

## SUBLEASE AGREEMENT

This Sublease is made and entered into by and between The Parking Authority of the City of Fairhope, Alabama, an agency of the City of Fairhope, Alabama, a municipal corporation created pursuant to Act No. 1133 Alabama Legislature, 1973 Regular Session, Approved September 17, 1973 (hereinafter referred to as "The Authority" and/or Sublessor) and the Baldwin County Commission (hereinafter referred to as "County" and/or Sublessee), as Administrator of the Eastern Shore Metropolitan Planning Origination (hereinafter referred to as "MPO"), whose designated public transportation provider is the Baldwin Regional Area Transit System (hereinafter referred to as "BRATS").

### ARTICLE 1. DEMISE OF SUBLEASE LAND

1.01 Sublessor, for and in consideration of the rents, covenants, and conditions herein contained to be kept, performed, and observed by Sublessee, does sublease and demise to Sublessee, and Sublessee does rent and accept from Sublessor, the real property referred to: as "Subleased Land", more particularly described as the following property in Fairhope, Baldwin County, Alabama, to-wit:

#### LEGAL DESCRIPTION

A lot or parcel of land located in the City of Fairhope, Baldwin County, Alabama, and being more particularly described as follows (sometimes referred to herein as "Subleased Land"):

FROM THE POINT OF COMMENCEMENT (P.O.C.) AT THE NORTHEAST CORNER OF CHURCH STREET AND DE LA MARE AVENUE; THENCE RUN NORTH ALONG THE EAST RIGHT-OF-WAY OF CHURCH STREET  $\pm$  462.975 FEET TO THE POINT OF BEGINNING (P.O.B.); THENCE RUN NORTH ALONG THE EAST RIGHT-OF-WAY OF NORTH CHURCH STREET  $\pm$  30.0 FEET TO A POINT; THENCE RUN EAST  $\pm$  75.0 FEET TO A POINT; THENCE RUN SOUTH  $\pm$  30.0 FEET TO A POINT; THENCE RUN WEST  $\pm$  75.0 FEET TO THE POINT OF BEGINNING (P.O.B.); CONTAINING 0.052 ACRES, MORE OR LESS, LYING IN FRACTIONAL SECTION 18, TOWNSHIP 6 SOUTH, RANGE 2 EAST, BALDWIN COUNTY, ALABAMA. See Exhibit attached hereto.

- 1.02 Lease Holder/Sublessor hereby represents and warrants that it is the Lessee of the subleased land subject to covenants, conditions, restrictions, easements and other matters of record, and that Lease Holder/ Sublessor has the authority and right to sublease the Subleased Land to the Sublessee.
- 1.03 Sublessor covenants, warrants and agrees that Sublessee, on payment of the rent and other charges herein provided for and observing and keeping the covenants, conditions, and terms of this Sublease on Sublessee's part to be kept or performed, shall lawfully and quietly hold, occupy, and enjoy the Subleased Land during the term of this Sublease without the hindrance

or molestation of Sublessor or any other person or entity, including, but not limited to the Lessor of the Subleased Land, Fairhope Single Tax Corporation.

## ARTICLE 2. SUBLEASE TERM

2.01 This Sublease shall be for a term of twenty-five (25) years referred to as "Sublease Term", commencing on April 16, 2019 and ending on April 16, 2044.

2.02 If Sublessee shall hold over after the expiration of the Sublease Term, or any extension, such tenancy may be from month to month on all the terms, covenants, and conditions of this Sublease as mutually agreed in writing by the Parties.

## ARTICLE 3. RENT, OTHER CONSIDERATION, TAXES, AND UTILITIES

3.01 Sublessee agrees to pay to Sublessor as rent for the Subleased Land the sum of Zero Dollars (\$0) per year for each year from the commencement date.

3.02 It is expressly understood and agreed upon that consideration for this lease agreement also assumes that the Sublessee will provide those transit services that the Sublessee deems appropriate from this location.

3.03 Sublessor shall provide for water, heat, gas, electricity, sewer, and any and all other utilities used upon the Subleased Land throughout the term of this lease including any connection fees.

## ARTICLE 4. CONSTRUCTION BY SUBLEASE

4.01 Sublessee shall have the right, at any time and from time to time during the term of this Sublease, to maintain, alter, and remodel said building and make other improvements on the Subleased Land, subject to the following conditions:

- (a.) Any and all construction, alteration, and/or improvements of property must have prior approval of the Sublessor.
- (b.) The cost of any such construction, alteration, or improvements shall be borne and paid for by the Sublessee.
- (c.) The Subleased Land shall at all times be kept free of mechanics' and materialmen's liens.
- (d.) Sublessor shall receive copies of architects' drawings showing the exterior appearance and dimensions of major improvements prior to commencement of any work.
- (e.) Sublessor shall be notified at the time of proposals of any work.

