

YADKIN COUNTY

NORTH CAROLINA



AGREEMENT FOR  
ECONOMIC DEVELOPMENT ASSISTANCE

THIS AGREEMENT, made and entered into this 16<sup>th</sup> day of February, 2016, ("Effective Date"), is by and among the COUNTY OF YADKIN, a North Carolina body politic the "County"); YADKIN COUNTY ECONOMIC DEVELOPMENT PARTNERSHIP, INC., a North Carolina non-profit corporation ("YCEDP"); and SNOW CREEK MANAGEMENT LLC, SOUTHLAND TRANSPORTATION COMPANY, and SOUTHLAND TRANSPORTATION BROKERAGE COMPANY, corporations organized and existing under the laws of the State of North Carolina ("COMPANY").

RECITALS:

A. COMPANY is qualified to do business in the State of North Carolina and desires to expand its distribution, storage, service and support facilities at a site (the "Site") owned by Snow Creek Management, LLC and located at 112 River Road, Boonville, N.C.; and held under lease by Southland Transportation. The Site is located entirely in Yadkin County and is more particularly described on the attached Exhibit A, which is incorporated by reference. This expansion at the Site would require COMPANY to conduct renovation, improvement, and development to provide for additional distribution, storage, service and support at the existing facilities (the "Facilities") located on the Site.

B. COMPANY will make certain site and infrastructure improvements on the Site and at the Facilities to allow COMPANY to expand the distribution, storage, service and support facilities and/or to conduct other business operations at the Site. In the course of this work, COMPANY expects to make capital expenditures at the Site of at least one million six hundred thousand dollars (\$1,600,000.00) on or before December 31, 2017;

C. The County in 1990 adopted a policy of providing assistance for economic development of the type that would be required at the Site for COMPANY's purposes, including assistance in the form of grants for site development and other capital improvements.

D. Pursuant to the Local Development Act of 1925, North Carolina General Statute §158-7.1 (the "Act"), the County has agreed, after having conducted a public hearing on the matter, to provide certain incentives to COMPANY, which are more particularly described in this Agreement. These incentives are intended to induce COMPANY to expand and make certain improvements to the Facilities and to the Site.

E. For and in consideration of the incentives from the County described in this Agreement, COMPANY agrees to construct and make certain improvements to the Facilities and to the Site so that it can locate distribution, storage, service and support facilities or other business operations there and provide certain jobs there, all as more particularly described in this Agreement.

F. YCEDP, as the administrator for the Yadkin County Economic Development Council, has agreed to administer in accordance with this Agreement the economic incentives to be provided to COMPANY under this Agreement.

G. The County has determined that providing the assistance set out in this Agreement will benefit the welfare of their citizens by enhancing their jurisdictions' industrial and business operations and available employment. The improvements to the Facilities and the Site might not occur without this assistance.

H. The parties desire hereby to document their respective commitments and, to the fullest extent permitted by North Carolina law, contractually bind themselves to those commitments.

I. It is anticipated that COMPANY's capital investment in and at the Site and its operations there will generate significant ad valorem tax revenues and sales tax revenues for the County, which revenue sources constitute a material part of the financial basis for the County entering into this Agreement.

J. The renovation, improvement, and development of the Facilities is expected to result in the creation of new full-time jobs at the Site, as well as additional construction jobs during COMPANY's work to improve the Site and the Facilities and to ready them for COMPANY's operations.

NOW, THEREFORE, in consideration of the recitals and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties agree as follows:

1. Development of the Site and the Facility. COMPANY agrees that within a reasonable time after execution of this Agreement, and in any event no later than December 31, 2017, it will complete its renovation, improvement, and development of the Facilities and the Site and will have begun those operations. During and following the completion of the renovation, improvement, and development of this work, COMPANY will make its best efforts to provide at least six (6) new full-time positions for employment at the Facilities or on the Site, including drivers, service technicians, and administration.

2. No Tax Exemptions. COMPANY agrees that at no time during this Agreement's term will COMPANY pursue, apply for, or accept any tax exemption for the Site, any portion of the Site, or any improvements or property (including the Facility) at the Site or any portion of the Site.

3. Use of County Businesses. In performing all work described in Paragraph 1, to the extent possible COMPANY will use commercially efforts to: (i) use engineers, surveyors, vendors, contractors, subcontractors and other companies based in the County and (ii) purchase supplies from County-based businesses. COMPANY will encourage its contractors and subcontractors to do the same. COMPANY also will encourage its contractors and subcontractors to house themselves and their employees and contractors within the County during the work in order to maximize hotel/motel tax receipts and to expand the economic impact to the County and businesses located in the County.

