CAMERON DEE SEWELL, P.C.
2650 Commerce Way
Kaufman, Texas 75142
469-595-8444

January 29, 2020

VIA HAND DELIVERY

RECEIVED
JAN 29 REC'D
County Judge
Kaufman County

The Honorable Hal Richards
County Judge
County of Kaufman
209 S. Washington Street
Kaufman, Texas 75142

RE: ITS – Equipment Leasing & Maintenance, LLC and KLLM Transport Services, LLC Ad Valorem Tax Abatement Agreement

Dear Judge Richards:

Enclosed with this letter is a copy of the following:

1. Chapter 381 property agreement with the County of Kaufman,
2. Partial Assignment of Taxpayers' Rights Under Performance Agreement,
3. Copies of our checks in payment of our tax statements with tax statements attached, and
4. Copy of the certificate of compensation of employees of KLLM Transport Services, LLC and affiliates in accordance with the Chapter 381 property agreement.

We hereby request that the county refund the appropriate portion of the taxes paid as provided in Section 3.1 and 3.2 of the agreement.

We would call to your attention that the eligible property tax revenues are there for maintenance and operations and excludes road and bridge tax and the interest and sinking fund taxes levied by the county.

If you have any questions regarding the refund or need any additional information from the companies, please let me know.

Very truly yours,

Pamela Mounts
Assistant to Cameron Dee Sewell

CDS:pmm

Enclosures

cc Brenda Samples, Tax Assessor

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STATE OF TEXAS

Performance Agreement

COUNTY OF KAUFMAN

This Performance Agreement ("Agreement") is made by and between the County of Kaufman, Texas (the "County"), on the one hand, and KLLM Transport Services, LLC ("KLLM") and ITS – Equipment Leasing & Maintenance, LLC ("ITS"), on the other hand (each a "Party" and collectively the "Parties"), acting by and through their respective authorized officers. KLLM and ITS are sometimes referred to collectively in this Agreement as the "Taxpayers."

This Agreement is authorized by the Texas Local Government Code, Chapter 381 and by Order of the Commissioners Court of Kaufman County, Texas, approving this Agreement.

WITNESSETH:

WHEREAS, the County is authorized under Chapter 381 of the Texas Local Government Code to make grants and loans for the purpose of promoting county development and growth; and

WHEREAS, Taxpayers are relocating their transportation "dedicated services" businesses to the County and providing 35 new jobs in the County, by leasing certain "Leased Premises" to be constructed on the real property known as Lot 14R-B, Kaufman Business Park, City of Kaufman, Kaufman County, Texas; and

WHEREAS, the County desires to provide certain economic development grants to Taxpayers in recognition of the positive economic and community benefits that will accrue to the County through the Taxpayers' relocation of their businesses to the Leased Premises; and

WHEREAS, the County believes that Taxpayer's relocation of their businesses to the Leased Premises will contribute to the economic development of the County by increasing ad valorem taxes and increasing employment; and

WHEREAS, this Agreement is determined to be a program for the making of loans and granting of money as contemplated by Chapter 381 of the Texas Local Government Code; and

NOW THEREFORE, in consideration of the foregoing, and on the terms and conditions hereinafter set forth, and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

Article I

Term

1.1 This Agreement shall be effective on the last date of execution hereof ("Effective Date") and shall continue until the Expiration Date (as defined herein), unless sooner terminated as provided herein (the "Term").

Article II

Definitions

2.1 Wherever used in this Agreement, the following terms shall have the meanings ascribed to them:

"Bankruptcy or Insolvency" shall mean the dissolution or termination of a Party's existence as a going business, insolvency, appointment of receiver for any part of such Party's property and such appointment is not terminated within ninety (90) days after such appointment is initially made, any general assignment for the benefit of creditors, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against such Party and such proceeding is not dismissed within ninety (90) days after the filing thereof; provided, however, "Bankruptcy or Insolvency" shall not include an event that does not affect Taxpayers' ability to continue to operate their businesses at the Leased Premises and otherwise to meet their obligations under this Agreement.

