

VEHICLE USE AGREEMENT

This agreement ("Agreement"), entered into this 5 day of ^{April} ~~March~~ 2023, between the **Oxford Downtown Development Authority** ("Oxford DDA"), whose address is 22 W Burdick Street, Oxford, MI 48371, a Michigan non-profit corporation, and the **Lake Orion Downtown Development Authority** ("Lake Orion DDA"), whose address is 118 N Broadway, Lake Orion, MI 48362, a Michigan non-profit corporation and the **North Oakland Transportation Authority** ("NOTA"), whose address is 1675 S Glaspie Street, Oxford, MI 48371, a Michigan non-profit corporation established to provide transportation services pursuant to an intergovernmental agreement between the Charter Township of Orion, Charter Township of Oxford, Township of Addison, states the following:

RECITALS

WHEREAS, the Parties anticipate that the Agreement will represent an ongoing relationship between the Parties, who will work collaboratively and in good faith to operate the vehicle which currently is identified as:

1997 Chance 29' Trolley, VIN# 1C9S2HASIVW535063 (Hereinafter "Trolley")

WHEREAS, the Oxford DDA and the Lake Orion DDA wish to contract with NOTA to provide operational transportation services of the Trolley as well as other services as defined herein and the Parties agree to comply with the terms of this Agreement; and

WHEREAS, NOTA is providing the services set forth herein together with the DDAs in order to better the community as a whole; and

WHEREAS, the purpose of this Agreement is to state the terms and conditions under which the transportation services associated with the Trolley will be undertaken by NOTA.

AGREEMENT:

NOW, THEREFORE, based upon the foregoing statements the Parties agree to the following terms, conditions, representations with adequate consideration accepted and acknowledged:

1. **Term of Agreement.** This Agreement shall be effective from the time of signing and shall remain in effect for three (3) years unless terminated earlier under section 2.
2. **Termination of Agreement.** Any party may terminate this Agreement at any time, for any reason or no reason, with not less than thirty (30) days written notice to the other Parties. Removal from this Agreement does not remove liability to pay any outstanding invoices that may be due while the Parties were bound by this Agreement.

3. **Modification of Agreement.** The Agreement can only be modified by a writing signed and dated by all Parties to the Agreement.

4. **Independent Contractor and Sub Contracting.** The Parties agree that NOTA is wholly independent in relation to the rights and responsibilities set forth in this Agreement. As such, NOTA retains the right to exercise full control and supervision over its employees and sub-contractors, if any. If the Parties agree that an obligation undertaken by this Agreement can be sub-contracted. The Parties agree that any sub-contractor shall fully adhere to the terms of this Agreement as it relates to the work sub-contracted.

5. **Services Provided.** NOTA will operate the Trolley within Lake Orion and Oxford on the dates and times as specified, from time to time, by the Oxford DDA and Lake Orion DDA.

6. **The Trolley.** The Parties agree that the Trolley is owned and titled to the Oxford DDA and that title shall at all times remain with the Oxford DDA. Nothing in this Agreement transfers ownership or provides NOTA or any other Party with any ownership interest or claim of ownership with respect to the Trolley. At all times when not in use, the Trolley shall be stored at the property of NOTA at 675 S Glaspie, Oxford, MI 48371 .

7. **Use Of The Trolley.** The following terms and conditions are created for the use of the Trolley in order to ensure the safety of passengers and others that use the Trolley.

1. The driver of the Trolley has the right to terminate any transportation service and ask a customer to exit the Trolley should the driver deem that the customer is putting the driver, Trolley or customers in any danger of injury or damage or is not complying with any rules or instructions established by the driver or NOTA.
2. The driver can refuse to allow customers to board or ask customers to exit if they are intoxicated or unruly.
3. Smoking and vaping shall not be permitted on the Trolley.
4. Open containers of alcohol and/or other beverages shall not be permitted on the Trolley.
5. Food consumption shall not be permitted on the Trolley.
6. Illegal substances/materials are prohibited on the Trolley.
7. NOTA is not responsible for items/belongings that are lost, stolen, damaged, or forgotten on the Trolley or the disposal of the same.
8. NOTA is not responsible for delays or interruption of services due to acts of God and/or circumstances that are beyond NOTA's

control, including, but not limited to traffic congestion, road closures, accidents, weather delays, mechanical problems/breakdowns, etc.

9.

10. The Trolley's wheelchair lift is not operational.

11. Weather cancellations related to the use of the Trolley will be at the discretion of NOTA based on driving conditions existing at that time.

