



## Hamilton County Board of Commissioners

# RESOLUTION

No. 1214-8

**A RESOLUTION TO MAKE CERTAIN FINDINGS RELATING TO THE SOUTHERN CHAMPION TRAY, L.P. AND SOUTHLAND PARTNERS PROJECT, TO DELEGATE CERTAIN AUTHORITY TO THE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF CHATTANOOGA, AND TO AUTHORIZE THE COUNTY MAYOR TO ENTER INTO AND EXECUTE AN AGREEMENT FOR PAYMENTS IN LIEU OF AD VALOREM TAXES.**

**WHEREAS,** pursuant to Tennessee Code Annotated, Section 7-53-305(b) Hamilton County (the "County") is permitted to delegate to The Industrial Development Board of the City of Chattanooga (the "Corporation") the authority to negotiate and accept payments in lieu of ad valorem taxes from lessees of the Corporation upon a finding by the County that such payments are deemed to be in furtherance of the Corporation's public purposes; and,

**WHEREAS,** Southern Champion Tray, L.P. and Southland Partners (together, the "Companies") are contemplating the expansion and equipping of the Companies' existing manufacturing facilities and operations in the City, and, because of the substantial economic benefits to the City of Chattanooga and Hamilton County resulting from the project, has asked the Corporation and the County to approve payments in lieu of ad valorem taxes; and

**WHEREAS,** the County has determined that payments in lieu of ad valorem taxes from such a project would be in furtherance of the Corporation's public purposes as set forth within Chapter 53 of Title 7 of the Tennessee Code Annotated;

**NOW, THEREFORE, BE IT RESOLVED BY THIS COMMISSION:**

That we do hereby find that the Southern Champion Tray, L.P. and Southland Partners project referenced above is in the best interest of the County, and that payments in lieu of ad valorem taxes derived therefrom would be in furtherance of the Corporation's public purposes; and,

That, having made such a finding in this instance, we do hereby delegate to the Corporation the authority to negotiate and accept payments in lieu of ad valorem taxes from the Companies, it being further noted that this delegation is for this purpose and this project only; and,

That the County Mayor is hereby authorized to enter into an Agreement for Payments In Lieu Of Ad Valorem Taxes in the form attached hereto, with such changes thereto as he shall approve; and,

**BE IT FURTHER RESOLVED THAT THIS RESOLUTION TAKE EFFECT FROM AND AFTER ITS**

PASSAGE, THE PUBLIC WELFARE REQUIRING IT.

**CERTIFICATION OF ACTION**

Approved:



Rejected:



  
County Clerk

Approved:



Vetoed:



  
County Mayor

December 3, 2014

Date

**AGREEMENT FOR PAYMENTS IN LIEU  
OF AD VALOREM TAXES**

**THIS AGREEMENT** (the "Agreement") is made and entered into as of this the \_\_\_\_\_ day of \_\_\_\_\_, 2014, by and among **THE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF CHATTANOOGA** (the "Board"); **SOUTHERN CHAMPION TRAY, L.P. and SOUTHLAND PARTNERS, G.P.** (together, the "Companies" and each a "Company"); the **CITY OF CHATTANOOGA** (the "City"); and **HAMILTON COUNTY** (the "County") and is joined in, for purposes of evidencing their acceptance of the agency relationship established herein, by **WILLIAM F. HULLANDER and his successors, acting in the capacity of HAMILTON COUNTY TRUSTEE** (the "Trustee"), and by **WILLIAM C. BENNETT and his successors, acting in the capacity of HAMILTON COUNTY ASSESSOR OF PROPERTY** (the "Assessor").

**W I T N E S S E T H:**

**WHEREAS**, the Companies are contemplating (i) the improvement of certain real property (the "Real Property Improvements") in Chattanooga, Hamilton County, Tennessee, as more particularly described on Exhibit A attached hereto and incorporated herein on the existing real property described in Exhibit A (the "Existing Property") (the Real Property Improvements and the Existing Property shall be collectively referred to as the "Real Property"); and (ii) the acquisition of machinery, equipment and other personal property, as more particularly described on Exhibit B attached hereto and incorporated herein (the "Personal Property") (the Personal Property and the Real Property shall be collectively referred to as the "Property," and the Real Property Improvements and the Personal Property shall be referred to as the "Project"), resulting in an investment of at least \$18.1 million and the creation of at least 105 full-time jobs which jobs shall have an average annual wage (excluding benefits) equal to at least \$45,000.00 between January 1, 2014 and January 1, 2017 (collectively the "Investment, Jobs and Wage Projection"), and has requested the Board's assistance with the Project; and

**WHEREAS**, substantial economic benefits to the City and County economies will be derived from the Project; and

**WHEREAS**, the Board has agreed to hold title to the Property, together with all additions thereto, replacements thereof, and substitutions therefor and to lease the Property to the Companies pursuant to those certain Lease Agreements (the "Leases"), dated of even date herewith, between the Board and each Company; and

**WHEREAS**, because the Property is to be owned by the Board, which is a public corporation organized under the provisions of Tennessee Code Annotated, § 7-53-101, *et seq.*, the Property will be exempt from ad valorem property taxes ("property taxes") normally paid to the City and to the County, so long as the Property is owned by the Board, pursuant to the provisions of Tennessee Code Annotated, § 7-53-305; and

