

**NORTH CAROLINA  
CHATHAM COUNTY**

**JOINT USE AGREEMENT FOR THE  
CHATHAM GROVE ELEMENTARY SCHOOL GYMNASIUM / COMMUNITY  
CENTER**

This Agreement for the joint use of the Chatham Grove Elementary School Gymnasium and Community Center (hereinafter referred to as "Agreement") made and entered into this 8<sup>th</sup> day of February 2021 by and between CHATHAM COUNTY, a body politic and corporate of the State of North Carolina (hereinafter referred to as "COUNTY"), and the CHATHAM COUNTY BOARD OF EDUCATION (hereinafter referred to as "Board"). County and Board may herein be referred to collectively as the "Parties" and separately as a "Party".

**WITNESSETH**

**WHEREAS**, the Parties recognize that cooperation and action between Board and County shall ensure that the best facilities and services are provided to the citizens of Chatham County with the least expenditure of public funds; and

**WHEREAS**, the Parties are mutually interested in quality education and recreation programs for Chatham County students and citizens; and

**WHEREAS**, each Party is authorized to enter into agreements with each other to do any and all things necessary or convenient to aid and cooperate in the cultivation of citizenship by providing quality programs and facilities; and

**WHEREAS**, Board owns certain real property known as the Chatham Grove Elementary School campus (CGES); and

**WHEREAS**, the Parties anticipate a mutually cooperative long-term joint use association at CGES; and

**WHEREAS**, the Board has determined that certain areas of CGES (*i.e.*, gymnasium, parking areas, drive access, and playground and outdoor open spaces) are not necessary at all times for public school purposes and are, therefore, suitable for joint use; and

**WHEREAS**, the Parties agree that the community center located at CGES is best suited for and should therefore be principally used for County purposes; and

**WHEREAS**, the Parties agree that the County shall operate and maintain the community center, and have access to the interior bus loop parking area and drive access of CGES, as shown on the diagram showing County Licensed Areas 1-4; and

**WHEREAS**, community use of Board Property is encouraged by the Community Schools Act N.C.G.S. 115C-203 *et seq.*; and

**NOW, THEREFORE**, pursuant to North Carolina General Statutes Chapter 115C, Article 13, G.S. 115C-524(b), and G.S. 160A-274, and in consideration of the above-stated desires of the parties and such other mutual promises and covenants as are hereinafter set forth, the County and the Board do hereby agree as follows:

1. **Property Description.**

Chatham Grove Elementary School is located at 1301 Andrews Store Road, Pittsboro, North Carolina 27312 and further described in Deed Book 1960, Page Number 379, and consisting of approximately 26.15 acres ("Board Property").

2. **County Licensed Areas (CLA).**

Board hereby gives and grants to County a license to use, pursuant to the terms of this Agreement, the following areas of Board Property identified as "County Licensed Areas" on Attachment A and more specifically described as follows:

- A. County Licensed Area #1 - Community Center
- B. County Licensed Area #2 - Gymnasium
- C. County Licensed Area #3 - Staff and public parking
- D. County Licensed Area #4 - Playground and outdoor spaces (adjacent to CLA #2 Gymnasium)

3. **Term.**

The Parties anticipate a mutually cooperative long-term joint use association at CGES. This Agreement shall remain in effect from the date of execution of this Agreement and shall remain in effect unless and until modified or terminated as provided herein.

4. **Agreement Modifications.** This Agreement may be amended at any time by written amendments duly approved and executed by and between the Parties.

5. **Liability.**

The Parties agree and understand that the Board is authorizing the use of its property, including the County Licensed Areas, only to the extent permitted by N.C. Gen. Stat §115C-524(c), and that the Board does not hereby incur any liability to the County or any member of the public for permitting this use. No liability shall attach to the Board of Education, individually or collectively for any injury suffered by reason of any County use or maintenance of Board Property pursuant to this Agreement.

