

WAKE COUNTY

BUSINESS DEVELOPMENT GRANT AGREEMENT

This Business Development Grant Agreement (the “Agreement”) is made and entered into as of the ____ day of _____, 2019 by and between Advance Stores Company, Incorporated, a business corporation incorporated in the state of Virginia and authorized to transact business in the State of North Carolina, on behalf of itself and Advance Auto Parts, Inc., Advance Auto Business Support, LLC, E-Advance, LLC, Crossroads Global Trading Corp., AAP Financial Services, Inc., Advance e-Service Solutions, Inc., and WORLDPAAC, Inc., and its and their Affiliates (as defined below) (collectively the “Company”) and WAKE COUNTY, North Carolina, a body politic and corporate and political subdivision of the State of North Carolina (the “County”). The County and Company may from time to time be referred to in this Agreement individually as a “Party” and collectively as the “Parties.”

WITNESSETH:

WHEREAS, the Local Development Act of 1925, as amended, (Article 1 of Chapter 158 of the North Carolina General Statutes) grants counties the authority to make appropriations for the purposes of aiding and encouraging the location or expansion of certain business enterprises in the county or for other purposes which the county’s governing body finds, in its discretion, will increase the population, taxable property base and business prospects of the county;

WHEREAS, N.C. Gen. Stat. § 158-7.1(b) lists specific economic development activities which a county may undertake, which list is not exclusive;

WHEREAS, the Company has been in discussions with the State of North Carolina (the “State”), and with the County, to explore the possibility of expanding the Company’s business operations in the County to include a wide range of customary public company headquarters functions and activities and the designation of Raleigh, North Carolina as the Company’s physical corporate headquarters (the “Project”);

WHEREAS, on September 17, 2018, the Board of Commissioners of the County met in closed session regarding the Company and its location possibilities and determined that (i) the Project would tend to increase the population, taxable property base and business prospects of the County, (ii) a business development grant in an amount determined and payable in accordance with this Agreement (the “Grant”) would encourage the Company to locate and provide jobs in the County, and (iii) it would be in the public interest to provide assistance as authorized by N.C. Gen. Stat. § 158-7.1, and approved the negotiation of a business development grant agreement for the Project;

WHEREAS, the Company has decided to locate the Project within the County; and

WHEREAS, the State of North Carolina (the “State”) has awarded the Company a Job Development and Investment Grant (“2018 JDIG”);

WHEREAS, the Company has decided to hire no fewer new employees than required per the terms of the Company’s 2018 JDIG at average wages at no less than 100% of the County

average no later than December 31, 2022 and invest or cause to be invested no less than \$5,470,000.00 for acquisitions of tangible personal property and improvements to real estate in the County related to the Project no later than December 31, 2019;

WHEREAS, N.C. Gen. Stat. § 153A-449 authorizes the County to contract with and appropriate money to any person, association, or company in order to carry out the public purpose in which the County is authorized by law to engage;

WHEREAS, the Board of Commissioners of the County found that the consideration that the County will receive, based on prospective tax revenues to be generated over a five-year period due to investment in the Project, will exceed the amount of the Grant offered in this Agreement; and

WHEREAS, the Board of Commissioners of the County, following a public hearing on January 22, 2019 approved the issuance of a Grant to the Company for the Project on the terms of this Agreement.

NOW, THEREFORE, in consideration of the reasons recited above, and the mutual covenants and obligations contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

1. Real Estate Improvements and Machinery, Equipment, Furniture and Fixture Acquisition. The Company shall purchase and/or make or cause to be made improvements at the two (2) sites chosen for the Project in Wake County, North Carolina, (collectively, the “Property”) and shall, upon request, produce documentation for improvements which have been made to the Property and receipts showing proof of construction upfit, acquisitions of machinery, equipment, furniture and fixtures by the Company for use at the sites of the Project. The Property shall be improved in accordance with the following:

(a) All construction undertaken, or caused to be undertaken, shall be or has been designed, constructed, and completed in accordance with applicable standards established by federal, State, local, and County regulations and laws; and

(b) The County shall not be responsible for any aspect of the design or construction of the premises.

2. Performance by the Company. This Agreement and the expenditure of County funds under this Agreement is expressly contingent upon the Company achieving the performance requirements within the time periods set forth below:

(a) Investment in Real Estate Improvements and Tangible Personal Property. The Company shall make, or cause to be made, investments for improvements to real estate and for acquisitions of tangible personal property (collectively, the “Investments”) in the County in connection with the Project which shall total at least \$5,400,000.00 on or before December 31, 2019.

(b) Employment. For the purpose of meeting the requirement of this Grant, the Company shall have created in each year of the Grant at least 25 new jobs with wages totaling

100% of Wake County's then average wage. Telecommuting positions shall not be counted towards the employment requirement set forth in this section.