4. Grants by the County. To induce COMPANY to perform the work and create the jobs described in Paragraph 1, and subject to the terms of this Agreement, the County will make grants,

from any lawfully available funds not otherwise restricted, in amounts equal to 80% of the new property tax generated each year by the renovation, improvement, and development needed to make the Site and/or the Facilities useable by COMPANY for its operations described in Paragraph 1, in excess of the property tax on the 2015 tax base of \$ 659,163.00, for the next two tax years of 2016 and 2017. These improvements may include, but are not limited to, building renovations, necessary modifications to the electrical service, fire protection equipment, grading, water and wastewater facilities, storm water sewer systems, employee parking lots, fencing, and roadways to be located on the Site. Except to the extent that the County may otherwise agree in its sole discretion, the County will provide these grant funds as follows: Cash grants on or about January 17, 2017, and January 16, 2018, provided property taxes for that year have been paid in full to Yadkin County. This cash grant shall be capped at \$ 10,000.00 per year. In no event shall the County be required to spend any funds or make any grants during any fiscal year in excess of the amounts specified in this Paragraph.

5. County Grants Administered by YCEDP. In order to facilitate the timely construction of the Facilities, COMPANY, rather than YCEDP or the County, shall undertake the improvement activities described in Paragraph 4 and shall seek reimbursement for those activities from the grants described in Paragraph 4 up to the maximum amounts described in Paragraph 4. All invoices and any other documentation reasonably requested by YCEDP or the County for reimbursement of the amount allowed by the grant from COMPANY shall be submitted to YCEDP and be signed by COMPANY's engineer certifying that the work invoiced has been completed, is in place, has been approved, and is part of the work contemplated by Paragraph 1 of this Agreement. Upon receipt, YCEDP shall review each request and if it is in compliance with this Agreement (and would not cause grants made by the County during that fiscal year to exceed the maximum specified for that fiscal year in Paragraph 4), will recommend it to the County for payment. COMPANY shall use the funds it receives from the County under this Agreement only for improvements and related expenditures at the Site or the Facility that are needed to create the tax base or jobs described in Paragraph 1.

6. Breach By COMPANY. In the event that it appears that COMPANY may have defaulted materially in the performance of its obligation under this Agreement, YCEDP and/or the County shall issue a written notice of that default to COMPANY. COMPANY will have thirty (30) days from receipt of said notice to remediate the specific material default or to deny or explain why no material default has occurred. If COMPANY does not remediate the specific material default or explain to the reasonable satisfaction of each of the other parties that no material default has occurred, COMPANY will be deemed to have materially breached this Agreement. By example and not for purposes of limitation, a material breach by COMPANY would include: (i) COMPANY not providing jobs as specified in Paragraph 1 of the Agreement, (ii) COMPANY not making the capital expenditures necessary for the County to fully recoup within five years of the Effective Date, through property taxes paid on the Site and the Facility, the grants that they agree to make under this Agreement, (iii) COMPANY not operating the Facility from Effective Date until at least five years after the Effective Date. If COMPANY commits a material breach of this Agreement, it shall promptly (and in no event more than 30 days after the breach) refund to the County the full amount of any grants made under this Agreement, along with interest from the dates the grants were paid by the County at the maximum rate of interest allowed under North Carolina law.

7. Force Majeure. If part or all of COMPANY's performance under this Agreement (other than the payment of money or the giving of notice) is prevented by a cause beyond the control of

COMPANY, such as: natural disasters, fires, earthquakes, riots, shortage of raw materials, labor shortage, or restrictions imposed by any federal, state, or local statutes, regulations, ordinances or laws not in effect on the date of this Agreement, then COMPANY shall give prompt notice to YCEDP identifying the cause and explaining in detail why that cause prevents its performance. From the time that this notice is given, COMPANY shall be excused from performance to the extent that its performance is prevented by the cause identified in the notice, but only for so long as the cause prevents COMPANY's performance. During the time that its performance is prevented, COMPANY shall use its best efforts to avoid or remove the cause of nonperformance and perform its obligations to the greatest extent possible. COMPANY shall continue full performance of its obligations under this Agreement with the utmost dispatch whenever the cause of its non-performance is removed. Notwithstanding any other provision of this Paragraph, COMPANY's performance will be excused only for causes beyond COMPANY's control.

8. Representations and Warranties.

A. The County represents and warrants to COMPANY that it is a political subdivision, duly organized and validly existing, under laws of the State of North Carolina. The County has the corporate power, authority, and legal right to execute, deliver, and perform its obligations under this Agreement. The execution, delivery, and performance of this Agreement has been duly authorized by the County as required by law.

