

NORTH CAROLINA
COUNTY OF WAKE

AGREEMENT FOR CONSTRUCTION
OF A WATER LINE AND
LEASE OF LAND

THIS AGREEMENT, made and entered into this 5th day of March, 1985, by and between the COUNTY OF WAKE, a political subdivision of the State of North Carolina, hereinafter referred to as the "County," and the RALEIGH-DURHAM AIRPORT AUTHORITY, a public body chartered by the General Assembly of North Carolina under Chapter 168 of the 1939 Public-Local Laws, as amended, hereinafter referred to as the "Authority."

W I T N E S S E T H:

THAT WHEREAS, the Cities of Raleigh and Durham, the Counties of Wake and Durham, and the Raleigh-Durham Airport Authority are jointly the owners of the land on which is located the Raleigh-Durham Airport; and

WHEREAS, the County desires to lease from the said owners, represented herein by the Authority, duly authorized by its charter to enter into lease agreements of this nature, a tract of land comprising three parcels totaling 33.185 acres, located south of the interchange of Interstate 40 with Morrisville Road (S.R. 3015) and bounded by Interstate 40, Morrisville Road, Brier Creek and Crabtree Creek, on which to develop and provide access from Morrisville Road to a public recreation facility to be known as Lake Crabtree Park; and

WHEREAS, the Authority desires to connect the lands of the Raleigh-Durham Airport in the area bounded by Interstate 40,

Morrisville Road, Brier Creek and Crabtree Creek, including the subject 33.185-acre tract, to a public water supply for use by the Authority to serve the airport; and

WHEREAS, the County, after determining that connection of the aforementioned land, including the subject 33.185-acre tract, to a public water supply is in the public interest, desires to construct and install a 12-inch diameter water line, to be owned by the County, extending from the intersection of Morrisville and Airport (S.R. 1002) Roads in a southerly direction across Interstate 40 to the intersection of Morrisville Road with the proposed Lake Crabtree Park access road, for the perpetual use of (easement) and at no cost to the Authority, in exchange for the leasing by the Authority to the County of the aforementioned 33.185-acre tract, subject to the terms and conditions set forth in that certain lease agreement attached hereto and made a part hereof as Exhibit "A", to which reference is hereby made for a more particular description; and

WHEREAS, the Authority, in the belief that the leasing of said tract is also in the public interest, desires to lease the aforementioned tract to the County pursuant to the terms and conditions of the hereinabove referred to lease, and in consideration for construction and installation of the above described water line for the perpetual use (easement) of and at no cost to the Authority; and

WHEREAS, the County and the Authority respectively have determined each for itself that the contemplated exchange, the construction and installation of the water line by the County, the ownership of which line will be retained by the County, and the same being made available to the Authority for its perpetual use for supply of water to the airport property on the one hand, and the leasing of

said tract on which to develop and provide access to a public recreational facility by the Authority to the County on the other hand, represents consideration moving to the ultimate recipients substantially equal in monetary value.

NOW, THEREFORE, in consideration of the above, the County and the Authority do mutually covenant and agree as follows:

1. The Authority shall lease to the County the real property referred to hereinabove pursuant to the terms and conditions of a written lease, a copy of which is attached hereto and made a part hereof as Exhibit "A".

2. The County shall contract for construction and installation of the hereinabove described water line not later than September 30, 1985. The water line shall be completed and made operational as soon thereafter as is reasonably possible. Should the County fail to comply with this provision through no fault of Authority, this Agreement and the lease referred to above shall be deemed null and void and of no further force and effect. Upon completion of construction and installation of the aforementioned water line by the County, the Authority shall thereafter have the right to tap into the water line at one or more points along the route of said line through or bordering airport property and to use the water line in perpetuity for supply of additional water to airport property, it being understood and agreed that no water supplied to Lake Crabtree Park or any other County facility served by the said water line shall be taken from nor be a part of any heretofore existing allocation of public water made by the City of Raleigh or the Town of Cary to the Authority without the express prior written consent of the Authority.

3. Upon completion of construction and installation by the Authority of a sanitary sewer line across the subject 33.185-acre tract within the sewer easement to be retained for this purpose by the Authority and in conjunction with the development of Lake Crabtree Park, the County shall thereupon also have the right to tap into the sewer line within the bounds of the subject tract to permit disposal of waste water from the said park. However, the Authority shall be under no obligation to provide treatment of waste water flows from the said park nor to make arrangements with any other third party for treatment of such flows. Neither shall the Authority have any responsibility for compliance by the County with such waste water treatment conditions as may be imposed by any governmental body or third party providing treatment of waste water flows through the sanitary sewer line to be constructed and installed by the Authority, nor for the costs of treatment of waste water flows from the said park.