"Chapter 381 Payments" means the amounts paid by the County to Taxpayers under this Agreement as further described in Article III below. Each Chapter 381 Payment constitutes a grant of funds as authorized by Chapter 381 of the Texas Local Government Code.

"County" shall mean the County of Kaufman, Texas.

"Eligible Property" means the transportation assets owned by Taxpayers that are eligible to be rendered for ad valorem property taxation at the principal places of business of Taxpayers, which include tractors and trailers and other revenue equipment utilized in transporting freight for customers.

"Eligible Property Tax Revenues" means, for any given calendar year, an amount of money equal to the amount of all maintenance and operations ad valorem property taxes levied and collected by the County from each of the Taxpayers on the Eligible Property. "Eligible Property Tax Revenues" shall not include the road and bridge taxes or the interest and sinking fund (I&S) taxes levied by the County and collected from the Taxpayers.

"FTE Position" or "FTE" means a position filled by an individual scheduled to work at the Leased Premises for a combined total of at least 2080 hours per year, including any paid time off, and receiving both (i) a salary comparable to similar employment positions in the north Texas area and (ii) full coverage health insurance commensurate with other employees of Taxpayers.

"Payment Commencement Date" means January 1, 2018.

"Taxpayers' Affiliates" means Duff Capital Investors, LLC and all subsidiary entities of Duff Capital Investors, LLC.

Article III

Chapter 381 Payments; Term

3.1 Chapter 381 Payments to KLLM. Following the Payment Commencement Date, for a period of ten (10) years, the County shall annually pay to KLLM an amount of money (each a "Chapter 381 Payment") equal to eighty percent of the Eligible Property Tax Revenues levied for tax years 2017 through 2026 and collected by the County in years 2018 through 2027. So long as the Eligible Property Tax Revenues are paid to the County appraisal district on or before January 31 of each tax year, the County shall pay each Chapter 381 Payment owed to KLLM on or before the last business day of February of each tax year from 2018 through 2027. In the event that the Eligible Property Tax Revenues are paid to the County on a date later than January 31 in any tax year, the County shall pay the Chapter 381 Payment owed to KLLM for that tax year on or before the last business day of month following the month during which payment of the Eligible Property Tax Revenues is made.

3.2 Chapter 381 Payments to ITS. Following the Payment Commencement Date, for a period of ten (10) years, the County shall annually pay to ITS an amount of money (each a "Chapter 381 Payment") equal to eighty percent of the Eligible Property Tax Revenues levied for tax years 2017 through 2026 and collectible by the County from ITS on or before January 31 in years 2018 through 2027. So long as the Eligible Property Tax Revenues are paid to the County appraisal district on or before January 31 of each tax year, the County shall pay each Chapter 381 Payment owed to ITS on or before the last business day of February of each tax year from 2018 through 2027. In the event that the Eligible Property Tax Revenues are paid to the County on a date later than January 31 in any tax year, the County shall pay the Chapter 381 Payment owed to ITS for that tax year on or before the last business day of month following the month during which payment of the Eligible Property Tax Revenues is made.

3.3 Term. The term of this Agreement begins on the Effective Date and ends on the County's payment of the tenth Chapter 381 Payment owed by the County to Taxpayers (the "Expiration Date"). No Chapter 381 Payments shall be made after December 31 of the tenth year after the Payment Commencement Date.