**WHEREAS**, for the public benefit of the citizens of the City and the County, the Board has requested that the Companies make certain payments to the Board in lieu of the payment of property taxes that would otherwise be payable on the Property; and

**WHEREAS**, the Companies have agreed to make such payments to the Board in lieu of the property taxes otherwise payable on the Property (the "In Lieu Payments"), as more particularly set forth hereinafter; and

**WHEREAS**, the Board has been authorized to receive the In Lieu Payments in lieu of property taxes by resolutions adopted by the City and the County, acting through their duly elected Council and Commission, respectively, which resolutions delegate to the Board the authority to accept the In Lieu Payments upon compliance with certain terms and conditions, including, without limitation, the requirement that the Board collect and expend such payments in furtherance of the public purposes for which the Board was created; and

**WHEREAS**, the Companies and the Board have agreed that all In Lieu Payments made to the Board by the Companies shall be paid to the City of Chattanooga Treasurer (the "Treasurer") and the Trustee, who shall disburse such amounts to the City and the County in accordance with the requirements specified herein; and

**WHEREAS**, the Board wishes to designate the Assessor as its agent to appraise the Property and assess a percentage of its value in the manner specified herein; and

**WHEREAS**, the Board wishes to designate the Treasurer and the Trustee as its agents to receive the In Lieu Payments in accordance with the terms of this Agreement;

**NOW, THEREFORE, IN CONSIDERATION OF** the mutual covenants and agreements set forth herein, the parties hereto agree as follows:

1. Designation of Assessor; Appraisal and Assessment of Property. The Board hereby designates the Assessor as its agent to appraise and assess the Property. The Assessor shall appraise and assess the Property in accordance with the Constitution and laws of the State of Tennessee as though the Property were subject to property taxes. The Assessor shall give the Treasurer, the Trustee, the Board, and the Companies written notice of any changes in appraisals of the Property in the same manner that notices are given to owners of taxable property. The Assessor shall make available to the Board and the Companies all records relating to the appraisal and assessment of the Property.

2. Computation and Billing of Payments In Lieu of Taxes. The Board hereby designates the Treasurer and the Trustee and as its agents to compute the amounts of the In Lieu Payments, to receive such payments from the Companies and to disburse such payments to the City and the County. On or about October 1 of each year during the term of this Agreement, the Treasurer and the Trustee shall compute the taxes which would be payable on the Property if it were subject to property taxes, in accordance with the Constitution and laws of the State of Tennessee and in accordance with the appraisal and assessment of the Assessor. Each year hereunder, the Treasurer and the Trustee shall send the Board and each Company bills for appropriate amounts of In Lieu Payments (the "Tax Bill").



3. Payments in Lieu of Taxes. After receipt of the Tax Bill, each Company shall pay to the Treasurer and the Trustee the amounts indicated on the Tax Bills which amounts shall be determined in accordance with the provisions set forth below in Paragraph 4. The In Lieu Payments shall be made by each Company in lieu of the property taxes which would otherwise be payable on the Property if it were subject to property taxes.

4. Amount of Payments by the Companies. For the seven (7) year period covering and inclusive of years 2015 through 2022 (the "Tax Abatement Period"), each Company shall make In Lieu Payments with respect to its respective portion of the Project in an amount, as determined by the Assessor, the Treasurer and the Trustee, equal to the following percentage of the taxes that would have been payable on the portion of the Project if it were subject to property taxes for the respective years shown:

Year	City General Fund	County General Fund	County School Fund
2015	0%	0%	100%
2016	25%	25%	100%
2017	40%	40%	100%
2018	50%	50%	100%
2019	50%	50%	100%
2020	50%	50%	100%
2021	50%	50%	100%
2022	50%	50%	100%

For the avoidance of doubt, the parties intend that the Companies shall make (i) In Lieu Payments in an amount equal to one hundred percent (100%) of all ad valorem taxes that would be dedicated to the support of the County school system, which the Companies and County acknowledge and agree currently equates to 49.64% of the amount of the total County taxes that would have been payable on the Project if it were subject to property taxes (the "School Portion"), and (ii) In Lieu Payments in an amount equal to the above graduated amounts for all other ad valorem taxes of the City and the County, excluding the educational portion of the County ad valorem taxes.

For any of its portion of the Property other than the Project, each Company shall make In Lieu Payments in an amount, as determined by the Assessor, the Treasurer and the Trustee, equal to one hundred percent (100%) of the amount of taxes that would have been payable on such portion of the Property if it were subject to property taxes, except to the extent that a portion of such Property is subject to another agreement for payments in lieu of taxes with the City, the County and the IDB. For the avoidance of doubt, the parties intend that the reduced In Lieu Payments under this Agreement shall only apply to new investment in the Property that is undertaken pursuant to this Agreement.

For any periods before the Tax Abatement Period or after the Tax Abatement Period that the Property is owned by the Board and leased to the Companies, the Companies shall make In Lieu Payments in an amount, as determined by the Assessor, the Treasurer and the Trustee, equal to one hundred percent (100%) of the amount of taxes that would have been

payable on the Property if it were subject to property taxes, except to the extent that a portion of such Property is subject to another agreement for payments in lieu of taxes with the City, the County and the IDB.

Notwithstanding the above, any amounts assessed as property taxes against the Property shall be credited against any In Lieu Payments due under this Agreement.

