

REQUEST FOR BOARD ACTION

HENDERSON COUNTY BOARD OF COMMISSIONERS

MEETING DATE: October 6th, 2025

SUBJECT: Tower Lease with Fletcher Academy, Inc.

PRESENTER: Jimmy Brissie, Public Safety Director

ATTACHMENTS: (1) Lease

SUMMARY OF REQUEST:

Henderson County Emergency Services maintains several mountaintop transmitter sites for the installation of our emergency communications system. Each of these sites is located on property which the County leases for the installation of our towers, buildings and equipment. During 2018 County Staff began evaluating options to add an additional site in the Fletcher area to enhance radio coverage in fringe areas in the northern part of Henderson County. After extensive evaluations a location was identified off Naples Road on property owned by Fletcher Academy, Inc.

During the spring of 2024 the NC Legislature allocated additional funding for Henderson County for communications enhancements, this funding would allow for the construction of the tower in Naples. Staff have worked with the leadership and Board of Fletcher Academy, Inc. to finalize the attached lease for the tower site. This tower project is a partnership between Fletcher Academy, Inc. and Henderson County and will result in improved communications in the Fletcher area.

BOARD ACTION REQUESTED:

Approve the attached lease between Henderson County and Fletcher Academy, Inc. and authorize the County Manager so sign the lease on behalf of Henderson County.

Suggested Motion:

I move to approve the attached lease between Henderson County and Fletcher Academy, Inc. and authorize the County Manager so sign the lease on behalf of Henderson County.

MEMORANDUM OF LEASE

FLETCHER ACADEMY, INC., a not-for-profit registered 501(c)3 corporation in the State of North Carolina with headquarters located at the address of 185 Fletcher Academy Dr., Fletcher, NC 28732

Hereby lease(s) to

THE COUNTY OF HENDERSON, a body corporate and public, with the address 1 Historic Courthouse Square, Suite 5, Hendersonville, NC 28792

For a term beginning on the 6th day of October, 2025 and continuing for a period of ten (10) years, plus renewal options, if so desired and exercised, the following premises: See **Exhibit A**.

The provisions set forth in a written lease agreement between the parties dated October 6th, 2025 are hereby incorporated in this memorandum, this October 7th, 2025.

ARTHUR LEO GIBBS, Agent for Landlord

JOHN MITCHELL, Agent for Tenant

LEASE AGREEMENT

THIS **LEASE**, entered into as of the 6th day of October, 2025, by and between Fletcher Academy, Inc., (hereinafter collective the "Landlord"), and the County of Henderson, a body corporate and politic of the State of North Carolina, (hereinafter the "Tenant");

FOR GOOD AND VALUABLE CONSIDERATION, the receipt of which is hereby acknowledged, Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, the following described real property located in Henderson County, North Carolina, on the terms and conditions hereafter set forth.

- I. **LEASED PREMISES; USE OF PREMISES.** Landlord hereby leases unto Tenant, and Tenant hereby leases from Landlord, for the purposes set forth herein, a portion the parcel identified as REID 10004895 recorded in Deed Book 246, Page 588, and easement for ingress, egress, and regress over the land upon the same parcel. A designated portion of the Premises (as detailed in **Exhibit A**, to be attached) shall be reserved for the construction and maintenance of commercial telecommunications infrastructure subject to the terms and conditions outlined herein. Upon completion of the construction of the telecommunications infrastructure an as-built survey will be conducted by the Tenant and recorded as an amendment to this lease.

The Premises shall be used for the construction and maintenance of a communications tower ("the Tower") and all reasonably related purposes for the use and benefit of law enforcement and emergency services, and potentially, for future co-location of other service providers. The Tenant is granted the right to sublease portions of the Premises for commercial telecommunications purposes. Each commercial co-location must adhere to the technical and operational standards agreed upon, which are documented in **Exhibit B** (to be attached). This Exhibit will detail permissible types of services, technological requirements, and co-location revenue/fees. The Tenant shall have the right to reasonably clear and thereafter to reasonably keep clear the Premises, access road, guy anchor locations and any utility easement areas of trees, bushes, rocks, and other conditions affecting the use of the Premises. Tenant shall have the following obligations with respect to the Premises and the Tower:

- A. To construct a fence, of the typical size and type commonly installed around communications towers of similar size and access potential, around Tower and any buildings or other equipment located or constructed on the Premises, reasonably sufficient to keep persons who do not have Tenant's permission to enter from entering the Premises;
- B. To provide adequate warning signs, as required by applicable law, surrounding the Premises to discourage people from attempting to enter the Premises;
- C. To construct and maintain adequate anchors and guy wires, if necessary, to hold the Tower in place, given its location at the top of a mountain, and to prevent injury to persons or property;

