

**REQUEST FOR BOARD ACTION**

**HENDERSON COUNTY  
BOARD OF COMMISSIONERS**

**MEETING DATE:** August 19, 2020

**SUBJECT:** Department of Public Safety Lease – Court Services Building

**PRESENTER:** Amy Brantley, Assistant County Manager

**ATTACHMENTS:** Yes

1. Lease Proposal from Department of Public Safety
2. Proposal to Lease to the State of North Carolina – PO-28

**SUMMARY OF REQUEST:**

Attached for Board approval is a lease proposal for the Department of Public Safety’s (DPS) Division of Community Corrections Offices in the County’s Court Services Building at 1347 Spartanburg Highway. DPS proposes to lease +/- 1,334 square feet, for an annual cost of \$11,672.50. The proposed term of the lease is from September 1, 2020 through August 31, 2023.

**BOARD ACTION REQUESTED:**

The Board is requested to approve the attached lease proposal between Henderson County and the State of North Carolina for the period of September 1, 2020 through August 31, 2023, and authorize the County Manager to execute documentation on behalf of Henderson County.

**Suggested Motion(s):**

*I move the Board approve the attached lease proposal between Henderson County and the State of North Carolina for the period of September 1, 2020 through August 31, 2023, and authorize the County Manager to execute documentation on behalf of Henderson County.*

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

STATE OF NORTH CAROLINA

COUNTY OF  
HENDERSON

**LEASE AGREEMENT**

THIS LEASE AGREEMENT, made and entered into this the \_\_\_\_ day of \_\_\_\_\_, 2020, by and between, **COUNTY OF HENDERSON** hereinafter designated as Lessor, and the **STATE OF NORTH CAROLINA**, hereinafter designated as Lessee;

**W I T N E S S E T H:**

THAT 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 1st day of September, 1981; and as amended on September 8, 1999 and December 7, 1999, and

WHEREAS, the parties hereto have mutually agreed to the terms of this lease agreement as hereinafter set out,

WHEREAS, the Department of Administration has delegated to this State agency the authority to execute this lease agreement by a memorandum dated the 18<sup>th</sup>. day of January, 2017 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 +/- 1,334 net square feet of office space located at 1347 Spartanburg Hwy., Hendersonville, Henderson County, North Carolina. See Attached Exhibit "A" Floor Plan

**DEPARTMENT OF PUBLIC SAFETY – JDM-29**

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**, with no renewal periods commencing on the **1<sup>st</sup> day of September 2020**, or as soon thereafter as the leased premises are ceded to the Lessee and terminating on the **31<sup>st</sup> day of August, 2023**.
2. During the term of the lease, the Lessee shall pay to the Lessor as rental for said premises the sum of **\$11,672.50** Dollars per annum, which sum shall be paid in equal monthly installments of **\$972.71** Dollars, said rental to be payable within five (5) days from receipt of invoice.

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 reasonable 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. Lessor to provide required fire extinguishers and servicing, pest control, and outside trash disposal including provision for the handling of recyclable items such as aluminum cans, cardboard and paper.
- C. Maintenance of lawns, sidewalks, shrubbery, paved areas and common areas is required.
- D. Adequate Parking.
- E. All janitorial services and supplies.
- F. All utilities except telephone.
- G. 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 accessible restroom.
- H. All fire or safety inspection fees and storm water fee shall be paid by lessor.
- I. All land transfer tax/fees imposed by the County or Town which the space is located.
- J. All other terms and conditions of the signed "Proposal to Lease to the State of North Carolina" Form P0-28 and "Specifications for Non-Advertised Lease".

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 deduct the amount thereof from the rent that may then be thereafter become due hereunder. 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. Occupation of the premises by the Lessee constitutes Lessee's acceptance of the premises.

6. The Lessee shall have the right during the existence of this lease, with the Lessor's prior consent, 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 be destroyed by fire or other casualty without fault of the Lessee, this lease shall immediately terminate and the rent shall be apportioned to the time of the damage. In case of 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, there shall be an apportionment of the rent until the damage has been repaired. During such period of repair, Lessee shall have the right to obtain similar office space at the expense of Lessee or the Lessee may terminate the lease by giving fifteen (15) days written notice to the Lessor.

