

THIS CONTRACT IS SUBJECT TO ARBITRATION  
PURSUANT TO THE SOUTH CAROLINA UNIFORM ARBITRATION ACT

SECOND AMENDMENT TO THE  
DEVELOPMENT AGREEMENT  
FOR  
CAINHOY PLANTATION-TRUST #2  
(Cainhoy Land & Timber)

THIS SECOND AMENDMENT TO DEVELOPMENT AGREEMENT (the "Amendment") is made and entered into as of the \_\_\_\_ day of \_\_\_\_\_, 2014 by the CITY OF CHARLESTON, South Carolina, a political subdivision of the State of South Carolina ("City") and CAINHOY LAND & TIMBER, LLC, a Delaware limited liability company ("Owner") the successor in interest to PETER O. LAWSON-JOHNSTON AND THE MORGAN GUARANTY TRUST COMPANY OF NEW YORK, AS TRUSTEES OF THE TRUST CREATED BY ARTICLE NINTH OF THE WILL OF HARRY F. GUGGENHEIM, DECEASED ("Trust #2").

WHEREAS, the City and Trust #2 entered into that certain development agreement dated August 20, 1996 (the "Development Agreement") which Development Agreement was recorded in the Register of Deeds for Berkeley County in Book 1543, Page 221; and

WHEREAS, the City and Trust #2 amended the Development Agreement by the First Amendment to the Development Agreement dated October 9, 2001 which amendment was recorded on October 11, 2001 in Book 2444, Page 110; and

WHEREAS, Trust #2 conveyed to Owner all of its interest in the lands subject to the Development Agreement by deed dated July 19, 2007 and recorded in Book 6734, Page 169 and by corrective deed dated May 15, 2008 and recorded in Book 7368, Page 0001; and

WHEREAS, contemporaneously with this Amendment, Owner is annexing additional properties into the City which are more fully described on the attached Exhibit A ("Annexed Properties"); and

WHEREAS, contemporaneously with this Amendment, the City is adopting the Cainhoy Land & Timber PUD Master Plan and Zoning Text; and

WHEREAS, the City and the Owner desire to further amend the Development Agreement to accomplish, among other things, the substitution of the Cainhoy Land & Timber PUD Master Plan and Zoning Text for the Cainhoy District Zoning, the substitution of Cainhoy Land & Timber, LLC for Trust #2, the amendment of certain aspects of the Term of the

Agreement, the termination of the No Transfer Restrictions, the amendment of the property description to add the Annexed Properties and the amendment of the estimated Development Schedule.

NOW, THEREFORE, in consideration of the provisions of this Amendment and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree to amend the Development Agreement for Cainhoy Plantation-Trust #2 (Cainhoy Land & Timber), as amended, as follows:

1. The Annexed Properties are hereby added to the Development Agreement and the attached Amended Exhibit 2.11 is substituted for the original Exhibit 2.11 which contains the legal description of the Property which is subject to the Development Agreement. To this end, the following amendments are made to the Development Agreement:

Section 2.9 is amended to read: “Reserved”.

Section 2.11 is amended to read: “ Cainhoy Plantation (Cainhoy Land & Timber) The property owned by Cainhoy Land & Timber, LLC in the City of Charleston, Berkeley County as more described on the Amended Exhibit 2.11.”

Section 2.33 is amended to read: “Reserved”.

Section 2.34 is amended to read: “Reserved”.

Section 2.37 is amended to read: “Property. The Property which contains more than 2,000 acres of highland and which contains approximately 5,654 acres in the aggregate.”

Exhibit 2.11 of the Development Agreement is replaced by Amended Exhibit 2.11 (Amended Property Description), attached hereto.

Section 4.3 is amended to read: “Reserved.”

Section 4.4 is amended to read: “Reserved.”

2. The Cainhoy Land & Timber PUD Master Plan and Zoning Text shall govern the development of the Property and shall remain vested for the Term of the Development Agreement. All references to the “Cainhoy Zoning District Ordinance” and to “Cainhoy Zoning District” are replaced by “Cainhoy Land & Timber PUD Master Plan and Zoning Text.” To this end, the following specific amendments are made to the Development Agreement:

Section 2.10 is amended to read: “Cainhoy Land & Timber PUD Master Plan and Zoning Text. The Cainhoy Land & Timber PUD Master Plan and Zoning Text adopted by Ordinance No. 2014 - \_\_\_\_\_, on \_\_\_\_\_, 2014, attached hereto as Amended Exhibit

2.10.”

