

STATE OF NORTH CAROLINA

COUNTY OF CHATHAM

ECONOMIC DEVELOPMENT AGREEMENT

BY AND BETWEEN

INNOVATIVE CONSTRUCTION GROUP, LLC

AND

CHATHAM COUNTY, NORTH CAROLINA

DATED as of May 20, 2024

ECONOMIC DEVELOPMENT AGREEMENT

This Agreement (“Agreement”) is entered into, effective as of the 20th day of May, 2024 (“Effective Date”), by and between Innovative Construction Group, LLC (the “Company”) and Chatham County (the “County”). Together the Company and the County are referred to herein as the “Parties” and, individually, as a “Party.”

RECITALS

WHEREAS, the County is vitally interested in the economic welfare of its citizens and the creation and maintenance of sustainable jobs for its citizens in strategically important industries and therefore wishes to provide the necessary conditions to stimulate investment in the local economy and promote business, resulting in an increase in the County’s ad valorem tax base, the creation of a substantial number of jobs at competitive wages, and to encourage economic growth and development opportunities which the County has determined will be made possible pursuant to the Project; and

WHEREAS, the Company desires to construct a comprehensive framing solutions manufacturing facility in Chatham County; and,

WHEREAS, in order to implement the foregoing, the Company has proposed to make a capital investment at the Site from sources available to the Company, including the Company’s resources and all grants and other sources of financing, to construct and operate a comprehensive framing solutions manufacturing facility and other ancillary and related uses. The Facility, along with the land constituting the Site and the jobs referred to herein, are referred to herein as the “Project.” The Company expects that the Project will include real property, buildings, fixtures, machinery, and equipment having an initial aggregate Increased Tax Value of approximately thirty-nine million eight hundred and sixty five thousand dollars (\$39,865,000), and commits to create about one hundred and fifty-seven (157) full time equivalent jobs at an average wage exceeding or equal to that of the median average wage for Chatham County as described herein; and

WHEREAS, the County acknowledges that the Project will bring direct and indirect benefits to the County, including job creation, increase in the ad valorem tax base, and economic diversification and stimulus, and has therefore offered economic development incentives to induce the Company to locate the Project at the Site, and such local incentives do in fact induce the Company to locate the Project at the Site; and

WHEREAS, the Company fully intends to establish, through the Project, an important presence in the County by employing a large number of local employees and making substantial investments in the Project and in the training and development of such employees; and

WHEREAS, the County hereby acknowledges that the terms of this Agreement, including specifically the local incentives described in this Agreement, constitute a dispositive inducement to the Company to locate the Project at the Site, and the Company

hereby represents that its decision to locate the Project at the Site following a competitive selection process conducted by the Company among two or more states is based, in part, on the County's offer of local incentives described in this Agreement and related agreements and documents; and

WHEREAS, the County is authorized pursuant to N.C.G.S. §158-7.1 to provide financial and other incentives; any action in this regard would follow a public hearing by the County's Board of Commissioners and a subsequent decision by that Board as to such matters before it; and the Board will assure that the County receives additional tax base, increase of jobs, and other economic stimuli of the local economy as a result of the Project; and,

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the County and the Company intending to be legally bound do hereby agree as follows:

ARTICLE I

DEFINITIONS

"Increased Tax Value" is that amount of ad valorem tax value of the Project's property, as finally determined for ad valorem tax purposes, as of January 1 of the calendar year that immediately precedes the calendar year in which the County will make a Business Investment Grant payment to the Company, less the tax value of the Site on January 1, 2024. For purposes of this Agreement, the tax value of Site on January 1, 2024 is \$254,037.

"Incremental Taxes" is the amount of taxes actually paid by, or on behalf of, the Company to the County as a result of the Increased Tax Value.

"EIC" shall mean the Economic Investment Committee of the State of North Carolina.

"Fiscal Year" shall mean the County's Fiscal Year, July 1 to June 30.

"Facility" shall mean the comprehensive framing solutions manufacturing facility constructed at the Site.

"Site" shall mean approximately 45 acres of land located at Bish Road in the CAM site in Siler City, North Carolina.

ARTICLE II

COMPANY REQUIREMENTS

A. Project and Minimum Investment Commitment

Company shall construct, equip, and operate the Project. The Company agrees to invest, or cause to be invested, in taxable real property improvements, machinery and equipment located on the Site that may result in approximately \$39.9 Million in Increased Tax Value subject to modification based on periodic valuation from the County Assessor and depreciation of machinery and equipment.

