

REQUEST FOR BOARD ACTION

HENDERSON COUNTY BOARD OF COMMISSIONERS

MEETING DATE: September 6, 2022

SUBJECT: DPS Probation and Parole Lease – Court Services Building

PRESENTER: Amy Brantley, Assistant County Manager

ATTACHMENTS: Yes

1. Letter from NCDPS on Lease Agreement Terms
2. Lease Proposal from Department of Public Safety

SUMMARY OF REQUEST:

Attached for Board approval is a lease proposal for the Department of Public Safety's Probation and Parole Offices in the County's Court Services Building at 1347 Spartanburg Highway. There would be no cost to the state to lease the 4,902 +/- sf, pursuant to NCGS §15-209. The proposed term of the lease is from October 1, 2022 through September 30, 2025.

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 October 1, 2022 through September 30, 2025, 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 October 1, 2022 through September 30, 2025, and authorize the County Manager to execute documentation on behalf of Henderson County.



North Carolina Department of Public Safety

Purchasing and Logistics

Roy Cooper, Governor
Eddie M. Buffalo, Secretary

Cassandra Skinner Hoekstra, Chief Deputy Secretary
Douglas Holbrook, Chief Financial Officer
Joanne B. Rowland, Director

August 12, 2022

John Mitchell
Henderson County Manager
1 Historic Courthouse Square, Suite 2
Hendersonville, NC 28792

SUBJECT: Henderson County – Lease Agreement +/- 4,902 net sf of Office Space Located at 1347 Spartanburg Hwy, Suite 3, Hendersonville, North Carolina

Kindly, I would like to introduce myself as I am currently assisting the Real Property Manager Darlene Upchurch & Nichole Foxworthy with No Cost leases and wanted to inform you upon reviewing records, I have discovered that the lease agreement has expired.

As you are aware, our DPS Probation and Parole staff have been occupying leased space in Rutherford. With retrospect to §Statute 15-209 and in effort to initiate a new request, will you please review the “no cost” lease documents attached. Pending your approval, sign, notarize the two (2) originals and return via attention to me at the MSC listed below. The lease will then be executed by the DPS Purchasing & Logistics Office in which one (1) original will be returned to you for your records. ***Please note to leave the date on the first page blank as this will be completed by the DPS Purchasing & Logistics Office upon execution.***

Should you have any questions or concerns, please contact me and/or the Real Property Manager at 919/324.6467. Thank you in advance for your timeliness and important assistance regarding this matter.

Respectfully,

Kyla S. Virden
Program Coordinator
p) 919/324.6467 f) 919/733.5188
kyla.virden@ncdps.gov

ksv

Attachment: Lease Agreement

MAILING ADDRESS:
4227 Mail Service Center
Raleigh, NC 27699-4200
www.ncdps.gov



OFFICE LOCATION:
3030 Hammond Business Place
Raleigh, NC 27603-3666
Telephone (919) 743-8141
Fax (919) 715-3731

An Equal Opportunity Employer

**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 _____, 2022, 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:

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

WHEREAS, the Department of Administration has delegated to this State agency the authority to execute this lease agreement by a memorandum dated the 18th day of January, 2017; and

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

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 +/- 4,902 net square feet of office space located at 1347 Spartanburg Hwy, Suite 3, Hendersonville, Henderson County, North Carolina

DEPARTMENT OF PUBLIC SAFETY (Probation and Parole)

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 **1st day of October, 2022** or as soon thereafter as the leased premises are ceded to the Lessee and terminating on the **30th day of September, 2025**.

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 five (5) 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 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 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.

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 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 Sq., Suite 2, Hendersonville, North Carolina 28792** and the Lessee at **4227 Mail Service Center, 3030 Hammond Business Place, 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.

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.

STATE OF NORTH CAROLINA

By: _____ (SEAL)
Joanne Rowland, Director
DPS Purchase & Logistics

LESSOR: _____ (SEAL)
The County of Henderson
John Mitchell, County Manager

STATE OF NORTH CAROLINA

COUNTY OF _____

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

WITNESS my hand and Notarial Seal, this the _____ day of _____, 2022.

Notary Public

My Commission Expires:

STATE OF NORTH CAROLINA

COUNTY OF _____

I, Wanda B. Hicks, a Notary Public in and for the County of Johnston and State aforesaid, do hereby certify that **Joanne Rowland**, personally appeared before me this date and acknowledged the due execution by her of the foregoing instrument as Director of Purchasing and Logistics of the Department of Public Safety of the State of North Carolina, for the purposes therein expressed.

WITNESS my hand and Notarial Seal, this the _____ day of _____, 2022.

Notary Public

My commission expires August 19, 2024