

## **REQUEST FOR BOARD ACTION**

### **HENDERSON COUNTY BOARD OF COMMISSIONERS**

**MEETING DATE:** February 6, 2012

**SUBJECT:** Probation and Parole Lease

**PRESENTER:** David Whitson

**ATTACHMENTS:** Yes,  
1) Lease Agreement with The State of North Carolina

#### **SUMMARY OF REQUEST:**

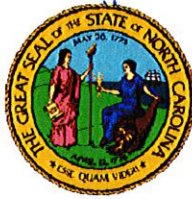
Attached is a “no cost” lease for a period of three years beginning January of 2012 and ending on December 31, 2014 to house the Probation and Parole offices at 1347 Spartanburg Highway, the new Court Services Building. The lease agreement is very similar to others across the state and does not obligate the County for any more than what the County already provides. The State of North Carolina requires that Counties provide space for Probation and Parole functions, the lease agreement is provided to protect the rights of both the County and the State of North Carolina. With this lease the County retains the right to move the Probation and Parole offices with adequate (60 days) notice.

#### **BOARD ACTION REQUESTED:**

**Approve the attached lease between Henderson County and The State of North Carolina 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 The State of North Carolina and authorize the County Manager so sign the lease on behalf of Henderson County.*



# North Carolina Department of Correction

## Departmental Purchasing & Budget

2020 Yonkers Road 4227 MSC Raleigh, NC 27699-4227  
Phone: (919) 716-3250 Fax: (919) 716-3983 or (919) 716-3984

Beverly Eaves Perdue, Governor

Barbara Baker, CPO, BO

Alvin W. Keller, Jr., Secretary

November 10, 2011

Mr. Steve Wyatt  
Henderson County Manager  
100 N. King Street  
Hendersonville, NC 28792

**RE: No Cost Lease for County Provided Space in Hendersonville, Henderson County, NC (Attached Lease)**

Dear Mr. Wyatt:

The State Property Office of the Department of Administration has determined a "no cost" lease agreement would be beneficial for the occupation of County provided office space for Probation and Parole. This lease agreement protects the rights of both the County and State and provides a paper trail for both parties. Said lease agreement is much like the ones that the County and State enter into for use of building and land rights throughout the State. I assure you that said lease does NOT obligate the County for any more than what the County already provides.

Please review the attached lease document and feel free to call me to discuss any concerns you may have. Upon your review and approval, please sign both originals of enclosed lease, have notarized and return to me at the address listed above. Said lease will be executed by the State Property Office and one original will be returned to you for your records. Please leave the date on the first page blank as this will be completed by the State Property Office upon execution.

**Henderson County retains the right to move the Probation and Parole office operations (staff) to a suitable location anytime during this lease period;** however, the County agrees to give the Department of Correction not less than a sixty (60) day written notice of any said intent. Any office space that the County proposes to relocate to must be reviewed and approved jointly by the County Commissioners, County Manager, Judicial District Manager (JDM) and the Department of Correction Real Property Officer **prior** to the move. (Said notice is to give Probation and Parole time to move staff, furnishings, obtain and install telephone and computer systems).

Should you have any questions or concerns, please feel free to contact me at 919-716-3279. Thank you in advance for your assistance in this matter.

743-8232

Sincerely,

Ronald R. Moore, Real Property Officer

**THIS LEASE DOES NOT BECOME EFFECTIVE UNTIL EXECUTED  
BY THE NORTH CAROLINA DEPARTMENT OF CORRECTION**

STATE OF NORTH CAROLINA

**LEASE AGREEMENT**

THIS LEASE AGREEMENT, made and entered into this the \_\_\_\_\_ day of \_\_\_\_\_, 2011, by and between **COUNTY of HENDERSON** hereinafter designated as Lessor, and the **STATE OF NORTH CAROLINA**, hereinafter designated as Lessee;

**WITNESSETH:**

WHEREAS, authority to approve and execute this lease agreement was delegated to the Department of Administration by resolution adopted by the Governor and Council of State on the 1<sup>st</sup> day of September, 1981; and

