

NORTH CAROLINA

HAYWOOD COUNTY

AGREEMENT

THIS AGREEMENT, made and entered into this the ___ day of October, 2010, by and between Haywood County Agriculture and Activities Association, to be renamed Haywood County Fairgrounds, Inc., a North Carolina non-profit corporation (hereinafter, the "Fairgrounds Board" or the "Fair Association") and Haywood County, North Carolina, a subdivision of the State of North Carolina (hereinafter, the "County").

WITNESSETH:

WHEREAS, the corporation now known as the Haywood County Fairgrounds, Inc., is a North Carolina non-profit corporation which has, under a Ground Lease Agreement dated August 23, 1990 as amended under agreements dated August 22, 1991 and October 21, 1993, leased certain property described upon Exhibit A (the "Property") hereto from the County upon which the Fair Association has operated the Haywood County Agriculture and Activities Association;

WHEREAS, the Fair Association, with the approval of the County, borrowed certain development funds in the amount of Two-Hundred Forty Nine Thousand and Five Hundred (\$249,500.00) Dollars from First-Citizens Bank & Trust Company as appears of record in that Construction Deed of Trust Securing Future Advances dated May 28, 2004 of record in Book 600, Page 304 Haywood County Registry and funds from an earlier loan in the amount of One Hundred Fifty Thousand Dollars (\$150,000) from First Citizens Bank and Trust Company, as appears of record in that Deed of Trust dated September 21, 2001 of record in Book 501, Page 2034, Haywood County Registry (the "Existing Loan");

WHEREAS, the previous members of the board of directors of the Fair Association, as set forth in letter dated February 18, 2010, a copy of which is attached hereto as Exhibit B, (the "Proposal") were replaced as board members of the Fair Association so that it could be re-organized; and requested that the County acquire the Ground Lease and improvements which have been constructed upon the Property for a sufficient sum to satisfy the Existing Loan and to thereafter make certain additional improvements to the Property, all as is more specifically set forth in Exhibit B;

WHEREAS, the County, as set forth upon Excerpt of Minutes dated March 1, 2010, agreed to essential portions of the Proposal from the Fair Association and has subsequently tendered proposed "Amended and Restated By-Laws" a copy of which is attached hereto as Exhibit C, and a proposed "Management Agreement", a copy of which is attached hereto as Exhibit D; and

WHEREAS, the County has applied for a loan commitment in an amount not to exceed Eight Hundred Eighty Three Thousand and Sixty Dollars (\$883,060) as evidenced by letter attached hereto as Exhibit E (the "Commitment" or "New Loan").

NOW, THEREFORE, in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is respectfully acknowledged by each of the parties hereto, is is agreed:

1. The Fair Association will convey by deed its ownership interest in the buildings and leasehold improvements, and its interest in the Ground Lease of property described upon Exhibit A, to the County in consideration of the payoff of the Existing Loan. A copy of the proposed deed is attached hereto as Exhibit E.
2. The County has made new appointments to Board of Directors of the Haywood County Fairgrounds, Inc. At an official meeting on September 21, 2010, the Fair Association will amend its ByLaws in accordance with Exhibit C, and will thereafter conduct the business of reorganization pursuant to the ByLaws, as amended, and will formerly accept the newly appointed members as the board of directors of the Fairground Board
3. The parties will enter into the Management Agreement as set forth upon Exhibit D.
4. The County will close on the New Loan and will utilize a portion of the loan proceeds to make certain improvements and other investments into the Property, after consulting with the newly organized Fair Association.

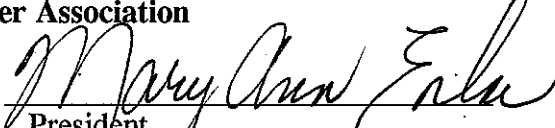
IN WITNESSETH WHEREOF, the parties hereto have set their respective hands and seals, all with the authority of their respective governing boards, the day and year first above written.

Haywood County, North Carolina

BY: 
Chairman, Board of Commissioners

Attest:  (SEAL)
Clerk to Board of Commissioners

**Haywood County Agriculture and Activities
Center Association**

BY: 
President


Attest:  (SEAL)
Secretary

EXHIBIT A

BEGINNING at a point in a fence line, which point is located at the common corner of the Fultz tract hereinafter described, the Giles Chemical Corporation tract (Deed Book 299, Page 457), and the C.W. Edwards tract (Deed Book 143, Page 409), and runs thence with said fence line and with the Edwards and Jaynes tracts six calls as follows: N. 34 deg. 41 min. 57 sec. E. 865.97 feet; N. 26 deg. 40 min. 22 sec. W. 403.74 feet; N. 42 deg. 12 min. 28 sec. W. 114.67 feet; N. 28 deg. 25 min. 43 sec. W. 143.97 feet; N. 46 deg. 18 min. 20 sec. W., 82.23 feet; and N. 29 deg. 10 min. 13 sec. W. 108.82 feet to a point in the center of Richland Creek; thence with the center of said creek four calls as follows: S. 46 deg. 13 min. 57 sec. W. 242.24 feet; S. 78 deg. 55 min. 14 sec. W. 224.69 feet; S. 28 deg. 43 min. 47 sec. W. 550.15 feet; and S. 75 deg. 00 min. 04 sec. W. 304.90 feet to a point in the center of N.C. 209; thence with the center of said road four calls as follows: S. 26 deg. 03 min. 53 sec. W. 134.18 feet; S. 23 deg. 42 min. W. 54.54 feet; S. 18 deg. 43 min. 52 sec. W. 231.27 feet; and S. 19 deg. 03 min. 07 sec. W. 191.65 feet; thence leaving said road and running with the Northern boundary line of the Giles Chemical Corporation tract (Deed Book 299, Page 457) and with a fence line seven calls as follows: N. 74 deg. 20 min. E. 352.29 feet to an iron stake; S. 79 deg. 30 min. 15 sec. E. 268.59 feet to an iron stake; S. 67 deg. 40 min. E. 162.80 feet; S. 61 deg. 56 min. 55 sec. E. 108.91 feet; S. 55 deg. 00 min. E. 80.50 feet; S. 72 deg. 35 min. E. 154.50 feet to an iron stake; and N. 38 deg. 26 min. 35 sec. E. 90.03 feet to the BEGINNING, and containing 29.19 acres, as per plat and survey of Grady Clifton Shook, R.L.S., dated May 3, 1986.