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 **1 Historic Courthouse Square #2, Hendersonville North Carolina 28792**. The Lessee at **3030 Hammond Business Place, Raleigh, North Carolina 27699**. 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.

15. 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.

LESSEE:  
**STATE OF NORTH CAROLINA**

By: \_\_\_\_\_(SEAL)  
Joanne Rowland,  
Director of Purchasing & Logistics

STATE OF NORTH CAROLINA  
COUNTY OF \_\_\_\_\_

I, \_\_\_\_\_, a Notary Public in and for the aforesaid County and the State aforesaid, do certify that **Joanne Rowland**, personally came before me this day and acknowledged that she is the Purchasing Director of the Department of Public Safety, State of North Carolina, and that by authority duly given and as the act of the Department, has signed the foregoing instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and Notarial Seal, this the \_\_\_ day of \_\_\_\_\_, 2020.

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

Printed Name: \_\_\_\_\_

My Commission expires \_\_\_\_\_

LESSOR:  
**COUNTY OF HENDERSON**

By: \_\_\_\_\_(SEAL)

STATE OF NORTH CAROLINA

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

I, \_\_\_\_\_, a Notary Public in the County and for the State aforesaid, do hereby certify that \_\_\_\_\_, personally came before me this day and acknowledge the due execution of the foregoing instrument for the purposes therein expressed.

IN WITNESS WHEREOF, I have hereunto set my hand and Notarial Seal this the \_\_\_\_\_ day of \_\_\_\_\_, 2020.

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

Printed Name: \_\_\_\_\_

My Commission expires \_\_\_\_\_

SPECIFICATIONS FOR NON-ADVERTISED LEASE

1. A floor plan to scale or a plan with room dimensions is required. Plan should show building exits for the proposed space. Also provide the year the building was constructed.
2. This facility must provide environment that is barrier free and easily accessible to physically disabled staff, visitors and clientele. Compliance with the State Building Code and the Americans with Disabilities Act is required. Toilet facilities shall be ADA accessible and code compliant.
3. Air conditioning and heating system shall be maintained by Lessor including frequent filter cleaning and replacement. Year round ventilation shall be provided to prevent stale air problems and unacceptable CO2 content. Waiting areas, LAN room and conference room(s) may require additional HVAC.
4. Telecommunication room temperature should be within a range of 65° to a maximum of 75°. This is a 24-hour per day, 7 days per week requirement. A separate HVAC system may be required to maintain this temperature range.
5. All utilities, except telephone.
6. All janitorial service and supplies to include maintenance of lawns, parking areas and common areas.
7. All lighting and electrical maintenance shall be furnished by Lessor including the replacement of ballasts, light tubes and replacement bulbs.
8. The Lessor shall provide required fire extinguishers and servicing, pest control (by a licensed technician) and outside trash disposal including provision for the handling of recycling items such as aluminum cans, cardboard and paper. Year-round maintenance is required to maintain a neat and professional appearance of the site at all times.
9. Internal and external signage to be customary (directory) to the building that will provide easy identification of the office by the general public. All other signage is to be provided by the Lessor as agreed upon by the County.
10. Locking hardware is required on all storage rooms, equipment rooms, files rooms and LAN room. Supply storage closets require shelving.
- 11 Lessor shall be responsible for snow removal as quickly as possible to avoid work delays.
- 12 The per square foot price proposal is based on the floor plan and repair lists agreed upon by the State of North Carolina and includes but it not limited to: all partitions, demolition, and up fitting costs: building and grounds maintenance; property taxes; insurance; fire and safety inspection fees; storm water fees; land transfer tax; common area maintenance and other building operational costs.
- 13 All parking areas shall be adequately lighted and located within a reasonable distance of the office.

Lessor is in agreement with the above conditions and the conditions of the also signed "proposal to Lease to the State of North Carolina" Form P0-28.

