

NORTH CAROLINA

LEASE AGREEMENT

CHATHAM COUNTY

THIS LEASE AGREEMENT (this “Lease”), made and entered into this ____ day of August, 2017, by and between **CHATHAM COUNTY**, a body corporate and politic of the State of North Carolina (hereinafter “Landlord”) and **CHATHAM TRANSIT NETWORK**, a 501(c)(3) non-profit entity, having its principal place of business in Chatham County, North Carolina (hereinafter “Tenant”);

W I T N E S S E T H:

WHEREAS, Tenant has requested that Landlord lease to Tenant certain real property (hereinafter described) located at 127 Martin Luther King Blvd., Pittsboro, North Carolina so that Tenant may use the same as a transportation vehicle storage facility and office space related thereto; and

WHEREAS, Landlord has authority to appropriate funds and lease property to any person, firm, or corporation to carry out any public purpose Landlord itself is authorized to engage in; and

WHEREAS, Landlord is authorized to own, operate, and contract for the operation of public transportation systems to furnish services to Chatham County and its citizens and residents; and

WHEREAS, Tenant operates as a public transportation system that provides transportation service to low and moderate income residents of Chatham County and Landlord desires to support Tenant in the delivery of those services; and

WHEREAS, the Chatham County Board of Commissioners has determined that the service to be provided by Tenants to the residents of Chatham County is sufficient consideration for the lease of the said real property; and

WHEREAS, Landlord has agreed to lease the said real property to Tenant to be used by Tenant solely as Transportation Vehicle Storage Facility and Office Space related thereto for the benefit of citizens and residents of Chatham County; and

WHEREAS, Tenant has agreed to lease said space for the use of a Transportation Vehicle Storage Facility and Office Space;

NOW, THEREFORE, in consideration of the foregoing and the mutual agreements herein set forth, the parties agree as follows:

1. **PREMISES.** Landlord hereby leases and lets unto Tenant and Tenant hereby takes and hires from Landlord upon and subject to the terms, conditions, covenants, and provisions hereof, the transportation and vehicle storage facility and office space located on the real estate described on the attached Appendix 1, located at 127 Martin Luther King Blvd., Pittsboro, North Carolina, which leased office space by this reference is made a part hereof (hereinafter the “Premises”).
2. **ACCEPTANCE OF PREMISES BY TENANT.** Tenant has examined and inspected the Premises (including without limitation the underground storage tanks located thereon) and found the same to be suitable for Tenant’s use as a transportation vehicle storage facility and office space **BY THE EXECUTION OF THIS LEASE, TENANT SHALL BE DEEMED TO HAVE ACCEPTED THE PREMISES IN AS-IS CONDITION (AS OF THE COMMENCEMENT DATE) AND**

ACKNOWLEDGES THAT LANDLORD HAS MADE NO REPRESENTATIONS OR WARRANTIES (EXPRESS OR IMPLIED, OR OTHERWISE) WITH RESPECT THERETO, INCLUDING, WITHOUT LIMITATION, A WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ALL OF WHICH WARRANTIES ARE EXPRESSLY DISCLAIMED BY LANDLORD.

3. USE OF PREMISES. The Premises shall be used by Tenant as a transportation vehicle storage facility and office space and for no other purpose or purposes.
4. TERM. The term of this Lease commenced on the 1st day of August, 2017 (the "Commencement Date") and shall exist and continue until the 30th day of June, 2067.
5. RIGHT TO TERMINATE: Either Party shall have the right to terminate this Lease, upon Ninety (90) days prior written notice to the other party at any time during the term.
6. RENT. Tenant shall pay Landlord annual rent of One Dollar (\$1.00), due and payable for the term on or before the Commencement Date.
7. UTILITY EXPENSES. Tenant shall contract in its own name and pay for all housekeeping, internet, phone services, and all other utilities and services needed for Tenant's use of the Premises.
8. IMPROVEMENTS, REPAIRS, ADDITIONS, REPLACEMENTS.
 - (a) Tenant shall not make any additions or improvements to the Premises without the prior written consent of Landlord, which may be withheld in Landlord's sole and absolute discretion. All improvements to the Premises done by the Tenant shall attach to the real estate and become the property of Landlord.
 - (b) Tenant shall at all times during the term and all extensions of this Lease, and at its own cost and expense, keep and maintain in good condition the building on the Premises and any other improvements, whether structural or otherwise, located on the Premises, and shall exercise reasonable care to prevent waste, damage or injury to any of the same. Landlord shall have no obligation or responsibility with respect to the Premises.
 - (c) Tenant will not cause or permit any hazardous or toxic substance to be brought upon, kept or used in or about the Premises, whether by the Tenant, its agents, employees, contractor, or invitees, unless same will be used, kept and stored in a manner that complies with federal and state laws regulating any such hazardous or toxic substance so brought upon or used or kept in or about the Premises. If a violation of the foregoing occurs, the Tenant shall indemnify, defend and hold Landlord harmless from any and all claims, judgments, damages, penalties, fines and losses (including, without limitation, diminution in value of the Premises, and attorney's fees). Indemnification of the Landlord by the Tenant shall include but not be limited to, any cost incurred in connection with site investigation, clean-up, remedial, removal or restoration work required by any federal, state or local government agency as a result of contamination by the Tenant, its agents, employees, contractors, or invitees.