- D. To do all other things reasonably necessary to prevent unauthorized persons from entering the Premises, and sustaining injury from the Tower or its guy wires.
 - E. To promptly repair, replace, or reimburse any injured party(ies) for damage(s) or loss(es) directly or indirectly caused by any construction and/or maintenance activity(ies) related to the Premises including Tenant's property (as part of the Premises), or maintenance activity directly or indirectly related to Tenant's responsibility relating to accessing the Premises (e.g. offloading/loading heavy equipment, machinery, material(s), etc.) to any roadway, driveway, parking area, or other private property or tangible material portion of Landlord's property (including resident-owned property) commonly known as Fletcher Park Inn Christian Independent Living Retirement Community; to include, but not limited to: roadways, driveways, fixtures, mailboxes, residential yard(s) and common areas and their contents, e.g. sidewalks, lawns, landscaping elements, ornamental plants, trees, flowers, bushes, etc., retaining walls, decorative and/or functional fencing, edging, stormwater management elements such as drainage gulleys/gutters, culverts, access ports, etc., low-voltage / solar lighting, or utilities including Landlord-owned fiber and telephone lines, water/sewer lines, etc., whether by negligence on the part of the Tenant or their agent(s), contractors, or authorized visitors/guests, or as part of required movement of personnel, vehicles, machinery, equipment, or material(s) utilized in either construction or maintenance of the Premises or in maintaining its access (see **Part II**, below).
 - F. Tenant retains the right, with prior written consent from the Landlord, to modify the Tower and related infrastructure to accommodate additional service providers. Such modifications shall be conducted in compliance with all relevant federal, state, and local regulations.
- II. **ACCESS TO PREMISES.** Tenant shall have seven day a week, twenty-four hour per day access for purposes of ingress, egress, and regress to the Premises over a road to be maintained by Tenant serving the Tower site over the easement referred to in **Part I.**, above. The Landlord assumes no responsibility for the maintenance of said road, which maintenance of shall be the sole responsibility of those parties using said road to access their equipment and tower. Tenant shall have the right to maintain and repair said roadway, including such work as may be necessary for slope and drainage, and to install such poles, wires, pipes, cables, conduits and related appurtenances as shall be necessary for the proper conduct of Tenant's business and for any utilities.
- III. **UTILITIES.** Tenant shall be responsible to obtain and pay for service for all utilities required by Tenant for the operation of its Tower.
- IV. **MAINTENANCE AND UPGRADES.** Tenant shall maintain the Premises in good condition, including all access roads and infrastructure used by co-locators. Upgrades necessary to support additional tenants or advanced technologies must be approved by the Landlord, for which approval shall not be unreasonably withheld or delayed, and shall be performed at Tenant's expense.
- V. **PARKING.** Tenant shall have the right to reasonably park vehicles on or about the Premises and the lands immediately adjacent thereto during periods of construction, site

inspections, and at times of necessary repair work, providing that Tenant shall not interfere with the properties or operations of the Landlord or other users of the road.

- VI. **GUY WIRES.** Tenant intends to build a self-supporting tower on site but shall retain the right to run reasonable and necessary guy wires from the Tower to be constructed on the Premises, over, and across the adjoining lands of Landlord as may be reasonably necessary for the proper support of the Tower, including at such points the rights to install anchors of such size and materials as shall be necessary to secure the guy wires. The guy wires and anchors shall be located as shown on the plan annexed hereto as **Exhibit A**, but the Tenant shall have the right to relocate said guy wires and anchors in the event Tenant desires to increase or decrease the height of the Tower or relocate the same within the boundaries of the Premises. The Tower height shall be in accord with the regulations of the Town of Fletcher, NC and abide by all restrictions and requirements applicable to antennas of similar height located in areas of "Class C" controlled airspace, as regulated by the Federal Aviation Administration.
- VII. **LEASE TERM.** This Lease shall be for a term of ten (10) years, commencing on the date of the Lease, and shall automatically renew for subsequent periods of ten (10) years unless either party shall give written notice to the other at least one (1) year prior to the end of the term. Either party may, as a part of a one (1) year notice as required by the previous sentence, notify the other party that they are willing to extend the lease with modification of certain of its terms. The parties shall then have three (3) months to reach agreement on such terms.
- VIII. **RENT.** No rent shall be paid by the Tenant for the use of the Premises designated for county emergency services. Tenant agrees that 90 percent (90%) of any rent, colocation fees (less any actual administrative, technical, operating or other costs incurred directly by the county in connection with colocation) or other income, revenue, or expense sharing derived from the use of the Premises for the purposes of colocation of commercial service providers or entities other than Tenant shall be remitted directly to Landlord, and shall commence from the date any such commercial operations begin. Tenant agrees that the 10 percent (10%) of rent or colocation fees retained by the tenant will be capped after a cost recovery of four hundred thousand dollars (\$400,000.00). Although there shall be no rent paid by Tenant to Landlord, Tenant shall be responsible for all costs in connection with the Tower, access road, and construction, operation, and maintenance thereof.
- IX. **PERMITTED ACCESS.** Landlord shall be permitted to access the Tower site at any reasonable time, but with no less than seventy-two (72) hours prior notice, except in the case of an emergency, to inspect the site and ensure the terms of this Lease are in order. The Tenant shall permit the Landlord to place an antenna, repeater or other device on the tower to improve communication reception on Landlord's campus. The Tenant shall not charge Landlord any rent or utility fee for such use. Any cost associated with the installation and maintenance of a communication device shall be the sole responsibility of the Landlord.
- X. **ASSIGNMENT; SUBLEASING.** Tenant has the right to sublet the Premises, in whole or in part, subject to Landlord's prior written consent for all commercial subleases. Such consent shall not be unreasonably withheld, conditioned, or delayed, provided that proposed sub-lessees meet the operational and financial criteria set forth in **Exhibit B**