5. Penalties and Late Charges. Each Company shall make its In Lieu Payments for each year during the term before March 1 of the following year. All In Lieu Payments shall be subject to penalties, late charges, fees and interest charges as follows:

(a) If a Company fails to make its In Lieu Payment when due, and such failure to pay shall continue and not be fully paid within thirty (30) days after written notice of such non-payment has been provided to the Company, then a late charge shall be charged and shall also be immediately due and payable. The late charge shall be in the amount of one and one-half percent (1-1/2%) of the owed amount. Additional late charges of one and one-half percent (1-1/2%) of the amount shall accumulate and become immediately due and payable upon the expiration of each subsequent thirty (30) day period when there remains any outstanding unpaid amount.

(b) If a Company should fail to pay all amounts and late charges due as provided hereinabove, then the Board, the City or the County may bring suit against the Company in the Chancery Court of Hamilton County to seek to recover the In Lieu Payments due, late charges, expenses and costs of collection in addition to reasonable attorneys' fees.

6. Minimum Requirements; Annual Review; Increase in Amount of In Lieu Payments.

(a) Minimum Requirements. The Companies must meet one hundred percent (100%) of the Minimum Job Requirement and the Minimum Investment Requirement by January 1, 2017 (the "Determination Date") and during each calendar year thereafter during the Tax Abatement Period. For purposes of this Section, the "Minimum Jobs Requirement" equals eighty-four (84) full-time jobs, and the "Minimum Investment" equals \$14,480,000 (Four Million Four Hundred Eighty Thousand Dollars).

(b) Annual Employment Review. If the Companies fail to achieve the Minimum Jobs Requirement during the calendar year in which the Determination Date occurs or during in any calendar year thereafter during the Tax Abatement Period, the City and the County reserve the right but are not obligated to increase the amount of the general fund In Lieu Payments applicable to the Project for the same calendar year in which such failure occurs by a percentage equal to 100% less the "Companies' Job Performance" for such calendar year (the "Job In Lieu Payment Percentage Increase"). The "Companies' Job Performance" for any calendar year means the proportion, expressed as a percentage, that the average number of full-time jobs actually maintained by the Companies bears to the Minimum Job Requirement. In no event shall the Companies' annual General Fund In Lieu Payments exceed one hundred percent (100%) of the general fund taxes that would be assessed against the Project if it were subject to general fund taxes.

**Example 1:**

Total number of full-time jobs as of January 1, 2017 = 100

Minimum Job Requirement = 84

No increase in In Lieu Payments for 2017

(Minimum Job Requirement has been exceeded)

**Example 2:**

Total number of full-time jobs as of January 1, 2017 = 80

Minimum Job Requirement = 84

Companies' Job Performance = 95.2%

Job In Lieu Payment Percentage Increase for 2017 = 4.8%

(In Lieu Payment Percentages for 2017 for City General Fund and County General Fund may each be increased by 4.8%)

(c) Annual Investment Review. If the Companies fail to achieve the Minimum Investment Requirement during the calendar year in which the Determination Date occurs or during in any calendar year thereafter during the Tax Abatement Period, the City and the County reserve the right but are not obligated to increase the amount of the general fund In Lieu Payments applicable to the Project for the same calendar year in which such failure occurs by a percentage equal to 100% less the "Companies' Investment Performance" for such calendar year (the "Investment In Lieu Payment Percentage Increase"). The "Companies' Investment Performance" for any calendar year means the proportion, expressed as a percentage, that the actual aggregate capital investment made by the Companies through the end of such calendar year, including all capital investment made in the preceding calendar years in connection with the Project, bears to the Minimum Investment Requirement. In no event shall the Companies' annual General Fund In Lieu Payments exceed one hundred percent (100%) of the general fund taxes that would be assessed against the Project if it were subject to general fund taxes.

**Example 3:**

Total amount of capital investment through January 1, 2017 = \$15,000,000

Minimum Investment Requirement = \$14,480,000

No increase in In Lieu Payments for 2017 (Minimum Investment Requirement has been exceeded)

**Example 4:**

Total amount of capital investment through January 1, 2017 = \$13,000,000

Minimum Investment Requirement = \$14,480,000

Companies' Investment Performance = 89.8%

Investment In Lieu Payment Percentage Increase for 2017 = 10.2%

(In Lieu Payment Percentages for 2017 for City General Fund and County General Fund may each be increased by 10.2%)

Such formula shall be evaluated on an annual basis until the Minimum Investment Requirement has been met or exceeded, whereupon no further evaluations or increase in the amount of the In Lieu Payments pursuant to this Section 6(c) shall occur.

(d) Single Adjustment Regarding Tax Abatement; Issuance of Supplemental Bill to the Companies. If both the annual employment review under Section 6(b) and the investment review under Section 6(c) for any calendar year indicate an increase in the In Lieu Payments for the same calendar year in which such failure occurs, and if the City and the County elect to increase the In Lieu Payments for such calendar year, then the City and the County shall determine whether the increase under Section 6(b) or Section 6(c) shall apply, which shall be the sole remedy for a shortfall in the Investment, Jobs and Wage Projection. The increase under Section 6(b) and Section 6(c) shall not be combined. If the City and the County increase the amount of the In Lieu Payments pursuant to the annual employment review under Section 6(b) for any calendar year, then they may not, in the same year, also increase the amount of the In Lieu Payments pursuant to Section 6(c), and vice versa. For example, using Examples 2 and 4 shown above, the City and the County may elect to either (i) increase the amount of the In Lieu Payments to the City General Fund and the County General Fund under Section 6(b) by 4.8% or (ii) increase the amount of the In Lieu Payments to the City General Fund and the County General Fund under Section 6(c) by 10.2%. In accordance with the foregoing and once a determination has been made of the Jobs In Lieu Payment Percentage Increase or the Investment In Lieu Payment Percentage Increase, whichever is determined to be applicable, the Treasurer and the Trustee shall compute the amount of the additional In Lieu Payment resulting therefrom and will issue a supplemental bill to the Companies for that payment.

