



Gaston County

Gaston County
Board of Commissioners
www.gastongov.com

Public Works

Board Action

File #: 23-369

Commissioner Cloninger - Public Works - To Approve a Lease Agreement for Property Owned by Gaston County Located at 1305 Fire Ranger Way, Dallas, NC

STAFF CONTACT

Dan Ziehm, PE - Public Works Director - 704-862-6795

BUDGET IMPACT

No additional County funds.

BUDGET ORDINANCE IMPACT

N/A

BACKGROUND

The North Carolina Forest Service Agency currently occupies a County building at 1305 Fire Ranger Way, Dallas, NC. Staff has worked with NC Forest Service representatives to develop a three-year lease renewal of \$583.00 per month which will allow us to recoup costs of utilities and other required expenditures. According to NCGS § 160A-272, the County may lease property for more than one year, but a public notice must be given at least 30 days prior to Commission approval. The lease was publicly advertised July 23, 2023 to comply with the notice requirements. Approval of this Board Action adopts and accepts the attached lease terms on behalf of Gaston County and authorizes the County Manager, or her designee, to execute said documents. No additional County funds are required as a result of this lease agreement.

POLICY IMPACT

N/A

ATTACHMENTS

Lease Agreement

DO NOT TYPE BELOW THIS LINE

I, Donna S. Buff, Clerk to the County Commission, do hereby certify that the above is a true and correct copy of action taken by the Board of Commissioners as follows:

NO.	DATE	M1	M2	CBrown	CCloninger	AFrale	BHovis	KJohnson	TKeigher	RWorley	Vote
2023-290	08/22/2023	KJ	TK	A	A	A	A	A	A	A	U

DISTRIBUTION:

Laserfiche Users

A=AYE, N=NAY, AB=ABSENT, ABS=ABSTAIN, U=UNANIMOUS

STATE OF NORTH CAROLINA

LEASE AGREEMENT

COUNTY OF GASTON

THIS LEASE AGREEMENT (hereinafter "Lease"), made and entered into as of the last date set forth in the notary acknowledgements below by and between, **GASTON 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 7th, 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 the **Town/City of Gastonia**, County of Gaston, North Carolina, more particularly described as follows:

Being approximately 2507 net square feet of office space located at 1305 Fire Ranger Way, Dallas, Gaston County, North Carolina and further described in "Exhibit A"

(DEPARTMENT OF AGRICULTURE)

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) year(s)**, commencing on the **first day of September, 2023**, or as soon thereafter as the leased premises are ceded to the Lessee and terminating on the **thirty first of August, 2026**.

2. During the term of the lease, the Lessee shall pay to the Lessor as rental for said premises the sum of **\$6,996.00** dollars for the annual term, which sum shall be paid in equal monthly installments of **\$583.00** dollars. 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. Lessor to provide required fire extinguishers and servicing, pest control, and outside trash disposal including provisions for the handling of recyclable items such as aluminum cans, cardboard and paper. Maintenance of lawns, parking areas (including snow removal) and common areas is required.
- c. Parking
- d. 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.
- e. All storm water fees.
- f. Any fire or safety inspection fees.
- g. Daily janitorial service and supplies.
- h. All utilities, except telephone.
- i. All land transfer tax/fees imposed by the County or City in which the space is located.
- j. 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.
- k. 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 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 **PO Box 1578, Gastonia, North Carolina. 28053**, the Lessee at **North Carolina Department of Agriculture & Consumer Services-, Attn: Real Property Agent Advisor, 1001 Mail Service Center, 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. 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.
19. N.C.G.S. § 147-86.59 Certification of Eligibility under the Iran Divestment Act is attached hereto as **Exhibit B** and shall be executed as a part of this lease agreement for all persons and parties seeking to do business with the State.

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)
Andrew A. Meier
Director
NCDA&CS Property & Construction Division

STATE OF NORTH CAROLINA

COUNTY OF WAKE

I, _____, A Notary Public in and for the County and State aforesaid, do hereby certify that **Andrew A. Meier** 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.

IN WITNESS WHEREOF, I have hereunto set my hand and Notarial Seal this the _____ day of _____, 2023.

Notary Public
Printed Name: _____

My Commission expires _____

LESSOR:

By: _____ (SEAL)
Signature

Print Name and Title

STATE OF NORTH CAROLINA

COUNTY OF GASTON

I, _____, a Notary Public in and for the County and State
aforesaid, do hereby certify that _____, Manager of
_____ personally came before me this day and acknowledge
the due execution of the foregoing instrument on behalf of the company.

IN WITNESS WHEREOF, I have hereunto set my hand and Notarial Seal this the
____ day of _____, 2023.