B. Job Commitment

Company shall create and maintain Eligible Positions, as defined in the Community Economic Development Agreement by and between the Company and the EIC, at the Project according to the following table:

Calendar Year	Total Anticipated New Eligible Positions for Project	Minimum To Meet Job Commitment under this Agreement (80% of anticipated)
2027	8	6
2028	81	64
2029	131	104
2030	145	116
2031 and thereafter	157	125

Should the Company fail to meet its minimum job commitments in any year, the County's BIG payment for that year shall be reduced in an amount that is pro-rata to the Company's job shortfall relative to its minimum obligations to the meet the job commitment for that year.

For example, if the Company has only 50 jobs at the end of calendar year 2028, the BIG payment in calendar year 2029 (for calendar year 2028) shall be reduced in accordance with the value that is the pro rata of 50/64, or 78%. Thus, the BIG payment for the relevant period that is only 78% of the amount of the BIG payment for which it is otherwise eligible.

In order to receive a BIG payment, the Company shall provide to the County by March 1 a certification of the number of jobs filled at the end of the prior calendar year and aggregate average wage for those jobs. In order to qualify for a BIG payment, the

aggregate average wage for reported jobs must be at least \$52,949. In the event that the Company has not provided a certification by March 1, the County shall give notice of that default and the Company shall have fifteen days from receipt of the notice to cure. The County and the Company agree that the provision to the County by the Company of a copy of the annual report submitted to the EIC shall be sufficient to meet the requirements of this Article II.B.

C. Tax Payment Commitment

The Company shall not, during the period in which it is eligible to receive BIG payments, be in arrears in the payment of its annual property taxes to the County (“Tax Payment Commitment”). In the event that the Company fails the Tax Payment Commitment, the County may withhold BIG payments until the Company satisfies the Tax Payment Commitment, at which time all previously withheld payments shall be made by the County.

D. Operation Commitment

Except in the case of an event of Force Majeure, the Company shall continuously operate the Facility from the date on which the Facility is qualified for such operations by appropriate governmental authorities until the conclusion of the period in which it is eligible to receive BIG payments pursuant to Article III, section A. For purposes of this Agreement, “Force Majeure” shall mean any cause preventing or hindering the performance of this Agreement arising from or attributable to acts, events or circumstances beyond the reasonable control of the Company including epidemic of disease, act of God, shortage of materials, war (declared or undeclared), labor disputes, accidents, acts of terrorism, fire, breakdown of machinery, epidemic or pandemic, government requisition or impoundment or other acts of any governmental agency (including such authority acting in a contractual or regulatory capacity), and riot or civil commotion. Notwithstanding anything to the contrary in this Agreement, a temporary shutdown of operations for less than 6 months for any reason shall not be considered a breach of the Operation Commitment. If the Company violates the Operation Commitment, the County may withhold BIG payments until the Company recommences operations of the Facility.

ARTICLE III

LOCAL ECONOMIC DEVELOPMENT INCENTIVES

A. Business Investment Grant (“BIG”)

The County shall provide to the Company a 5-year Business Investment Grant based on the Chatham County Incentives Policy. Pursuant to that policy, the BIG shall be

paid annually in an amount determined by the following percentages of Incremental Taxes in the current Fiscal Year:

- Years 1 – 75%
- Years 2 – 65%
- Years 3 – 55%
- Years 4 – 45%
- Years 5 – 35%

The Company shall give written notice to the County by January 1 in the year that the Company chooses to begin BIG payments. Such notice shall be given no later than January 1, 2028. BIG payments shall be made on or before May 1 in the year in which the Company makes a BIG payment request to the County.

C. Recapture

If at any time the Company fails to satisfy its Operation Commitment, the Company shall repay the County fifty percent of the most recent BIG payment.

In the event that the County made a BIG payment in reliance on a job certification that is later determined to have an inaccurate Eligible Positions number or be materially inaccurate, the Company shall repay the County any overpayment that is based on the inaccuracy.

ARTICLE IV

OTHER PROVISIONS

A. North Carolina Rail Road Grant

Attached hereto as Exhibit A is a three-party grant agreement among the Company, the County, and the North Carolina Railroad Company (“RR Agreement”). In the event that North Carolina Railroad Company requires the County to reimburse all or some portion of the grant made pursuant to the RR Agreement, the Company shall pay the County an amount equal to the reimbursement amount, which payment shall be made to the County within thirty days after the County provides a copy of the North Carolina Railroad Company’s reimbursement request.