8. Cost Of Services and Invoices. Charges incurred by NOTA will be billed monthly to the Oxford DDA and Lake Orion DDA which will include all costs related to operating and storing the Trolley such as:

1. CDL Driver wages or NOTA overtime rate for full time employees plus payroll taxes.
2. Drug Testing fees
3. Training time
4. Gas charges
5. Insurance costs (Trolley, workers compensation)
6. Repairs and maintenance
7. Cleaning fees – time plus materials
8. Admin Fee of 10% to help cover cost of hiring, scheduling, repairing, and bookkeeping
9. Incidental costs such as masks if required by Federal, State or Local Authorities

9. Payment. Full payment of any Cost of Services issued by NOTA shall be due within 30 business days of the invoice date with payments made to: **NOTA, 675 S Glaspie Street, Suite A, Oxford, MI 48371**

10. Trolley Drivers. Based upon the size of the Trolley, any NOTA drivers operating the Trolley must have a Commercial Driver's License (CDL). NOTA agrees to provide management of the Trolley with regards to hiring Trolley CDL Drivers, doing background testing of the applicants, training and performing required pre employment and random drug testing of CDL Drivers. All Trolley drivers will be employees of NOTA and the rates to be invoiced will be agreed annually between NOTA and the Oxford DDA and Lake Orion DDA. Trolley only drivers

of NOTA will not be subject to the employee benefits that NOTA provides such as MERS DC plan, health care, dental, vision, life insurance, LTD, STD, snow days, holidays and PTO.

11. Non-Discrimination. NOTA shall not discriminate against any employee or applicant for employment because of race, color, sex, age, handicap, religion, ancestry, marital status, national origin, place of birth or sexual orientation. NOTA shall ensure that applicants are evaluated for employment and that employees are treated during their employment without regard to their race, color, sex, age, handicap, religion, ancestry, marital status, national origin, place of birth or sexual orientation. The forgoing shall include, without limitation, employment upgrading, demotion, or transfer, recruitment advertising, layoff or termination, rates of pay or other forms of compensation and/or the selection of training, including apprenticeship. NOTA shall comply with the provisions of the State of Michigan "Prohibition of Discrimination in State Contracts". NOTA further agrees that it will comply with the Civil rights Act of 1964 (78 Stat. 252), and the Michigan Civil Rights Acts of 1976 (454 P.A. 1967), and will require a similar covenant on the part of any consultant and/or subcontractor employed in the performance of this Agreement.

12. Record Keeping. Accurate financial and operating records of the use of the Trolley shall be kept by NOTA, including: ridership, personnel records, expenses, accident reports, maintenance records, dispatch records and all other supporting documents pertaining to the use of the Trolley for a minimum of three years. All Records shall be made available to the DDA's upon request.

13. Maintenance Of The Trolley. The Trolley is being provided by the Oxford DDA in an "as is" condition, without warranties of any kind, express or implied from the Oxford DDA. NOTA shall maintain the Trolley in good working condition, unless it is mutually determined that specific items are no longer feasible to repair or maintain. NOTA shall maintain the Trolley at a high level of cleanliness, safety, and mechanical soundness. Maintenance shall be carried out in accordance with specifications for the equipment as long as parts may be available. If parts are not available it will be the responsibility of all Parties to decide whether to keep the Trolley on the road or not. All repair and maintenance issues will be approved by the Oxford DDA and/or Lake Orion DDA and all repairs and maintenance costs of the Trolley will be paid by the Oxford DDA and the Lake Orion DDA.

14. Insurance And Indemnification. NOTA shall provide insurance with the coverage, limits and conditions described below. All insurance must be written with an insurer admitted and licensed in the State of Michigan. Oxford DDA and Lake Orion DDA must be provided with certificates of insurance prior to NOTA's use of the Trolley and the effective date of said coverage. Oxford DDA and Lake Orion DDA must be provided a complete copy of the insurance policy within thirty (30) days following the effective date.

Coverage must be primary and non-contributory and must provide a waiver of subrogation in favor of the Oxford DDA and Lake Orion DDA.

If NOTA is self-insured, a certificate from the appropriate State agency must be furnished by such agency to Oxford DDA and Lake Orion DDA. If during the term of the contract, the

insurance certificate or any required coverage expires or is otherwise modified, NOTA is responsible for immediately providing a renewed certificate of insurance to Oxford DDA and Lake Orion DDA.