BEING a part of the property devised to Edith Long Fultz under the Last Will and Testament of Sarah Ann Long as filed in Estate File 82-E-222, Office of the Clerk of Superior Court of Haywood County, North Carolina.

This conveyance is made SUBJECT TO the following conditions, restrictions and limitations, which shall be appurtenant to the property described herein and shall be binding upon the Grantee, its assigns and successors in title to the property described herein:

1. The property described herein shall not be used at any time for transfer stations, baling, garbage pickup or landfill operations.
2. The property described herein shall be used solely for fairgrounds, agricultural buildings, and for recreational uses only.

BEING the identical property described in a deed dated May 15, 1990 from Edith Long Fultz (widow) to Haywood County, a body politic and corporate, of record in Deed Book 408, Page 249, Haywood County Registry.

SUBJECT to the prior lien of that Leasehold Deed of Trust, Assignment of Rents, and Security Agreement from Haywood County Agriculture and Activities Center Association to Robert C.

Roberts, Trustee for First-Citizens Bank & Trust Company in the original principal amount of \$150,000.00, dated September 7, 2001, of record in Deed of Trust Book 501, Page 2034, Haywood County Registry.

EXHIBIT B

HAYWOOD COUNTY AGRICULTURE
AND ACTIVITIES CENTER ASSOCIATION, INC.
589 Raccoon Road, Suite 118
Waynesville, NC 28786
www.haywoodcountycityfairgrounds.org

FEB 18 2010

Tax ID No. 56-1944716

February 18th, 2010

Mr. Kirk Kirkpatrick, Chairman
Haywood County Board of Commissioners
215 N Main Street
Waynesville, NC 28786

Dear Mr. Chairman and Members of the Board:

This will confirm that, at its February 16th, 2010 board meeting, the Haywood County Agriculture and Activities Center Association Board of Directors approved the sale of all structures at the Haywood County Fairgrounds to the County of Haywood. This approval comes with the following understandings:

- 1.) The County intends to obtain a USDA loan sufficient to purchase the structures noted above, and to cover the cost of needed capital improvements at the Fairgrounds.
- 2.) Representatives of the Haywood County Agriculture and Activities Center Association and Haywood County will jointly approach First Citizens Bank to seek their cooperation in making the necessary financial arrangements to liquidate the existing indebtedness.
- 3.) The County Attorney will explore and advise both parties as to any legal issues which may need to be addressed including the status of past grants.
- 4.) Modification of the Articles of Incorporation and By-Laws will be made to assure legal and operational consistencies.

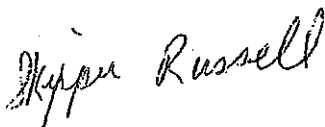
That a 7 member Governing Board would be created. This initial board will be appointed by the Haywood County Board of County Commissioners. Subsequent Board members will be appointed by County Commissioners following recommendations by the Governing Board. One member of the Governing Board will be a Haywood County Commissioner. The remaining appointments will be considered Members at Large.

The Governing Board may at its discretion, appoint an Advisory Board consisting of as many members as deemed appropriate. The revised By-Laws will address this issue in detail.

- 5.) The Governing Board will employ a full time Fairgrounds Manager following the establishment of a job description and a job search.

- 6.) It is anticipated that the County Maintenance Director and the Building and Grounds Committee Chairman of the Haywood County Agriculture and Activities Center Association will coordinate construction needs and schedules. A cost estimate will be determined and input from an architect currently under contract will be included.
- 7.) The Governing Board will be responsible for all activities at the Fairgrounds. Specific understandings and expectations will be articulated in a Management Agreement with Haywood County.
- 8.) It is recommended that the Governing Board be appointed by June 1st, 2010 and authorized to act on July 1st, 2010.
- 9.) It is anticipated that the sale transaction will be completed and a Management Agreement entered into by July 1st, 2010.

We look forward to working with the Board of Commissioners in order to complete this process which will be beneficial both to the County and to the Haywood County Agriculture and Activities Center Association.



Skipper Russell
Haywood County Agriculture &
Activities Center Association
President



Glenn L. White
Haywood County Agriculture &
Activities Center Association
Treasurer

EXHIBIT C

AMENDED AND RESTATED BY-LAWS HAYWOOD COUNTY FAIRGROUNDS, INC.

ARTICLE I. NAME

A. The new name of the corporation is Haywood County Fairgrounds, Inc., and was formerly known as Haywood County Agriculture and Activities Association, hereinafter referred to as the "Fairgrounds Board." The Fairgrounds Board was reorganized in August 2010 by the Haywood County Board of County Commissioners, hereinafter referred to as the BOCC. The Fairgrounds Board will amend its Articles of Incorporation to change the name.

ARTICLE II. PURPOSE

A. Promote the success of the Haywood County Fairgrounds by encouraging agricultural activities, and to expand and market the Fairgrounds to include wholesome activities, which enhance the quality of life for Haywood County citizens and contribute to the county's tourism industry and economic development efforts.

B. Act as the Haywood County Board of County Commissioners' fiduciary agent for Fairgrounds funding, as instructed by the Haywood County Finance Director.