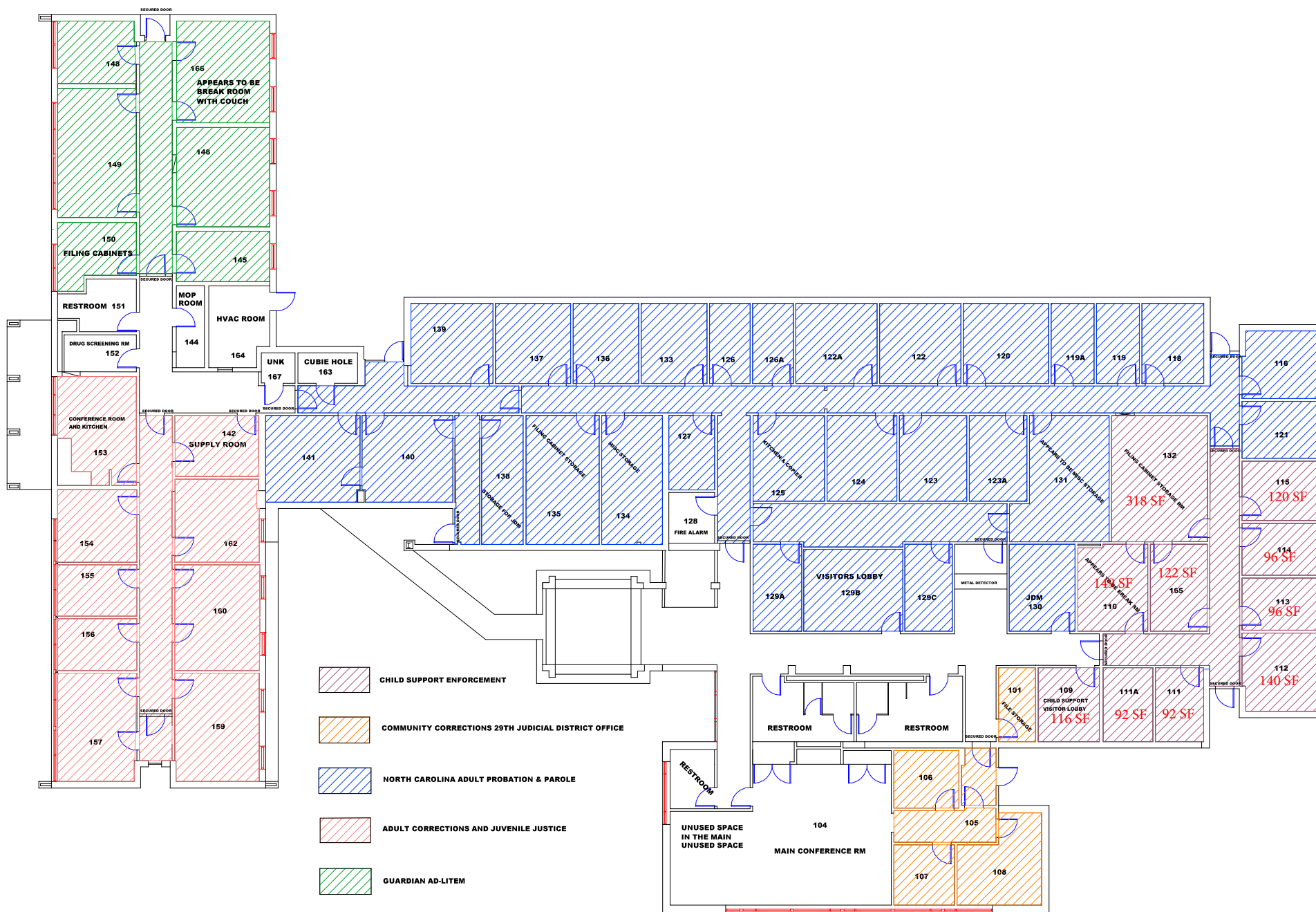
---

Signature of the Lessor

---

Date





THE STATE OF NORTH CAROLINA SHALL NOT BE RESPONSIBLE FOR ANY EXPENSES INCURRED BY THE PROPOSER IN THE PREPARATION OF THIS PROPOSAL.