B. YCEDP represents and warrants to COMPANY that YCEDP is a non-profit corporation duly organized, validly existing and in good standing under the laws of the State of North Carolina. YCEDP has corporate power, authority and legal right to execute, deliver and perform its obligations under this Agreement. This Agreement has been, and any other agreements, documents, and instruments required to be delivered by YCEDP in accordance herewith will be, duly executed and delivered by duly authorized officers of YCEDP. This Agreement constitutes, and any other documents when executed and delivered will constitute legal, valid, and binding obligations of YCEDP, enforceable in accordance with their respective terms.

C. COMPANY represents and warrants to the County and YCEDP, that: (i) it is a corporation duly organized and existing under the laws of the State of Delaware and is validly existing and authorized to do business in the State of North Carolina; (ii) it has the power and authority to own its properties and assets and to carry on its business as now being conducted and has the power and authority to execute and perform this Agreement; (iii) this Agreement (a) is the lawful, valid and binding agreement of COMPANY; (b) does not violate any order of any court or other agency of government binding on COMPANY, the charter documents of COMPANY or any provision of any indenture, agreement or other instrument to which COMPANY is a party; and (c) does not conflict with, result in a breach of, or constitute an event of default, or an event which, with notice or lapse of time, or both, would constitute an event of default, under any material indenture, agreement or other instrument to which COMPANY is a party; (iv) COMPANY has not received notice of any action having been filed against it that challenges the validity of this Agreement or COMPANY's right and power to enter into and perform this Agreement; and (v) the Company is not engaged in a business that would cause any of its property in the County to be exempt from property taxes.

9. Further Assurances. COMPANY, the County and YCEDP shall reasonably cooperate

with each other and shall execute and deliver such other instruments and documents and take such other actions as may reasonably be requested from time to time by any other party as necessary to carry out, evidence, and confirm the intended purposes of this Agreement.

10. No Pledge of Faith and Credit. No provision of this Agreement shall be construed or interpreted as creating a pledge of the faith and credit of the County within the meaning of any constitutional debt limitation. The parties acknowledge that the scope, term and duration of this Agreement are in all events reasonable. No provision of this Agreement shall be construed or interpreted as delegating governmental powers or as a donation or a lending of the credit of the County within the meaning of the North Carolina Constitution. No provision of this Agreement shall be construed to pledge or to create a lien on any class or source of the County's funds nor shall any provision of the Agreement restrict to any extent prohibited by law any action or right of action on the part of any future County Board of Commissioners. To the extent of any conflict between this Paragraph and any other provision of this Agreement, this Paragraph shall take priority.

11. Assignment. This Agreement shall be binding upon COMPANY's successors and assigns. However, notwithstanding any other provision of this Agreement, neither this Agreement nor any rights, privileges, or claims created by this Agreement may be assigned or transferred by COMPANY without the prior written approval of the County.

12. Disclaimers. COMPANY acknowledges that neither the County nor YCEDP: (i) has supplied any plans or specifications or other information about the Site or the Facilities, (ii) has made any recommendation, given any advice, made any warranties or representations, or taken any other action with respect to the Site or the Facilities or (iii) has made any warranty or other representation, express or implied, that the Site or Facilities (a) will not result in or cause injury or damage to persons or property, (b) is safe in any manner or respect, or (c) will accomplish the results that COMPANY intends or is suitable for COMPANY's purposes. COMPANY acknowledges that neither the County nor YCEDP has promised, represented, or warranted that COMPANY's plans for renovating, improving, developing, or using the Site or the Facilities will comply with any federal, state, or local law or regulation or with any private restrictions on the Site or the Facility that may exist. The County and YCEDP make no express or implied warranties or representations of any kind whatsoever with respect to the site or the Facilities or any component part of either, including but not limited to any warranty or representation with respect to the merchantability or the fitness or suitability thereof for any purpose, and further including the design or condition thereof; the safety, workmanship, quality or capacity thereof; compliance thereof with the requirements of any law, rule, specification or contract pertaining thereto; any latent defect; the Site's or the Facilities' ability to perform any function; or any other characteristic of the Site or the Facilities; it being agreed that COMPANY is to bear all risks relating to the Site and the Facilities, the completion thereof and the transactions contemplated thereby and COMPANY hereby waives any and all implied warranties and representations of the County or YCEDP. In no event shall the County or YCEDP be liable, under any circumstances, for any consequential, incidental, special or indirect damages of any kind, including lost revenues and profits, even if they have been advised of the possibility of those damages.

The provisions of this Paragraph 12 shall survive the Agreement's expiration or its termination for any reason or for no reason.