6. **Enhancements to the Property.**

Any proposed modifications or enhancements to any CLA shall be discussed between the Parties, and a mutually agreed upon plan for oversight, funding, effect on facility use, and other considerations shall be developed.

7. **Ownership.**

All permanent improvements and fixtures made to or upon Board Property by the County shall be the property of the Board.

8. **Appropriate Use.**

The County or its designated agent shall ensure appropriate use, consistent with Board Policy,

of the CLA during those times when facilities are not scheduled or required for school purposes. No use of CGES shall be inconsistent with the proper care of public-school property. In the event of any changes to Board policy that affect the use of CLA subject to this Agreement, the Board will provide copies of the policy to the County.

**9. Joint Use and Scheduling of County Licensed Areas.**

The use of CLA shall be in accordance with the following conditions and provisions:

**A. Administrative Control.**

The Superintendent of the Chatham County Public School System or designee shall have administrative responsibility for exercising and performing the Board's rights and responsibilities under this Agreement. The County Manager or designee shall have administrative responsibility for exercising and performing the County's rights and responsibilities under this Agreement.

**B. Hours of Operation.**

- Normal School hours are from 7 a.m. to 3:30 p.m. on school days and teacher workdays.
- Non-School hours are defined as: (i) after normal school hours on school day and teacher workdays; (ii) weekends; (iii) holidays; (iv) staff vacation days; and (v) during school breaks including spring, summer and winter breaks.

**C. Use of CLAs**

**1. Community Center Use (CLA #1).**

- a. The County may operate and schedule use of CLA#1 at any time other than between the hours of 7:15 a.m. through 8:30 a.m. and 2:30 p.m. through 3:30 p.m. on school days.
- b. The Board may request use of CLA#1 during times when no County recreation programs are scheduled.

**2. Gymnasium Use (CLA #2).**

- a. The Board may operate and schedule use of CLA #2 during normal school hours.
- b. Subject to c and d below, the County may use CLA#2 during non-school hours.
- c. The Board shall have reasonable access and use of the CLA #2 during non-school hours when such activities have been scheduled in coordination with the County. The Board shall make every effort to schedule events that take place during non-school hours during the calendar coordination meetings. With reasonable notice to the County, the Board may schedule additional use of the CLA #2 on a space-available basis for events that take place during non-school hours. Whenever feasible, such unplanned use shall be scheduled within a reasonable period of time in advance.
- d. If an After-School Care Program is offered by the Board, then the Board may use half of CLA #2 Monday-Friday from 3:30 p.m. through 5:00 p.m.
- e. The County has the option to provide a day camp for students on teacher workdays when such areas are not needed for school purposes.
- f. The County has the option to provide a summer camp program when such areas are not needed for school purposes

**3. Staff and Public Parking Use (CLA #3).**

- a. The County Parks and Recreation shall have access to staff and public parking

(CLA #3) during and after normal school hours, or as mutually agreed to by both Parties.

4. Playground and Outdoor Spaces Use (CLA #4).

- a. The County shall have the right to access and use CLA #4 in conjunction with any use authorized by C.2. above.

D. Inclement Weather.

The Board in its sole discretion will make decisions on when to close its schools due to inclement weather. If the County decides to make use of CLAs during periods when schools are closed because of inclement weather, the County and its invitees do so at their own risk and without endorsement of the Board.

E. Scheduling.

Use of the CLAs shall be coordinated in accordance with the following:

1. General guidelines:

- a. The Parties shall meet a minimum of three times each calendar year to coordinate usage in the form of a Joint Usage Calendar.
- b. Each Party shall act in good faith to provide as much advance written notice as possible to the other Party of its scheduled use of CLAs not otherwise identified by the Joint Usage Calendar.
- c. The County shall provide the Board with its schedule of dates and hours of operation of CLA #1 for security purposes.