B. Notices

All communications and notice expressly provided for herein shall be sent, by registered first class mail, postage prepaid, by a nationally recognized overnight courier for delivery on the following business day or by facsimile (with such facsimile to be confirmed promptly in writing sent by mail or overnight courier as aforesaid) as follows unless the relevant Party provides replacement contact information after the date hereof:

If to the County:

Dan LaMontagne, County Manager
12 East Street
Pittsboro, NC 27312
dan.lamontagne@chathamcountync.gov

If to the Company:

Mr. Todd Sheldon
EVP, General Counsel and Corporate Secretary
PulteGroup, Inc.
3350 Peachtree Road NE, Suite 150
Atlanta, GA 30326

and to

Mr. Peter Hilton
Vice President of Finance
PulteGroup, Inc.
3350 Peachtree Road NE, Suite 150
Atlanta, GA 30326

C. Entire Agreement; Amendment; Construction

This Agreement constitutes the entire agreement between the Parties as to the subject matter referenced herein, and supersedes all prior agreements, understandings, or undertakings (whether oral, written, electronic or otherwise) between the Parties with respect to the subject matter hereof. No amendment may be made to this Agreement except with the prior written consent of all Parties hereto.

D. Governing Law; Jurisdiction

This Agreement shall be governed by and construed in accordance with the laws of the State of North Carolina. The exclusive jurisdiction for any litigation shall be in Superior Court for the 15B Judicial District of North Carolina or the United States District Court for the Middle District of North Carolina.

E. Severability; Incentives

If any court of competent jurisdiction holds any provision of this Agreement invalid or unenforceable, then (1) such holding shall not invalidate or render unenforceable any other provision of this Agreement, unless such provision is contingent on the invalidated provision; and (2) the remaining terms hereof shall, in such event, constitute the Parties' entire agreement. In the event any such provision is held to be invalid, illegal, or unenforceable, the Parties hereto shall make their best efforts to agree on a provision in substitution for such invalid, illegal or unenforceable provision that is as near in economic benefit as possible to the provision found to be invalid, illegal, or unenforceable. In the event that the validity, legality or enforceability of any local incentive and other assistance described or referred to herein as being offered or made available to the Company is challenged in any manner, the County shall (a) vigorously defend such local incentive and other assistance from such challenge, (b) seek legislative remedies to retain or restore such local incentive and other assistance, and (c) pursue the offering of other local incentives and other assistance or benefits to the Company (including to the extent other discretionary funds or benefit programs are or may become available to the County) in order that the Company may realize the economic and non-economic benefits of the local incentives and other assistance offered herein or made available hereby.

F. Assignment

Except as otherwise provided for in this Section, no Party shall have the right to assign this Agreement or any portion hereof, or any of its respective rights or obligations hereunder, without the prior written consent of the other Party; provided, however, the Company may assign this Agreement to an affiliate of the Company without the County's prior written consent.

G. Audit Right

The County shall have the right to require that the Company provide to it a certified audit (at the County's expense), or to perform (upon reasonable notice to the Company and during normal business hours) an audit through the use of the County's staff, in order to confirm the Company's compliance with the Job Commitment contemplated in this Agreement. Any such audit will be limited in scope to the least amount of information necessary to confirm such compliance. To the fullest extent allowed by law, all of the Company's records provided to the County shall (1) not be considered or deemed a public record, (2) be kept confidential (and the County agrees to cause its employees, agents, auditors and other representatives, including any internal or external auditors, to keep such evidence confidential), (3) be "trade secrets" under N.C.G.S. §132-1.2 and will be marked as trade secrets, (4) to the fullest extent allowed by law be held as confidential information under N.C.G.S. §132-1.2 and other law. All such records shall remain the property of the Company to be returned after the County's review and may be used by the County only for audit purposes.

H. Agreement to Cooperate

In the event of any legal action instituted by a third party or other governmental entity or official challenging the validity of any provision of this Agreement, the Parties hereby agree to cooperate in defending such action; provided, however, each of the Parties shall retain the right to pursue its own independent legal defense.