The Parties agree that for purposes of calculating the "annual wage" of an employee of the Company "wage" shall have the meaning it has for purposes of the North Carolina Department of Commerce's Finance Center's calculation of "average annual wage" and that such meaning is the gross wage subject to reporting to the Division of Employment Security of the North Carolina Department of Commerce.

The Parties agree that the term "new employee" as used in this Agreement means a full-time employee who represents a net increase in the aggregate number of employees employed by the Company in the County in connection with the Project. A full-time employee is a person who is employed by the Company for at least thirty-five (35) hours per week and whose wages are subject to withholding. The Company shall be at a minimum compliant with the terms of its 2018 JDIG at average annual wages of the new jobs set forth therein. The Company agrees to include residents of the County in recruiting for open positions associated with the Project.

(c) Payment of Taxes by Company. The County tax assessor's office must confirm that the Company has paid, in full, the annual ad valorem taxes assessed on the Investments in the Project.

3. Documentation from the Company. In connection with each request for reimbursement, the Company shall deliver to the County Manager a performance letter by _____ of each Grant Year, in substantially the form of the attached Exhibit A (the "Performance Letter"), certifying that (1) the Company has taken the actions described in Section 2(a), (b), and (c) of this Agreement, (2) as of the date of the Performance Letter, the Investments for which the request is made have been completed, and (3) the Company qualifies for Jobs Development Incentive Grant program monies in such Grant Year. If the Company does not meet all of the conditions required to be certified in the Performance Letter, the Company shall not qualify for a grant payment from Wake County for that calendar year. Upon the request of the County Manager, the Company shall present to the County such evidence as may be reasonably requested to confirm the facts in the Performance Letter. To the full extent allowed by law, such requested evidence shall be kept confidential by the County and shall remain the property of the Company to be returned after the County's review.

It is agreed that the County, through its auditors, shall have the right upon reasonable notice and during normal business hours, to inspect and audit the Company's records pertaining to Investments and Employment with respect to the Project; but such audit rights shall be limited to audits required to verify Investments and Employment which are a requirement of this Grant. All records revealed by the Company to the County's auditors shall remain confidential and may be used by the County only for audit purposes to the full extent allowed by law. If the Company does not meet all of the conditions required to be certified in the Performance Letter, the Company shall not qualify for a cash Grant from the County for that Grant Year.

The Company acknowledges that it has been informed by the County that the County is required by law, upon request, to disclose "Public Records" as that term is defined by N.C. Gen. Stat. §132-1. Notwithstanding the immediately preceding sentence, the County acknowledges

that some or all of the information made available by the Company to the County pursuant to this Agreement may be exempt from disclosure as a “Public Record” pursuant to N.C. Gen. Stat. §§ 132-1.2 and/or 132-6(d), and that all such information may be proprietary. Some or all of the information made available to the County pursuant to this Agreement may be designated by the Company as confidential and as a trade secret at the time of disclosure to the County. The County, to the fullest extent allowed by state law, will hold such designated information as confidential. The County shall, if it receives a request for disclosure of any such information, promptly notify the Company in writing of such request so that the Company may defend any claims or disputes arising from efforts of others to cause such trade secrets to be disclosed as a Public Record, and the County shall refrain from making any such disclosures unless or until it (i) receives the Company’s written permission to do so; or (ii) is compelled to do so by the final order of a court of competent jurisdiction. The Company shall have the right to direct any litigation of such dispute and shall indemnify the County for any reasonable legal fees and expenses incurred by the County in opposing such request for disclosure. The Company acknowledges that the County has met the disclosure requirements set forth in N.C. Gen. Stat. § 132-1.11(b).

4. Payment of Grant.

(a) Upon the terms and conditions herein, the County agrees to provide an incentive to the Company as more specifically set forth in Section 4(c). The cash Grants shall be paid each calendar year (each, a “Grant Year”) beginning the year following the year the Investments have been made in full and continue for a period of five (5) consecutive years (the “Grant Period”).

(b) The cash Grants shall begin in the Grant Year after the Investments in the Project are made by the Company. The exact date of payments for each Grant Year shall be made within ninety (90) days of the Company’s delivery of the Performance Letter. For clarity, the first (1st) cash Grant is expected to be paid in 2020 for Grant Years 2018 and 2019 and the fifth (5th) cash Grant is expected to be made in 2024.

(c) The amount of the cash Grants to be paid by the County to the Company shall be fifty (50%) of the ad valorem taxes levied against the assessed value of the Investments as of January 1 of the preceding calendar year, as verified by the County tax assessor. In no event shall the cash Grant paid by the County in any Grant Year exceed the amount of ad valorem taxes actually paid in the preceding Grant Year for Investments in connection with the Project. The Parties agree that any payment of ad valorem tax made before January 6 following the due date of the tax shall be deemed to have been paid in the year the tax was due. In no event shall a cash Grant be made in any Grant Year if the Company has outstanding ad valorem tax liability to the County for any preceding Grant Year.