F. Supervision and Security.

1. The County shall provide adult supervision of participants, parents, staff, and visitors to ensure their safety and wellbeing during County usage of CLAs.
2. The Board shall provide adult supervision, per the Board's policies and procedures, during Board usage of CLAs.
3. The Board shall be responsible for providing security during Board-sponsored events or programs, per the Board's policies and procedures.
4. The County shall provide the following security monitoring service with regard to CLA #1 and #2:
  - a. Security background checks, including a check of the sex offender registries as described in Paragraph 16 below of all County staff members (employees, volunteers and instructors) assigned to the community center/gymnasium and having key access prior to said County staff members entering Board property.

5. False Alarm Fees.

- a. The County shall pay "False Alarm" fees assessed and attributed to CLA #1
- b. The County shall pay "False Alarm" fees assessed and attributed to the County's usage of CLA #2.
- c. The Board shall pay "False Alarm" fees for CLA #2 unless assessed and attributed to the County's use of CLA #2.

G. Income Generated.

1. County Programs:

Any income from County programs and events shall go to the County.

2. School Programs:

Any income from Board programs and events shall go to the Board.

3. Concessions:

The County or its agent may operate concessions when such facilities are used for County purposes and the Board or its agent may operate concessions when such facilities are used for Board purposes.

- (1) Income from concessions shall go to the County when the County or its agent operates the concessions.
- (2) Income from concessions shall go to the Board or its designee when the Board or its agent operates the concessions.

H. Fees/Charges.

Board and County agree that except as expressly stated in this Agreement, there shall be no additional fees and/or charges associated with either Party's use of CLA #2 unless mutually agreed upon.

**10. Housekeeping, Routine Maintenance/Major Repair and/or Replacement**

A. General Guidelines.

1. The Parties shall discuss issues related to these topics and work to find solutions or schedule access for needed maintenance and/or repair/replacement to minimize impact to Board and County operations.
2. The Board shall allow trash generated from County use of CLAs to be disposed of in school dumpsters.

B. Housekeeping Responsibilities for CLA #1

1. The County shall:
  - a. Provide all housekeeping supplies and services
  - b. Be responsible for all housekeeping duties.
  - c. Set-up and breakdown equipment for County events.
  - d. Perform general cleaning duties after County events.
2. The Board shall:
  - a. Set-up and breakdown equipment for Board events.
  - b. Perform general cleaning duties after Board events.

C. Housekeeping Responsibilities for CLA #2

1. The County shall:
  - a. Set-up and breakdown equipment for County events.
  - b. Perform general cleaning duties after County events.
  - c. Provide a protective floor covering at no cost to the Board for all non-recreational use of the gymnasium, both for County and Board events.
2. The Board shall:
  - a. Set-up and breakdown equipment for Board events.
  - b. Perform general cleaning duties after Board events.
  - c. Be responsible for set-up and take down of County provided protective gym floor covering for non-recreational Board events.
3. The Parties shall develop a pre-/post-event checklist to be used by both Parties to identify the condition, repairs needed, and damage/vandalism to the facility, floor covering, and equipment.

D. Routine Maintenance/Major Repair and/or Replacement for CLA #1

1. The County shall:
  - a. Be responsible for all routine maintenance/major repair and/or replacement for CLA #1

except for the items listed in 9.D.2.a/b below.

- b. All work/repairs/replacement are to be made and or performed at or above industry standards by qualified personnel.
2. The Board shall:
  - a. Be responsible for the maintenance and repair of all services/utilities related to HVAC, water, wastewater, electricity, the building envelope, and surrounding outdoor spaces. (An example of this is that the Board will make sure the water and wastewater utilities are functioning properly and the County will be responsible for the maintenance/repair/replacement of the sinks and toilets.)
  - b. Any damages caused to CLA #1 by Board use will be repaired/replaced by qualified personnel at no expense to the County.
- E. Routine Maintenance, and Major Repair and/or Replacement for CLA #2
  1. The County shall:
    - a. Be responsible for any damages/vandalism caused to CLA #2 and/or surrounding outdoor spaces by County use. These will be repaired/replaced by the Board and billed to the County for reimbursement. County shall submit reimbursement to Board within 30 days upon receipt of invoice.
  2. The Board shall:
    - a. Be responsible for all routine maintenance/major repair and/or replacement for CLA #2. This includes the maintenance and repair of all services/utilities related to HVAC, water, wastewater, electricity, the building envelope, and surrounding outdoor spaces, except for circumstances described in item 9.E.1.a above.