(e) Project Closure. In the event the Project closes or moves from the County during the Tax Abatement Period, the City and the County reserve the right to immediately terminate the tax abatements provided by this Agreement and require the partial repayment of amounts that would have been payable on the Property during the Tax Abatement Period as if it were subject to property taxes. The provisions of this subsection (e) shall be the sole remedy for a closure or relocation of the Project.

7. Disbursements by the Treasurer and Trustee. All sums received by the Treasurer pursuant to Paragraph 3 for the benefit of the City general fund shall be disbursed to the general funds of the City in accordance with this paragraph and in accordance with the normal requirements of law governing the settlement and paying over of taxes to counties and municipalities. All sums received by the Trustee pursuant to Paragraph 3 for the benefit of the County general fund shall be disbursed to the general fund of the County in accordance with this paragraph and in accordance with the normal requirements of law governing the settlement and paying over of taxes to counties and municipalities. All such sums received by the Treasurer shall be placed into an account for the use and benefit of the City. All such sums received by the Trustee shall be divided into an account for the use and benefit of the County. The account for the use and benefit of the City shall be funded with the proportionate amount to which the In Lieu Payments are attributable to property taxes which would otherwise be owed to the City, and the account for the use and benefit of the County shall be funded with the proportionate amount to which the In Lieu Payments are attributable to property taxes which would otherwise be owed to the County. All sums received by the Trustee pursuant to Paragraph 3 for the benefit of the County school system shall be disbursed to the County and thereafter deposited into an account

for the educational use and benefit of the County schools. The parties acknowledge and agree that all disbursements to the City and County pursuant to this Agreement are in furtherance of the Board's purposes as set forth in Tennessee Code Annotated § 7-53-305.

8. Economic Development Lease Payment

(a) City of Chattanooga. For each calendar year beginning with 2015 in which the In Lieu Payment Percentage as to the City General Fund (see chart in Section 4) is less than 100%, an economic development lease payment (an "Economic Development Payment") equal to 15% of the City property taxes that would otherwise be payable for such year on the Project if it were subject to property taxes as calculated by the Treasurer pursuant to Section 2 above shall be computed and collected by the Treasurer; provided, however, in no event shall the total of the Companies' annual City General Fund In Lieu Payments plus the Economic Development Payment to the City exceed one hundred percent (100%) of City general fund taxes that would be assessed against the Project if it were subject to general fund taxes. Beginning in 2015, this Economic Development Payment will be paid for each year that the Property is owned by the Board through and including 2022 if the In Lieu Payment Percentage as to the City General Fund (see chart in Section 4) for such calendar year is less than 100%. If the Board's ownership ceases during any calendar year, then that year's Economic Development Payment will be prorated. The Treasurer shall add the Economic Development Payment as a separate line item on the Tax Bill, and the Companies shall pay their respective portions of the Economic Development Payment for each such year during the term before March 1 of the following year. Any failure to pay the Economic Development Payment on or before March 1 shall result in penalties and late charges calculated in the same manner as penalties and late charges are calculated for In Lieu Payments under this Agreement.

The Treasurer shall disburse the City's Economic Development Payment to the City of Chattanooga's Industrial Development Board. The City of Chattanooga's Industrial Development Board shall hold such funds to be used for economic development purposes, as directed by the Mayor of the City.

(b) Hamilton County. For each calendar year beginning with 2015 in which the In Lieu Payment Percentage as to the County General Fund (see chart in Section 4) is less than 100%, an Economic Development Payment to the County equal to 15% of the County general fund property taxes (but, for clarity, expressly excluding the School Portion) that would otherwise be payable for such year on the Project if it were subject to property taxes as calculated by the Trustee pursuant to Section 2 above, shall be computed and collected by the Trustee; provided, however, in no event shall the total of the Companies' annual County General Fund In Lieu Payments plus the Economic Development Payment to the County exceed one hundred percent (100%) of the County general fund taxes that would be assessed against the Project if it were subject to general fund taxes. Beginning in 2015, this Economic Development Payment will be paid for each year that the Property is owned by the Board through and including 2022 if the In Lieu Payment Percentage as to the County General Fund (see chart in Section 4) for such calendar year is less than 100%. If the Board's ownership ceases during any calendar year, then that year's Economic Development Payment will be prorated. The Trustee shall add the Economic Development Payment as a separate line item on the Tax Bill, and the Companies shall pay their respective portions of the Economic Development Payment for each



such year during the term before March 1 of the following year. Any failure to pay the Economic Development Payment on or before March 1 shall result in penalties and late charges calculated in the same manner as penalties and late charges are calculated for In Lieu Payments under this Agreement.

The Trustee shall not deduct any part of the Economic Development Payment from the School Portion of the In Lieu Payments. The Trustee shall disburse the County's Economic Development Payment to the County, and the County shall hold such funds to be used for economic development purposes as directed by the Mayor of the County.