As used herein, the term "toxic or hazardous substances" means any toxic or hazardous substance, material or waste which is or becomes regulated by any local government authority, the State of North Carolina, or the United States Government, including but not limited to such materials and substances as are regulated under the Comprehensive

Environmental Response Compensation and Liability Act 42 U.S.C. 9601 et seq. and as regulated under the North Carolina Oil Pollution and Hazardous Substances Control Act. In addition, Tenant will operate, maintain, and repair the underground storage tanks on the Premises in conformity with all law, rules, and regulations governing the same.

- (d) On the expiration or sooner termination of this Lease, Tenant shall quit and surrender the Premises, remove all Tenant owned property, if any, and return the same to Landlord in the same or better condition that existed on the date hereof, ordinary wear and tear excepted.

9. REQUIREMENTS OF PUBLIC AUTHORITY.

- (a) Tenant shall, at its own cost and expense, promptly observe and comply with all laws, ordinances, requirements, orders, directives, rules, and regulations of any governmental authority affecting the Premises or any part thereof, whether the same are in effect at the commencement of the term of this Lease or may in the future be passed, enacted or directed. Tenant shall pay all fines, penalties, and fees levied upon or suffered by Landlord, which arise out of or occur from the failure of the Tenant to comply with the covenants of this Section.
- (b) Tenant shall have the right to contest by legal proceedings diligently conducted in good faith, in the name of the Tenant and/or Landlord (provided Landlord's prior written consent is given to the use of Landlord's name), without cost or expense to the Landlord, the validity or application of any law, ordinance, rule, regulation or requirement of the nature referred to in the preceding paragraph except for any such law, ordinance, rule, regulation or requirement enacted, adopted, or enforced by the Landlord acting in its capacity as a North Carolina county government.
- (c) If Landlord's consent is given, Landlord shall execute and deliver any appropriate papers or other instruments which may be reasonably requested by Tenant to contest the validity or application of any such law, ordinance, order, rule, regulation or requirement, and to fully cooperate with Tenant in such contest as provided in subparagraph (b) of this paragraph.

10. COVENANT AGAINST LIENS. If, because of any act, or omission of Tenant, any mechanic's or other lien, charge or order for the payment of money shall be filed against Landlord or any portion of the Premises, Tenant shall, at its own cost and expense, cause the same to be discharged of record or bonded within thirty (30) days after written notice from Landlord to Tenant of the filing thereof, and Tenant shall indemnify and save harmless Landlord against all costs, liabilities, claims, and demands resulting therefrom.

11. ACCESS TO PREMISES. Landlord or Landlord's agent shall have the right, but not the obligation, to enter upon the Premises at any reasonable times to inspect and examine the same. Landlord and Tenant shall execute a Memorandum of Understanding with respect to Landlord's access to the gasoline and diesel tanks on the Premises for use during emergencies.

12. ASSIGNMENT AND SUBLETTING. Tenant may not assign, or sublet, either in whole or in part, mortgage or otherwise encumber this Lease or its interest herein without Landlord's prior written consent, which may be withheld in Landlord's sole and absolute discretion. In the event Landlord

consents to an assignment or sublease, Landlord, as a condition to its consent, may require the assignee or sublessee to assume the liabilities set forth herein and pay an assumption fee and all other expenses, including attorney fees, incurred by Landlord.