3.4 Performance Conditions. Notwithstanding any provision in this Agreement, Taxpayers have no obligation hereunder to relocate their businesses to the Leased Premises or to any other

property in the County. If Taxpayers elect not to relocate their businesses to the Leased Premises prior to the Payment Commencement Date as contemplated by this Agreement, Taxpayers may notify the County in writing, and this Agreement and the obligations of all Parties will be deemed terminated and of no further force or effect as of the date of such notice. The following are, however, conditions that must be satisfied in order for Taxpayers to receive the Chapter 381 Payments described herein:

(a) Taxpayers must relocate their businesses to the Leased Premises in such a manner that the situs of ad valorem taxation for the Eligible Property will be at the Leased Premises from January 1, 2017, through the remainder of the Term; however, if Taxpayers are unable to complete their relocation on or before January 1, 2017, but Taxpayers ultimately complete their relocation in such manner that the situs of ad valorem taxation for the Eligible Property will be at the Leased Premises on January 1, 2018, Taxpayers will deliver written notice of such events to County, and upon delivery of such notice, this Agreement shall automatically be amended as follows:

i. the "Payment Commencement Date" shall be amended to mean January 1, 2019;

ii. wherever the time period "2017 through 2026" is used in this Agreement, such period shall be amended to read "2018 through 2027"; and

iii. wherever the time period "2018 through 2027" is used in this Agreement, such period shall be amended to read "2019 through 2028."

(b) Taxpayers must render the Eligible Property for ad valorem taxation at the Leased Premises prior to the Payment Commencement Date;

(c) Taxpayers must remain current and paid on all ad valorem property taxes (real property and personal property) assessed against Taxpayers by the County, subject to rights of appeal in accordance with law and subject to a right to cure any tax payment delinquency;

(d) Taxpayers and Taxpayers' Affiliates (collectively) must maintain at least 35 FTE at the Leased Premises throughout the Term; and

(e) Taxpayers and Taxpayers' Affiliates must maintain an annual payroll at the Leased Premises of at least $1,600,000.

3.5 Reporting Requirements. Following the Payment Commencement Date, within fourteen (14) days after Taxpayers remit the Eligible Property Tax Revenues during each tax year of the Term, Taxpayers must submit a written report demonstrating Taxpayers' satisfaction of the performance conditions listed in paragraphs 3.4(d) and 3.4(e) of this Agreement (the "Employment Conditions"). The report submitted by Taxpayers shall not disclose any confidential information of employees such as employees' social security numbers. Taxpayers shall cooperate with County to resolve any reasonable written inquiries the County delivers in response to the report delivered by Taxpayers.

3.6 County's Remedy for Failure to Satisfy the Employment Conditions. In the event that Taxpayers do not satisfy the Employment Conditions for any tax year during the Term, the County's sole remedy for such failure shall be to either (i) withhold the Chapter 381 Payment scheduled to be made to Taxpayers for such tax year (in which event County's obligation to make the Chapter 381 Payment in such tax year shall be canceled), or (ii) in the event the Chapter 381 Payment for such tax year has already been delivered to Taxpayers, require the Taxpayers to reimburse the amount of the paid Chapter 381 Payment to the County. Taxpayers' failure to satisfy the Employment Conditions in any single tax year during the Term shall not affect Taxpayers' eligibility for Chapter 381 Payments in the remaining years of the Term. The remedies set forth in this Section 3.6 shall be County's sole and exclusive remedies in the event Taxpayers do not satisfy the Employment Conditions.

Article IV

Termination

4.1 Termination. This Agreement shall terminate upon any one of the following:

(a) by written agreement of the Parties;

(b) upon written notice, by either Party in the event the other Party breaches any of the terms or conditions of this Agreement, and such breach is not cured within thirty (30) days after the nonbreaching Party sends written notice to the breaching Party of such breach;

(c) upon written notice, by the County, if either Taxpayer suffers an event of Bankruptcy or Insolvency;

(d) upon written notice, by either Party, if any subsequent Federal or State legislation or any decision of a court of competent jurisdiction declares or renders this Agreement invalid, illegal or unenforceable.

Article V

Miscellaneous

5.1 Binding Agreement. The terms and conditions of this Agreement are binding upon the successors and permitted assigns of the Parties hereto. This Agreement may not be assigned without the express written consent of the County Judge of the County.