(f.) Said improvements and/or alterations will in no way interfere with any easements or rights granted to the Authority under the certain Lease recorded in the Probate Court of Baldwin County Instrument Number 47199, deed book R0319, page 1657.

4.02 In no event shall the Sublessee demolish or remove said building or any part thereof.

4.03 It is expressly understood and agreed that any and all building improvements and fixtures of whatsoever nature at any time constructed, placed or maintained upon any part of the Subleased Land shall be and remain the property of the Sublessor, and Sublessee hereby waives all claim for damages to or loss of any such property.

#### ARTICLE 5. USE OF PREMISES

5.01 The Subleased Land primary use will be to construct and operate a BRATS transit hub by the Sublessee. This project was constructed (in whole or part) with funds provided by the Eastern Shore Metropolitan Planning Organization and federal pass-through funds provided by the Alabama Department of Transportation pursuant to an approved FTA grant, and will be managed for the purpose of said grant, in accordance with applicable Federal and State requirements. The property may not be disposed of in any manner, or used for purposes inconsistent with the program for which it was acquired. Satisfactory Continuing Control measures including, at a minimum, documented annual inspections and certifications, in addition to annual inventory record updates reflecting the federal share of the project expenses, will be implemented. The parties agree that all terms and conditions of this Sublease shall be subject to all terms and conditions of the subject FTA grant and the agreements between the parties related thereto.

5.02 Sublessee shall have the right to use the Subleased Land for only the original primary purpose, without the approval of the Sublessor. In this connection, and without detracting from the foregoing, it is understood and agreed that the primary purpose for which the Subleased Land has been leased and hired is for the operation of a transit facility.

5.03 The Transit Shelter will be owned by Baldwin County Commission and the Federal Transit Administration, with the Alabama Department of Transportation being the first lien holder on the structure, once the construction of the BRATS transit hub is complete and for the term of the lease.

5.04 If, as a result of causes such as fire, flood, strikes, riots, insurrections, or other similar or different causes beyond the control of Sublessee, the Subleased Land shall become unusable from a practical standpoint for the primary purposes set forth in Article 5.01, above, for a period of One Hundred and Twenty (120) consecutive days or longer, the Sublessee may, by notice in writing from Sublessee to Sublessor, at any time prior to the date when this Sublease would otherwise terminate, further extend this Sublease, without the requirement of payment of rent, for the period of time which the primary Subleased Land was unusable from a practical standpoint for the primary purposes set forth in Article 5.01 above.

5.05 Sublessee shall have the right to erect and maintain upon the improvements and on the Subleased Land all signs that it deems appropriate to the conduct of its business, in compliance with all applicable building codes or ordinances or any applicable zoning law.

#### ARTICLE 6. ASSIGNMENT AND SUBLEASE

6.01 Except as required by the subject FTA Grant, Sublessee shall not assign, transfer, sublease, pledge, surrender, or otherwise encumber or dispose of this lease or any estate created by this lease, or any interest in any portion of the same, or permit any other person or persons, 'company', association or corporation to occupy the premises, without the written consent of the Sublessor and Lessor, Fairhope Single Tax Corporation (hereinafter FST).

#### ARTICLE 7. EMINENT DOMAIN

7.01 If the whole or substantial part of the premises hereby subleased shall be taken by any paramount public authority under the power of eminent domain, then the term of this sublease shall be taken for any public authority under the power of eminent domain, then the term of this sublease shall cease as to the parts so taken from the day the possession of that part shall be taken for any public purpose, and from that day Sublessee shall have the right either to cancel this lease or to continue in the possession of the remainder of the premises under the terms herein provided. All damages awarded for such taking shall belong to and be the property of the Authority and/or the Lessor, Fairhope Single Tax Corporation as agreed between the Authority and FST.

#### ARTICLE 8. REPAIRS AND RESTORATION

8.01 Sublessor, at Sublessor's own cost and expense at all times during the term of this sublease, agree to keep and maintain, or cause to be kept and maintained, all buildings, equipment, and improvements which may be erected upon the Subleased Land in a good state of appearance and repair, reasonable wear and tear are excepted.

8.02 Sublessee shall make periodic inspections of property to determine its state of appearance and repair. If repairs are determined to be needed by Sublessee, then Sublessor shall make such repairs within a reasonable time. If such repairs are not made within such reasonable time, Sublessee shall make repairs and assess costs to Sublessor.

8.03 Sublessee shall provide, at its own expense, yearly termite protection to the building situated on Subleased Land. Any damage to said building by termites will be repaired by Sublessee at its own expense.