WHEREAS, the Department of Administration has delegated to this State agency the authority to execute this lease agreement by a memorandum dated the 17<sup>th</sup> day of April, 1985; and

NOW THEREFORE, in consideration of the rental hereinafter agreed to be paid and the terms and conditions hereinafter set forth, Lessor does hereby let and lease unto Lessee and Lessee hereby takes and leases from Lessor for and during the period of time and subject to the terms and conditions hereinafter set out certain space in the **City of Hendersonville, County of Henderson**, North Carolina, more particularly described as follows:

**Being +/- 4,228 net square feet of office space located at 1347 Spartanburg, Suite 3, Hendersonville, Henderson County, North Carolina.**

**(DEPARTMENT OF CORRECTION)**

THE TERMS AND CONDITIONS OF THIS LEASE AGREEMENT ARE AS FOLLOWS:

1. The term of this lease shall be for a period of three **(3) Years** commencing on the **1<sup>st</sup>. day of January, 2012** or as soon thereafter as the leased premises are ceded to the Lessee and terminating on the **31<sup>st</sup>. day of December 2014**.

2. The Lessee shall pay to the Lessor as rental for said premises the sum of **\$1.00** Dollars per term to be payable within fifteen (15) days from receipt of invoice in triplicate.

The Lessee agrees to pay the aforesaid rental to Lessor at the address specified, or, to such other address as the Lessor may designate by a notice in writing at least fifteen (15) days prior to the due date.

3. Lessor agrees to furnish to the Lessee, as a part of the consideration for this lease, the following services and utilities to the satisfaction of the Lessee.

- A Heating facilities, air conditioning facilities, adequate electrical facilities, adequate lighting fixtures and sockets, hot and cold water facilities, and adequate toilet facilities.
- B. Janitorial services and supplies including maintenance of lawns, parking areas, common areas and disposal of trash.
- C. All utilities except telephone.
- D. Parking as available.
- E. The lessor covenants that the leased premises are generally accessible to persons with disabilities. This shall include access into the premises from the parking areas (where applicable), into the premises via any common areas of the building and access to an accessible restroom.

4. During the lease term, the Lessor shall keep the leased premises in good repair and tenantable condition, to the end that all facilities are kept in an operative condition. Maintenance shall include, but is not limited to furnishing and replacing electrical light fixture ballasts, air conditioning and ventilating equipment filter pads, if applicable, and broken glass. In case Lessor shall, after notice in writing from the Lessee in regard to a specified condition, fail, refuse, or neglect to correct said condition, or in the event of an emergency constituting a hazard to the health or safety of the Lessee's employees, property, or invitees, it shall then be lawful for the Lessee in addition to any other remedy the Lessee may have, to make such repair at its own cost and to invoice the amount thereof to the Lessor for reimbursement. The Lessor reserves the right to enter and inspect the leased premises, at reasonable times, and to make necessary repairs to the premises.

5. It is understood and agreed that Lessor shall, at the beginning of said lease term as hereinabove set forth, have the leased premises in a condition satisfactory to Lessee, including repairs, painting, partitioning, remodeling, plumbing and electrical wiring suitable for the purposes for which the leased premises will be used by Lessee.

6. The Lessee shall have the right during the existence of this lease, with the prior consent of the County Manager or designee, to make alterations, attach fixtures and equipment, and erect additions, structures or signs in or upon the leased premises. Such fixtures, additions, structures or signs so placed in or upon or attached to the leased premises under this lease or any prior lease of which this lease is an extension or renewal shall be and remain the property of the Lessee and may be removed therefrom by the Lessee prior to the termination of this lease or any renewal or extension thereof, or within a reasonable time thereafter. The Lessee shall have no duty to remove any improvement or fixture placed by it on the premises or to restore any portion of the premises altered by it. In the event Lessee elects to remove his improvements or fixtures and such removal causes damage or injury to the demised premises, Lessee will repair only to the extent of any such damage or injury.

7. If the said premises is destroyed by fire or other casualty without fault of the Lessee, and or partial destruction or damage by fire or other casualty without fault of the Lessee, so as to render the premises untenable in whole or in part, and during such period of repair the Lessee (with concurrence of the County) shall have the right to obtain similar office space by lease at the expense of Lessee with reimbursement from the County.