I. Termination

This Agreement may be terminated:

- a. by mutual written agreement by the Company and the County;
- b. by the Company for any reason; or
- c. by the County if the Company has not created an Increased Tax Value of at least twenty five million dollars (\$25,000,000) and created at least 55 Eligible Positions by January 1, 2031; provided however that such failure shall have continued for a period of sixty (60) calendar days after written notice thereof from the County to the Company, unless (A) the County shall agree in writing to an extension of such period prior to its expiration, or (B) during such sixty (60) day period or any extension thereof, the Company has commenced and is diligently pursuing appropriate corrective action.

In the event that this Agreement is terminated, the County shall have no further obligation to make BIG payments.

J. Counterparts

This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts together shall constitute but one agreement. Delivery of an executed counterpart of a signature page of this Agreement by facsimile or other electronic transmission shall be effective as delivery of a manually executed original counterpart of this Agreement.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties hereto have caused this Economic Development Agreement to be executed as of the date and year first above written.

ATTEST:

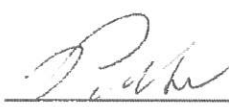
CHATHAM COUNTY


Name: Jenifer Johnson
Title: County Clerk

By: 
Name: Dan LaMontagne
Title: County Manager



INNOVATIVE CONSTRUCTION GROUP, LLC

By: 
Name: Peter Hilts
Title: Vice President of Finance

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


Chatham County Finance Director

**NORTH CAROLINA
CHATHAM COUNTY**

NORTH CAROLINA RAILROAD COMPANY

AND

INNOVATIVE CONSTRUCTION GROUP, LLC

AND

COUNTY OF CHATHAM

DEFINITIVE PROJECT INVESTMENT AGREEMENT

This DEFINITIVE PROJECT INVESTMENT AGREEMENT (“Agreement”), effective as of the 31st day of May, 2024, by and between the **COUNTY OF CHATHAM** (hereinafter “Government Entity”), **INNOVATIVE CONSTRUCTION GROUP, LLC** (hereinafter “Company”) and the **North Carolina Railroad Company** (hereinafter “NCRR”). All parties hereto are collectively referred to as the “Parties”.

RECITALS

WHEREAS, the Government Entity desires to stimulate and develop the local economy of its region, alleviate the problems of unemployment and underemployment by creating and/or retaining jobs for its citizens, and develop its local tax base; and

WHEREAS, NCRR created the “NCRR Invests” program to partner with industries and local and state governments to facilitate industrial rail projects in North Carolina that result in job creation, capital investment, and rail use in counties throughout the State; and

WHEREAS, the Company has chosen to establish a new manufacturing facility at the Chatham County Advanced Manufacturing Site in North Carolina (“Facility”); and

WHEREAS, the Company requires a industry and spur track (“Rail Project”) as is necessary for Norfolk Southern (“Railroad”) to serve the Facility. The preliminary estimate of the Rail Project to be completed by the Government Entity or other parties is \$970,000; and

WHEREAS, as part of the “NCRR Invests” program, NCRR has agreed to reimburse the Government Entity up to \$100,000 for the actual, documented costs incurred in the design and construction of the Rail Project to be used by the Company (“NCRR Investment”); and

WHEREAS, the Government Entity and the Company entered into an “NCRRC Invests” Term Sheet dated March 20, 2024, and contingent upon the Company choosing North Carolina as the location for the investment in the Facility; and

WHEREAS, the Government Entity, Company, and NCRRC now desire to enter into this Agreement setting forth the business terms and conditions for the NCRRC Investment.

NOW THEREFORE, the Parties hereto, each in consideration of the promises and undertakings of the other as herein provided, do hereby covenant and agree, each with the other, as follows:

1. TERM AND COMPLIANCE DEADLINE.

The term of this Agreement shall begin on April 23, 2024 (the date the Facility was publicly announced; hereinafter the “Commencement Date”) and shall end on August 31, 2029 (“Expiration Date”) unless sooner terminated as set forth herein. The deadline for the Company to meet the Company Performance Requirements, set forth in Section 6 hereof, shall be April 30, 2029 (“Compliance Date”).

2. RAIL PROJECT DESCRIPTION; USE OF NCRRC INVESTMENT.

The Rail Project shall consist of the design and construction of the Rail Project including any land preparation, track work (ballast, ties, rail-turnouts, and engineering), drainage, signal work, and any other incidental work associated with the construction needed for a Railroad to serve the Facility. Unless otherwise agreed, all Rail Project costs over the NCRRC Investment shall be borne by the Company, Government Entity, or other parties. Moreover, no portion of the NCRRC Investment shall be used to pay for administrative costs or overhead fees above the level of Rail Project construction manager.