#### **11. Insurance/Liability**

- A. County shall maintain at all times during the term of this Agreement and during any and every extension thereof public liability insurance in the amount of \$1,000,000 per occurrence with \$2,000,000 general aggregate. The Board shall be named as an additional insured on the County's general liability policy. The County shall furnish the Board with evidence of such insurance and of its renewal as the premiums become due. The County shall provide the Board with thirty days prior written notice of any reduction in coverage or cancellation of such insurance. Nothing in this section shall be construed as a waiver of any applicable defense of governmental, statutory, or common law immunity by County.
- B. The Board shall maintain at all times during the term of this Agreement adequate risk pool coverage by participation in a risk management program such as the NC School Boards Trust. The Board will also be responsible for the cost of Fire and Hazard insurance in the amount equal to the replacement cost value of CLA #1 and CLA #2. Nothing in this section shall be construed as a waiver of any applicable defense of governmental, statutory, or common law immunity by Board.
- C. The Parties are each responsible for insuring replacement value of their respective personal property.

#### **12. Open to General Public.**

The County agrees that its programs and services will be provided to residents of Chatham County on a nondiscriminatory basis.

#### **13. Nondiscrimination.**

The Board and County shall not discriminate against any employee or applicant for



employment because of race, color, creed, sex, age, religion, or national origin. Neither the Board, County, or their employees shall discriminate against any person or organization on the basis of race, color, creed, sex, age, religion, or national origin by refusing to furnish such person or organization services for privileges offered to or enjoyed by residents of Chatham County, nor shall the County, Board, or their employees publicize the facilities provided hereunder in any manner that would directly or indirectly reflect negatively on any person because of race, color, creed, sex, religion or national origin.

14. **Indemnification by County.** To the extent allowed by law, and except for any claims, damages, liabilities or expenses arising from or out of the negligent or willful acts or omissions of the Board, its employees, or agents, the County hereby agrees to indemnify and hold the Board harmless from any and all claims, damages, liabilities or expenses arising out of (i) any and all claims by third parties arising from any breach or default in the performance of any obligation of the County under this Agreement, (ii) negligence or willful acts or omissions (where there was an obligation for the County to act) of the County, its agents, volunteers or employees, or (iii) the injury to, or death of, any persons or damage to, or destruction of any property occurring on the property of CGES directly caused by County, its agents, or employees. The indemnification provided for herein shall not be construed as a waiver of any applicable defense of governmental, statutory, or common law immunity, and shall not prevent County from asserting any defense of such immunity; provided that if a court of competent and final jurisdiction determines that no such immunity applies, then the indemnity provided for herein shall apply.
15. **Indemnification by the Board.** To the extent allowed by law, and except for any claims, damages, liabilities or expenses arising from or out of the negligent or willful acts or omissions of County, its employees, or agents, the Board hereby agrees to indemnify and hold the County harmless from any and all claims, damages, liabilities or expenses arising out of (i) any and all claims by third parties arising from any breach or default in the performance of any obligation of the Board under this Agreement, (ii) negligence or willful acts or omissions (where there was an obligation for the Board to act) of the Board, its agents or employees or (iii) the injury to, or death of, any persons or damage to, or destruction of any property occurring on the property of CGES directly caused by the Board, its agents or employees. The indemnification provided for herein shall not be construed as a waiver of any applicable defense of governmental, statutory, or common law immunity, and shall not prevent Board from asserting any defense of such immunity; provided that if a court of competent and final jurisdiction determines that no such immunity applies, then the indemnity provided for herein shall apply.
16. **E-Verify.** The Parties understand that “E-Verify” is a federal program operated by the United States Department of Homeland Security and other federal agencies, or any successor or equivalent program used to verify the work authorization of newly hired employees pursuant to federal law in accordance with Section 64-25(5) of the General Statutes of North Carolina, as amended. Each Party agrees to use E-Verify to verify the work authorization of its employees in accordance with Section 64-26(a) of the General Statutes of North Carolina, as amended, and each Party will require any subcontractor that it uses in connection with the transactions contemplated herein to certify to such subcontractor’s compliance with E-Verify.
17. **Lunsford Act.** The County acknowledges that G.S. § 14-208.18 prohibits anyone required to register as a sex offender under Article 27A of Chapter 14 of the General Statutes from knowingly being on the premises of any school. Before any of its employees begin providing services on Board property and annually thereafter, County shall perform a check of each such employee on the State Sex Offender and Public Protection Registration Program, the State Sexually Violent Predator Registration Program, and the National Sex Offender Registry (collectively, “the Registries”). For the County’s convenience only,