**FAXED PROPOSALS ARE NOT ACCEPTABLE.**

**PROPOSAL TO LEASE TO THE STATE OF NORTH CAROLINA - PO-28**

1. NAME OF LESSOR: County of Henderson	2. LESSOR'S AGENT: Steve Wyatt, County Manager
---	---

INDICATE EACH LESSOR'S BUSINESS CLASSIFICATION AS APPLICABLE:  
 A. PROPRIETORSHIP  B. PARTNERSHIP  C. CORPORATION  D. GOVERNMENTAL  E. NON-PROFIT  
 F. **\*\*\* (HUB) HISTORICALLY UNDERUTILIZED BUSINESSES**  G. OTHER: \_\_\_\_\_

MAILING ADDRESS: 1 Historic Courthouse Square #2	MAILING ADDRESS
CITY: Hendersonville ZIP: 28792	CITY: ZIP:
PHONE: #828-697-4809 FAX: #828-697-4536	PHONE#: FAX#:
E-MAIL:	E-MAIL:

3. SPACE LOCATION: (including building name, floors involved & suite or room numbers unless entire floor)  
Henderson County Courthouse Suite 90

STREET ADDRESS	CITY	COUNTY	ZIP CODE
1347 Spartanburg Hwy.	Hendersonville,	Henderson County,	NC 28792

4. ATTACH FLOOR PLAN TO SCALE SHOWING THE SIZE AND LAYOUT OF SPACE OFFERED)

5. GROSS SQUARE FOOTAGE BEFORE NET USAGE COMPUTED	A. OFFICE	B. WAREHOUSE	C. OTHER
---	-----------	--------------	----------

6. All proposals must be submitted on the basis of net square footage as defined on reverse side of this sheet and in Specifications (PO-27)

A. DESIRED PROPOSAL (See PO-27 Items VI and XII-A)

TYPE OF SPACE	TOTAL NET SQ. FT.	ANNUAL RENTAL	ANNUAL RENT PER SQ. FT.	UTILITIES	JANITORIAL SERVICES	REQUIRED CLIENTELE PARKING SPACES
OFFICE	+/-1,334	\$11,672.50	\$8.75	YES	YES	
WAREHOUSE						
OTHER						
TOTALS			XXXX	XXXX	XXXX	XXXX

Lessor will provide ( ) employee parking spaces in above proposal at no additional charge to the State. (See explanation in PO-27 Item VI - Parking)

Comments:

**ERRORS BY PROPOSERS IN CALCULATING NET SQUARE FOOTAGE WILL REDUCE THE ANNUAL RENTAL WITHOUT CHANGING THE PROPOSED RATE PER SQUARE FOOT IN THE PROPOSAL**

B. OPTIONAL ALTERNATE PROPOSAL NO. 1 (See PO-27 ITEMS VI AND XII-B)  
*(FOR PROPOSALS NOT INCLUDING UTILITIES AND/OR JANITORIAL SERVICES)*

TYPE OF SPACE	TOTAL NET SQ. FT.	ANNUAL RENTAL	ANNUAL RENT PER SQ. FT.	UTILITIES	JANITORIAL SERVICES	
OFFICE						
WAREHOUSE						
OTHER						
TOTALS			XXXX	XXXX	XXXX	

Lessor will provide ( ) clientele parking spaces and ( ) employee parking spaces

Comments:

7. LEASE TERM : 3 YEARS BEGINNING DATE: 09/01/2020

8. RENEWAL OPTIONS, IF ANY: TERMS AND CONDITIONS:

*NOTE: RATES THAT INCLUDE INDETERMINABLE PERCENTAGE INCREASES, SUCH AS UNCAPPED CPI INCREASES ETC., ARE NOT ACCEPTABLE DURING EITHER THE INITIAL TERM OR ANY RENEWAL PERIOD(S)*

The State of North Carolina supports the use of products and materials having recycled content in renovation and construction. Will the proposed building provide facilities for handling materials to be recycled such as waste paper and cardboard?  YES  NO

**THE PROPOSED BUILDING MUST BE COMPLETELY FREE OF ANY HAZARDOUS ASBESTOS OR HAZARDOUS LEAD PAINT THROUGHOUT THE STATE'S TENANCY.**

Is the proposed building free of hazardous asbestos?	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>
Is the proposed building free of hazardous lead paint?	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>

DEPARTMENT: Public Safety (Probation and Parole)	DIVISION: DCC
--	---------------