C. Set policies and operating procedures for all Fairgrounds properties and activities.

D. Hire and supervise the Fairgrounds manager.

E. Provide mission statement for Fairgrounds volunteers serving as the Volunteer Advisory Council to the Fairgrounds Board of Directors.

F. Take all necessary action to maintain current status as a 501(c)(3) non-profit corporation.

ARTICLE III. FAIRGROUNDS BOARD MEMBERSHIP

A. The Fairgrounds Board is appointed by the Haywood County Board of Commissioners.

B. In July 2010, the BOCC appointed seven (7) new members to the Fairgrounds Board to replace the previous members as set forth in letter attached hereto as Exhibit B. The BOCC set the number of Fairgrounds Board members at seven (7) including a county commissioner who is a voting member of the Fairgrounds Board. These Amended and Restated Bylaws hereby establish the number of board members to be seven (7).

C. Members appointed in August 2010 shall serve until October 2012 at which time the Fairgrounds Board shall decide among itself three members to resign. If no one volunteers to resign, the decision will be made by drawing lots. Those three members may put their application in to the BOCC to be considered for appointment to a four-year term beginning November 2012. In 2014, the remaining three members must reapply to the BOCC for reappointment. This establishes staggered terms. The 7th member is a county commissioner decided upon by that body to serve at the BOCC's pleasure.

D. Members may serve two consecutive terms of four years if reappointed by the BOCC. The initial three members who resign in 2012 may serve two consecutive four-year terms in addition to their first term of two years, if reappointed by the BOCC.

E. Vacancies on the Fairgrounds Board will be filled by the BOCC.

F. The BOCC may, at the recommendation of a majority of the Fairgrounds Board who voted in open meeting to make the recommendation, remove any Fairgrounds Board member for misconduct or neglect of duty. The BOCC is not required to act on any recommendation of the Fairgrounds Board.

G. The Fairgrounds Board may remove a board member for missing over 25% of regularly scheduled board meetings during a twelve (12) month period beginning October 1 of each year, if the regularly scheduled board meeting dates and times have not been changed. The Fairgrounds Board will report that removal to the BOCC and the BOCC will fill the vacancy.

ARTICLE IV. OFFICERS

A. The Officers of the Fairgrounds Board shall be a chairman, vice chairman, treasurer and secretary. The officers elected at the 2010 re-organizational meeting shall remain in office until October 2012. At the first meeting in November 2012, an election will be held to select new officers who will serve two years. Officers may serve two consecutive two-year terms. Elections shall be held in even-numbered years at the November meeting, terms of office to begin at that meeting. If reappointed to the Fairgrounds Board by the BOCC, previous office-holders may be re-elected after sitting out one two-year term of office.

B. Vacancies in office shall be filled by special election of the Fairgrounds Board.

C. Chairman. The chairman shall set the agenda and preside at all meetings, appoint committees, call special meetings and act as the official spokesperson for the Fairgrounds Board.

D. Vice chairman. The vice chairman in the absence of the chairman shall perform all the duties of the chairman.

E. Secretary. The secretary shall keep a full and true permanent record of all meetings of the Board, both regular and special.

He/she will send announcements, agendas, distribute copies of minutes to each Board member and perform such duties as are usually required of a secretary to a board of directors.

F. Treasurer. The treasurer shall keep a true and permanent record of all funds both collected and disbursed, in accordance with generally accepted accounting practices and the Haywood County finance officer. The treasurer shall be bonded in an amount decided by the Fairgrounds Board.

Checks shall be co-signed by both the treasurer and the chairman. A financial report shall be presented to the Board by the treasurer once a month. Two Fairgrounds Board members, as appointed by the chairman, and the treasurer shall sit as a Finance Committee of three and shall prepare an annual budget to be presented to the full board for approval at a regular meeting in March of each year.

The Fairgrounds fiscal year shall run concurrently with Haywood County's fiscal year as mandated by state law: July 1 through June 30.

Financial records of the Fairgrounds Board are public records and shall be made available to the public pursuant to the North Carolina Public Records Act as set forth in Chapter 132 of the General Statutes of North Carolina.

An audit shall be prepared each year by a Certified Public Accountant, and a copy shall be provided to the Haywood County Finance Officer.

ARTICLE V. MEETINGS

A. The Fairgrounds Board is a public body and all meetings shall adhere to the North Carolina Open Meetings Law as set forth in Article 33C, Chapter 143 of the General Statutes of North Carolina.

B. Regular meetings shall be held at least once a month at a time and place decided by the Board. The Board may enact a regular meeting schedule of more than once a month. Board members must be notified of special meetings or re-scheduled regular meetings, at least 48 hours in advance, and respond to the chairman or the secretary that notification has been received. Board members shall be given at least 5 days written notice of all other meetings. The media shall also be notified.

C. Four (4) voting members shall constitute a quorum at any regular or special meeting and must be present in order for business to be transacted or motions made or passed.

ARTICLE VI. VOLUNTEER ADVISORY COUNCIL

A. The Volunteer Advisory Council, hereinafter referred to as the VAC, shall be made up of, but not limited to, members of the former Haywood County Agriculture and Activities Center board which voted to restructure to create a new seven (7) member board which was appointed.

B. The VAC shall elect an executive committee.

C. The VAC shall work with the Fairgrounds manager and all volunteers who wish to participate at the Fairgrounds.

D. The VAC may enact certain rules of operation, which shall be submitted to the Fairgrounds Board for approval.

E. The VAC, through the Fairgrounds manager, shall be responsible for a standing report of its activities to be presented to the Fairgrounds Board monthly, either electronically or in person.