5.2 No Joint Venture. It is acknowledged and agreed by the Parties that the terms hereof are not intended to and shall not be deemed to create a partnership or joint venture among the Parties.

5.3 Authorization. Each Party represents that it has full capacity and authority to grant all rights and assume all obligations that are granted and assumed under this Agreement.

5.4 Notice. Any notice required or permitted to be delivered hereunder shall be deemed received three (3) days thereafter sent by United States Mail, postage prepaid, certified mail, return receipt requested, addressed to the Party at the address set forth below or on the day actually received if sent by courier or otherwise hand delivered.

If intended for the County, to:

Bruce Wood, County Judge
Kaufman County Courthouse
100 W. Mulberry
Kaufman, TX 75142
972-932-4331 X 1218

With a copy to:

If intended for Taxpayers:

KLLM Transport Services, LLC *AND/OR* ITS – Equipment Leasing & Maintenance, LLC
Attn: Terry Thornton
135 Riverview
Richland, Mississippi 39218

With a copy to:

KLLM Transport Services, LLC *AND/OR* ITS – Equipment Leasing & Maintenance, LLC
Attn: Cameron Sewell
9813 FM 1388
Scurry, Texas 75158

5.5 Entire Agreement. This Agreement is the entire Agreement between the Parties with respect to the subject matter covered in this Agreement. There is no other collateral oral or written Agreement between the Parties that in any manner relates to the subject matter of this Agreement, except as provided in any Exhibits attached hereto.

5.6 Governing Law. The Agreement shall be governed by the laws of the State of Texas without regard to any conflict of law rules. Exclusive venue for any action concerning this Agreement shall be in the State District Court of Kaufman County, Texas. The Parties agree to submit to the personal and subject matter jurisdiction of said court.

5.7 Amendment. This Agreement may only be amended by the mutual written agreement of the Parties.

5.8 Legal Construction. In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect other provisions, and it is the intention of the Parties to this Agreement that in lieu of each provision that is found to be illegal, invalid, or unenforceable, a provision shall be added to this Agreement which is legal, valid and enforceable and is as similar in terms as possible to the provision found to be illegal, invalid or unenforceable.

5.9 Recitals. The recitals to this Agreement are incorporated herein.

5.10 Counterparts. This Agreement may be executed in counterparts. Each of the counterparts shall be deemed an original instrument, but all of the counterparts shall constitute one and the same instrument.

5.11 Survival of Covenants. Any of the representations, warranties, covenants, and obligations of the Parties, as well as any rights and benefits of the Parties, pertaining to a period of time following the Expiration Date of this Agreement shall survive termination.

5.12 Mutual Assistance/Good Faith. The County and Taxpayers agree to act in good faith and to do all things reasonably necessary or appropriate to carry out the terms and provisions of this Agreement and to aid and assist the other in carrying out such terms and provisions in order to put the other in the same condition contemplated by this Agreement.

5.13 Employment of Undocumented Workers. During the term of this Agreement Taxpayers agree not to knowingly employ any undocumented workers and, if convicted of a violation under 8 U.S.C. Section 1324a (f), Taxpayers shall repay the amount of the Chapter 381 Payments and any other funds received by Taxpayers from the County as of the date of such violation within 120 business days after the date Taxpayers are notified by the County of such violation, plus interest at the rate of four percent (4%) compounded annually from the date of violation until paid. Taxpayers are not liable for a violation of this section in relation to any workers employed by a subsidiary, affiliate, or franchisee of Taxpayers or by a person with whom Taxpayers contract.

[Signature page to follow]

EXECUTED on this 15th day of August, 2016.

County of Kaufman, Texas

By: Bruce Wood

Bruce Wood, County Judge

Attest:

By: Laura Hughes

Laura Hughes, County Clerk

Approved as to Form:

By: James Allison

County Attorney

EXECUTED this the 15th day of August, 2016.