9. Contest by the Companies. The Companies shall each have the right to contest the appraisal or assessment of the Property by the Assessor, the computation by the Treasurer and the Trustee of the amount of the In Lieu Payment and the calculation of the Economic Development Payments. If the Companies contest any such appraisal or assessment, then it shall present evidence to the Assessor in favor of its position. If the In Lieu Payments, or the Economic Development Payments, as applicable, being contested shall be or become due and payable, the Companies shall make such payments under protest. The Companies and the Assessor, the Treasurer or the Trustee, as the case may be, shall negotiate in good faith for a period not to exceed sixty (60) days to resolve any disputes as to appraisal, assessment or computation of the In Lieu Payment or the Economic Development Payments, as applicable. If the Companies and the Assessor, the Treasurer or the Trustee, as the case may be, are unable to resolve a dispute, then the Companies may file suit in the Chancery Court of Hamilton County to ask that the provisions of this Agreement, including those covering appraisal, assessment and computation, be construed or applied to the relevant facts by the Chancery Court in order to resolve such dispute.

10. Lien on the Property. Any amounts which remain payable under this Agreement shall become a lien on the Property, and such lien shall be enforceable against the Property in the event that any payment owing hereunder is not timely made in accordance with this Agreement.

11. Term. This Agreement shall become effective on the date that the Board leases the Property to the Companies and shall continue for so long as the Board holds title to any of the Property and leases such property to the Companies or the Companies have made all payments required hereunder, whichever shall later occur.

12. Leasehold Taxation. The Board, the City, the County, the Treasurer, the Trustee and the Assessor acknowledge and agree that the Companies' personal property leasehold interest in the Personal Property under the Lease shall not be subject to assessment for ad valorem tax purposes. The Board, the City, the County, the Treasurer, the Trustee and the Assessor further acknowledge and agree that the Companies' real property leasehold interests in the Real Property Improvements under the Lease is not expected to be subject to assessment for ad valorem tax purposes, as all amounts paid by the Companies, including without limitation, rent under the Lease, costs for maintenance, insurance, utilities, infrastructure, site preparation, acquisition, construction, and other costs for or in connection with the Project, cost of capital for or in connection with the Project, and obligations of the Companies under the Lease would, at the present time, be considered as rent payable under the Lease for purposes of determining the

Companies' leasehold interests. As a result, the actual or imputed rent for the real property portion of the Property is expected to equal or exceed the fair market rent for purposes of Tenn. Code Ann. § 67-5-605. If the leasehold interest of the Companies in the Property should be subject to ad valorem taxation for any year hereunder, then any amounts assessed as taxes thereon shall be credited against any In Lieu of Tax Payments and Economic Development Payments paid under this Agreement and carried forward from year to year until fully utilized. Additionally, in the event the Companies determine, in the exercise of reasonable discretion, that there is a possibility, notwithstanding the foregoing agreement, of a positive taxable leasehold interest in the Property, the Companies shall have the continuing option to require the Board take all reasonable steps, at no additional cost to the Board, to restructure this Agreement and the related Lease to eliminate the positive leasehold value and to deliver the same economic benefit to the Companies as is contemplated under this Agreement without the imposition of any ad valorem taxes on such leasehold value. Such options may include, but are not limited to, an arrangement by which the Board issues and the Companies purchase industrial revenue bonds to finance all or a portion of the Property, provided that such bonds shall be limited obligations of the Board and non-recourse to the City and the County.

13. Notices, etc. All notices and other communications provided for hereunder shall be written (including facsimile transmission and telex), and mailed or sent via facsimile transmission or delivered addressed as follows:

Board or to the City:	Wade A. Hinton City Attorney City of Chattanooga Suite 200, 100 E. 11 <sup>th</sup> Street Chattanooga, Tennessee 37402
The County:	Rheubin M. Taylor County Attorney Hamilton County Government Room 204, County Courthouse Chattanooga, Tennessee 37402
Companies:	Southern Champion Tray, L.P. 220 Compress Street Chattanooga, Tennessee 37405 Attention: John Zeiser  Southland Partners, G.P. 220 Compress Street Chattanooga, Tennessee 37405 Attention: John Zeiser

With a Copy to:

Miller & Martin PLLC  
832 Georgia Avenue  
Suite 1000, Volunteer Building  
Chattanooga, Tennessee 37402  
Attention: Mark W. Smith

The Assessor

Hamilton County Assessor of Property  
Hamilton County Courthouse  
Chattanooga, Tennessee 37402

The Treasurer:

City of Chattanooga Treasurer  
101 East 11<sup>th</sup> Street  
Chattanooga, TN 37402

The Trustee

Hamilton County Trustee  
Hamilton County Courthouse  
Chattanooga, Tennessee 37402

Any such person may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communication shall be sent. All such notices and communications shall, when mailed by registered and certified mail, return receipt requested, Express Mail, or facsimile, be effective when deposited in the mails or if sent upon facsimile transmission, confirmed electronically, respectively, addressed as aforesaid.

14. No Waiver; Remedies. No failure on the part of any party hereto, and no delay in exercising any right under this Agreement shall operate as a waiver thereof; nor shall any single or partial exercise of any right under this Agreement preclude any other or further exercise thereof or the exercise of any other right. The remedies provided in this Agreement are cumulative and are not exclusive of any remedies provided by law.

15. Severability. In the event that any clause or provision of this Agreement shall be held to be invalid by any court or jurisdiction, the invalidity of any such clause or provision shall not affect any of the remaining provisions of this Agreement.