F. The VAC, through the Fairgrounds manager, shall make requests for all activities and funding to the Fairgrounds Board. Other than a petty cash account, amount to be decided by the Fairgrounds Board, VAC funding will be administered by the Fairgrounds Board.

ARTICLE VII. AMENDMENTS

A. These by-laws may be amended by the Fairgrounds Board at a properly announced meeting at which there is a quorum. Proposed amendments must be submitted to the secretary to be sent out as a regular board announcement.

These by-laws were approved at a meeting of the Fairgrounds Board of Directors on September 21, 2010.

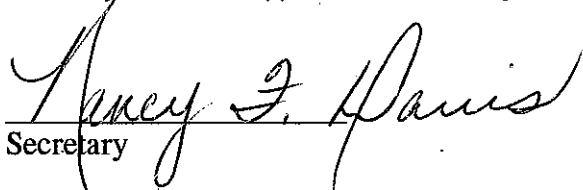

Secretary

EXHIBIT D

MANAGEMENT AGREEMENT

THIS MANAGEMENT AGREEMENT (this "Agreement") is made and entered into as of October, 2010 by and between Haywood County, North Carolina, a subdivision of the State of North Carolina ("Owner"), and Haywood County Fairgrounds, Inc., formerly known as the Haywood County Agriculture and Activities Center Association, a North Carolina Non-Profit Corporation ("Manager").

RECITALS:

A. Owner is the owner of certain tracts or parcels of land improved by certain buildings ("Buildings"), identified on the Exhibit "A" series of exhibits attached hereto and made a part hereof ("Subject Property").

B. Manager is an independent contractor which was the prior Lessee of the Subject Property and owner of the Buildings prior to their conveyance to the Owner and is now, as re-organized, in the business of managing, operating, and supervising the maintenance of fairgrounds and recreational properties.

C. Owner and Manager desire to set out in writing the terms and conditions under which Manager will manage, operate and supervise the maintenance of the Subject Property, and rent and lease the space in the Subject Property.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing, and in consideration of the mutual terms, covenants, conditions, and agreements herein contained, the parties hereto agree as follows:

1. **Employment of Manager.** Owner hereby retains Manager as the sole and exclusive manager to manage, operate and supervise the maintenance of the Subject Property and to rent and lease space in the Subject Property upon the conditions and for the term and compensation hereinafter set forth.

2. **Term.** This Agreement shall be for a period of one year commencing with the date hereof, with thirty-nine (39) renewal periods of one year each unless earlier terminated in accordance with the provisions of this Agreement. This Agreement shall be automatically renewed for each renewal period unless Owner sends written notice to Manager of Owner's decision not to renew this Agreement within ninety (90) days of the expiration of the current Term.

3. **Acceptance of Duties of Manager.** Manager, on behalf of and at the expense of Owner, shall direct the operation and maintenance of the Subject Property in accordance with the terms of this Agreement. Manager shall perform the following duties at the expense of Owner, except as otherwise set forth herein:

- (a) Use all reasonable efforts to keep the Subject Property operating profitably as fairgrounds, organizing and operating various events deemed to be in the best interests of the agricultural and economic development of Haywood County and negotiating leases for space in the Subject Property, including re-leasing and extending the terms of the existing leases. Man
- (b) Advertise rental space in the Subject Property and promote the leasing of such space during events organized and operated by the Manager, by newspaper advertising, rental signs, circulars, mailings, and by engaging in other appropriate forms of advertising to the extent that said advertising has been included in the Budget approved by Owner in accordance with Paragraph 4.
- (c) Collect all rentals, entrance fees, admission fees and other income from the Subject Property; provided, however, that nothing herein contained shall constitute a guaranty by Manager of the payment of rent or any other sum due from tenants.
- (d) At the expense of, but only upon the request of Owner to institute all necessary legal action or proceedings for the collection of rent or other income from the Subject Property in the name of Owner, or for the ousting or dispossession of tenants or other persons therefrom, and for all other matters requiring legal attention.
- (e) Subject to availability of income from the Subject Property, make all necessary disbursements for the operation and maintenance of the Subject Property; provided, however, Manager shall not make disbursements for tenant improvements, leasing commissions, tenant inducements or other capital expenditures that are not specifically included in the Budget approved from time

to time by Owner in accordance with Paragraph 4. All disbursements for capital improvements not included in the Budget must be approved by Owner.

- (f) Subject to availability of income from the Subject Property, Manager shall be responsible for all utility expenses and maintenance expenses necessary to keep the Subject Property in proper repair.
- (g) Provide management and leasing staff sufficient information to manage and lease the Subject Property, maintain adequate books and records of account, and collect all income and make all necessary disbursements.
- (h) Employ or arrange for employment, supervise, discharge, and pay all servants and employees deemed necessary by Manager to be employed in the maintenance, repair, operation and care of the Subject Property. Such servants and employees shall not be deemed to be Owner's employees. Any building maintenance personnel, service coordinators, security personnel, janitorial service personnel, and other personnel employed (directly or indirectly) by Manager whose activities are engaged in the operation, maintenance, repair, care and protection of the Subject Property shall be deemed to be "Operating Personnel". Manager shall pay from operating revenues and other receipts of funds from private or public sources, the direct or indirect cost of salaries and fringe benefits (including workers' compensation insurance) of such Operating Personnel and shall pay that portion of the salary, fringe benefits and travel expenses of other servants and employees of Manager who may from time to time be engaged on a part-time basis in the maintenance, repair, operation and care of the Subject Property to the extent that such servants and employees are so engaged in the maintenance, repair, operation and care of the Subject Property.
- (i) Contract, on behalf of Owner, for materials, services and supplies necessary for the proper care, maintenance, repair and operation of the Subject Property; provided, however, all such contracts shall be terminable upon thirty (30) days written notice and Manager shall not contract for any item exceeding five thousand and No/100 Dollars (\$5,000.00) without the prior written approval of Owner, except under the following circumstances:
 - (i) in the case of the existence of an emergency, nuisance or risk;
 - (ii) where such item is included in the Budget approved by Owner in accordance with the provisions of Paragraph 4; or
 - (iii) where such item is incurred in the ordinary operation of the Subject Property, utility charges or similar operating expenses.