all the required registry checks may be completed at no cost by accessing the United States Department of Justice Sex Offender Public Website at <http://www.nsopw.gov/>. The County will ensure that no employee of the County who is listed on one of these Registries will access the CGES premises or any other Board Property or Board sponsored event.

**18. Nonperformance.**

In the event either Party should fail to keep, perform or abide by any term, condition or covenant of this Agreement for a period of thirty days after written notice of such failure by the non-breaching Party, then in addition to any other remedies available at law or equity, the non-breaching Party shall have the right to remedy such nonperformance. In such event, the breaching Party shall reimburse the non-breaching Party for any reasonable expenses incurred by the non-breaching Party in effecting such remedy. Such reimbursements shall be due and payable within thirty days after receipt by the breaching Party of written notice specifying the amount due. If the Board is the non-breaching Party, it may suspend the County's use of its property until the County demonstrates to the Board's satisfaction that the County has corrected the breach and is fully performing the obligations under the terms, conditions, and covenants of this Agreement.

**19. Termination.**

A. Either Party may terminate this Agreement upon three hundred and sixty-five (365) days written notice to the other ("Termination Notice"), provided that:

1. If the Board should exercise this right of termination at any time during the first twenty-five years of this Agreement ("Initial Term"), then the Board shall reimburse County for a pro rata portion of County's construction costs for improvements completed on CLA #1 and #2, plus a pro rata portion of any other mutually-agreed-upon costs for improvements made by County on CLA #1 and #2 which the County has incurred and the Board has pre-approved.
2. If County should exercise this right of termination at any time during the first twenty five years of this Agreement, then and in that event, the County shall complete any improvements begun on Board Property leaving Board Property in a condition that is safe and acceptable to the Board. Upon termination of this Agreement for any reason, the County may not remove any attached property (*i.e.* "fixtures" such as bleachers, score- boards, sports goals, etc.) that may be located on CLAs, and the County shall relinquish any interest it may have in any of such improvements the County has made, and no reimbursement shall be due the County. County may remove County's equipment such as tables, chairs, phones, non-permanent floor covering, computers, and athletic equipment (such as balls, floor mats, volleyball equipment, etc.).

**20. Default/Termination for Cause.**

In the event either party should fail to keep, perform or abide by any financial term, condition or covenant of this agreement for a period of thirty days after written notice of such failure by the non-breaching party, then the non-breaching party may elect to terminate this Agreement upon thirty days written notice if the breaching party fails to make a good faith effort to cure the breach. If Board is the breaching party and County exercises this right of termination during the Initial Term, then and in that event, Board shall reimburse County for County's cost of improvements on Board Property on a pro rata basis. If County is the breaching party and Board should exercise this right of termination, at any



time during the Initial Term, then and in that event, County shall relinquish any interest County may have in any of the improvements County has made to Board Property under this Agreement; no reimbursement shall be due County; and the County shall leave Board Property in a condition approved by the Board, including making any necessary repairs for damages caused by County.