- a. **Physical Damage.** NOTA shall purchase vehicle physical damage insurance, including comprehensive and collision coverage, for the Trolley for the greater of actual cash value or book value of the Trolley. Oxford DDA shall be named as Loss Payee on the policy, and be provided a minimum of 30 days prior written notice of cancellation.
 - b. **Vehicle Liability.** NOTA shall purchase vehicle liability insurance for the Trolley, including \$5,000,000 per occurrence Bodily Injury/Property Damage (CSL is acceptable), and Michigan No-Fault protection. Oxford DDA and Lake Orion DDA shall be named an Additional Insured on the liability policy and be provided a minimum of 30 days prior written notice of cancellation.
 - c. **Workers Compensation.** NOTA shall purchase and maintain statutory Workers' Compensation and \$500,000 Employer's Liability insurance for all employees.
 - d. **General Liability.** NOTA shall purchase and maintain comprehensive general liability insurance with a limit not less than \$1,000,000 including contractual liability. This policy shall name the Oxford DDA and Lake Orion DDA as an additional insured.
 - e. **Indemnification.** Notwithstanding any other provision in this Agreement, the Oxford DDA and the Lake Orion DDA shall indemnify, defend and save harmless NOTA its officers, agents, employees, and members of its Board of Directors from any and all claims, losses and damages, including costs and attorney fees occurring or resulting from any act, omission or negligence of or chargeable to the parties, their officers, agents employees or subcontractors, arising out of and pursuant to this Agreement and/or use of the Trolley.
15. **Assignment.** This Agreement shall not be assigned, transferred or pledged by either party without the prior written consent of the other party, in which case, it shall be binding upon the successors or assigns of the respective parties.
16. **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the parties. their respective heirs. representatives, successors or assigns. Should any part of this Agreement be declared to be invalid, or beyond the authority of either party to enter into or carry out, such decision will not affect the validity of the remainder of this agreement, which will continue in full force.

17. **Entire Agreement.** This Agreement constitutes the entire Agreement between the parties and supersedes any and all prior agreements, oral or written in regards to this project and use of the Trolley. Waiver of any breach of this Agreement shall not be construed as a continuing waiver of other breaches of the same or other provisions of this Agreement. Parties' failure to exercise or delay in exercising any right, power or privilege under this Agreement shall not operate as a waiver; nor shall any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof.
18. **Jurisdiction and Venue.** This Agreement shall be governed by and constructed according to the laws of the State of Michigan. Venue for any disputes under this Agreement shall lie in Oakland County, Michigan. The Parties agree to follow all applicable State and Federal laws.
19. **Effective Date.** This Agreement shall be effective on the date as shown above.

The Parties acknowledge that they have read and understand this Agreement and that they are authorized to execute this Agreement.

NORTH OAKLAND TRANSPORTATION AUTHORITY

Lynn Gromascki
Signature
Lynn Gromascki
Printed Name
Exec Director
Title
4/5/23
Date

OXFORD DOWNTOWN DEVELOPMENT AUTHORITY

Kelly Westbrook
Signature
Kelly Westbrook
Printed Name
ED
Title
4-5-23
Date

LAKE ORION DOWNTOWN DEVELOPMENT AUTHORITY

Molly Lalane
Signature
Molly Lalane
Printed Name
Executive Director
Title
4-6-23
Date



MICHIGAN MUNICIPAL
RISK MANAGEMENT
A U T H O R I T Y

CERTIFICATE OF COVERAGE

This certificate is issued as a matter of information only and confers no rights upon the certificate holder except to the extent shown below. This certificate does not amend, extend, or alter the coverage contained in the Authority's Joint Powers Agreement and coverage attachments thereto.

This is to certify that a Self-Insured Program has been undertaken by the member listed below through the Authority pursuant to Act 138 P.A. 1982.

The coverage provided by the Authority is as follows:

- 1. Liability coverage for general liability, automobile (including Michigan No-Fault), law enforcement, and public officials liability; in the sum of \$15,000,000 each occurrence inclusive of loss adjustment and defense costs.
- 2. Property Coverage including loss to real & personal property, to amounts stipulated in coverage documents and overview for this member.
- 3. Motor Vehicle Physical Damage Coverage for the vehicles stipulated in the Coverage Document.
- 4. Information only.
- 5. The entity named below is included in the scope of protection as respects claims arising from a COVERED CONTRACT as defined in the MMRMA Liability and Motor Vehicle Physical Damage Coverage Document.
- 6. Other (as described here):

This certificate is issued in accordance with and is subject to all provisions of the Joint Powers Agreement, Coverage Documents, reinsurance agreements, MMRMA rules, regulation and administrative procedures. Should the member identified below withdraw from the Authority, or its Authority Membership be otherwise terminated, the Authority shall endeavor to notify the certificate holder in writing thirty (30) days in advance thereof, but failure to furnish such notice shall impose no obligation or liability of any kind upon the Authority, or its representatives.


Certificate Holder:
TO WHOM IT MAY CONCERN

Member:
**NORTH OAKLAND TRANSPORTATION
AUTHORITY
675 S GLASPIE STREET
OXFORD, MI 48371**

Certificate Expiration Date: April 10, 2026
Date Issued: April 10, 2025

Member Number: # M0001738
Effective Date of Membership: April 10, 2023

Distribution:
Lynn Gromaski, North Oakland Transportation Authority
MMRMA Underwriting



Authorized Representative