#### ARTICLE 9. FIRE INSURANCE

9.01 Sublessor shall, at all times, insure against fire and other casualty for the building in which the demised premises are located, and the equipment and fixtures and other property located in the demised premises. This coverage shall be on an all risk basis, 90% coinsurance and replacement cost basis. The amount of deductible shall not exceed \$5,000. Policies shall be issued by

responsible insurance companies and in form acceptable to the Risk Manager of the City of Fairhope. All policies of fire insurance required to be carried by Sublessor shall contain a waiver of subrogation by the insurer against Sublessee. All such policies carried by Sublessor shall provide that, in the event of a loss, all payments thereunder shall be made solely to Sublessee. It is expressly understood that in the event of fire, any fire insurance proceeds will be applied to the restoration of the building, unless such is declared a total loss. If a total loss is declared and Sublessee elects to not rebuild the structure, the property shall be first returned to its original state suitable to the Sublessor using fire insurance proceeds

9.02 The original of all insurance policies required to be carried by Sublessor shall be submitted to Sublessee on request at all reasonable hours for its inspection and certificates of such insurance shall be delivered to the Risk Manager from time to time as such policies are written, and all such certificates shall contain a provision that the respective insurers will not cancel such insurance coverage required under this lease without first giving sixty (60) days prior written notice to Sublessee.

#### ARTICLE 10. LIABILITY

10.01 Sublessor shall provide general liability insurance in the amount of \$1,000,000.00 with the City of Fairhope named Additional Insured.

#### ARTICLE 11. GENERAL PROVISIONS

11.01 No failure by either Sublessor or Sublessee to insist upon the strict performance by the other of any covenant, agreement, term or condition of this Sublease or to exercise any right or remedy consequent upon a breach thereof shall constitute a waiver of any such breach or of such covenant, agreement, term or condition. No waiver of any breach shall affect or alter this Sublease but each any every covenant, condition, agreement, and term of this Sublease shall continue in full force and effect with respect to any other then existing subsequent breach.

11.02 Should any petition, voluntary or involuntary, under the bankruptcy laws of the United States be filed, by or on behalf of, or against Sublessee or if a receiver under the laws of Alabama be appointed, or if any assignment be made by Sublessee for the benefit of creditors, this Sublease shall terminate immediately and said Subleased Land shall become the sole leased property of the Authority pursuant to the terms of its Lease with FST.

11.03 This Sublease contains the entire agreement of the parties with respect to the matters covered by this Sublease, and no other agreement, statement or promise made by and party or to any employee, officer or agent of any party, which is not contained in this Sublease shall be binding or valid.

11.04 If any term, covenant, condition, or provision of this Sublease is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provision shall remain in full force and effect and shall in no way be effective, impaired or invalidated.

11.05 This sublease, consisting of 7 pages plus an exhibit attached hereto, has been executed by the parties and several counterparts, each of which shall be deemed to be an original copy.

11.06 This sublease has been executed on the 16<sup>th</sup> day of April, 2019.

Attest:

[Signature]  
Jane Holt Sidak

The Parking Authority of the City of Fairhope

By: [Signature] Pres  
Michael R Lyons

Attest:

[Signature]  
~~Ronald J. Cink~~ Wayne Dyess  
County Administrator / ~~Budget Director~~

Baldwin County Commission, Administrator of the Eastern Shore Metropolitan Planning Origination

By: [Signature]  
Charles F. Gruber  
Baldwin County Commission, Chairman

Authorized and Approved by:

Fairhope Single Tax Corp.

By: [Signature]  
Lee Turner - President



STATE OF ALABAMA )  
BALDWIN COUNTY )

I, Monica E. Taylor, a Notary Public, in and for said County in said State, hereby certify that Charles F. Gruber, whose name as Chairman of the Baldwin County Commission, and ~~Ronald J. Cink~~, whose name as County Administrator / ~~Budget Director~~ are signed to the foregoing instrument and who are known to me, acknowledged before me on this day that, being informed of the contents of the instrument, they, as such officers and with full authority, executed the same voluntarily on the day the same bears date.

Given under my hand and seal this 16<sup>th</sup> day of April 2019.

[Signature]  
Notary Public



STATE OF ALABAMA )  
BALDWIN COUNTY )

I, Sarah Hart Sislaik, a Notary Public, in and for said County in said State, hereby certify that Michael R. Lyons whose name as the Chairman of the Parking Authority of the City of Fairhope, and Sherry-Lea Bloodworth Botop whose name as Director of Economic and Community Development for the City of Fairhope are signed to the foregoing instrument and who are known to me, acknowledged before me on this day that, being informed of the contents of the instrument, they, as such officers and with full authority, executed the same voluntarily on the day the same bears date.

Given under my hand and seal this 12 day of April 2019.

Sarah Hart Sislaik  
Notary Public

**My Commission Expires  
November 29, 2021**