4. It is understood and agreed that, notwithstanding termination of the lease referred to above for any reason, the Authority shall have the perpetual right to connect to the water line hereinabove referred to as herein provided.

5. Any provision herein contained which by its nature and effect is required to be observed, kept or performed after the lease of the subject property shall survive said lease and remain binding upon and for the benefit of the parties hereto until fully observed, kept or performed.

6. This Agreement shall be binding upon the successors and assigns of both of the parties hereto.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective duly authorized officials this the day and year first above written.

COUNTY OF WAKE

(SEAL)

By: M. Edmund Aycock
M. Edmund Aycock, Chairman
Wake County Board of Commissioners

ATTEST:

Alta B. Chalmers
Alta B. Chalmers, Clerk to the
Wake County Board of Commissioners

RALEIGH-DURHAM AIRPORT AUTHORITY

(SEAL)

By: William A. Clement
William A. Clement, Acting Chairman

ATTEST:

John B. Harris, Jr.
John B. Harris, Jr., Acting Secretary

NORTH CAROLINA
COUNTY OF WAKE

"EXHIBIT "A"

LEASE AGREEMENT

THIS LEASE AGREEMENT, made and entered into this 5th day of March, 1985, by and between the RALEIGH-DURHAM AIRPORT AUTHORITY, a public body chartered by the General Assembly of North Carolina under Chapter 168 of the 1939 Public-Local Laws, as amended, hereinafter referred to as "LESSOR," and the COUNTY OF WAKE, a political subdivision of the State of North Carolina, hereinafter referred to as "LESSEE."

That subject to the terms and conditions hereinafter set forth, Lessor does hereby let and lease unto Lessee, and said Lessee does hereby accept as Lessee of Lessor a certain tract of land situated, lying and being in Wake County, North Carolina, comprising three parcels totaling 33.185 acres, located south of the interchange of Interstate 40 with Morrisville Road (S.R. 3015), the same being more particularly shown on a plat and survey attached hereto and made a part hereof, to develop a public recreation facility to be know as "Lake Crabtree Park."

The terms and conditions hereinabove referred to are as follows:

1. TERM. The lease shall be for a term of forty (40) years commencing the 1st day of July, 1985, and, unless sooner terminated as provided herein, shall exist and continue until the 30th day of June, 2025.

2. RENTAL. As rental for said premises, Lessee shall pay to Lessor, without notice or demand therefor, the sum of One Dollar

(\$1.00) per year payable on or before the 1st day of each July for the year then beginning.

3. USE OF PREMISES. It is expressly agreed that the leased premises shall, during the term of this lease, be used exclusively for public recreational purposes. In this connection, Lessee covenants and agrees that it will not institute fees and charges for use of the property and/or facilities located thereon which are discriminatory as to residents of Durham County, or restrict use of the property and/or facilities located thereon by residents of Durham County.

4. RESTRICTIONS.

(a) Lessor shall have the option to terminate and cancel this lease at any time Lessee ceases to use the leased premises as a public park and recreational facility for a period of six (6) consecutive calendar months. In the event Lessor elects to exercise this option, it shall immediately notify Lessee by certified mail, return receipt requested, at its address shown herein, of Lessor's intention to declare this lease terminated.

(b) Such restrictions as are made applicable by the terms and conditions of the Memorandum of Agreement Between Wake County, North Carolina and the Raleigh-Durham Airport Authority dated May 22, 1979 and recorded in Book 2738, Page 859 of the Wake County Registry, to which reference is hereby made for a more particular description of the same, as the same are applied to Raleigh-Durham Airport Development Plan 523L adopted by the Authority on February 5, 1981 and for which a Finding of No Significant Impact was approved by the Federal Aviation Administration on July 7, 1981.

(c) A perpetual 20-foot wide sanitary sewer easement (plus such temporary easements as may be required during the construction of the sewer line) to be retained by Lessor. The location and alignment of said easement across the property herein referred to shall be coordinated with and agreed upon by Lessor and Lessee prior to construction of the sewer line in order to interfere as little as possible with the planned development of Lake Crabtree Park while providing economical routing of the sewer line and the branch connections thereto by Lessor.