13. SIGNS. Subject to the prior written approval of Landlord, Tenant shall have the right to install, maintain and replace signs upon the Premises, provided the same comply with all sign ordinances and any conditions stated by Landlord in writing and delivered to Tenant, as the same may be changed or modified from time to time. All costs of the signs, including permits, will be paid by Tenant, and such signs placed upon the Premises will be removed by Tenant at its cost at the expiration or earlier termination of this Lease, and the Premises restored to its former condition existing on the Commencement date.
14. INDEMNITY. Tenant shall indemnify, defend and save harmless Landlord from and against any and all claims, costs, expenses (including, without limitation, reasonable attorney fees and the cost of investigations and experts), damage, penalty or judgment arising from injury to persons or property sustained on and about the Premises. Tenant shall at its own cost and expense defend any and all suits or actions, including appeals, which may be brought against Landlord or in which Landlord may be impleaded with others upon any such aforementioned matter or claim except suits or actions which arise or occur solely as a result of the acts of Landlord, its officers, agents or employees.
15. INSURANCE.
 - (a) Tenant shall and keep in full force and effect during the term of this Lease comprehensive general liability insurance with an insurance company or companies licensed to do business in the State of North Carolina and approved by Landlord in an amount of not less than One Million Dollars (\$1,000,000) with respect to injury or death to any one person, Five Hundred Thousand Dollars (\$500,000.00) with respect to injury or death to more than one person in any one accident or occurrence, and Fifty Thousand Dollars (\$50,000.00) with respect to damages to property. Such policy or policies shall include Landlord as an additional insured party. The amounts of insurance specified in this subparagraph (a) shall increase on each tenth (10th) anniversary of the Commencement Date by the percentage increase in the Consumer Price Index since the Commencement Date, or the preceding anniversary date, as the case may be.
 - (b) All such insurance carried by Tenant shall name Landlord as an additional insured and shall provide that the same cannot be modified or canceled without thirty (30) days written notice to both parties, and shall waive any right of subrogation against Landlord or Tenant. Tenant shall furnish proof to Landlord annually of all such insurance and the renewal of the same.
16. QUIET ENJOYMENT. Tenant, upon paying the rent and all other sums and charges required by it to be paid as herein provided, and observing and keeping all covenants, warranties, agreements, and conditions of this Lease on its part to be kept, shall quietly have and enjoy the Premises during the term hereof without any hindrance or molestation by anyone claiming under, by, or through Landlord.
17. DEFAULT OF TENANT. If Tenant shall fail to keep and perform any covenant or obligation of this Lease and shall continue in such default for a period of thirty (30) days with respect to any default after Landlord has given Tenant written notice of such default and demand of performance, then Landlord may:

- (a) Enter into the Premises or any part thereof and expel Tenant or any person occupying the same in order to repossess and enjoy said Premises as in Landlord's former estate, and hold Tenant responsible for the cost of performing any covenant or obligation hereunder not performed by Tenant;
- (b) Exercise its rights under subparagraph (a) above and re-let the Premises, applying the rent collected from the new Tenant toward the cost of performing Tenant's obligations and covenants;
- (c) Terminate this Lease; or
- (d) In addition to the foregoing, Landlord may pursue the rights and remedies accorded to it under applicable law or Landlord may do nothing and shall not waive any of its rights and remedies by such inaction. Upon default, Tenant hereby expressly waives notice to quit possession and such other formalities or conditions as may be required by law.

18. WAIVERS. Failure of Landlord to complain of any act or omission on the part of Tenant no matter how long the same shall continue shall not be deemed to be a waiver by Landlord of any of its rights hereunder. No waiver by Landlord at any time, express or implied, of any breach of any provision of this Lease shall be deemed a waiver of a breach of any other provision of this Lease or a consent to any subsequent breach of the same or any other provision.

19. NOTICES. Every notice, approval, consent or other communication authorized or required by this Lease shall not be effective unless same shall be in writing and either personally delivered or sent postage prepaid by United States registered or certified mail, return receipt requested, directed to the other party at its address shown as follows:

To the Landlord:

Chatham County
 Chatham County Manager
 Post Office Box 1809
 Pittsboro, North Carolina 27312

To the Tenant

Chatham Transit Network
 Attention: Executive Director
 Post Office Box 1032
 Pittsboro, North Carolina 27312

The parties shall be responsible for notifying each other of any change of address.