16. No Liability of Board's Officers. No recourse under or upon any obligation, covenant or agreement contained in this Agreement shall be had against any incorporator, member, director or officer, as such, of the Board, whether past, present or future, either directly or through the Board. Any and all personal liability of every nature, whether at common law or in equity, or by statute or by constitution or otherwise, of any such incorporator, member, director or officer, as such, is hereby expressly waived and released as a condition of and consideration for the execution of this Agreement.

17. Binding Effect. This Agreement shall be binding upon and inure to the benefit of each of the parties and signatories hereto and to their respective successors and assigns.



18. Governing Law. The Agreement shall be governed by, and construed in accordance with, the laws of the State of Tennessee.

19. Amendments. This Agreement may be amended only in writing, signed by each of the parties hereto, except that the Treasurer, the Trustee and the Assessor shall not be required to join in amendments unless such amendments affect their respective duties hereunder.

20. Annual Report. On or before January 31 of each year this Agreement is in effect, the Companies shall provide a report to the Mayor of the City and the Mayor of the County summarizing its investment in the Property and the development and operation of the Project for purposes of analyzing the Companies' progress in achieving the Investment, Jobs and Wage Projection.

21. Stormwater Fees. The Companies shall be responsible for all stormwater fees assessed by the City against the Property.

[Signature Pages Follow]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and date first above written.

ATTEST:

**THE INDUSTRIAL DEVELOPMENT BOARD  
OF THE CITY OF CHATTANOOGA**

By: \_\_\_\_\_  
Secretary

By: \_\_\_\_\_  
Chairman

**SOUTHERN CHAMPION TRAY, L.P.,**  
a Tennessee Limited Partnership

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**SOUTHLAND PARTNERS, G.P.**  
a Tennessee General Partnership

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**CITY OF CHATTANOOGA, TENNESSEE**

By:

\_\_\_\_\_  
Mayor

**HAMILTON COUNTY, TENNESSEE**

By: \_\_\_\_\_  
County Mayor

**WILLIAM F. HULLANDER**

By: \_\_\_\_\_  
Hamilton County Trustee

**WILLIAM C. BENNETT**

By: \_\_\_\_\_  
Hamilton County Assessor of Property

**EXHIBIT "A"**  
**TO PILOT AGREEMENT**

**REAL PROPERTY**

The Real Property includes the Real Property Improvements and Existing Real Property set forth below:

**REAL PROPERTY IMPROVEMENTS**

The expansions and improvements to be constructed by the Companies on the Existing Real Property described below between January 1, 2014 and January 1, 2017, together with additions thereto, replacements thereof and substitutions therefor. For purposes of meeting the Investment, Jobs and Wage Projection set forth in the Agreement, the Companies may also include capital expenditures relating to demolition, repair and other work on or about the property located at 210 Compress Street in the City of Chattanooga, Tennessee.

**EXISTING REAL PROPERTY**

The following real property, as improved, comprising the Companies' operations and facilities at and about 220 Compress Street in the City of Chattanooga, Tennessee:

**TRACT 1:**

IN THE CITY OF CHATTANOOGA, HAMILTON COUNTY, TENNESSEE:

All that tract or parcel of land shown on the Final Plat of the Southern Champion Tray Co. Subdivision, of record in Plat Book 54, page 33, in the Register's Office of Hamilton County, Tennessee, and being more particularly described as follows: Beginning at a new iron rod at the intersection of the East line of Compress Street with the South line of Riverside Avenue; thence North 64 degrees 25 minutes 35 seconds East 58.07 feet to a point in the South line of Chattanooga Traction Co.; thence North 75 degrees 30 minutes 06 seconds East 365.28 feet; thence North 75 degrees 45 minutes 32 seconds East 444.92 feet to an old iron pin; thence South 01 degree 20 minutes 50 seconds West 22.91 feet to a new iron rod; thence Southeastwardly, with and along a curve to the right having a radius of 237.94 feet and being subtended by a chord bearing South 70 degrees 13 minutes 24 seconds East 188.18 feet, an arc distance of 193.47 feet to an old iron pin; thence South 00 degrees 32 minutes 41 seconds East 420.66 feet to an old iron pin; thence Westwardly, with and along a curve to the right having a radius of 239.62 feet and being subtended by a chord bearing South 55 degrees 13 minutes 32 seconds West 133.79 feet, an arc distance of 135.1 feet to an old iron pin; thence South 69 degrees 04 minutes West 91 feet to an old iron pin in the Eastern terminus of Hulsey Street; thence North 01 degree 50 minutes 20 seconds East, with and along the Eastern terminus line of Hulsey Street, 18.12 feet to an old iron pin in the North line of Hulsey Street; thence South 71 degrees 27 minutes West 664.77 feet to a new iron rod in the East line of Compress Street; thence North 18 degrees 18 minutes 08 seconds West, with and along the East line of Compress Street, 625.29 feet to the point of beginning.

BEING the same property conveyed to the Industrial Development Board of the City of Chattanooga, by Deed from Southern Champion Tray Company of Record in Book 4520, page 509, Register's Office for Hamilton County, Tennessee.