3. RAIL PROJECT ESTIMATE AND REIMBURSEMENT TO GOVERNMENT ENTITY.

- A. Rail Project concept estimate. The preliminary Rail Project conceptual and corresponding estimate are attached hereto as Exhibit A. Within thirty (30) days of execution of this Agreement, the Government Entity (or, where appropriate, the Company) shall cause to be provided to NCRRC an updated estimate and specifications for the Rail Project. In addition, the Government Entity shall provide a current, updated NCRRC Invests Rail Project Budget which delineates the sources and uses of funds). The updated Rail Project estimate is subject to the review of NCRRC Engineering prior to construction. Within five (5) days of execution of this Agreement or within five (5) days of execution of a construction agreement, whichever is later, the Government Entity (or, where appropriate, the Company) shall cause to be provided to NCRRC a copy of the construction agreement for the Rail Project. Prior to requesting any payment from NCRRC as set forth in Section 3(B) below, the Government Entity (or, where appropriate, the Company) shall

cause to be provided to NCRRE signed, sealed construction plans, a construction schedule, specifications, and the final, detailed engineering Rail Project estimate. All are subject to the review of NCRRE Engineering.

B. Reimbursement shall be pursuant to the following procedures:

- i. Invoicing. The Government Entity shall cause invoices to be submitted to NCRRE for progress payments and/or a final payment at intervals no more frequently than thirty (30) days with the amounts based on actual costs of work completed. Supporting documentation for paid invoices showing actual, eligible costs for the Rail Project shall be in the form described in Section 3(B)(iv) of this Agreement. NCRRE reimbursement of the actual, documented costs submitted with each paid invoice may also be subject to on-site inspection by NCRRE Engineering. NCRRE payment to the Government Entity will be made within sixty (60) days of receipt of the copies of paid invoices for costs associated with the activities described in Section 2. The payment schedule set forth in this section may be modified only upon approval of NCRRE.
- ii. Retainage. Notwithstanding the foregoing in Section 3(B)(i), prior to completion of construction of the Rail Project, NCRRE will retain fifteen percent (15%) of the total NCRRE Investment. This 15% retainage will be paid upon completion of the construction of the Rail Project and final inspection by NCRRE Engineering. Within thirty (30) days of a request for a final inspection, NCRRE Engineering shall conduct the final inspection and either approve issuance of retainage payment or inform the Government Entity or other responsible party of any punch list items to be completed before approval to issue payment.
- iii. Deadline After Completion. The Government Entity shall cause to be submitted all paid invoices not previously submitted, together with the supporting documentation, as required by Section 3(B)(iv) of this Agreement, for the Rail Project by no later than one hundred eighty (180) days after completion and acceptance of the work by the NCRRE.
- iv. Record Keeping. The Government Entity shall retain all books, documents, papers, accounting records, and such other evidence as may be appropriate to substantiate actual costs, including but not limited to any forms supplied by NCRRE, incurred under this Agreement, including, without limitation, receipts, vouchers, invoices, waivers of mechanic's and materialmen's liens by contractors and subcontractors, and certificates of the contractors. The Government Entity shall make such materials available at its office at all reasonable times during the construction period, and for three (3) years from the date of final payment for the Rail Project under this Agreement, for inspection and audit by NCRRE at reasonable times during normal working hours at the location where such records are normally maintained by the Government Entity.

This provision shall survive the expiration or earlier termination of this Agreement.

4. OWNERSHIP.

The Company shall own the Rail Project.

5. MAINTENANCE, OPERATION, LIABILITY AND INSURANCE.

The Company shall be solely responsible for the maintenance, operation, liability and insurance requirements for the Rail Project.

6. COMPANY PERFORMANCE REQUIREMENTS.

The Company's performance requirements include the following:

- A. Job Creation – The Company shall create a minimum of 141 new, full-time jobs at the Facility (which represents 90% of the Company's job creation goal of 157 new full-time jobs) by the Compliance Date. As used in this Agreement, a "full-time job" shall mean a position that requires at least 1,600 hours of work per year and is intended to be held by one employee during the entire year, as defined by North Carolina General Statute § 105-129.81(11). A "new, full-time job" shall mean a full-time job that represents a net increase in the number of full-time employees in the Company.
- B. Average Annual Wage – The total number of new, full-time jobs created as described in Section 6(A)(i) above shall pay a minimum average annual wage of \$45,951 (which represents 90% of the Company's commitment to pay an average annual wage of \$51,057 by the Compliance Date).
- C. Capital Investment – After the Commencement Date, the Company shall invest or cause to be invested a minimum of \$35,878,500 (which represents 90% of the Company's commitment to invest \$39,865,000 in the Facility by the Compliance Date. As used in this Agreement, "capital investment" by the Company shall mean taxable, private investment by the Company in Business Property and Real Property in the Chatham County Advanced Manufacturing Site. Business Property is defined as tangible personal property that is used in a business and capitalized by the taxpayer for tax purposes. Real Property is defined as land; or building, structures, or permanent fixtures to land.
- D. Rail Use – The Company shall commence active use of the Rail Project by August 31, 2027 ("Rail Use Date"). The Company shall use the Rail Project to receive and/or distribute a minimum of 75 rail cars over any 12-month period for the Facility by the Compliance Date.

- E. Determination of Compliance. Whether the Company has fully complied with these Company Performance Requirements shall be determined by the compliance reports and letters that the Company shall submit to the NCRREconomic Development Department on or before the Expiration Date.

7. COMPANY COMPLIANCE REPORTING REQUIREMENTS.

The Company shall demonstrate compliance with the minimum performance standards set forth in Section 6 above by submitting the following compliance reports and letters to the NCRRE Director of Economic Development.

- A. Demonstration of Job Creation, Average Annual Wage and Capital Investment. On or before the Expiration Date, the Company shall submit copies of the reports required by the North Carolina Department of Commerce Job Development Investment Grant (“JDIG”) or other relevant compliance reports confirming the Company has met the minimum requirements for:

- a. Job Creation set forth in Section 6(A);
- b. Average Annual Wage set forth in Section 6(B); and
- c. Capital Investment set forth in Section 6(C).

- B. Demonstration of Required Rail Service, Use, and Minimum Shipments.

- i. Rail Service and Use set forth in Section 6(D) – Within three (3) months of the Rail Use Date, the Company shall submit to NCRRE a copy of a letter from A&W confirming;
 - a. The existence of an executed commercial agreement for rail service between A&W and the Company; and
 - b. The date the Rail Project is placed into service by the Company and A&W.
- ii. Minimum Rail Car Shipments set forth in Section 6(D) – On or before the Expiration Date, the Company shall submit a copy of a letter from A&W confirming a minimum of 75 active rail car deliveries and/or distributions to or from the Facility over any 12-month period, or a reasonable pro rata portion thereof, by the Compliance Date.

8. GOVERNMENT ENTITY REQUIREMENTS AND OBLIGATION TO REPAY.

- A. NCRRE Reimbursement. If the Company fails to meet any of the Company Performance Requirements for job creation, average annual wage, capital investment or rail use as set forth below in Section 6(A)(i) -(iv), the Government Entity shall, if required by NCRRE in NCRRE’s sole discretion, reimburse the NCRRE

Investment in an amount up to one hundred percent (100%) of the total funds previously disbursed by NCRR to the Government Entity.

- B. Government Entity Acknowledgment. The Government Entity acknowledges that failure of the Company to meet the performance and/or reporting requirements set forth herein may result in repayment obligation being imposed on the Government Entity. The Government Entity further acknowledges that no provision in this agreement addresses any obligation of the Company to the Government Entity with regard to any such repayment.
- C. NCRR Reimbursement Deadline. If NCRR demands repayment from the Government Entity under this section for failure of the Company to meet any of the performance and/or reporting requirements described above, then the Government Entity shall reimburse NCRR within sixty (60) days of receiving a written notification of demand from NCRR. This provision expressly survives the Expiration Date.

9. TERMINATION AND MODIFICATIONS.

- A. Governmental Entity Failure. Failure on part of the Government Entity to comply substantially with any of the material provisions of this Agreement will be grounds for NCRR to withdraw participation in the Rail Project. However, should NCRR withdraw its participation under any provision of this Agreement, it shall reimburse the Government Entity, within sixty (60) days of receipt of a paid invoice, the actual costs incurred for the work performed on the Rail Project prior to issuance of written notification of withdrawal of participation.
- B. Company Failure. Failure on part of the Company to comply substantially with any of the material provisions of this Agreement will be grounds for NCRR to withdraw participation in the Rail Project and to seek reimbursement from the Government Entity pursuant to the terms set forth in the separate agreement between NCRR and the Government Entity.
- C. No Physical Construction. If physical construction of the Rail Project (actual land-disturbing activities) has not begun by the Rail Use Date, this Agreement terminates automatically as of the Rail Use Date.
- D. Force Majeure. The completion of the work for the Rail Project covered by this Agreement shall be pursued as expeditiously as possible. If the work for the Rail Project specified in this Agreement is unable to be completed due to a condition of *force majeure* or other conditions beyond the reasonable control of the Government Entity or the Company, then the Government Entity and the Company will diligently pursue completion of the Rail Project once said condition or conditions are no longer in effect.

