

AGREEMENT

THIS AGREEMENT (“Agreement”) is made and entered into this ____ day of _____, 2014, by and between THE TOWN OF PITTSBORO (the “Town”) and CHATHAM PARK INVESTORS LLC (“Chatham”).

WHEREAS, in accordance with Zoning Application REZ-2013-02 (the “Zoning”) and the accompanying Chatham Park PDD Master Plan (the “Master Plan”), which have been duly approved by the Town’s Board of Commissioners, Chatham proposes development of an area within the Town’s jurisdiction comprising approximately 7,000 acres and more particularly described in the Master Plan (the “Development”, and the word Development includes all real property subject to the Master Plan at all relevant times under this Agreement (with improvements and infrastructure now or hereafter constructed thereon), it being recognized that there may be future additions to or deletions of real property from the Master Plan);

WHEREAS, the Development will consist of a mix of uses and its scope and pace of development are anticipated to far exceed and accelerate the growth the Town has heretofore experienced;

WHEREAS, the Development will consist of multiple phases and will entail and require various reviews and approvals by the Town’s planning, engineering, and utility staffs, and consultants employed by the Town to assist in the review process;

WHEREAS, Chatham and the Town agree that development of and adoption of a unified development ordinance (“UDO”) would provide the Town with a better method to regulate future development in the Town, including development in the Development; and

WHEREAS, Chatham and the Town will need to cooperate and agree upon one or more Development Agreements to provide for public facility and utility infrastructure for the Development; and

WHEREAS, it is expected that the Town will incur costs and expenses in dealing with the Development that exceed filing and review fees and that the Town will incur costs and expenses with respect to the adoption of a UDO, one or more Development Agreements, and capital and operational costs, all incident or related to public services for the Development, all such costs and expenses being hereafter collectively referred to as “Additional Costs”;

WHEREAS, the Town’s financial resources will be impacted by payment of the Additional Costs until such time as ad valorem tax receipts associated with the Development significantly increase, and Chatham is willing to assist in defraying the Additional Costs as provided herein;

WHEREAS, the Town and Chatham believe that it would be in their mutual best interests to implement a mechanism for Chatham to assist in funding the Town’s Additional Costs until ad valorem tax receipts collected from the Development are sufficient to cover such expenses.

NOW, THEREFORE, in consideration of the agreements set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby mutually acknowledged, Chatham and the Town agree as follows:

(1) Chatham’s Contribution to the Town’s Additional Costs.

Chatham shall make Annual Payments (as defined herein) to the Town in accordance with the following:

- a. The “Annual Payment” shall be the amount due and payable by Chatham or its successors or assigns to the Town once each calendar year pursuant to this Agreement.

Such Payment shall be held by the Town in a special revenue fund to finance the Additional Costs referred herein.

- b. The “Annual Payment Date” shall be the date on which the Annual Payment is due and payable to the Town as provided herein.
- c. The “Tax Receipt Period” shall be the twelve (12) months immediately preceding the first day of the second calendar month that immediately precedes the Annual Payment Date, after the first Annual Payment Date. For example, if the Annual Payment Date is August 1, the Tax Receipt Period shall be the twelve (12) month period from the preceding June 1 through May 31.
- d. Each Annual Payment shall be in the amount of \$300,000.00 reduced by the sum of the amount of ad valorem property taxes collected from the Development during the Tax Receipt Period immediately preceding the applicable Annual Payment Date and (ii) the amount by which the difference between \$300,000.00 less the amount of ad valorem taxes collected exceeds the Additional Costs encumbered or spent by the Town during such Tax Receipt Period. The foregoing items (i) and (ii) are collectively referred to as the “Deductions.”
- e. The first Annual Payment Date shall be the first day of the second month immediately following the date upon which the Town’s final approval of the Zoning and Master Plan is no longer subject to a judicial challenge in any court. For example, if such date is June 15, the First Annual Payment Date shall be August 1.
- f. The Annual Payment Date in calendar years subsequent to the calendar year of the first Annual Payment Date shall be the first day of the same month as that of the first Annual Payment Date.

Chatham, or its successors or assigns, shall make Annual Payments to the Town until in the calculation of any Annual Payment the amount of the Deductions equals or exceeds \$300,000.00, at which time the obligation to make Annual Payments shall end. Not less than fifteen (15) days prior to each Annual Payment Date, the Town shall provide Chatham (or its successors or assigns, as applicable) with a statement of ad valorem property taxes collected by the Town for the most recent Tax Receipt Period preceding the applicable Annual Payment Date and (ii) the Additional Costs paid or encumbered by the Town during the most recent Tax Receipt Period preceding the applicable Annual Payment Date.

(2) Litigation. In the event that any claim, cause of action, appeal, or other legal proceeding (all of the foregoing together being referred to herein as “Litigation”) is filed by a

third party challenging the approval of the Zoning and/or the Master Plan, the Town will notify Chatham immediately and Chatham will file a motion to intervene in such litigation and if such motion is granted, will assume the defense thereof. The Town shall be under no obligation to defend any Litigation, but the Town will remain a nominal party and cooperate in Chatham's defense of the Litigation. Chatham, its successors or assigns shall indemnify and hold the Town harmless from all loss, damages (including consequential damages), costs and expenses, including reasonable attorneys' fees, incurred in connection with the defense of, response to or resulting from any Litigation. The Town will advise Chatham with respect to the extent of the Town's involvement in the defense of any Litigation and the costs thereof, including the identity of the attorney who will represent the Town and attorneys' fees for such representation of the Town.

(END OF PAGE; EXECUTION PAGE FOLLOWS)

IN WITNESS WHEREOF, this Agreement is executed on the date first above written.

TOWN OF PITTSBORO
a North Carolina Municipal corporation

By: _____
Name: _____
Its: Mayor

Attest: _____
Name: _____
Its: _____ Town Clerk

(Affix Seal)

CHATHAM PARK INVESTORS LLC

By: _____
Name: _____
Its: Manager