Subject to:

1. Deed of Trust from Southern Champion Tray Company to Milligan Reynolds, Guaranty Title Agency, Inc., Trustee, securing Charles M. Zeiser, of record in Deed Book 4520, page 470, Register's Office of Hamilton County, Tennessee.
2. Deed of Trust and Security Agreement from Southern Champion Tray Company to Guaranty Title Company, Trustee, securing First American National Bank, of record in Book 4520, page 479, ROHCT.
3. Electric Power Board Easement of record in Book 3819, page 908, ROHCT.
4. Any other easements, reservations, conditions, licenses and restrictions, whether or not of record.

**TRACT 2:**

IN THE CITY OF CHATTANOOGA, HAMILTON COUNTY, TENNESSEE:

Located in the First Civil District and being part of the Cincinnati, New Orleans and Texas Pacific Railway Company property and being more particularly described as follows:

To find the true point of beginning, commence at the southeastern most corner of the Southern Champion Tray Company subdivision as shown by Plat Book 54, Page 33 (R.O.H.C.), said point being marked by an old iron pipe. Thence go N00°32'41"W a distance of 20.51' to a point, said point being the true point of beginning. Thence go N00°32'41"W a distance of 400.15' to a point. Thence go an arc length of 193.47' along a curve to the left with a radius of 237.94' and a delta of 46°35'11" to a point. Thence go N01°20'50"E a distance of 22.91' to a point. Thence go N71°32'42"E a distance of 86.00' to a point. Thence go S79°52'10"E a distance of 228.46' to a point, said point being located on the western margin of U.S.27, State Route 29, and Powercorp Drive. Thence following the western margin of U.S.27, State Route 29, and Powercorp Drive, go S15°25'54"E a distance of 33.90' to a point, said point being located 25' west of the centerline of an existing railroad track. Thence leaving the margin of the U.S.27, State Route 29, and Powercorp Drive, and following a line 25' west of the center of the aforementioned railroad track, go the following calls and distances: Go an arc length of 209.30' along a curve to the left having a radius of 364.94' and a delta of 31°27'22" to a point. Thence go S06°15'12"W a distance of 79.28' to a point. Thence go an arc length of 74.32' along a curve to the right having a radius of 1551.96' and a delta of 02°44'38" to a point. Thence go an arc length of 105.61' along a curve to the right having a radius of 258.92' and a delta of 23°22'13" back to the true point of beginning. Containing 0.973 acres, more or less, all as shown on a survey drawing by Allen Surveying Company dated February 23, 2004 and revised March 3, 2004.

BEING the same property conveyed to the Industrial Development Board of the City of Chattanooga, by Deed from SCTray Company of Record in Book 8557, page 677, Register's Office for Hamilton County, Tennessee.

SUBJECT, however, to any conditions, restrictions, reservations, easements, licenses and leases, whether or not of record.

**TRACT 3:**

IN THE CITY OF CHATTANOOGA, HAMILTON COUNTY, TENNESSEE:

Located in the First Civil District and being part of the Cincinnati, New Orleans and Texas Pacific Railway Company property and being more particularly described as follows:

Commence at the eastern most corner of the Southern Champion Tray Company's property as described in Deed Book 7040, Page 123 (R.O.H.C.), said point being located 25' northwest of the centerline of an existing railroad track, said point also being the true point of beginning. Thence traveling along the eastern property line of the land described in Deed Book 7040, Page 123, go N16°28'11"W a distance of 101.50' to a point, said point being located 25' south of the centerline of a previously located railroad track (the railroad track was located in November of 1995, but has since been relocated). Thence traveling along a line 25' south of the centerline of the previously located track go an arc length of 108.72' along a curve to the left having a radius of 588.68' and a delta of 10°34'55" to a point. Thence traveling along a line 25' northwest of the aforementioned existing railroad track, go the following calls and distances: Go an arc length of 50.02' along a curve to the right having a radius of 757.89' and a delta of 7°33'36" to a point of tangency; thence go S25°12'37"W a distance of 112.14' back to the point of beginning. Containing 0.122 acres, more or less, all as shown on a survey drawing by Allen Surveying Company, dated February 23, 2004 and revised March 3, 2004.

BEING the same property conveyed to the Industrial Development Board of the City of Chattanooga, by Deed from SCTray Company of Record in Book 8557, page 677, Register's Office for Hamilton County, Tennessee.

SUBJECT, however, to any conditions, restrictions, reservations, easements, licenses and leases, whether or not of record.

**TRACT 4:**

All that piece or parcel of land situate, lying and being in the City of Chattanooga, Hamilton County, Tennessee and being more particularly bounded and described as follows: to wit,

TO FIND the point of beginning, commence at the intersection of the easterly boundary of Compress Street (50 foot right of way) with the southerly boundary of Hulsey Street (40 foot right of way); then go, North 71°27'00" East, along said southerly boundary of Hulsey Street, a distance of 653.0 feet, more or less, to a point on the existing westerly property line of the Grantor; then go, South 18°18'08" East, along said existing westerly property line, a distance of 40.26 feet to a point said point being 25.00 feet southeastwardly from, as measured normal to, the existing centerline of The Cincinnati New Orleans and Texas Pacific Railway Company's