and/or **Part VIII**, respectively. Landlord shall retain the right to approve the amount of any rent or fee charged to any sublessee by the Tenant, in accordance with paragraph VIII of this Lease.

- XI. **SUCCESSORS AND ASSIGNS.** During the lease term Tenant shall peacefully and quietly enjoy the Premises, and easements granted hereunder, subject to the terms of this Lease. All the terms covenants and conditions of this Lease shall inure to the benefit of and shall be binding upon the parties hereto, their heirs and assigns, and shall be deemed to run with the land.
- XII. **DEFAULT.** Tenant shall be deemed to be in default of this Lease if Tenant fails to correct any default or breach of this Lease after Landlord has given Tenant written notice of any default hereunder and Tenant has failed to cure the same within thirty (30) days after receipt of such notice.
- XIII. **CORRESPONDENCE.** All correspondence relating to this Lease shall be sent to the following addresses:

Landlord: Fletcher Academy, Inc.
185 Fletcher Academy Dr.
Fletcher, NC 28732
Attention: President & CEO

Tenant: Henderson County
1 Historic Courthouse Square
Hendersonville, NC 28793

- XIV. **IMPROVEMENTS.** All improvements including buildings, fixtures, towers, improvements and equipment erected, located, placed or constructed by Tenant upon the Premises or the guy anchor locations shall remain personal property of Tenant and shall be removed by Tenant upon the expiration of the Lease. Tenant shall repair the Premises upon the removal of any such improvements at Tenant's expense, leaving the premises in the same condition as at the commencement of the Lease. If the Tenant fails to remove improvements erected or placed on the Premises within 90 (90) days after the termination of the Lease, or any renewal therefor, the improvements shall become property of the Landlord.
- XV. **INDEMNIFICATION.** Tenant shall be in exclusive control and possession of the Premises. Landlord shall not be liable for any injury or damages to any property or any person on or about the Premises, nor for any injury or damage to any property of Tenant. Tenant shall indemnify and defend and hold Landlord harmless from and against any and all claims, liability, damage or loss to persons, including loss of life, or to property, including reasonable attorneys' fees and other costs of representation, which may arise out of Tenant's use or occupancy of the Premises, or out of any act of Tenant, its employees, agents and invitees. Tenant agrees to indemnify and defend and hold Landlord harmless from and against any claims arising from Tenant's use of the Premises, including claims related to commercial co-locators, covering all activities related to commercial co-location. Specifically, but not by way of limitation, Tenant agrees not to interfere with the existing

Crown Castle / d/b/a Verizon Wireless tower or its use, or the WFHC-FM Tower or its use by JBN, Inc., and to indemnify and defend and hold harmless Landlord from and against any and all claims arising there from. Tenant represents that it is insured and will maintain liability insurance with coverage in the amount of \$1,000,000 per occurrence and \$10,000,000 aggregate. Additionally, Tenant shall insure all of its personal property and any improvements it makes to be located on the Premises and shall require any potential future co-location parties to do so as well. Tenant shall furnish and maintain with Landlord current copies of Certificate(s) of Insurance listing Fletcher Academy, Inc. and The Layman Foundation of North Carolina as additional insured parties for each of its policies (liability, property, and commercial auto, wherein the commercial auto policy shall feature a "combined single" limit of at least \$1,000,000). In any case of overlapping coverage, Tenant's coverage will be considered "primary and noncontributory."