Section 2.26 is amended by deleting the words “Cainhoy Zoning District Ordinance” wherever they appear sequentially therein and replacing them with “Cainhoy Land & Timber PUD Master Plan and Zoning Text”.

Section 2.37 is amended to read: “The Property is as described in Amended Exhibit 2.11”.

Article 4 is amended to read: “Cainhoy Land & Timber PUD Master Plan and Zoning Text”.

Section 4.1 is amended to read: “Cainhoy Land & Timber PUD Master Plan and Zoning Text. The City has adopted the Cainhoy Land & Timber PUD Master Plan and Zoning Text. All of the Property shall be within and subject to the Cainhoy Land & Timber PUD Master Plan and Zoning Text”.

Section 4.6 is amended by deleting the words “Cainhoy Zoning District Ordinance” wherever they appear sequentially therein and replacing them with “Cainhoy Land & Timber PUD Master Plan and Zoning Text”.

Section 4.7 is amended to read: “Reserved”.

Section 4.8 is amended by deleting the words “Cainhoy Zoning District Ordinance” wherever they appear sequentially therein and replacing them with the words “Cainhoy Land & Timber PUD Master Plan and Zoning Text”..

Section 4.9 is amended by deleting the words “Cainhoy Zoning District Ordinance” wherever they appear sequentially therein and replacing them with the words “Cainhoy Land & Timber PUD Master Plan and Zoning Text”.

Exhibits 2.10 and 2.10A of the Development Agreement are replaced by Amended Exhibit 2.10 (Cainhoy Land & Timber PUD Master Plan and Zoning Text), attached hereto.

3. Section 2.25 of the Development Agreement is amended by adding thereto the following: “An Economic Development Project, as defined in the Cainhoy Land & Timber PUD Master Plan and Zoning Text, may, but not necessarily does, constitute Industrial Development”.

4. Section 3.1 of the Development Agreement is amended to read: “The City’s obligations under Article 6 shall terminate on the earlier of: (i) thirty (30) years after the Initial Commercial Activity which commenced on December 31, 2002 and (ii) development of eighty (80%) per cent of the usable acreage of the Property. All other provisions of this Development Agreement shall

terminate on December 31, 2063.”

5. Section 6.3 of the Development Agreement is amended by adding at the end thereof: “The City and the Owner agree to work together in coordinating the timing of payment of the Industrial Recruitment Contribution, or any part thereof, so as to allow the City sufficient opportunity to budget or otherwise identify a source of funding for the Industrial Recruitment Contribution”.

6. Section 15.2 of the Development Agreement is amended to change the City and Owner addresses for notices to:

City of Charleston  
80 Broad Street  
Charleston, South Carolina 29401  
Attn: Mayor

With a copy to:  
City of Charleston Legal Department  
80 Broad Street  
Charleston, South Carolina 29401

Cainhoy Land & Timber, LLC  
330 Madison Avenue  
18th Floor  
New York NY 10017  
Attn: Peter Lawson-Johnston II

With a copy to:  
Womble Carlyle Sandridge & Rice LLP  
5 Exchange Street  
Charleston, SC 29401  
Attn: Susan M. Smythe

8. Cainhoy Land & Timber, LLC, a Delaware limited liability company shall be substituted as the Owner and all references to “Trust #2” shall be amended to read “Cainhoy Land & Timber”. To this end, the following provisions of the Development Agreement are amended:

Section 2.31 is amended to read: “Owner. Cainhoy Land & Timber.”

Section 2.42 is amended to read: “Cainhoy Land & Timber. Cainhoy Land & Timber, LLC, a Delaware limited liability Company.”

7. Exhibit 5.5 of the Development Agreement is replaced with Amended Exhibit 5.5 (Development Schedule), attached hereto.

8. The No Transfer Covenant and any other transfer restrictions created by the First Amendment to the Development Agreement are hereby terminated.

9. All other terms, conditions and provisions of the Development Agreement as amended shall remain in full force and effect, except as expressly modified by the terms of this Amendment.

*Signature Pages Follow*





**EXHIBIT A**  
**RECENTLY ANNEXED PROPERTY**

All those certain pieces, parcels or tracts of land, situate lying and being in the City of Charleston, Berkeley County, South Carolina containing in the aggregate approximately 738.14 acres and being identified as tax map parcels TMS 260-00-00-047, 262-00-00-019, 268-00-00-003, 268-00-00-004, and 269-00-00-018.