- E. Modification Request. If unforeseen calamity, an Act of God, financial disaster, a condition of *force majeure* or other conditions beyond the reasonable control of the Company is the cause of the Company's failure to meet its Company Performance Requirements as set forth in Section 6(A) above, then the Government Entity and the Company may request an extraordinary modification of this Agreement from NCRR, including an extension of the term of this Agreement. The Parties agree that any decision to allow such modification shall be in the sole discretion of NCRR. Any modifications to the Company Performance Requirements or the obligation to repay provisions set forth herein may only be modified by the signed written agreement of NCRR, the Government Entity and the Company.

10. NOTICES.

Any notice, request, or other communication among the Parties shall be delivered in writing, sent by first-class mail, overnight courier, and/or electronic transmission and shall be deemed given upon actual receipt by the addressee. Notice shall be addressed as follows:

If to Government Entity, use:

Chatham County Government
12 East Street, P.O. Box 1809
Pittsboro, NC 27312

If to Company, use:

Mr. Todd Sheldon
EVP, General Counsel and Corporate Secretary
PulteGroup, Inc.
3350 Peachtree Road NE, Suite 150
Atlanta, GA 30326

and to

Mr. Peter Hilton
Vice President of Finance
PulteGroup, Inc.
3350 Peachtree Road NE, Suite 150
Atlanta, GA 30326

If to NCRR, use:

North Carolina Railroad Company
2809 Highwoods Boulevard
Raleigh, North Carolina 27604-1640
ATTN: Economic Development

11. MISCELLANEOUS.

- A. Failure to Require Performance. Failure of the Government Entity, Company or NCRR at any time to require performance of any term or provision of this Agreement shall in no manner affect the rights of the Parties at a later date to enforce the same or to enforce any future compliance with or performance of any of the terms or provisions herein.
- B. Conflict of Laws and Venue. This Agreement constitutes a legally enforceable contract and shall be governed and construed in accordance with the laws of the State of North Carolina. The Parties agree and submit, solely for matters concerning this Agreement, to the exclusive jurisdiction of the courts of North Carolina and agree that the only venue for any legal proceedings shall be Wake County, North Carolina. The Parties further expressly waive any objection based on forum *non-conueniens* or any objection to the venue of any such action.
- C. This Agreement may be executed in one or more counterparts, each of which shall be an original, and all of which together shall be one and the same instrument.
- D. If any provision of this Agreement is determined to be unenforceable, invalid or illegal, then the enforceability, validity and legality of the remaining provisions will not in any way be affected or impaired, and such provision will be deemed to be restated to reflect the original intentions of the parties as nearly as possible in accordance with applicable law.
- E. This Agreement and each Party's rights and obligations hereunder shall not be assignable or delegable, in whole or in part, by any Party without the written consent of the other Parties.

[Remainder of Page Intentionally Left Blank – Signature Page Follows]

IN WITNESS WHEREOF, this Agreement has been executed, in duplicate, the day and year heretofore set out, on the part of the Government Entity and NCRR by authority duly given.

