

# FORSYTH COUNTY

## BOARD OF COMMISSIONERS

MEETING DATE: JULY 19, 2018 AGENDA ITEM NUMBER: 12

**SUBJECT: RESOLUTION AUTHORIZING EXECUTION OF A LEASE AGREEMENT BETWEEN FORSYTH COUNTY AND THE STATE OF NORTH CAROLINA, FOR LEASE OF COUNTY OWNED PROPERTY LOCATED IN THE AGRICULTURE BUILDING AT 1450 FAIRCHILD DRIVE, WINSTON-SALEM, N.C. (GENERAL SERVICES DEPARTMENT)**

**COUNTY MANAGER'S RECOMMENDATION OR COMMENTS:** Recommend Approval

**SUMMARY OF INFORMATION:** See Attached

ATTACHMENTS:  YES  NO

SIGNATURE: *J. Dudley Watts, Jr. /AMS* DATE: July 18, 2018  
COUNTY MANAGER

**RESOLUTION AUTHORIZING EXECUTION OF A LEASE AGREEMENT BETWEEN  
FORSYTH COUNTY AND THE STATE OF NORTH CAROLINA, FOR LEASE OF  
COUNTY OWNED PROPERTY LOCATED IN THE AGRICULTURE BUILDING AT  
1450 FAIRCHILD DRIVE, WINSTON-SALEM, N.C.  
(GENERAL SERVICES DEPARTMENT)**

**WHEREAS**, the State of North Carolina, on behalf of its Department of Agriculture & Consumer Services, in order to house a N.C. Forest Service Office, desires to lease 263.5 square feet of office space, rooms 408 and 4081, at the Agriculture Building, owned by Forsyth County and located at 1450 Fairchild Drive, Winston-Salem, N.C., for a three-year term at an annual rent of \$2,237.12, payable in equal monthly installments, with an effective date of December 1, 2017; and

**WHEREAS**, the above-described property will not be needed by Forsyth County for County purposes during the term of the proposed lease; and

**WHEREAS**, N.C.G.S. 160A-274, authorizes any governmental unit to lease to any other governmental unit any interest in real property upon such terms and conditions it deems wise, with or without consideration upon action by the governing body of the governing unit; and

**NOW, THEREFORE, BE IT RESOLVED** by the Forsyth County Board of Commissioners that the Chairman or County Manager and the Clerk to the Board are hereby authorized to execute, on behalf of Forsyth County, the above-described Lease Agreement with the State of North Carolina, on behalf of its Department of Agriculture & Consumer Services, N.C. Forest Service, for a three-year term at an annual rent of \$2,237.12, payable in equal monthly installments, with an effective date of December 1, 2017, subject to a pre-audit certificate thereon by the County Chief Financial Officer, where applicable, and approval as to form and legality by the County Attorney. The proposed Lease Agreement is attached hereto and incorporated herein by reference.

Adopted this 19<sup>th</sup> day of July 2018.

**LEASE AGREEMENT**

STATE OF NORTH CAROLINA

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

THIS LEASE AGREEMENT, made and entered into as of the last date set forth in the notary acknowledgements below by and between **FORSYTH COUNTY**, hereinafter designated as Lessor, and the **STATE OF NORTH CAROLINA**, through the North Carolina Department of Agriculture & Consumer Services, hereinafter designated as Lessee;

**WITNESSETH:**

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<sup>th</sup>, 1999, 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 FORSYTH County, North Carolina, more particularly described as follows:

Being 263.5 sq. ft. of office space located at Rooms 408 and 4081 Forsyth County Agricultural Building, 1450 Fairchild Drive. Winston Salem, NC 27105 as identified in Exhibit 1.

**DEPARTMENT OF AGRICULTURE & CONSUMER SERVICES  
NC FOREST SERVICE**

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

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.

1. The term of this lease shall be for a period of **three (3) years** commencing on the **1<sup>st</sup> day of December, 2017**, or as soon thereafter as the leased premises are ceded to the Lessee and terminating on the **30th day of November, 2020**.
2. The Lessee shall pay to the Lessor as rental for said premises the sum of Two thousand two hundred and thirty seven dollars and 12/100 (**\$2,237.12**) per annum, which sum shall be paid in equal monthly installments of One hundred and eighty six dollars and 43/100 (**\$186.43**) to be payable 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. 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. Parking
  - d. Maintenance and cleaning of fire extinguishers, lawns, shrubbery, sidewalks and parking areas (including snow removal), disposal of trash and common areas are required.
  - 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.
  - f. All storm water fees.
  - g. Any fire or safety inspection fees.
  - h. Daily janitorial service and supplies.
  - i. All utilities (electricity, gas, water/sewer) except telephone and internet.
  - j. All land transfer tax/fees imposed by the County or City in which the space is located.
  - k. The number of keys to be provided to Lessee for each lockset shall be reasonably determined by Lessee prior to occupancy and said keys shall be furnished by Lessor to Lessee at no cost to Lessee.
  - l. All other terms and conditions of the signed "Proposal to Lease to the State of North Carolina" Form PO-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.

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 including a security system 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 **Forsyth County, 201 Chestnut St., Winston Salem, North Carolina. 27101**, the Lessee at **North Carolina Department of Agriculture & Consumer Services, Attn: Real Property Agent, 1001 Mail Service Center, Raleigh, North Carolina 27699-1001**. 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. Lessee shall not assign this lease or sublet any part of the Leased Premises without the written consent of the Lessor.
16. Lessor agrees that the Lessee's decision to self-insure satisfies all insurance requirements of this lease applicable to the Lessee.
17. The State of North Carolina is an immune sovereign and is not ordinarily subject to suit. However, the State has enacted the North Carolina Tort Claims Act, pursuant to which the State may be liable for the torts of its officers and employees, within the terms of the Act. Accordingly, the Lessee will be primarily liable for any claims within the coverage of the Tort Claims Act.
18. 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.

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

(Remainder of Page Intentionally Blank)

LESSEE: STATE OF NORTH CAROLINA

BY: \_\_\_\_\_  
David D. Bartone, P. E.  
Interim Director  
NCDA&CS Property and Construction Division

STATE OF NORTH CAROLINA

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

I, \_\_\_\_\_, A Notary Public in and for the County and State aforesaid, do hereby certify that David D. Bartone personally came before me this day and acknowledged the due execution by him of the foregoing instrument as Director of Property and Construction Division for the North Carolina Department of Agriculture and Consumer Services, in accordance with the authority vested in him and for the purposes therein expressed.

WITNESS my hand and Notarial Seal, this the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_.

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

\_\_\_\_\_  
Print Name

My Commission Expires: \_\_\_\_\_

LESSOR: FORSYTH COUNTY

By: \_\_\_\_\_  
Signature  
\_\_\_\_\_  
Print Name and Title

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

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

WITNESS my hand and Notarial Seal, this the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

\_\_\_\_\_  
Notary Public  
\_\_\_\_\_  
Print Name

My Commission Expires: \_\_\_\_\_



# Exhibit 1



FIRST LEVEL FLOOR PLAN  
AGRICULTURAL BUILDING  
6/6/2015