XVI. **GOVERNING LAW.** This Lease shall be governed by the laws of the State of North Carolina.

XVII. **REGULATIONS.** Tenant shall comply with all governmental regulations, rules and laws, and shall obtain any necessary licenses to construct the Tower on the Premises as required by the Federal Aviation Administration, or other governmental entity or regulatory agency holding valid jurisdiction over such. Tenant covenants that it will use the leased premises in accordance with all relevant governmental authority and shall not violate any law, regulation or other governmental code with respect to the use of the premises.

XVIII. **ACKNOWLEDGEMENTS.** When properly completed, a certificate in substantially the following form may be used and shall be sufficient under the law of this State to satisfy the requirements for a notarial certificate for one or more individuals, acting in his, her, or their own right or, whether or not so stated in the notarial certificate, in a representative or fiduciary capacity, including one or more individuals acting on behalf of an unincorporated association, as an officer or director of a corporation, as a partner of a general or limited partnership, as a manager or member of a limited liability company, as the trustee of a trust, as the personal representative of a decedent's estate, as an agent or attorney in fact for another, as the guardian of a minor or an incompetent, or as a public official. The authorization of the form in this section does not preclude the use of other forms. This section applies to notarial certificates made before, on, and after December 1, 2005.

XIX. The Tenant's installation, operation and maintenance of the radio tower shall be in compliance with all federal, state and local laws, including but not limited to FCC requirements.

IN WITNESS WHEREOF; this lease has been executed as of the day and year first above written.

ARTHUR LEO GIBBS, Agent for Landlord

JOHN MITCHELL, Agent for Tenant

EXHIBIT A



EXHIBIT B

TOWER COLOCATION REQUIREMENTS

Technical Standards for Commercial Tower Co-location

1. Structural Requirements
 - a. Load Capacity: The tower must be certified by a licensed structural engineer to support the additional load of co-located equipment.
 - b. A structural analysis report must be submitted before installation, ensuring compliance with ANSI/TIA-222 standards.
 - c. Weight Limitations: Total combined weight of existing and proposed antennas, mounts, cabling, and other equipment should not exceed the tower's design specifications.
 - d. Wind Load Considerations: Equipment must meet local wind load requirements, considering additional wind drag from new installations.
2. Antenna and Equipment Placement
 - a. Separation Requirements: A minimum vertical separation of 6 feet (or as specified by the tower's original design) must be maintained between antenna arrays to minimize interference and ensure safety.
 - b. Access and Installation: All equipment must be installed using industry best practices, ensuring no obstruction of other tenants' equipment.
 - c. Marking and Identification: Each co-located tenant must clearly mark their equipment for identification, including antennas, mounts, and cables.
3. Electrical and Power Standards
 - a. Power Source: Separate power feeds must be provided for each tenant to prevent dependency on shared systems.
 - b. Backup Power: Battery backups and/or generators must meet site-specific standards and have a runtime of at least 8 hours.
 - c. Grounding and Bonding: All equipment must be grounded per National Electrical Code (NEC) requirements to ensure safety from electrical surges.
4. Radio Frequency (RF) Compliance
 - a. Interference Management: New equipment must undergo an intermodulation study to confirm it will not cause interference with existing equipment.
 - b. RF Exposure Limits: All equipment must comply with Federal Communications Commission (FCC) guidelines on RF exposure limits.
 - c. Frequency Coordination: Tenants must coordinate with site management to ensure no frequency conflicts.
5. Cable Management:
 - a. Conduit and Routing: All cables must be routed through designated conduits or cable trays to maintain a clean and organized site.
 - b. Weatherproofing: Weatherproofing measures, such as UV-resistant cable sleeves and sealed connectors, must be applied to all cabling.

6. Security and Access

- a. Access Control: Access to the site must be restricted to authorized personnel, with proper documentation and prior notification required for any work.
- b. Locks and Identification: Equipment cabinets and access gates must have unique locks or key codes assigned to each tenant.

7. Environmental Considerations

- a. Environmental Compliance: Installations must adhere to all local, state, and federal environmental regulations.

8. Maintenance and Inspections

- a. Scheduled Maintenance: Each tenant is responsible for the routine maintenance of their equipment.
- b. Periodic Inspections: Tower owner or site manager must perform annual inspections to ensure compliance with these standards.
- c. Reporting: Any issues or upgrades must be reported to the tower owner for approval before implementation.

9. Legal and Insurance Requirements

- a. Lease Agreement: Tenants must enter into a co-location agreement detailing rental terms, liability, and compliance responsibilities.
- b. Insurance: Tenants must maintain general liability insurance with coverage amounts as specified by the tower owner.

10. Decommissioning and Removal

- a. End of Lease: Tenants must remove all equipment within 30 days of lease termination and restore the site to its original condition.
- b. Abandoned Equipment: Any equipment left beyond 30 days without notice will be considered abandoned and may be removed at the tenant's expense.