industrial lead track Ml-14, said point being the TRUE POINT OF BEGINNING of the herein described parcel of land; thence, North 70°16'20" East, along a line being at all points 25.00 feet southeastwardly from, as measured normal to, said existing centerline of industrial lead track Ml-14, a distance of 63.61 feet to a point of curvature; thence along an arc of a curve deflecting to the left, being at all points 25.00 feet southeastwardly from, as measured normal to, said existing centerline of industrial lead track Ml-14, (Radius 588.68 feet – Chord North 69°03'13" East, 25.04 feet) an arc distance of 25.04 feet to a point; thence, South 16°28'11" East, through the land of the Grantor, a distance of 101.50 feet to a point 25.00 feet northwestwardly from, as measured normal to, the existing centerline of The Cincinnati, New Orleans and Texas Pacific Railway Company's industrial lead track Ml-13; thence, South 25°12'37" West, along a line being at all points 25.00 feet northwestwardly from, as measured normal to, said existing centerline of industrial lead track Ml-13, a distance of 83.98 feet to a point on the northeasterly extension of the existing southerly property line of the 3.0 acre, more or less, parcel of land of the Grantee; thence, South 71°27' West, along said existing southerly property line, as extended. of the 3.0 acre, more or less, parcel of land of the Grantee, a distance of 27.53 feet to a point on said existing westerly property line of the Grantor; thence, North 18°18'08" West, along said existing westerly property line of the Grantor, a distance of 159.74 feet to the point of beginning; containing 0.28 of an acre of land, more or less, and being located substantially as shown on Boundary Survey prepared by Alfred L. Allen, Tennessee Registered Land Surveyor No. 269, of Allen Surveying Co., dated November 3, 1995, revised January 17, 1996.

BEING the same property conveyed to the Industrial Development Board of the City of Chattanooga, by Deed from SCTray Company of Record in Book 8557, page 681, Register's Office for Hamilton County, Tennessee.

SUBJECT, however, to any easements, reservations, conditions, licenses and restrictions, whether or not of record.

\* \* \* \* \*

And the following real property, as improved, comprising the Companies' operations and facilities at and about 3480 Amnicola Highway in the City of Chattanooga, Tennessee:

**TRACT ONE (1):**

IN THE CITY OF CHATTANOOGA, HAMILTON COUNTY, TENNESSEE:

Lot Number One (1), Final Plat, Belle Arbor Avenue Subdivision, as shown by plat of record in Plat Book 48, page 285, in the Register's Office of Hamilton County, Tennessee.

BEING the same property conveyed to the Industrial Development Board of the City of Chattanooga, by Deed from Southland Partners, G.P. of Record in Book \_\_\_, page \_\_\_, Register's Office for Hamilton County, Tennessee.

**TRACT TWO (2):**

IN THE CITY OF CHATTANOOGA, HAMILTON COUNTY, TENNESSEE:

To find the point of beginning start at an iron pin at the intersection of the Northerly boundary of Wisdom Street and the Westerly boundary of Belle Arbor Avenue and go thence North 67 degrees 27 minutes West along the said Northerly boundary of Wisdom Street 40 feet to the

TRUE POINT OF BEGINNING, which is marked by an iron pin; and run thence North 67 degrees 27 minutes West, along the said Northerly boundary of Wisdom Street 121.56 feet, more or less, to a concrete monument marking the Southerly comer of property of the City of Chattanooga, Tennessee; thence North 22 degrees 33 minutes East 460 Feet to an iron pin; thence, North 67 degrees 50 minutes West along the Northerly boundary of property of the City of Chattanooga, 442.72 feet, more or less, to an iron pin in the Easterly boundary of Amnicola Highway; thence, North 22 degrees 30 minutes East, along the said Easterly boundary of Amnicola Highway, 902.67 feet, to a point marked by a concrete monument, said monument being 35 feet Southwardly, as measured at right angle, from the center line of a lead track of the Southern Railway Company known as the River Track; thence, South 86 degrees 56 minutes East along a line which is parallel to and at all points 35 feet Southwardly, as measured at right angles, from the center line of said River Track, 214.62 feet to a point of curve; thence, Southeastwardly along the Southerly right of way boundary of said River Track along a line which is concentric with and at all points 35 feet Southwardly, as measured radially, from the center line of said River Track, which Southerly boundary makes a curve to the right (radius 1,110.80 feet – chord South 77 degrees 19 minutes East, 370.83 feet) 372.57 feet, to an iron pin which is 40 feet Westwardly, as measured at a right angle, from the Westerly boundary of Belle Arbor Avenue; thence, South 22 degrees 39 minutes West along a line which is parallel to and at all points 40 feet Westwardly, as measured at right angles, from the said Westerly boundary of Belle Arbor Avenue, 1,494.89 feet, more or less, to the point of beginning.

EXCEPTING THEREFROM that part conveyed to the City of Chattanooga, recorded in Book 2112, page 845, in the Register's Office of Hamilton County, Tennessee, in Plat Book 28, page 134, in the Register's Office of Hamilton County, Tennessee.

BEING the same property conveyed to the Industrial Development Board of the City of Chattanooga, by Deed from Southland Partners, G.P. of Record in Book \_\_\_, page \_\_\_, Register's Office for Hamilton County, Tennessee.

**EXHIBIT "B"**  
**TO PILOT AGREEMENT**

**PERSONAL PROPERTY**

During the Tax Abatement Period, the Project shall include all machinery, equipment and other tangible personal property that is installed or otherwise located on or about or used in connection with the real property described in Exhibit A attached to this Agreement between January 1, 2014 and January 1, 2017, together with replacements thereof and substitutions therefor, in connection with the Companies' facilities and operations on such property or at or about any other owned or leased real property in Hamilton County, Tennessee where either of the Companies conducts operations.