KLLM Transport Services, LLC

By: _____

Name: Terry Thornton

Title: Manager and Chief Financial Officer

ITS – Equipment Leasing & Maintenance, LLC

By: _____

Name: Terry Thornton

Title: Manager and Chief Financial Officer

PARTIAL ASSIGNMENT OF TAXPAYERS' RIGHTS UNDER PERFORMANCE AGREEMENT

THIS PARTIAL ASSIGNMENT OF TAXPAYERS' RIGHTS UNDER PERFORMANCE AGREEMENT (this "Assignment") is made and entered into to be effective as of December 6, 2019 (the "Effective Date"), by and between KLLM Transport Services, LLC ("KLLM") and ITS – Equipment Leasing & Maintenance, LLC ("ITS," and together with KLLM, "Assignors"), on the one hand, and FFE Leasing LLC, a Mississippi LLC ("Assignee"), on the other hand. The County of Kaufman, Texas (the "County"), acting by and through the County Judge, has joined in this Assignment for the purposes set forth herein.

Reference is made herein to that certain Performance Agreement dated August 15, 2016 (the "Performance Agreement"), by and between Assignors and the County, which agreement is an economic development agreement entered into by Assignors and the County pursuant to Chapter 381 of the Texas Local Government Code.

WITNESSETH:

WHEREAS, after the Effective Date, Assignee intends to undertake economic development activities similar to or related to the economic development activities that Assignors committed to undertake in the Performance Agreement, and for that reason Assignors and Assignee desire for Assignee to become a party to the Performance Agreement;

WHEREAS, the County desires to promote Assignee's economic development activities by granting to Assignee the same economic development grants that it committed to grant to Assignors in the Performance Agreement, for the same term set out in the Performance Agreement, by permitting Assignee to become a party to the Performance Agreement;

WHEREAS, Section 5.1 of the Performance Agreement indicates that it cannot be assigned without the written consent of the County Judge of the County;

WHEREAS, in order to cause Assignee to become a party to the Performance Agreement, Assignors have agreed to partially (and not wholly) convey, transfer, assign, and set over to Assignee rights under the Performance Agreement as set forth in this Assignment, and the County has agreed to consent to such assignment;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignors, Assignee, and the County hereby agree as follows:

1. Partial Assignment of Rights. Assignors hereby partially (and not wholly) CONVEY, TRANSFER, ASSIGN, AND SET OVER unto Assignee rights as "Taxpayers" in the Performance Agreement with the following results: (i) Assignors shall remain parties to the Performance Agreement; (ii) Assignee shall become a new party to the Performance Agreement; (ii) the term "Taxpayers," as used in the Performance Agreement shall refer jointly to all three of

KLLM, ITS, and Assignee; and (iv) the term "Taxpayer," as used in the Performance Agreement, shall refer individually to each of KLLM, ITS, and Assignee.

2. Consent by the County. The County, acting by and through the County Judge, has executed this Assignment to indicate the County's consent to the terms hereof as required in Section 5.1 of the Performance Agreement.

3. Successors and Assigns. This Assignment shall inure to the benefit of and be binding upon Assignors, Assignee, and the County and their respective successors and assigns.

4. Governing Law. This Assignment shall be governed by, construed, and enforced in accordance with the laws of the State of Texas.

5. Counterparts. This Assignment may be executed in any number of counterparts, each of which shall be deemed an original for all purposes, and all such counterparts together shall constitute one and the same instrument.

[Remainder of page intentionally left blank. Signature page follows.]

EXECUTED effective as of the Effective Date.

ASSIGNORS:

KLLM Transport Services, LLC

By: _____
Name: Terry Thornton
Title: Manager and Chief Financial Officer

ITS – Equipment Leasing & Maintenance, LLC

By: _____
Name: Terry Thornton
Title: Manager and Chief Financial Officer

ASSIGNEE:

FFE Leasing LLC

By: _____
Name: Cameron Dee Sewell
Title: Manager

COUNTY:

County of Kaufman, Texas

By: _____
Hal Richards, County Judge