- (j) Purchases of all equipment, tools, appliances, materials, supplies, and similar items necessary for the maintenance, repair, and operation of the Subject Property is the sole responsibility of the Manager.
- (k) At Manager's expense, install and maintain proper and suitable records and books of account in which there shall be properly recorded all receipts and disbursements connected with the management and operation of the Subject Property sufficient to enable Manager to provide the information described in Paragraph 12 to Owner. All books of account shall at all times (during normal business hours) be open to the inspection and audit by Owner at the office of Manager at such location as is utilized from time to time. Upon termination of this Agreement, Manager shall deliver copies of all such records and books of account to Owner, but Manager, likewise, shall be entitled to retain copies. Manager agrees to establish a separate bank account to which all monies received pursuant hereto shall be deposited and from which disbursements made pursuant hereto shall be made.
- (l) Secure the services of agents or brokers in the business of promoting events conducted by Manager on the Subject Property and leasing available space in the Subject Property. The compensation paid to such real estate agents or brokers shall be paid by Manager from income or other receipts.
- (m) Apply for all municipal, state, or governmental licenses, permits, inspection fees, or other governmental fees that may be required in the operation of the Subject Property. Shall be paid by the Manager.
- (n) Conduct building and environmental inspections of the Subject Property as may be requested by Owner. Upon completion of each inspection, Manager shall complete and submit to Owner the respective inspection forms which Owner may provide to Manager. Manager shall conduct such inspections by its own employees at its expense.
- (o) Procure from tenants and maintain appropriate certificates of insurance required under leases. Manager shall review the adequacy of such insurance in accordance with Owner's guidelines and shall obtain replacement certificates from tenants if necessary to meet the insurance requirements under the leases.
- (p) Keep the Premises free from mechanic's liens and other liens for labor, services, equipment, or materials purchased or procured, directly or indirectly, by or for Manager. Manager, however, may contest the validity or amount of such lien as filed upon posting a bond in an amount sufficient to discharge the lien, and upon the final determination of such contest, shall immediately pay and discharge any judgment rendered, together with all costs and charges incidental thereto.

- (q) Enforce all contractor and subcontractor warranties applicable to the Premises and resolve all disputes relating thereto.
- (r) Remit any excess income or other receipts not needed for the proper maintenance and operation of the Subject Property, to the Owner for application towards the debt service requirements for the Subject Property.
- (s) Perform upon request by Owner such other duties as are customarily performed by managers of similar properties in the area.

Except as otherwise stated above, Manager shall be obligated to perform the responsibilities and obligations of Manager hereunder only to the extent funds from income or other receipts, or funds provided by Owner are available therefore. Notwithstanding any other provision herein, Manager shall be liable only for its gross negligence, intentional misconduct, or breach of express provisions of this Agreement, but in other respects, shall not be liable for errors or mistakes of judgment.

4. **Budget.** Manager shall submit to Owner within the guidelines of the Owner's Fiscal Year timeline of the date hereof an initial Budget for the Subject Property. Owner and Manager shall use their reasonable efforts to agree on the initial Budget within the guidelines of the Fiscal Year timeline after the submission thereof by Manager. Manager shall prepare and submit to Owner for its consideration within the guidelines of the Fiscal Year timeline a proposed Budget Request, setting forth the estimated receipts and expenditures of the Subject Property for the period covered by the Budget. When approved by Owner, approval will be provided within the guidelines of the Fiscal Year timeline prior to the beginning of each fiscal year, Manager shall, in good faith, use its commercially reasonable efforts to abide by and implement the Budget and shall be authorized without the need for further approval by Owner to make the expenditures and incur the obligations provided for in the Budget. Manager shall exercise its reasonable professional judgment in preparing the Budget, and upon request shall meet with Owner to explain or discuss a proposed Budget, but Manager shall not be deemed to have any guaranty or warranty whatsoever in connection with the Budget. In the event Owner has not approved the Budget prior to the beginning of the applicable fiscal year, Manager shall be entitled to continue to operate the Subject Property in accordance with the Budget then in effect until a new Budget is approved.

5. **Exclusive Engagement.** Manager shall be the exclusive manager for the management, rental and leasing of the Subject Property. Manager shall have the right to display on the Subject Property suitable signs of Manager to the effect that Manager is the manager of the Subject Property and that space in the Subject Property is for rent.

6. **Insurance.** The parties hereto agree to obtain the following insurance:
- (a) Owner shall procure, at its sole cost and expense, the following insurance:
 - (i) Policies of insurance covering the Buildings and any other improvements constructed, installed or located on the Subject Property for the benefit

of Owner, as the named insured, against (a) loss or damage by fire; (b) loss or damage from such other risks or hazards now or hereafter embraced by an "Extended Coverage Endorsement", including, but not limited to, windstorm, hail, explosion, vandalism, riot and civil commotion, damage from vehicles, smoke damage, water damage and debris removal; (c) loss for flood if the Subject Property is in a designated flood or flood insurance area; (d) loss from so-called explosion, collapse and underground hazards; and (e) loss or damage from such other risks or hazards of a similar or dissimilar nature which are now or may hereafter be customarily insured against with respect to improvements similar in construction, design, general location, use and occupancy to the improvements. At all times, such insurance coverage shall be in an amount equal to one hundred percent (100%) of the then "full replacement cost" of the respective Building and any other improvement on the Subject Property.