20. PARTIAL INVALIDITY. If any term, covenant, condition or provision of this Lease or the application thereof at any time to any extent shall be invalid or unenforceable, the remainder of this Lease or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby and each term, covenant, condition, and provision of this Lease shall be valid and be enforced to the fullest extent permitted by law.

21. EMINENT DOMAIN. If the whole or any part of the Premises shall be acquired or condemned by eminent domain or like power for any public or quasi-public use then this Lease shall terminate effective on the date possession thereof shall be taken. Such termination, however, shall be without prejudice to the right of either Landlord or Tenant to recover compensation and damages caused by the taking from the condemnor. Neither party shall have any rights in any award made to the other party by any condemnation authority.

22. ENTIRE AGREEMENT. No oral statement or prior written matter shall have any force or effect. Tenant agrees that it is not relying on any representation or agreement other than those contained in this Lease.

This Lease, including Appendix 1 attached hereto contains all the agreements and conditions made between the parties hereto and may not be modified orally or in any other manner than in writing signed by the parties hereto or their respective successors.

23. SUCCESSORS. All rights and liabilities herein given to, or imposed upon Landlord and Tenant shall extend to and bind the respective successors and assigns of Landlord and Tenant, provided any successor or assignee of Tenant must be approved in writing by Landlord, which approval may be withheld in Landlord's sole and absolute discretion.

IN WITNESS WHEREOF, the Landlord and Tenant have set their hands and seals this the day and year first above written.

LANDLORD:

CHATHAM COUNTY

By: _____

Renee F. Paschal, County Manager

TENANT:

CHATHAM TRANSIT NETWORK

By: _____

Anna Testerman, Executive Director

CHATHAM TRANSIT NETWORK:

NORTH CAROLINA

COUNTY OF _____

I _____, a Notary Public of the County and State aforesaid, do hereby certify that Renee Paschal personally appeared before me this day and acknowledged that she is the County Manager of Chatham County, North Carolina, and she as County Manager, being authorized to do so, executed the foregoing instrument on behalf of the said County.

Witness my hand and official seal this _____ day of _____, _____.

Notary Public in and for the State of North Carolina

Printed Name

(Affix Notary Seal)

My Commission Expires:_____

NORTH CAROLINA
COUNTY OF _____

I _____, a Notary Public of the County and State aforesaid, do hereby certify that Anna Testerman, personally appeared before me this day and acknowledged that she is the Executive Director and as such, being authorized to do so, executed the foregoing instrument on behalf of Chatham Transit Network.

Witness my hand and official seal this _____ day of _____, _____.

(Affix Notary Seal)

Notary Public in and for the State of North Carolina

Printed Name

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

Vicki McConnell, Finance Director

APPENDIX 1

Lying and being in the Town of Pittsboro, Chatham County, North Carolina, and more particularly described as follows:

I. BEGINNING at an iron stake in the Eastern edge of the street located at the rear of the lands of C.W. Walker and leading from a new U.S. Highway No. 64 to the colored church yard, which stake is located 275 feet South from the Southern edge of the right-of-way of new U.S. Highway No. 64 and running thence East 265 feet to an iron stake; thence South 500 feet to an iron stake; thence West 265 feet to an iron stake in the Eastern edge of said street; thence with the Eastern edge of said street North 500 feet to the beginning; containing three acres more or less; and being a port of the Old Lambe tract of land which was purchased by the said J.A. Farrell, Sr. from Dr. R.M. Farrell .

II. BEGINNING at the Southwest corner of that tract of land conveyed to the Board of Education of Chatham County by J.A. Farrell Sr. and wife and upon which, at the present time, is being constructed a County Garage; thence in a Southerly direction 100 feet to the northwest corner of the property known as the Colored Fair Ground property thence in an Easterly direction with the line of the Colored Fair Ground property to a branch; thence up the branch as it meanders to the Lacy Beal property; thence in a Westerly direction with the line of Lacy Beal's property to the Southeast corner of the County Garage property, and thence in a Westerly direction with the Southerly line of the County Garage property to the point of the beginning.