8. Lessor shall be liable to Lessee for any loss or damages suffered by Lessee which are a direct result of the failure of Lessor to perform an act required by this lease, and provided that Lessor could reasonably have complied with said requirement.

9. Upon termination of this lease, the Lessee will peaceably surrender the leased premises in as good order and condition as when received, reasonable use and wear and damage by fire, war, riots, insurrection, public calamity, by the elements, by act of God, or by circumstances over which Lessee had no control or for which Lessor is responsible pursuant to this lease, excepted.

10. The Lessor agrees that the Lessee, upon keeping and performing the covenants and agreements herein contained, shall at all times during the existence of this lease peaceably and quietly have, hold, and enjoy the leased premises free from the adverse claims of any person.

11. The failure of either party to insist in any instance upon strict performance of any of the terms and conditions herein set forth shall not be construed as a waiver of the same in any other instance. No modification of any provision hereof and no cancellation or surrender thereof shall be valid unless in writing and signed and agreed to by both parties.

12. Any hold over after the expiration of the said term or any extension thereof, shall be construed to be a tenancy from month to month, and shall otherwise be on the terms and conditions herein specified, so far as applicable; however, either party shall give not less than sixty (60) days written notice to terminate the tenancy.

13. The parties to this lease agree and understand that the continuation of this lease agreement for the term period set forth herein, or any extension or renewal thereof, is dependent upon and subject to the appropriation, allocation or availability of funds for this purpose to the agency of the Lessee responsible for payment of said rental. The parties to this lease also agree that in the event the agency of the Lessee or that body responsible for the appropriations of said funds, in its sole discretion, determines, in view of its total local office operations that available funding for the payment of rents are insufficient to continue the operation of its local offices on the premise leased herein, it may choose to terminate the lease agreement set forth herein by giving Lessor written notice of said termination, and the lease agreement shall terminate immediately without any further liability to Lessee.

14. All notices herein provided to be given, or which may be given by either party to the other, shall be deemed to have been fully given when made in writing and deposited in the United States mail, certified and postage prepaid and addressed as follows: To the Lessor at ~~100 N. King Street, Hendersonville, North Carolina 28792~~ and the Lessee at **2020 Yonkers Road, 4227 Mail Service Center, Raleigh, North Carolina 27699-4227**. Nothing herein contained shall preclude the giving of such notice by personal service. The address to which notices shall be mailed as aforesaid to either party may be changed by written notice.

**\* 1 HISTORIC COURTHOUSE SQUARE, SUITE 2**

“N.C.G.S. § 133-32 and Executive Order 24 prohibit the offer to, or acceptance by, any State Employee of any gift from anyone with a contract with the State, or from any person seeking to do business with the State. By execution of any response in this procurement, you attest, for your entire organization and its employees or agents, that you are not aware that any such gift has been offered, accepted, or promised by any employees of your organization.”

**[Remainder of page intentionally left blank; signatures on following pages]**

IN TESTIMONY WHEREOF, this lease has been executed by the parties hereto, in duplicate originals, as of the date first above written.

STATE OF NORTH CAROLINA

By: \_\_\_\_\_ (SEAL)  
TITLE: Chief Procurement & Budget Officer  
Barbara Baker

LESSOR:

\_\_\_\_\_  
The County of Henderson  
Steve Wyatt, County Manager

ATTEST:

\_\_\_\_\_  
Secretary  
(CORPORATE SEAL)

STATE OF NORTH CAROLINA

COUNTY OF \_\_\_\_\_

I, \_\_\_\_\_, a Notary Public in and for the  
County and State aforesaid, do hereby certify that **Steve Wyatt**, personally came before  
me this day and acknowledged that he is the **Henderson County Manager**, and that by  
authority and given as an act of and acknowledged the due execution of the foregoing  
instrument in its name.

WITNESS my hand and Notarial Seal, this the \_\_\_\_\_ day of  
\_\_\_\_\_, 2011.

\_\_\_\_\_  
Notary Public

My Commission Expires:

\_\_\_\_\_