- (ii) Comprehensive general liability insurance against any loss, liability or damage on, about or relating to the Subject Property, or any portion thereof, with limits of not less than One Million and No/100 Dollars (\$1,000,000.00) single limit coverage on an occurrence basis. All such insurance shall name Manager as an additional insured therein and shall be obtained and maintained from and with a reputable and financially sound insurance company authorized to issue such insurance in the state in which the Subject Property is located. Such insurance shall specifically insure (by contractual liability endorsement) Owner's obligations under this Agreement.
 - (iii) Owner shall deliver to Manager certificates of insurance with respect to all of the policies of insurance procured, including existing, additional and renewal policies, and in the case of insurance nearing expiration, shall deliver duplicate copies of the insurance policies or certificates of insurance with respect to the renewal policies to Manager not less than thirty (30) days prior to the respective dates of expiration.
- (b) Manager shall procure or shall cause to be procured statutory workers' compensation insurance covering servants and employees engaged in the performance of this Agreement and the care, maintenance, operation and protection of the Subject Property. Manager shall have no obligation to procure or maintain insurance other than as set forth in this Paragraph 6.

Each policy of insurance maintained in accordance with this Paragraph 6 shall specify that such policies shall not be canceled or materially changed without at least thirty (30) days prior written notice to Owner and Manager.

7. **Fidelity Bond.** Manager, upon the written request of Owner, shall furnish to Owner a fidelity bond with an insurance company satisfactory to Owner, in a penal sum to be reasonably acceptable to Owner, insuring that Manager and its employees shall perform and comply with all the conditions and provisions of this Agreement and faithfully account to and pay over to Owner all sums collected by Manager or held by Manager which are due Owner. All bond premiums and any costs in connection therewith shall be paid by Manager.

8. **Extraordinary Services.** If Manager is called upon by Owner to perform services not customarily a part of the usual services performed by a managing or leasing manager, Manager shall be entitled to receive as additional compensation therefore an amount commensurate with such services, if Manager notifies Owner in writing and receives Owner's approval prior to performing such services that an additional charge will be made for such services.

9. **Outside Services.** Should (in the discharge of its duties) Manager require the services of any professional, including but not limited to an attorney, accountant, surveyor or real estate appraiser, the Manager shall first ask Owner for its recommendation for the provider of such services, and with the concurrence of Owner, retain such party on an agreed fixed fee service or at a billing rate approved by Owner. All services to be performed shall be outlined before any action is taken, except in an emergency.

10. **Forms.** Owner reserves the right to approve such lease forms or other forms as it may deem appropriate or necessary, and Manager shall thereafter use such lease forms and other forms in the negotiation and execution of all leases or other matters requiring formal legal documents.

11. **Books and Records.** Manager shall keep all financial books and records to the satisfaction of Owner. All books and records shall be kept at the offices of Manager as long as this Agreement is in effect. All books and records are and shall remain the property of Owner and are subject to examination and audit by Owner or its agents at any time during normal business hours. The Manager shall submit an independent outside audit on a format prescribed by the County Finance Officer, and make adjustments to the expenditures set forth in the budget where the County Commissioners, upon advice of the Haywood County Finance Officer, are of the opinion that the Manager is not operating on a sound fiscal basis. Manager shall provide any other reports reasonably requested by Owner.

12. **Compensation.** Compensation for Manager's services shall be determined and paid as follows:

Leasing Commission. For any lease negotiated by Manager, a Leasing Commission may be paid as agreed upon from time to time between Owner and Manager.

13. **Termination.** Notwithstanding the provisions contained in Paragraph 2, this Agreement may be terminated and the obligations of the parties hereto shall thereupon cease upon the occurrence of any of the following circumstances or events:

- (a) Upon consummation of a bona fide third party sale of the Subject Property and delivery of possession to the new owner.
- (b) Upon substantial destruction of any Buildings necessary for the proper operation of the Subject Property as a fairground and failure of Owner to restore the same within a period of two (2) years thereafter.
- (c) Upon a taking under eminent domain or other like proceedings, this Agreement shall terminate with respect to the portion of the Subject Property so taken, but shall remain in full force and effect with respect to the balance of the Subject Property; provided, however, that if the taking is of all or a substantial portion of the Subject Property so as to render the same unfit for the intended use, this Agreement shall terminate on the date when said taking occurs.
- (d) If either Manager is adjudged a bankrupt, or if Manager shall make an assignment for the benefit of creditors or seek relief from its creditors under any insolvency act, the other party to this Agreement may terminate this Agreement by serving written notice, by certified or registered mail, postage prepaid, as provided under Paragraph 15.
- (e) Upon the mutual agreement or consent of Owner and Manager expressed in writing.

Upon termination, Manager shall submit a final accounting to Owner; and Manager shall reasonably cooperate with Owner in Owner's transition to another manager of the Subject Property and Owner shall compensate Manager for all accrued and unpaid fees hereunder.

14. **Notices.** Notices hereunder shall be valid if mailed by first class registered or certified mail, postage prepaid, by overnight courier, or personal delivery, addressed as follows:

If to Owner: Haywood County Manager
 Haywood County Courthouse
 215 North Main Street
 Waynesville, N.C. 28786

If to Manager: _____

15. **Assignment and Subcontracting.** No assignment of this Agreement will be permitted except as provided herein. Manager may not assign its rights or obligations under this Agreement without the prior written consent of Owner. Manager may subcontract with others for fulfillment of its duties under this Agreement. Owner shall have the right to assign

its interest under this Agreement in the event Owner conveys the Subject Property to an entity affiliated with Owner.

16. **Relationship.** Manager and Owner shall not be construed as joint venturers or partners or principals or agents of each other by reason of this Agreement and neither shall have the power to bind or obligate the other except as set forth in this Agreement.

