

NORTH CAROLINA

LEASE AGREEMENT

CHATHAM COUNTY

THIS LEASE AGREEMENT (this “Lease”), made and entered into this ____ day of 2015, by and between **CHATHAM COUNTY**, a body corporate and politic of the State of North Carolina (hereinafter “Landlord”) and **LIBERTY CHAPEL CHURCH, INC.**, a North Carolina nonprofit corporation having its principal place of business in Chatham County, North Carolina (hereinafter “Tenant”);

WITNESSETH:

WHEREAS, Tenant has requested that Landlord lease to Tenant real property (hereinafter described) known as the Town Square of the former Town of Haywood, Chatham County, North Carolina so that Tenant may use the same as a Public Park (the “Public Park” or the “Public Park Site”); 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 provide, acquire, construct, equip, operate, and maintain public parks, playgrounds, and recreation facilities for the benefit of the citizens and residents of Chatham County; and

WHEREAS, Landlord has agreed to lease the said real property to Tenant to be used by Tenant solely as a Public Park for the citizens and residents of Chatham County and has determined that the agreement of Tenant to use of the property solely as a Public Park at no cost or charge to Landlord or the citizens and residents of Chatham County is sufficient consideration for this Lease; and

WHEREAS, Tenant has agreed to equip, operate, and maintain, the Public Park;

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 parcel of real estate located in the former Town of Haywood, North Carolina, as more definitely described as the “Public Square” or “Town Square”, on the attached Appendix 1, which is by reference hereto made a part hereof (hereinafter the “Premises”).
2. **ACCEPTANCE OF PREMISES BY TENANT.** Tenant has examined and inspected the Premises and found the same to be suitable for Tenant’s use as a Public Park. **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. TITLE: Landlord has only such right, title and interest in and to the Premises as was conveyed to it by the State of North Carolina by deed dated October 13, 2015, and recorded in Book 01822, Page 0609, Chatham County Registry.
4. USE AS A PARK. The Premises shall be used by Tenant as a Park and for no other purpose or purposes.
5. TERM. The term of this Lease shall commence on the 1st day of January, 2016 (the "Commencement Date") and shall exist and continue for a term of TWENTY (20) years until the 31st day of December, 2036, unless terminated as hereinafter provided.
6. LANDLORD'S RIGHT TO TERMINATE: Notwithstanding any other provision of this Lease, Landlord, upon Ninety (90) days prior written notice to TENANT, shall have the right to terminate this Lease at any time during the term.
7. RENT. Tenant shall pay Landlord rent of One Dollar (\$1.00) , due and payable for the term entire on or before the Commencement Date.
8. OPERATION OF PUBLIC PARK. The Park Site shall be operated by Tenant solely as a Public Park for use by all of the citizens and residents of Chatham County at no cost or charge to Landlord or its citizens and residents, and Landlord shall have no responsibility, obligation, duty, control, or authority with respect to the operation of the same.
9. UTILITY EXPENSES. Tenant shall contract in its own name and pay for all utilities and other services furnished to the Premises.
10. 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 and repair the Park and the Premises and any other improvements thereon, whether structural or otherwise, located on the Premises, and shall exercise reasonable care to prevent waste, damage or injury to any of the same.
 - (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, a sublessee, 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.

- (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.

11. 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.

12. 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.
13. 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.
14. 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.
15. 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.
16. 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.
17. 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 Five Hundred Thousand Dollars (\$500,000.00) 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 the tenth (10th) anniversary of the Commencement Date by the percentage increase in the Consumer Price Index since the Commencement Date.

(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 of all such insurance and the renewal of the same.

18. 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.

19. 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.

20. 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.

21. 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

Pastor Norma Bryant
Liberty Chapel Church, Inc.
Post Office Box 345
Moncure, North Carolina 27312

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

22. PARTIAL INVALIDITY. If any term, covenant, condition or provision of this Lease or the application thereof at any time to any extent 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.
23. 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 or purpose which renders the Premises unusable by Tenant 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.
24. 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 with 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 successor.

25. 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.

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

ATTEST:

By: _____
Lindsay K. Ray, Clerk
Chatham County Board of Commissioners

TENANT:

LIBERTY CHAPEL CHURCH, INC.

Norma Bryant, Chair

ATTEST:

Secretary

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 Norma Bryant personally appeared before me this day and acknowledged that he/she is the Chairperson of Liberty Chapel Church, Inc., and as Chairperson, being authorized to do so, executed the foregoing instrument on behalf of Liberty Chapel Church.

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

Notary Public in and for the State of North Carolina

Printed Name

(Affix Notary Seal)

Appendix 1

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

Being all of the parcel or tract of land identified as “PUBLIC SQUARE” (also known as “Town Square”) of the Town of Haywood, containing five (5) acres, more or less, shown and described on a map of the Town of Haywoodsborough surveyed and laid off by Johnathan Lindey in 1799, a copy and tracing of which map dated August 31, 1908 is recorded in the Office of the Register of Deeds of Chatham County in Plat Book 8 at page 18, said parcel or tract of land being further described as Chatham County tax parcel number 90444 (PIN 9687-18-7167).

SUBJECT TO the rights of others in and to existing rights of way and easements located on the above described property.

For reference see: Book L, Page 343, Chatham County Registry; Laws of North Carolina: (i) 1796, Chap. 47, (ii) 1796, Chap. 21, (iii) 1797, Chap. 48, (iv) 1800, Chap. 42; Private Law 1905, Chap. 170; Public Law 1915, Chap. 105 and Public Law 1921, Chap. 48.