13. Public Purpose and Cooperation. The County and YCEDP acknowledge that any and all funds appropriated and expended by the County pursuant to this Agreement are for a bona fide public purpose and are expended in good faith reliance on the North Carolina Local Development Act of 1925. If one or more lawsuits challenging this Agreement's legality are brought by third parties against one or more parties to this Agreement, then the parties will cooperate with each other in the common defense of this Agreement and/or of the incentives granted under this Agreement. Each party to this Agreement will control the selection of its own legal counsel and will control its own legal defense, and each party will bear its own legal expenses.

14. No Joint Venture, Partnership, or Agency. This Agreement does not create any joint venture, partnership, or agency relationship between or among any of the parties to this Agreement. This Agreement shall not give the County or YCEDP any interest in or control over the Site or the Facilities or any activities occurring on the Site. COMPANY shall indemnify and hold harmless the County and YCEDP from any damages, claims, lawsuits, penalties, fines, costs, fees, or any other type of monetary payments resulting from personal injury, death, or property damage caused in whole or in part by the Site, the Facilities, or any activities occurring on the Site or at the Facilities. This Agreement is not intended by the parties to grant any rights, privileges, or claims to any third parties.

15. Entire Agreement. This Agreement contains the entire agreement and understanding of the parties with respect to the subject matter hereof, and supersedes all prior negotiations, agreements and understandings, whether oral or written. This Agreement may only be amended by an instrument in writing, signed by the party or parties to be charged.

16. Limitations of Liability. The respective obligations of the County and YCEDP are independent of each other. No party shall have any liability to COMPANY based upon any breach of this Agreement by any other party.

17. Term. The term of this Agreement shall start on the date specified on the Effective Date and shall end on the date that is five (5) years after the Effective Date.

18. Notices. Whenever this Agreement requires or permits any consent, approval, notice, request, proposal, or demand (collectively, "Notice") from one party to another, the Notice must be in writing and shall be effective upon the first to occur of (i) actual receipt by the intended recipient, or (ii) the third (3rd) business day after it is properly deposited in the United States mail via certified mail, return receipt requested. Each party's address to which such Notices shall be delivered is listed below:

If to COMPANY, to

Southland Transportation  
P O Box 99  
Boonville NC 27011

If to the COUNTY, to

Yadkin County Manager  
P. O. Box 220  
Yadkinville NC 27055

If to YCEDP, to

Yadkin County EDP  
P. O. Box 1840  
Yadkinville NC 27055

Any party entitled to receive a Notice hereunder may change the address which it previously had specified for receiving the same, at any time and from time to time, by delivering a written change notice in accordance with the above provisions to the other party five (5) business days prior to the effective date of such change.

19. Controlling Law. This Agreement is entered into pursuant to the laws of the State of North Carolina, and shall be construed and enforced thereunder without regard to North Carolina's choice of law provisions.

20. Severability. If any provision of this Agreement shall be determined to be invalid or unenforceable by a court of competent jurisdiction, then (a) such determination shall not invalidate or render unenforceable any other provision of this Agreement; (b) such provision shall be construed as closely as possible to the parties' original intent in order to render such provision valid or enforceable, as applicable; and (c) the remaining terms of this Agreement, together with such reconstructed provision, shall constitute the parties' entire agreement concerning the subject matter.

21. Jurisdiction. For any dispute concerning or arising out of this Agreement, the parties submit to the exclusive jurisdiction of the North Carolina Superior Court sitting in Yadkin County, North Carolina.

22. Headings. The headings in this Agreement are for convenience only and shall not modify the meaning of the language in each Paragraph of this Agreement or be used as a guide for interpreting the language of this Agreement.

23. Counterparts. This Agreement may be executed in any number of separate counterparts. Each executed counterpart shall constitute an original, but all of them taken together shall constitute a single instrument.

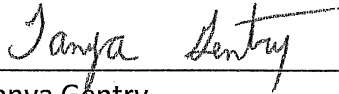
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IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first above written.

