, has or will have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed in connection with the Project, or in any activity, or benefit therefrom, during or after the term of this Agreement.

SECTION 2.06 Availability of Utility Services. All utility services necessary for the development and construction of the Project are available to the Project Site, including water, storm and sanitary sewer facilities, electric and gas utilities, and telephone services.

SECTION 2.07 Status of the Authority. The Authority is a duly organized and validly existing public trust under the laws of the State of Oklahoma and as such, is a duly constituted authority of the City and an agency of the State of Oklahoma.

ARTICLE III

PROJECT REQUIREMENTS

SECTION 3.01 Acquisition of the Project Site. The Company hereby represents that it now holds fee simple title to all real property comprising the Project Site.

SECTION 3.02 Scope of Development. The Project Site shall be developed within the general requirements established by the zoning and building codes applicable to the Project Site by the City Code of the City of Clinton, Oklahoma (hereinafter, the "Code") and related laws governing municipal planning, zoning and subdivision. The Company shall be responsible for the construction, renovation, improvement, equipping, repair and installation, of all public and private improvements as described in, and in conformance with, the Plans.

SECTION 3.03 Basic Concept Drawings. Prior to the execution of this Agreement, the Company has submitted, and the City has approved, the Plans describing the improvements to be constructed and installed on the Project Site, which are set forth in Appendix 2. No substantial changes shall hereafter be made in the Plans unless mutually agreed upon, in writing, by the Company and the Authority.

SECTION 3.04 Construction of Improvements. The Company agrees that all construction and installation work on the Project shall be done in accordance with the Plans describing the improvements to be constructed and installed on the Project Site, which are set forth in Appendix 2.

SECTION 3.05 City and Other Governmental Permits. Before commencement of construction, development or work on or in connection with the Project, the Company shall, at its own expense, secure or cause to be secured any and all permits and approvals which may be required by the City and any other governmental agency having jurisdiction as to such construction, development or work. The Authority shall cooperate with and provide all usual assistance to the Company in securing these permits, and approvals, and shall diligently process, review and consider all such permits and approvals as may be required by law.

SECTION 3.06 Cost of Construction. All costs of the Project shall be borne by the Company, except for those funds appropriated by Authority under this agreement. The parties agree that the total of all funds contributed by Authority shall be \$30,000.00.

SECTION 3.07 Construction Schedule. Not later than October 1, 2015, the Company shall begin, and promptly thereafter diligently prosecute to completion, the construction, renovation, improvement, equipping, repair and installation of the Project. Upon request of the Authority, the Company or its designated agent will provide to the Authority a schedule for completion of the Project. This schedule will serve as a general management tool to forecast resource requirements, and to monitor overall project planning and execution. This schedule may be modified as necessary by the Company, provided that any extension of time in the completion schedule shall require approval of the Authority.

SECTION 3.08 Rights of Access. For the purpose of ensuring compliance with this Agreement, representatives of the Authority shall have the right of access to the Project Site, without charges or fees, at normal construction hours during the period of construction for the purposes of this Agreement, including, but not limited to, the inspection of the work being performed in constructing, improving, equipping, and installing the Project, so long as they comply with applicable safety rules. Prior to any such access, such representatives of the Authority will check in with the on-site construction manager. All such representatives of the Authority shall carry proper identification, shall insure their own safety, assuming the risk of injury, and shall not interfere with the construction activity. The Authority agrees to cooperate with the Company in facilitating access by the Company to the Project Site for construction purposes, provided that the Authority shall incur no financial obligations beyond those set forth in the Agreement.

SECTION 3.10 Liability Insurance.

A. The Company shall take out and maintain, or verify that any contractors who performed work on the project shall have in effect, during the period set forth in subsection (D) of this Section, a comprehensive general liability policy in the amount of at least One Million Dollars (\$1,000,000) for any person, One Million Dollars (\$1,000,000) for any occurrence, and One Million Dollars (\$1,000,000) for property damage naming the Authority as an additional insured and loss payee, but only with respect to the liability policy.

B. The Company shall furnish a certificate of insurance signed by an authorized agent of the insurance carrier setting forth the general provisions of the insurance coverage. This certificate of insurance shall name the Authority as an additional insured under the liability policy. The certificate of insurance shall contain a statement of obligation on the part of the carrier to notify the Authority by certified mail of any modification, cancellation or termination of the coverage at least thirty (30) days in advance of the effective date of any such modification, cancellation or termination. Coverage provided hereunder by the Company shall be primary insurance and not contributing with any insurance maintained by the Authority, and the policy shall contain such an endorsement. The required certificate shall be filed with the Authority at the time of execution of this Agreement.

C. The Company shall also furnish or cause to be furnished to the Authority evidence satisfactory to the Authority that any contractor with whom it has contracted for the performance of work on the Project Site or otherwise pursuant to this Agreement carries workers compensation insurance as required by law at the time of execution of the Agreement.

D. The insurance obligations set forth in this Section shall remain in effect until a final Certificate of Completion has been furnished for all of the improvements as hereafter provided in this Agreement.

SECTION 3.11 Local, State and Federal Laws. The Authority and Company shall carry out the provisions of this Agreement in conformity with all applicable local, state and federal laws and regulations.

SECTION 3.12 Antidiscrimination During Construction. The Company, for itself, its successors and assigns, agrees that in the construction, renovation, improvement, equipping, repair and installation of the Project provided for in this Agreement, the Company shall not discriminate against any employee or applicant for employment because of race, color, creed, religion, age, sex, marital status, handicap, national origin or ancestry.

SECTION 3.13 Taxes, Assessments, Encumbrances and Liens. The Company shall pay when due all real estate taxes and assessments on the Project Site. Nothing herein contained shall be deemed to prohibit the Company from contesting the validity or amounts of any tax assessment, encumbrance or lien, nor to limit the remedies available to the Company in respect thereto.

SECTION 3.14 Restrictions on Relocation of the Company. The location of the Company are of particular importance to the Authority. It is because of the location of the

Company that the Authority has entered into this Agreement with the Company. Therefore, the Company agrees that, should the Company relocate within ten (10) years of executing this Agreement, this Agreement shall terminate and the Company shall refund to the Authority the \$30,000.00 contributed by the Authority to the Company, on a pro rata basis, based on the number of years that have lapsed since the Company's execution of this Agreement. In no event shall the Company refund more than \$30,000.00 to the Authority.

ARTICLE IV

USE OF THE PROJECT SITE

SECTION 4.01 Maintenance Covenants. During the period of its ownership, the Company shall be obligated to maintain the Project, and all improvements and landscaping situated thereon, in a clean and neat condition and in a continuous state of good repair.

SECTION 4.02 Effect of Violation of the Terms and Provisions of this Agreement After Completion of Construction; No Partnership. This Agreement shall run in favor of the Authority, without regard to whether the Authority has been, remains or is an owner of any land or interest therein in the Project Site. The Authority shall have the right, if this Agreement or covenants contained herein are breached, to exercise all rights and remedies, and to maintain any actions or suits at law or in equity or other proper proceedings to enforce the curing of such breaches to which it or any other beneficiaries of this Agreement and covenants may be entitled. Nothing contained herein shall be construed as creating a partnership between the Company and the Authority.

ARTICLE V

EVENTS OF DEFAULT AND REMEDIES

SECTION 5.01 Events of Default. The following shall constitute events of default ("Event of Default") hereunder and under each of the instruments executed pursuant to this Agreement:

- (i) Default by the Company in the performance or observance of any covenant contained in this Agreement including, without limitation, the falsity or breach of any representation, warranty or covenant;
- (ii) Material variance from the Plans without prior written consent of the Authority with regard to any of the materials, machinery or equipment utilized in connection with the Project, or any other material variance from the Plans;
- (iii) Any representation, statement, certificate, schedule or report made or furnished to the Authority by the Company with respect to the matters and

transactions covered by this Agreement which proves to be false or erroneous in any material respect at the time of its making or any warranty of a continuing nature which ceases to be complied with in any material respect and the Company fails to take or cause to be taken corrective measures satisfactory to the Authority within thirty (30) days after written notice by the Authority; or

(iv) The initiation of bankruptcy or receivership proceedings by or against the Company and the pendency of such proceedings for sixty (60) days.

SECTION 5.02 Remedies. The Authority will provide the Company with notice a reasonable amount of time within which the Company may cure any Event of Default described in this Article V. Upon the Company's failure to cure any Event of Default to the Authority's satisfaction within a reasonable amount of time, the Authority may, at its option, require repayment of all amounts paid and expended by Authority in connection with its performance hereunder.

SECTION 5.03 Completion by the Authority. If an Event of Default occurs prior to the completion of construction of the Project, the Authority shall have the right, but shall not be bound, to complete the Project according to the Plans. In the event the Authority elects to complete the Project, the execution of this Agreement shall be deemed an appointment by the Company of the Authority as its true and lawful attorney-in-fact with the full power of substitution to complete, or cause to be completed, the Project in the Company's name and shall empower the Authority as follows:

(i) to make minor changes and corrections in the Plans as shall be deemed necessary or desirable by the Authority; provided, however, that such changes do not increase project costs more than five percent (5.00%) determined on a cumulative basis;

(ii) to employ such contractors, subcontractors, agents, and inspectors as shall be required;

(iii) to pay, settle or compromise all existing bills and claims which are or may be liens against the property constituting a portion of the Project Site or any part thereof or may be necessary or desirable for completion of the work or obtaining clear title;

(iv) to execute all applications and certificates in the Company's name which may be required by any contract relating to the Project; and

(v) to do any and every act with respect to the Project which the Company may do in its own behalf.

It is understood and agreed that this power of attorney shall be deemed to be a power coupled with an interest which cannot be revoked. The Authority, as the Company's attorney-in-fact, shall also have the power to prosecute and defend all actions or proceedings in connection with

Boulevard
Clinton, Oklahoma
73601 Attn: Chairman

SECTION 6.03 Amendment. This Agreement may not be amended or modified in any way, except by an instrument in writing executed by both parties hereto and approved in writing by the Company and the Authority.

SECTION 6.04 Non-Waiver; Cumulative Remedies. No failure on the part of the Authority to exercise and no delay in exercising any right hereunder shall operate as a waiver thereof, nor shall any single or partial exercise by the Authority of any right hereunder preclude any other or further right thereof. The remedies herein provided are cumulative and not alternative.

SECTION 6.05 Assignment. Neither this Agreement nor the proceeds hereunder shall be assignable by the Company without the prior written consent of the Authority. The rights and benefits under this Agreement may be assigned by the mutual agreement of Authority and the Company.

SECTION 6.06 Applicable Law. This Agreement and the documents issued and executed hereunder shall be deemed to be a contract made under the laws of the State of Oklahoma and shall not be construed to constitute the Authority as a joint venturer with the Company or to constitute a partnership among the parties.

SECTION 6.07 Descriptive Headings. The descriptive headings of the articles and sections of this Agreement are for convenience only and shall not be used in the construction of the terms hereof.

SECTION 6.08 Integrated Agreement. This Agreement constitutes the entire agreement between the parties hereto, and there are no agreements, understandings, warranties or representations between the parties regarding the financing of the Project other than those set forth herein.

SECTION 6.09 Time of Essence. Time is of the essence in the performance of this Agreement.

SECTION 6.10 Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors, legal representatives and assigns.

SECTION 6.11 Right to Defend. The Authority shall have the right, but not the obligation, with benefit of counsel selected by the Authority, all at the Company's expense, to commence, appear in or defend any action or proceeding purporting to affect the rights or duties of the parties hereunder.

SECTION 6.12 Trustees' Disclaimer. This instrument is executed by the Trustees or officers or both of the Clinton Industrial Authority in their official capacities as such Trustees

or officers. By the execution hereof, all parties agree that, for the payment of any claim or the performance of any obligations hereunder, resort shall be had solely to the specific assets of the Authority described herein and no Trustee or officer of the Authority shall be held personally liable therefore. In this regard, specific reference is made to Section 179 of the Public Trust Act and to the Trust Indenture dated as of the 16th day of September, 1966, pursuant to which the Authority was created, a copy of which is of record in the office of the County Clerk of Custer County, Oklahoma.

IN WITNESS WHEREOF, the Company and the Authority hereto have caused this instrument to be duly executed this _____ day of _____, 2015.

CLINTON INDUSTRIAL AUTHORITY

Seth Adams, Chairman

(SEAL)
ATTEST:

Lisa Anders, Secretary

JETT DISTRIBUTING COMPANY

Matthew Jett, President

APPENDIX "1"

LEGAL DESCRIPTION OF THE PROJECT SITE

Block 4 of the Neptune Park Subdivision, being a subdivision of the Southeast Quarter (SE4) of Section 27, Township 12 North, Range 17 West of the Indian Meridian, Custer County, Oklahoma.

APPENDIX "2"

ROAD PLANS AND SPECIFICATIONS