Attest: *Joseph K. Johnson*
County Clerk

GOVERNMENT ENTITY
County of Chatham

By: *[Signature]*
Name: Don LaMontagne
Title: County Manager



COMPANY
Innovative Construction Group, LLC

By: *[Signature]*
Name: Peter Hillier
Title: VP of Finance

NCRR
North Carolina Railroad Company

By: *[Signature]*
Name: Carl Warren
Title: President & CEO

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

[Signature]
Roy Lynch, Finance Officer

Exhibit A
Preliminary Rail Project Conceptual and Estimate



Trac Design Group, P.C.
4807 C. Keller Boulevard
Chapel Hill, NC 27617
Phone: 336-214-8010
www.tracdesigngroup.com
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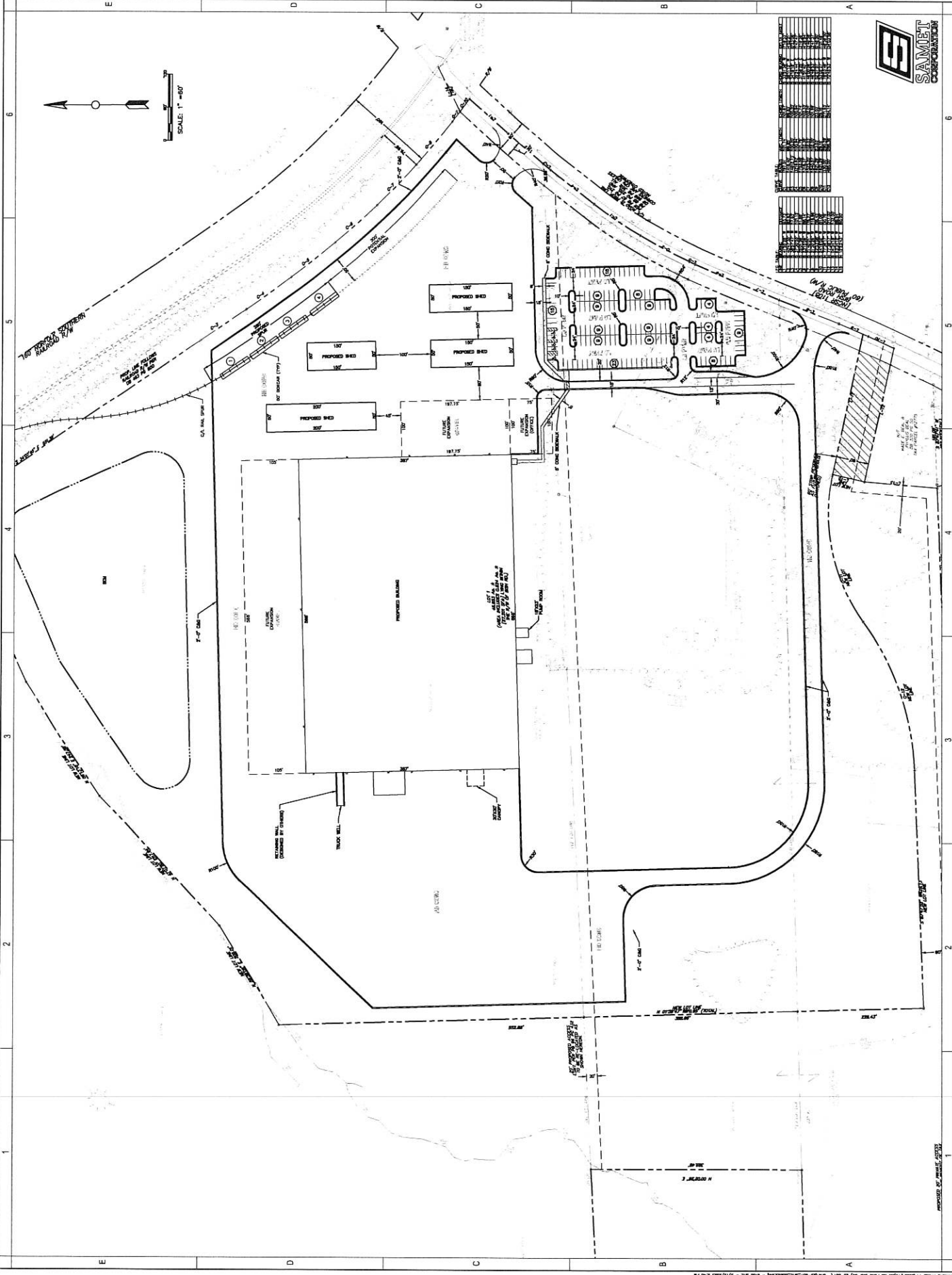
MIDSTATE DEVELOPMENT CENTER
PROJECT
HILTOP ROAD
SLER CITY, NORTH CAROLINA

NO.	DATE	DESCRIPTION

SHEET TITLE
SITE PLAN

DATE: APRIL 2022
DRAWN BY: [Name]
CHECKED BY: [Name]
SCALE: AS SHOWN

C100



DESIGNED BY: [Name]

THIS PLAN IS A PRELIMINARY PLAN AND IS NOT TO BE USED FOR CONSTRUCTION. ANY CHANGES TO THIS PLAN MUST BE APPROVED BY THE DESIGNER.