AMENDED EXHIBIT 2.11  
SUBSTITUTE PROPERTY DESCRIPTION

All those certain pieces, parcels or tracts of land, situate, lying and being in Berkeley County, South Carolina, and known and designated as Cainhoy Plantation-Trust #2 Property, and lying generally between the Wando River and the Cooper River consisting of 5,653.52 acres, more or less as more fully described on that certain plat by F. Elliott Quinn, III, R.L.S., Thomas & Hutton Engineering Co. dated April 7, 2008 and recorded in Plat Cabinet M, Pages 40 through 47 in the Register of Deeds Office for Berkeley County (the "Plat") which is incorporated herein by reference. The above property is comprised of the following tracts of land shown on the Plat and includes all lands lying above mean high water.

CLEMENTS FERRY ROAD AT PENISULA

All those certain pieces, parcels or tracts of land, situate lying and being in the City of Charleston, Berkeley County, South Carolina containing in the aggregate 42.96 acres and comprised of (1) a 18.82 acre parcel, (2) a 15.26 acre parcel and (3) an 8.88 acre parcel, all as more fully shown on Sheet 5 of the Plat, filed in Plat Cabinet M, Page 44.  
Being a part of TMS 262-00-00-008.

WEST SIDE OF JACK PRIMUS ROAD

All that certain piece, parcel or tract of land, situate lying and being in the City of Charleston, Berkeley County, South Carolina containing in 1.23 acres as more fully shown on Sheet 2 of the Plat, filed in Plat Cabinet M, Page 41.  
Being a part of TMS 262-00-00-008.

EAST SIDE OF CAINHOY ROAD

All those certain pieces, parcels or tracts of land, situate lying and being in the City of Charleston, Berkeley County, South Carolina containing in the aggregate 10.27 acres and comprised of (1) an 8.24 acre parcel, (2) a 1.27 acre parcel and (3) a 0.76 acre parcel, all as more fully shown on Sheets 3 and 5 of the Plat, filed in Plat Cabinet M, Pages 42 and 44.  
Being a part of TMS 262-00-00-008.

MAIN TRACT NORTH OF CLEMENTS  
FERRY ROAD

All those certain pieces, parcels or tracts of land, situate lying and being in Berkeley County, South Carolina and partially in the City of Charleston containing 3,288.08 acres as more fully shown on Sheets 2, 3, 4 and 5 of the Plat, filed in Plat Cabinet M, Pages 41, 42, 43 and 44.  
Being a part of TMS 262-00-00-008, 262-00-00-019, 263-00-02-047 and 268-00-00-003.

**MAIN TRACT SOUTH OF CLEMENTS  
FERRY ROAD**

All those certain pieces, parcels or tracts of land, situate lying and being in the City of Charleston, Berkeley County, South Carolina containing in the aggregate 2,310.98 acres as shown on Sheets 2, 4, 5 and 6 of the Plat at Plat Cabinet M, Pages 41, 43, 44 and 45. Being a part of TMS 262-00-00-008, 268-00-00-004, and 269-00-00-018.

**MARSH BELOW MEAN HIGH WATER**

All of the Grantor's right, title and interest in those certain pieces, parcels or tracts of marsh and submerged lands, situate lying and being in the Berkeley County, South Carolina, in the City of Charleston and outside the City of Charleston, consisting of marsh and submerged lands lying below the mean high water mark of adjacent tidal waters and adjacent to the property described above as the Cainhoy Trust #2 Property, including any marsh and submerged lands not shown on the Plat.

AMENDED EXHIBIT 2.10  
CAINHOY LAND & TIMBER PUD MASTER PLAN AND ZONING TEXT

(attached)

AMENDED EXHIBIT 5.5  
DEVELOPMENT SCHEDULE

After development commences, the Owner contemplates that the Property may be developed for a multiple of uses, including residential, commercial and industrial uses.

The Owner anticipates that the first development activity shall be the sale of a tract south of Clements Ferry Road to Berkeley County School Board for the construction of a high school on approximately 100 acres. The Owner anticipates that this first transaction will precipitate development activities in the vicinity of the school parcel.

Having conducted studies only sufficient to the transaction with the Berkeley County School Board, the Owner estimates that it will take not less than thirty-five (35) years to fully develop the approximately 5,654 acres which comprise the Property and that an average of approximately 850 acres will be developed during each five (5) year period year after material development commences.