**COUNTY OF YADKIN**



Kevin Austin  
Chairman, Board of Commissioners

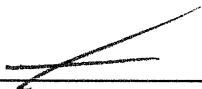


Tanya Gentry  
Clerk to the Board

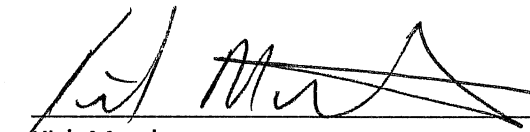
Date: 2/16/16

(AFFIX SEAL)

**YADKIN COUNTY ECONOMIC DEVELOPMENT PARTNERSHIP**



George L. Anderson, Jr.  
Chairman



Kirk Matthews  
Secretary

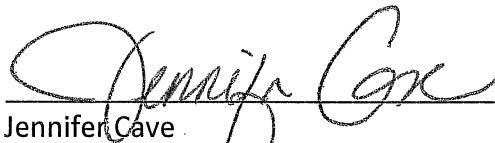
Date: 2-16-2016

(AFFIX SEAL)

**SOUTHLAND TRANSPORTATION, INC**



R. J. Cummings  
President, Southland Transportation Company  
& Southland Transportation Brokerage Company  
Managing Partner, Snow Creek Management, LLC



Jennifer Cave  
Secretary, Southland Transportation Company  
& Southland Transportation Brokerage Company

Date: 4-19-2016

(AFFIX SEAL)

This instrument has been pre-audited in the manner required  
by the Local Government Budget and Fiscal Control Act.



## Exhibit A

### First Tract:

Lying and being in Boonville Township, North Carolina, and being located approximately 250 feet East of the Town limits of the Town of Boonville and being bounded on the North by the Lands of Hilton Jones on the East by the lands of Henry Wolf, Parker, Harvey Lakey, and Ronald Bullins on the South by the East End Development and on the West by NCSR 1367 (also known as River Rd.) and being more particularly described as follows: BEGINNING at a point in the center of NCSR 1367 said Beginning being evidenced by a railroad spike set in the center line of the said road said Beginning point being located North 09 deg. 14 min. 22 sec. East 204 feet from the center of the intersection of NCSR 1367 and N.C. Highway 67 said Beginning point also being located South 09 deg. 14 min. 22 sec. West 337.78 feet from the Northwest corner of the within described lands and the corner of Hilton Jones in the center of NCSR 1367 said Beginning point also being the Southwest corner of Lot No. 13 of the lands of Mrs. John A. Speas estate as shown by Plat recorded in Plat Book 4, Page 58, Yadkin County Registry and running thence from said Beginning point with center line of NCSR 1367 North 09 deg. 14 min. 22 sec. East 337.75 feet to a point in the center of said road, said point being evidenced by a railroad spike set in the center line of said road thence running with the line of Hilton Jones South 84 deg. 35 min. 19 sec. East 24.0 feet to an iron pin located near the East right of way of said road thence crossing the East right of way of said road and continuing with the line of Hilton Jones South 84 deg. 35 min. 19 sec. East 175.0 feet to concrete monument thence continuing with the line of Hilton Jones South 84 deg. 35 min. 19 sec. East 1,151.46 feet to an iron pin thence continuing with the line of Hilton Jones North 14 deg. 40 min. 26 sec. East 480.08 feet crossing a branch to an iron pin thence running South 75 deg. 53 min. 0 sec. East 23.50 feet to an iron pin sat at a maple a common corner for the within described lands and the lands of Henry Wolf thence running with the line of Henry Wolf, Parker and Harvey Lakey South 02 deg. 00 min. 53 sec. West 1,032.46 feet to an iron pin, a corner for Harvey Lakey thence running with the line of Harvey Lakey South 81 deg. 37 min. 39 sec. East 89.27 feet to an iron pin, a common corner of the within described Tract of lands and the lands of Ronald Bullins in the line of Harvey Lakey thence running with the line of Ronald Bullins South 13 deg. 43 min. 22 sec. West 80.68 feet to an iron pin the common corner of the within described Tract and the lands of Ronald Bullins in the line of property now or formerly owned by Speas development or the East End Development thence running with the line of property now or formerly owned by Speas Development or East Development North 73 deg. 47 min. 09 sec. West 17.0 feet to the point of BEGINNING containing 17.712 acres, more or less, and being all that land described in the Deed recorded in Book 105, Page 450, Yadkin County Registry, except that Tract deeded to Ronald Bullins and being Lot Nos. 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25 and 25A of Tract No. 3 of the division of the lands of Mrs. John A. Speas estate (Mrs. Mollie Poindexter Speas) as shown by Plat recorded in Plat Book 4, Page 58, of Yadkin County Registry including a strip 30 feet in width and 200 feet in depth designated at "Street" on Plat of said lands, except for that Tract conveyed to Ronald Bullins.

### Second Tract:

All such right, title and interest as the Grantor herein has in and to a certain alleyway, 14 feet in width which runs from the above-described First Tract to DS (NC) Highway No. 67, as set out in a certain plan of East End Development dates October, 1946, and dully recorded in Plat Book 1, Page 108, of Yadkin County Registry, to which plat reference is hereby made for a more complete description of said alleyway.