17. **Indemnification.** Except to the extent caused by Manager's gross negligence or willful misconduct, Owner hereby agrees to indemnify, defend and hold Manager, together with its officers, directors, employees, shareholders, agents, subsidiaries, independent contractors, affiliates and partners from and against any and all loss, cost, damage or expense in connection with management of the Subject Property and from liability from any injury suffered by any employee or any person whomsoever (other than as set forth below with respect to Manager or the agents, employees, or subcontractors of Manager), including but not limited to reasonable attorneys' fees and court costs through appeals and collection efforts. So long as Owner is not guilty of any willful misconduct or gross negligence, Manager shall be responsible and liable for, and shall indemnify, defend and hold Owner harmless from, any such loss or damage resulting from acts outside the scope of Manager's authority, any willful misconduct of Manager or any gross negligence by Manager which is not covered by the insurance required of Owner by this Agreement, including but not limited to reasonable attorneys' fees and court costs through appeals and collection efforts. The foregoing indemnity obligations, and any other indemnities hereunder, are made for adequate separate consideration and will survive the expiration or earlier termination of this Agreement.


[Signature page to follow.]

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

OWNER:


Haywood County, North Carolina

BY: 
Chairman, Board of Commissioners

Attest:  (SEAL)
Clerk to Board of Commissioners

MANAGER:

Haywood County Agriculture and Activities
Center Association

BY: 
President

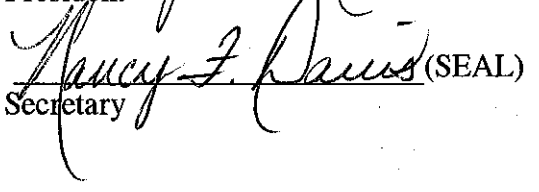
Attest:  (SEAL)
Secretary

EXHIBIT A

BEGINNING at a point in a fence line, which point is located at the common corner of the Fultz tract hereinafter described, the Giles Chemical Corporation tract (Deed Book 299, Page 457), and the C.W. Edwards tract (Deed Book 143, Page 409), and runs thence with said fence line and with the Edwards and Jaynes tracts six calls as follows: N. 34 deg. 41 min. 57 sec. E. 865.97 feet; N. 26 deg, 40 min. 22 sec. W. 403.74 feet; N. 42 deg. 12 min. 28 sec. W. 114.67 feet; N. 28 deg. 25 min. 43 sec. W. 143.97 feet; N. 46 deg. 18 min. 20 sec. W., 82.23 feet; and N. 29 deg. 10 min. 13 sec. W. 108.82 feet to a point in the center of Richland Creek; thence with the center of said creek four calls as follows: S. 46 deg. 13 min. 57 sec. W. 242.24 feet; S. 78 deg. 55 min. 14 sec. W. 224.69 feet; S. 28 deg. 43 min. 47 sec. W. 550.15 feet; and S. 75 deg 00 min. 04 sec. W. 304.90 feet to a point in the center of N.C. 209; thence with the center of said road four calls as follows: S. 26 deg. 03 min. 53 sec. W. 134.18 feet; S. 23 deg. 42 min. W. 54.54 feet; S. 18 deg. 43 min. 52 sec. W. 231.27 feet; and S. 19 deg. 03 min. 07 sec. W. 191.65 feet; thence leaving said road and running with the Northern boundary line of the Giles Chemical Corporation tract (Deed Book 299, Page 457) and with a fence line seven calls as follows: N. 74 deg. 20 min. E. 352.29 feet to an iron stake; S. 79 deg. 30 min. 15 sec. E. 268.59 feet to an iron stake; S. 67 deg. 40 min. E. 162.80 feet; S. 61 deg. 56 min. 55 sec. E. 108.91 feet; S. 55 deg. 00 min. E. 80.50 feet; S. 72 deg. 35 min. E. 154.50 feet to an iron stake; and N. 38 deg. 26 min. 35 sec. E. 90.03 feet to the BEGINNING, and containing 29.19 acres, as per plat and survey of Grady Clifton Shook, R.L.S., dated May 3, 1986.

BEING a part of the property devised to Edith Long Fultz under the Last Will and Testament of Sarah Ann Long as filed in Estate File 82-E-222, Office of the Clerk of Superior Court of Haywood County, North Carolina.

This conveyance is made SUBJECT TO the following conditions, restrictions and limitations, which shall be appurtenant to the property described herein and shall be binding upon the Grantee, its assigns and successors in title to the property described herein:

1. The property described herein shall not be used at any time for transfer stations, baling, garbage pickup or landfill operations.
2. The property described herein shall be used solely for fairgrounds, agricultural buildings, and for recreational uses only.

BEING the identical property described in a deed dated May 15, 1990 from Edith Long Fultz (widow) to Haywood County, a body politic and corporate, of record in Deed Book 408, Page 249, Haywood County Registry.

SUBJECT to the prior lien of that Leasehold Deed of Trust, Assignment of Rents, and Security Agreement from Haywood County Agriculture and Activities Center Association to Robert C. Roberts, Trustee for First-Citizens Bank & Trust Company in the original principal amount of

\$150,000.00, dated September 7, 2001, of record in Deed of Trust Book 501, Page 2034,
Haywood County Registry.