**21. Notices.**

All notices, requests, approvals, or consents required to be given hereunder shall be in writing and hand delivered or sent by certified mail, return receipt requested, postage prepaid, and addressed as follows:

Board:           The Chatham County Board of Education  
Chatham County Public School System,  
P.O. Box 128, 369 West Street  
Pittsboro, NC 27312

County:          County Manager  
Chatham County  
P.O. Box 1809, Pittsboro, NC 27312

or to such other address as either Party may specify in the manner hereinabove prescribed.

**22. Severability.**

In the event any term or provision of this Agreement shall be adjudged to be partially or completely invalid or unenforceable, then such term or provision shall be severed from this Agreement, and the remainder of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

**23. Preservation and Care of Public-School Property.**

The County and the Board agree to regulate the use of Board Property in the Board's discretion to best maintain the Board Property and to prevent deterioration of the property. Joint use of Board Property is permitted so long as its use is consistent with the proper care and preservation of the public school property.

**24. Non-Assignment.**

The County may not assign this Agreement. The County may use Board Property only as provided in this Agreement.

**25. Entire Agreement.**

The Agreement and Attachment A ("County Licensed Area Diagram") constitute the entire agreement between the Parties and may only be modified by a written mutual agreement signed by the Parties.

**26. Agreement in Counterparts.**

This Agreement may be executed in several counterparts, each of which shall be deemed an original, and all of which shall constitute one and the same instrument.

**IN WITNESS WHEREOF**, the Chatham County Board of Education has caused this Agreement to be signed by its Chair, attested by its Secretary, and sealed with its corporate seal, and Chatham County has caused this Agreement to be signed by its Manager, attested to by the County Clerk, and sealed with its

seal, by order of the respective governing board duly given the day and year first written above.

CHATHAM COUNTY BOARD OF EDUCATION

ATTEST

By: Amy Leonard  
Chair



By: Ray Br (SEAL)  
Superintendent/Secretary

(Affix Corporate Seal)

COUNTY OF CHATHAM

By: [Signature] (SEAL)  
Chair

ATTEST

By: [Signature] (SEAL)  
County manager

(Affix Town Seal)

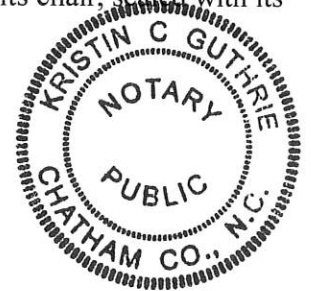
NORTH CAROLINA  
CHATHAM COUNTY

The undersigned, a Notary Public of the County and State aforesaid, hereby certified that Randy Bridges personally appeared before me this day, and being duly sworn by me, acknowledged that he is Superintendent/Secretary of the Chatham County Board of Education, and that by authority duly given and as the act of the Board the forgoing instrument was signed by its chair, sealed with its corporate seal and attested by him as its Superintendent/Secretary.

Witness my hand and notary seal this 9<sup>th</sup> day of Feb. 2021.

My Commission expires: 3/19/2022

Kristin C. Guthrie  
Kristin C. Guthrie  
Notary Public



The undersigned, a Notary Public of the County and State aforesaid hereby certified that Dan LaMontagne personally appeared before me this day, and being duly sworn by me acknowledged that he/she is County Manager of the Chatham County and that by authority duly given and as the act of the County, the forgoing instrument was signed by its Chair, sealed with its corporate seal and attested by him/her as its County Manager.

Witness my hand and notary seal this 14 day of February 2021.

My Commission expires: 09-29-2021

Lindsay K. Gray  
Lindsay K. Gray  
Notary Public