

FOR DISCUSSION 11-20-06

PARKING USE AND AGENCY AGREEMENT

ATTACHMENT 2

THIS PARKING USE AND AGENCY AGREEMENT (this "Agreement") is made and entered into as of November __, 2005, by and between CHAPEL HILL BIBLE CHURCH (the "Owner") and THE UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL (the "University").

WITNESSETH:

WHEREAS, the Owner is the owner of a parking lot located at 260 Erwin Road, Chapel Hill, North Carolina (the "Parking Lot");

WHEREAS, the Owner wishes to permit use of the Parking Lot by the University;

WHEREAS, the University is in need of an additional "Park and Ride" lot for its faculty, staff and students and wishes to use 241 delineated parking spots (as described on Attachment A, the "Parking Spots") within the Owner's Parking Lot for such purpose;

WHEREAS, the parties desire for the University to act as the Owner's agent for purposes of enforcing parking regulations pertaining to the Parking Spots; and

WHEREAS, the parties wish to document their agreement concerning the University's use of the Parking Lot and their agency relationship;

NOW THEREFORE, in consideration of the premises and of the following mutual promises, covenants, and conditions and any sums to be paid, the Owner and the University agree as follows:

1. Term. The term (the "Term") of this Agreement shall be from January 1, 2006 through the Termination Date (as defined in Section 3).
2. Parking Use. For the duration of the Term, the Owner grants the University permission to use, on an exclusive basis, 233 Parking Spots for University-related parking purposes from 6:00 a.m. through 6:00 p.m., Monday through Friday (the "Park and Ride Hours"). The Owner further grants the University permission to use the Parking Spots during the Term on a non-exclusive basis, together with Owner-affiliated users, Monday through Friday during times other than the Park and Ride Hours.
3. Termination Date. The termination date (the "Termination Date") of this Agreement shall be August 15, 2006; provided that the Termination Date shall automatically extend, unless advance notice of termination is provided by either party in accordance with the following sentence, for four (4) successive one-year terms, each such one-year term ending on August 15 of the then-applicable year. Either party may terminate this Agreement effective August 15 of any year by giving written notice to the other party no later than the preceding April 1. In no event shall this Agreement extend beyond August 15, 2010. This Agreement may

be terminated for breach after written notice of the breach is provided to the breaching party and the breaching party fails to cure such breach within 15 (fifteen) days in the case of a monetary default and 45 (forty-five) days in the case of any other type of default. At the ultimate expiration of this Agreement, the University shall cease using the Parking Spots and shall return the Parking Spots to the Owner in a condition as good as when the University initiated its use, ordinary wear and tear excepted.

4. Signage. The University shall be responsible for erecting signage in the Parking Lot, designated the Parking Lot as a "Park and Ride" lot and warning unauthorized users of the Parking Spots that unauthorized vehicles will be towed at the vehicle owner's expense. Such signage shall be subject to the approval of the Owner (such approval not to be unreasonably withheld). The University shall issue hangtags, stickers or other suitable means of identification to authorized University users of the Parking Spots. The University shall not install a gate at the entrance to the Parking Lot or make any other material physical changes to the Parking Lot, other than erecting signage, without the Owner's consent. The Owner shall be responsible for erecting signage, differentiated by color from the University's signage, designating the specific parking spots within the Parking Lot that are to be reserved for individuals or positions affiliated with the Owner (the "Church-Reserved Spots").

5. Agency. The Owner hereby appoints the University its authorized agent for purposes of enforcing parking regulations applicable to the Parking Spots during the Park and Ride Hours, in accordance with N.C.G.S. § 20-219.2. As the Owner's designated parking enforcement agent, the University shall have the right to instruct one or more private towing companies designated by the Owner to remove unauthorized vehicles, including any unauthorized vehicles owned by Owner-affiliated persons, parked in the Parking Spots during Park and Ride Hours, at the expense of the registered owners of such vehicles. All matters of enforcement shall remain with the Owner concerning (i) the Parking Spots during weekends and University holidays and (ii) the Church-Reserved Spots at all times.

6. Payment. As consideration for the use of the Parking Spots for the first 7 ½ month period, the University agrees to pay the Owner \$30,125, due and payable on January 1, 2006. As consideration for the use of the Parking Spots in any subsequent 12 month period beginning August 16 of each year (not to extend beyond August 15, 2010), the University agrees to pay the Owner \$48,200, due and payable in advance on July 1 of the then-applicable year.

7. Bus Stop. The University shall use its best efforts to work with the Town of Chapel Hill (or other appropriate municipal authorities) to have regular public bus transportation service to the Parking Lot implemented by January 1, 2006 on a public right-of-way. Neither the University nor the Owner desire for any public bus transportation to enter the Parking Lot as a result of this Agreement.

8. Maintenance. The Owner shall be responsible for, at the Owner's expense, all repairs and maintenance of the Parking Lot during the term of this Agreement; provided, however, that the University shall be responsible for the removal of snow from the Parking Spots and all driveway access in the Parking Lot on any day that the University is open. The Owner

agrees to perform at Owner's expense reasonable repair work on the Parking Lot recommended by the University from time to time.

9. Responsibility for Negligence. The Owner shall be responsible for its own negligence and the University shall be responsible for its own negligence in accordance with the North Carolina Tort Claims Act.

10. Authority. The Owner represents and warrants that it has all requisite power, authority and legal right to enter into this Agreement and to permit the University to use the Parking Spots and to authorize the University to act as its agent for the purposes described herein.

11. Entire Agreement/Amendments. This Agreement contains the entire understanding of the parties and shall not be supplemented, amended or modified, except by an agreement in writing executed by a duly authorized official of each party.

12. Use of Name. The Owner shall not make any use of the name of The University of North Carolina at Chapel Hill or any of its colleges, schools or departments in any advertising endeavor, or in any commercial or promotional manner, without the advance express written permission of the University. It is also agreed that the Owner shall not attempt to circumvent the intent of this paragraph by the use of descriptive phrases by which one could identify the University with reasonable certainty. Notwithstanding anything to the contrary set forth above, the Owner shall have the right to inform its congregation and its neighbors of the existence and terms of this Agreement.

13. Governinn Law/Forum. The laws of the State of North Carolina shall govern the validity and interpretation of the provisions, terms and conditions of this Agreement.

14. Counterparts. This Agreement may be executed in two or more counterparts. It shall not be necessary that any single counterpart hereof be executed by all parties hereto so long as at least one counterpart is executed by each party. Signed counterparts of this Agreement may be delivered by facsimile or electronic mail and shall be deemed for all purposes to be an original signature.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, a duly authorized officer of each of the parties hereto has caused this Agreement to be duly executed and delivered as of the date first above written.

OWNER: CHAPEL HILL BIBLE CHURCH

By: _____

Name: _____

Title: _____

UNIVERSITY: THE UNIVERSITY OF NORTH CAROLINA
AT CHAPEL HILL

By: _____

Name: Nancy D. Suttentfield _____

Title: Vice Chancellor, Finance and Administration

Attachment A

Map of the 241 Parking Spots

The "Parking Spots" as provided for in this Agreement are reflected below as those spaces enclosed by the solid black line and labeled "University Parking Spots."