(d) Cash Grants are to be made directly to the Company and mailed directly to 2635 E. Millbrook Road, Raleigh, North Carolina 27604, Attention: Chief Financial Officer, or at such other address as shall be provided by the Company to the County in writing.

(e) In the event that all Grant requirements outlined in Section 2 and Section 3 of this Agreement are not met by Company for any Grant Year, then the County shall have no responsibility for all or any part of the Grant for that Grant Year, and Company or its Affiliates shall have no interest in or entitlement to the Grant for that Grant Year; provided, however, such

failure shall not relieve the County's responsibility for payment of a cash Grant in subsequent Grant Years subject to the Company meeting the Grant requirements in any such subsequent Grant Year. The Company shall be entitled to a thirty (30) day cure period for the strict purpose of submitting its Performance Letter in any Grant Year. For the purpose of this Agreement, an Affiliate means the Company or any other entity that directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the Company.

5. State and Local Incentives. This Agreement is expressly contingent on the Company's ability to qualify for matching funds from the State of North Carolina's part of the JDIG program. Company shall not qualify for cash Grant in any years of the Grant Period in the event that in such year the Company does not qualify for the JDIG program monies. This contingency only applies in those years when matching funds are available to the Company from the JDIG program.

6. Amendments to Agreement. This Agreement may be modified or amended only with the mutual written consent of the Parties.

7. Parties. This Agreement shall be binding upon and shall inure to the benefit of the Parties and their heirs and successors and assigns. As used herein, words in the singular include the plural and the masculine includes the feminine and neuter genders, as appropriate.

8. Entire Agreement. This Agreement contains the entire agreement of the Parties and there are no other representations, inducements, or other provisions other than those expressed in this writing. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute but one and the same instrument. It is specifically understood and agreed that the Company will be subject to applicable County ordinances, and other regulations.

9. Laws of North Carolina to Control This Agreement. The Parties agree that this Agreement is to be controlled by the laws of the State of North Carolina.

10. Jurisdiction and Venue. Any controversy or claim arising out of this Agreement shall be settled by an action initiated in the appropriate division of the General Court of Justice in Wake County, North Carolina.

11. Termination. Except as otherwise provided herein, this Agreement shall terminate on December 31st of the last Grant Year in which the County makes a cash Grant to the Company under this Agreement.

12. Assignment. With the approval of the County Board of Commissioners, the Company may assign all or part of its rights, benefits, and/or obligations under this Agreement to one or more Affiliates designated by the Company; provided that no such assignments shall relieve the Company of its obligations or Company specific performance requirements under this Agreement which are a condition of the Grant.

13. Notices. All notices to the Company under this Agreement shall be in writing either in person, by certified or registered mail, return receipt requested and postage prepaid, or by recognized overnight courier service, and addressed to the Company at the address set forth in the

Section 4(d) above, with a copy to 5008 Airport Road, Roanoke, Virginia 24012, Attention: General Counsel.

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

ATTEST:

WAKE COUNTY

Denise Hogan
County Clerk

By: _____
Jessica Holmes, Chair
Wake County Board of Commissions

Approved As to Form:

Scott Warren
Wake County Attorney

Advance Stores Company, Incorporated

By: _____
[NAME]
[TITLE]

Attested to:

By: _____
[NAME]
[TITLE]

Exhibit A

[Advance Stores Company, Incorporated Letterhead]

[date]

County Manager
Wake County
P. O. Box 550
Raleigh, NC 27602

Business Development Grant Agreement dated [], 20__ : Performance Letter

Dear Sir/Madam:

Section 3 of the Business Development Grant Agreement between Wake County and Advance Stores Company, Incorporated dated [____], 20__ (the “Agreement”) requires the Company to deliver a Performance Letter to the County Manager in connection with each request for reimbursement of the ad valorem taxes assessed on the Investments that the Company makes in the Project described in the Agreement.

(Terms used in this letter have the meanings that such terms have in the Agreement.) The Company hereby certifies that:

1. The Company made investments for improvements to real estate and for acquisitions of tangible personal property in the County in connection with the Project totaling at least \$5,400,000 on or before December 31, 2019 in accordance with Section 2(a) of the Agreement;
2. The Company has paid in full its ad valorem taxes to the County for tax year ____;
and
3. The Company has created at least 25 new jobs in Wake County each at an average wage at least equal to 100% of Wake County’s average wage; and the Company qualifies for a JDIG award for the Grant Year.

The Company respectfully requests reimbursement in the amount of \$_____ in accordance with Section 4 of the Agreement.

Sincerely yours,

[name] [title]