CITY:	SQUARE FEET:	AGENT:
-------	--------------	--------

CUT-OFF FOR RECEIVING PROPOSALS IS 4:00 PM DATE:

<b>LESSOR: Henderson County</b>	
9. ADDITIONAL INFORMATION (Including any deviations from furnished specifications)	
10. Does this space comply with local and State Building safety and zoning codes specifically including OSHA provisions for the handicapped, and applicable sections of the State Building Code Volumes I-V?	
<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO <span style="margin-left: 100px;"><input type="checkbox"/> PARTIALLY</span>
EXPLAIN IF OTHER THAN "YES" IS CHECKED ABOVE:	
11. This proposal is made in compliance with the specifications furnished by the Department of <u>Public Safety</u> . I realize that the State reserves the right to reject this proposal for any reason it deems warranted. This proposal is good until <u>12/31/20</u> . I ACKNOWLEDGE AND FURTHER AFFIRM THAT I am aware of and familiar with the Americans with Disabilities Act of 1990 (42 United States Code, Section 12101 et seq.) and if the above firm is awarded the contract, it will comply with the provisions of said Act.	
I AM AWARE THAT THERE WILL BE NO NEGOTIATION OF THE PER SQUARE FOOT PRICE THAT I HAVE PRESENTED IN THIS PROPOSAL. I am further aware that annual per square foot rental rate(s) which include indeterminable percentage increase(s) such as uncapped Consumer Price Index increases etc., are not acceptable during either the initial term or any renewal period(s):	
<b>***(<u>HUB</u>) HISTORICALLY UNDERUTILIZED BUSINESSES (<u>HUB</u>) CONSIST OF <u>MINORITY, WOMEN AND DISABLED BUSINESS FIRMS THAT ARE AT LEAST FIFTY-ONE PERCENT OWNED AND OPERATED BY AN INDIVIDUAL(S) OF THE AFOREMENTIONED CATEGORIES. ALSO INCLUDED IN THIS CATEGORY ARE DISABLED BUSINESS ENTERPRISES AND NON-PROFIT WORK CENTERS FOR THE BLIND AND SEVERELY DISABLED.</u></b>	
Printed Name of Lessor _____	
Signature of Lessor _____	Date _____
<b>MAILING / DELIVERY INSTRUCTIONS</b>	
<b>To be considered this proposal must be received by the State Property Office prior to 4:00 PM on the cutoff. No faxed proposals will be accepted. PHONE: 919-807-4650</b>	
<b><u>Delivery Address If Delivered In Person:</u></b> Director, State Property Office, Room 4055, Administration Building, 116 West Jones Street, Raleigh, North Carolina	
<b><u>Mailing Address If Sent Through Mail Service:</u></b> State Property Office, 1321 Mail Service Center, Raleigh, North Carolina 27699-1321	
<b>ENVELOPE SHOULD BE MARKED:</b>	
<ul style="list-style-type: none"> <li>(a) Lease proposal Enclosed</li> <li>(b) Cutoff Date for Receiving Proposals</li> <li>(c) Name of State Agency involved.</li> </ul>	
<b>NOTE:</b> Net square footage is a term meaning the area to be leased for occupancy by State Personnel and/or equipment. To determine net square footage:	
1. Compute the inside area of the space by measuring from the normal inside finish of exterior walls or the roomside finish of fixed corridor and shaft walls, or the center of tenant separating partitions.	
2. Deduct from the Inside area the following:	
*a. Toilets and lounges	
*b. Entrance and elevator lobbies	
*c. Corridors	
d. Stairwells	
e. Elevators and escalator shafts	
f. Building equipment and service areas	
g. Stacks, shafts, and <b>interior columns</b>	
h. Other space not usable for State purposes	
*Deduct if space is not for exclusive use by the State. <u>Multiple State leases require a, b, and c to be deducted.</u> The State Property Office may make adjustments for areas deemed excessive for State use.	
DEPARTMENT:	DIVISION:
CITY:	SQUARE FEET:      AGENT:
CUT-OFF FOR RECEIVING PROPOSALS IS 4:00 PM      DATE:	
FORM (PO-28) <span style="float: right;">(2005)</span>	