5. TAXES AND UTILITIES. During the term of this lease, Lessee shall be responsible for payment of all taxes and assessments imposed upon the leased premises by any lawful authority and shall provide and pay for all electric power, light, heat, water, sewer and other utility charges upon said leased premises.

6. IMPROVEMENTS. It is understood and agreed that Lessee accepts the leased premises in the same physical condition as exists on the date of this lease agreement. Lessee may, at any time during the term of this lease, erect upon said premises such buildings and other improvements of a recreational nature as it may elect. On or before the termination of this lease, Lessee shall be required to remove from the premises any and all improvements made by Lessee during the term of the lease and restore the premises to a condition at least equal to that existing at the commencement of the lease term, unless Lessor shall, at its sole option, elect to waive this requirement by written notice to Lessee and permit said improvements to remain on the premises.

7. DAMAGE OR DESTRUCTION. Lessor assumes no obligation to repair or replace any buildings or other improvements on the leased

premises which are damaged or destroyed by fire or other casualty; but Lessee may, at its sole option and expense, cause said buildings and/or improvements to be insured against loss and, in case of damage or destruction, use all sums collected from such insurance to repair or replace said buildings and/or improvements.

8. ASSIGNMENT AND SUBLEASING. Lessee shall not assign this lease nor sublet any part of the leased premises without the express prior written consent of Lessor.

9. EXTENSION OF LEASE. Not less than twelve (12) months nor more than twenty-four (24) months prior to expiration of the term of the lease, Lessee shall notify Lessor by certified mail of any request to extend the term of this lease. Upon receipt of such notification, Lessor agrees to negotiate with Lessee in good faith for the continuation or extension of this lease under such terms and conditions as may be mutually agreed upon. In the absence of receipt of such notification during the designated period, Lessor shall be free to proceed with other arrangements for use of the property following expiration or earlier termination of the lease term as Lessor shall deem appropriate.

10. CONDEMNATION. In the event that the leased premises shall be taken in condemnation proceedings or by exercise of any right and power of eminent domain, this lease shall terminate as of the date of said taking, and all unearned rent at taking, paid in advance, shall be refunded to Lessee and Lessee shall immediately surrender possession of the leased premises to Lessor. The award for such taking shall belong to Lessor, except that, in the event Lessee expends any sums of money for improvements to the leased premises which, when completed, constitute part of the real estate, the share

of the net award represented by such improvements shall belong to Lessee.

In the event that a portion of, but not all, of the leased premises shall be taken in condemnation proceedings or by exercise of any right and power of eminent domain and if, as a result of such partial taking Lessee desires to remain in possession of the portion of the premises not so taken, Lessee may elect to do so for the remainder of the lease term under the same terms and conditions as are herein provided.

11. NOTICE. All notices to Lessor or Lessee provided herein shall be forwarded by certified mail, return receipt requested, as follows:

LESSOR: Raleigh-Durham Airport Authority
Route 1, Box 500
Morrisville, North Carolina 27560

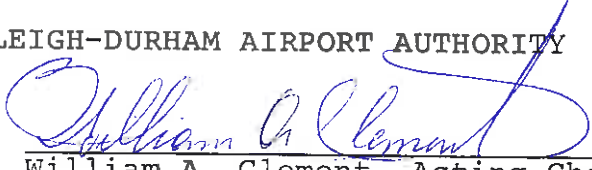
LESSEE: County of Wake
Office of the County Manager
Wake County Courthouse
P. O. Box 550
Raleigh, North Carolina 27602

IN WITNESS WHEREOF, the parties hereto have caused this Lease Agreement to be executed by their respective duly authorized officials this the day and year first above written.

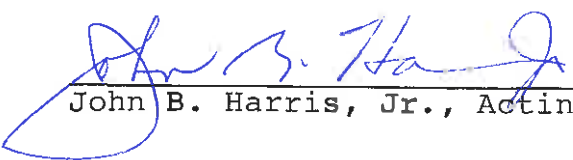
RALEIGH-DURHAM AIRPORT AUTHORITY

(SEAL)

By:


William A. Clement, Acting Chairman

ATTEST:


John B. Harris, Jr., Acting Secretary

LESSOR

COUNTY OF WAKE

(SEAL)

By: M. Edmund Aycock
M. Edmund Aycock, Chairman
Wake County Board of Commissioners

ATTEST:

Alta B. Chalmers
Alta B. Chalmers, Clerk to the
Wake County Board of Commissioners

LESSEE