EXHIBIT E

**NORTH CAROLINA
HAYWOOD COUNTY**

**SPECIAL WARRANTY DEED, RE-CONVEYANCE OF
LEASEHOLD ESTATE AND CONVEYANCE OF
LEASEHOLD IMPROVEMENTS**

Excise Tax: _____
Tax Parcel ID No. _____ Verified by _____ County
on the ____ day of _____, 20____ By: _____

Mail/Box to: Nelson Mullins Riley & Scarborough, LLP, P.O. Box 30519, Raleigh, NC 27622-0519
This instrument was prepared by: Leon M. Killian
Brief description for the Index: _____

THIS DEED, made this the ____ day of October, 2010, by and between
GRANTOR: HAYWOOD COUNTY FAIRGROUNDS, INC., formerly named HAYWOOD COUNTY AGRICULTURE AND ACTIVITIES CENTER ASSOCIATION, a North Carolina non-profit corporation
whose mailing address is 589 Raccoon Road, Suite 118, Waynesville, NC 28786.
(herein referred to collectively as **Grantor**) and
GRANTEE: HAYWOOD COUNTY, a body politic and corporate and a subdivision of the State of North Carolina
whose mailing address is 215 North Main Street, Waynesville, NC 28786.
(herein referred to collectively as **Grantee**) and

[Include mailing address for each Grantor and Grantee; marital status of each individual Grantor and Grantee; and type of entity, e.g., corporation, limited liability company, for each non-individual Grantor and Grantee.]

WITNESSETH:

WHEREAS, Grantee conveyed to Grantor a leasehold interest in certain property acquired by Grantee in deed dated May 15, 1990 of record in Book 408, Page 249 Haywood County Registry (the "Property") under and pursuant to a Ground Lease Agreement dated August 23, 1990, as subsequently amended by instruments dated August 22, 1991 and October 21, 1993 (the "Ground Lease"); and

WHEREAS, Grantee executed a Landlord's Estoppel Certificate dated May 28, 2004 of record in Book 600, Page 297 in part to induce First Citizens Bank to make a certain loan to be secured by a security interest in the Grantee's leasehold interest in the Property described herein; and

WHEREAS, First Citizens Bank did enter into a loan agreement with Grantor whereby the sum of \$249,500 was loaned to Grantor, said loan being secured by a Construction Deed of Trust Securing Future Advances dated May 28, 2004 of record in Book 600, Page 304 Haywood County Registry; and

WHEREAS, First Citizens Bank had made an earlier loan to Grantor in the amount of \$150,000.00, same being secured by a Deed of Trust dated September 7, 2001 of record in Book 501, Page 2034, Haywood County Registry (collectively, the "Bank Loans"); and

WHEREAS, pursuant to the aforesaid loan agreement and the aforesaid Bank Loans from First Citizens Bank, and with other funds obtained by Grantor, various leasehold improvements were affixed to the Property, which leasehold improvements are owned by Grantor (the "Leasehold Improvements"); and

WHEREAS, Grantor has agreed to convey its interest in the aforesaid Ground Lease including all leasehold improvements, to Grantee for the sum of \$337,000.00, and Grantee has agreed to pay and satisfy the remaining indebtedness represented by the aforesaid Bank Loans.

NOW THEREFORE, for valuable consideration from Grantee to Grantor, the receipt and sufficiency of which is hereby acknowledged, Grantor hereby gives, grants, bargains, sells and conveys unto Grantee in fee simple, subject to the Exceptions and Reservations hereinafter provided, if any, all of its right, title and interest in the following described property, including all right, title and interest in the aforesaid Ground Lease, said Property being located in Waynesville Township, County of Haywood, State of North Carolina, and more particularly described as follows:

That 29.19 acre tract of land described in a deed dated May 15, 1990, of record in Book 408, Page 249 Haywood County Registry.

And further, for additional valuable consideration from Grantee to Grantor, the receipt and sufficiency of which is hereby acknowledged, Grantor has granted, bargained sold, conveyed and released, and does hereby grant, bargain, sell, convey and release unto Grantee, its successors and assigns forever, the Leasehold Improvements, including all facilities and improvements, including any equipment, alterations, additions, streets, sidewalks, driveways, utilities, roads, infrastructure, buildings and attached fixtures located in, on or under the Property, together with all and singular, the rights, hereditaments and appurtenances to each such existing improvements.

TO HAVE AND TO HOLD unto Grantee, the aforesaid Property and Leasehold Improvements together with all privileges and appurtenances thereunto belonging, in fee simple, subject to the Exceptions and Reservations hereinafter and hereinabove provided, if any:

And Grantor hereby warrants that Grantor has done nothing to impair the title as received by Grantor and that Grantor will forever warrant and defend the title to the Property and the Leasehold Improvements against the lawful claims of all persons claiming by, through or under Grantor.

This conveyance is made subject to the following Exceptions and Reservations:

Those conditions, restrictions and limitations described and set forth in deed of record in Book 408, Page 249 Haywood County Registry.

All references to Grantor and Grantee as used herein shall include the parties as well as their heirs, successors and assigns, and shall include the singular, plural, masculine, feminine or neuter as required by context.

IN WITNESS WHEREOF, the Grantor has duly executed the foregoing as of the day and year first above written.

**HAYWOOD COUNTY FAIRGROUNDS, INC., formerly
named HAYWOOD COUNTY AGRICULTURE AND
ACTIVITIES CENTER ASSOCIATION (Entity Name)**

By: _____ (SEAL)
Print/Type Name & Title: President Print/Type Name: _____

ATTEST:
_____ Secretary (Corporate Seal) Print/Type Name: _____ (SEAL)

State of North Carolina
County of Haywood

(Official/Notarial Seal)

I, the undersigned, a Notary Public of the aforesaid County and State, do hereby certify that _____ personally appeared before me this day and acknowledged that he/she is the Secretary of the Haywood County Agriculture and Activities Center Association, a nonprofit corporation, and that by authority duly given and as an act of the corporation, the foregoing instrument was signed in its name by its President, sealed with its corporate seal, and attested by himself/herself as its Secretary.

Date: _____
_____ Notary Public
Notary's Printed or Typed Name

My Commission Expires:
