

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, 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; 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; and

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

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) construction of a driveway according the Plans and Specifications 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 and Specifications attached hereto as Appendix 1.

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.

SECTION 2.11 Survival of Representation and Warranties. All representations and warranties made by the Company and the Authority herein shall survive the delivery of the Company Note and the other loan instruments described herein and the loan made hereunder, until repayment in full of the Company Note.

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 Road Plans and Specifications. Upon completion of the Project, Company agrees to grant the City of Clinton an easement to the roadway which is described and set forth in Appendix 2, such easement to allow for public access and transportation on and over the roadway.

SECTION 3.03 Basic Concept Drawings. Prior to the execution of this Agreement, the Company has submitted, and the City has approved, the Road Plans and Specifications 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 Road Plans and Specifications or 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 and Specifications describing the improvements to be constructed and installed on the Project Site, which are set forth in Appendix 2, related documents as originally approved by the City, or as amended with the approval of the City.

SECTION 3.05 City and Other Governmental Permits. Before commencement of construction, development or work on or in connection with any buildings, structures or other improvements at the Project Site, 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 not exceed \$30,000.00.

SECTION 3.07 Construction Schedule. Not later than August 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, Company, following the execution of this Agreement, the Company or its designated agent will provide to the Authority a schedule for completion of the Project in accordance with the Preliminary Development Plans. 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 3.09 Indemnification of the Authority. The Company shall defend, indemnify, assume all responsibility for, and hold the Authority and its respective elected and appointed officers and employees and agents, harmless from, all costs (including attorneys fees and costs); claims, demands, liabilities or judgments (except those which have arisen from the willful misconduct or negligence of the Authority, its officers, employees and agents) for injury or damage to property and injuries to persons, including death, which may be caused directly or indirectly by any of the Company's activities under this Agreement, whether such activities or performance thereof be by the Company or anyone directly or indirectly contracted with or employed by the Company and whether such damage shall accrue or be discovered before or after termination of this Agreement. This indemnity includes, but is not limited to, any repair, cleanup, remediation, detoxification, or preparation and implementation of any removal, remediation, response, closure or other plan (regardless of whether undertaken due to governmental action) concerning any hazardous substance or hazardous wastes including petroleum and its fractions as defined in the Comprehensive Environmental Response, Compensation and Liability Act; codified at Title 42, Sections 9601, et seq. of the United States Code (hereinafter, "CERCLA"), and all amendments thereto, at any place where Company owns or has control of real property pursuant to any of Company's activities under this Agreement. The foregoing indemnity is intended to operate as an agreement pursuant to Section 107(e) of CERCLA to assure, protect, hold harmless and indemnify Authority from liability.

SECTION 3.10 Liability Insurance.

A. In addition to the indemnification of the Authority required in Section 3.09 hereof, 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, Two Million Dollars (\$2,000,000) for any occurrence, and One Million Dollars (\$1,000,000) 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 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, and any contractor with whom Company has contracted for the performance of work on the Project Site, 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 Sale of Control By the Company. The qualifications of the Company are of particular importance to the Authority. It is because of the qualifications and identity of the Company, and the management thereof, that the Authority has entered into this Agreement with the Company. Therefore, the Company agrees that it will not sell a controlling interest in its own membership interests for a period of 5 years following execution of this agreement. Without limiting the generality of the foregoing, except as otherwise expressly agreed by the Authority in writing, the Company shall not relocate, terminate its existence, liquidate or dissolve, or sell all or substantially all of its assets for a period of 25 years.

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 in accordance with the Code. Upon completion of the Project, Company agrees to grant the City of Clinton an easement to the roadway which is described as set forth in Appendix 2 such easement to allow for public access and transportation on and over the roadway.

SECTION 4.02 Effect of Violation of the Terms and Provisions of this Agreement After Completion of Construction; No Partnership. The Authority is deemed the beneficiary of the terms and provisions of this Agreement, for and in its own rights and for the purposes of protecting the interests of the community and other parties, public or private, in whose favor and for whose benefit this Agreement and the covenants running with the land have been provided. 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 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 or any other instrument executed pursuant to this Agreement, or under the terms of any other instrument delivered to the Authority in connection with this Agreement, including, without limitation, the falsity or breach of any representation, warranty or covenant;
- (ii) Material variance from the approved Road Plans and Specifications or without prior written consent of the Authority with regard to any of the materials, machinery or equipment acquired in connection with the Project or the appurtenances thereto, or any other material variance from the Road Plans and Specifications;
- (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 and thirty (30) days opportunity to 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 the thirty (30) day period, 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 approved Road Plans and Specifications. In the event the Authority elects to so 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 use any funds of the Company, for the purpose of completing the Project in the manner called for by the Road Plans and Specifications;
- (ii) to make minor changes and corrections in the Road Plans and Specifications and the 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;

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

(iv) 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;

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

(vi) and 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 the Project and to take such action and require such performance as the Authority deems necessary. The cost of said completion, including an amount equal to ten percent (10%) of such cost for the Authority's services in connection with such completion, shall be paid to the Authority by the Company. The Authority is authorized to add such costs to the Company's indebtedness to the Authority, holding the instruments executed in connection with this loan as security for the payment thereof, irrespective of whether the aggregate amount of such costs and the sums previously paid hereunder exceed the principal amount of the Company Note.

SECTION 5.04 Enforced Delay; Extension of Times of Performance.

A. In addition to specific provisions of this Agreement, performance by either party hereunder shall not be deemed to be in default, and all performance and other dates specified in this Agreement shall be extended, where the party seeking the extension has acted diligently and delays or defaults are due to events beyond the reasonable control of the party such as but not limited to: default of other party; war; insurrection; strikes; lockouts; riots; floods; earthquakes; fires; casualties; acts of God; acts of the public enemy; epidemics; quarantine restrictions; freight embargoes; intergalactic invasion, lack of transportation; litigation; unusually severe weather; or any other causes beyond the control or without the fault of the party claiming an extension of time to perform.

B. Times of performance under this Agreement may also be extended in writing by the mutual agreement of the Authority and the Company.

SECTION 5.05 Non-liability of Officials, Employees and Agents of the Authority. No official, employee or agent of the Authority shall be personally liable to the Company, or any successor in interest, pursuant to the provisions of this Agreement, for any default or breach by the Authority.

ARTICLE VI

MISCELLANEOUS

SECTION 6.01 Notices. Any notices or other communications required or permitted hereunder shall be sufficiently given if delivered personally or sent by registered or certified mail, postage prepaid, return receipt requested and addressed as set forth below or to such other address as the party concerned may substitute by written notice to the other. All notices shall be deemed received within five (5) days (excluding Saturdays, Sundays and holidays recognized by the State of Oklahoma) after being mailed:

If to the Company: Jett Distributing Company

If to the Authority: Clinton Industrial Authority
415 Gary Boulevard
Clinton, Oklahoma 73601
Attn: Chairman

SECTION 6.02 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 6.03 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 6.04 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 Authority and the.

SECTION 6.05 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 6.06 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 6.07 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 6.08 Time of Essence. Time is of the essence in the performance of this Agreement.

SECTION 6.09 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 6.12 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 6.13 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

Matt 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.