Notary Public
Printed Name: _____

My Commission expires _____

THE STATE OF NORTH CAROLINA SHALL NOT BE RESPONSIBLE FOR ANY EXPENSES INCURRED BY THE PROPOSER IN THE PREPARATION OF THIS PROPOSAL. THE STATE RESERVES THE RIGHT TO REJECT ANY PROPOSAL FOR ANY REASON IT DEEMS WARRANTED. FAXED OR E-MAILED PROPOSALS ARE NOT ACCEPTABLE.

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

1. NAME OF LESSOR: GASTON COUNTY 2. LESSOR'S AGENT:

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: TAX I.D. #

MAILING ADDRESS: PO Box 1578 MAILING ADDRESS

CITY: Gastonia ZIP: 28053 CITY: ZIP:

PHONE#: FAX#: PHONE#: FAX#:

E-MAIL: E-MAIL:

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

STREET ADDRESS CITY COUNTY ZIP CODE
1305 Fire Ranger Way Dallas Gaston 28053

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

5. GROSS SQUARE FOOTAGE BEFORE NET USAGE COMPUTED A. OFFICE 2507 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	JANITOR. SERVICES	WATER / SEWER	REQUIRED PARKING SPACES
OFFICE	2507	6996	2.79	YES	YES	YES	
WAREHOUSE							
OTHER							
TOTALS		6,996	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	JANITOR. SERVICES	WATER / SEWER	
OFFICE							
WAREHOUSE							
OTHER							
TOTALS			XXXX	XXXX			

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

Comments:

7. LEASE TERM: 3 YEARS BEGINNING DATE: 9/1/2023- 8/31/2026

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

* MAXIMUM OF 3 YEARS TO INCLUDE TERM AND OPTIONS*

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. The proposed building must have facilities for handling materials to be recycled such as plastics, aluminum, waste paper and cardboard.

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 NO

Is the proposed building free of hazardous lead paint? YES NO

DEPARTMENT: DIVISION:

CITY: SQUARE FEET: AGENT:

(2/6/2017)

LESSOR:		
<ul style="list-style-type: none"> • ALL LEASES MUST HAVE ORIGINAL SIGNATURES OF LESSOR 		
9. ADDITIONAL INFORMATION		
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?		
YES	NO	PARTIALLY
EXPLAIN IF OTHER THAN "YES" IS CHECKED ABOVE:		
11. This proposal is made in compliance with the specifications furnished by the Department of _____ . I realize that the State reserves the right to reject this proposal for any reason it deems warranted. This proposal is good until _____. 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 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):		
<p>***<i>(HUB) HISTORICALLY UNDERUTILIZED BUSINESSES (HUB) CONSIST OF 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.</i></p>		
<p>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 this proposal, 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.</p>		
<p>_____ Printed Name of Lessor</p>		
<p>_____ Signature of Lessor</p>		
<p>_____ Date</p>		
MAILING /DELIVERY INSTRUCTIONS		
<p>Contact: Wendy Dudka Email: wendy.dudka@ncagr.gov Department/Division: NC Department of Agriculture & Consumer Services, P&C Mailing Address: NCD&CS, Property & Construction Division, 1001 Mail Service Center, Raleigh, North Carolina 27699-1001</p>		
ENVELOPE SHOULD BE MARKED:		
<p>(a) Lease proposal Enclosed (b) Name of State Agency involved.</p>		
<p>NOTE: 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:</p> <ol style="list-style-type: none"> 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: <ul style="list-style-type: none"> *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 <u>interior columns</u> h. Other space not usable for State purposes 		
<p>*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.</p>		
DEPARTMENT:		DIVISION:
CITY:		SQUARE FEET: AGENT:
CUT-OFF FOR RECEIVING PROPOSALS IS 4:00 PM DATE:		
FORM (PO-28)		(2/6/2017)

SPECIFICATIONS FOR NON-ADVERTISED LEASE

Please place a "✓" next to each item that is applicable and an "x" next to each item that is not applicable to the 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 day per week requirement. A separate HVAC system may be required to maintain this temperature range.
- ✓ 5. All lighting and electrical maintenance shall be furnished by Lessor including the replacement of ballasts, light tubes and replacement bulbs.
- ✓ 6. 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.
- ✓ 7. Lessor shall provide internal and external sign that will provide easy identification of the office by the general public.
- ✓ 8. Locking hardware is required on all storage rooms, equipment rooms, files rooms and LAN room. Supply storage closets require shelving.
- ✓ 9. Lessor shall shampoo all carpet and clean the outside of the building windows annually.
- ✓ 10. Lessor shall be responsible for snow removal as quickly as possible to avoid work delays.
- ✓ 11. 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; stormwater fees; land transfer tax; common area maintenance and other building operational costs.
- ✓ 12. The number of keys to be provided to the State for each lockset shall be reasonably determined by the State prior to occupancy, at no cost to the State.

✓

13. All parking areas shall be adequately lighted and located within a reasonable distance of the office.

✓

14. Lessor shall provide all conduits and pull strings from above the ceiling to outlet boxes. State to install wiring and cover plates.

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 PO-28.

Signature of the Lessor

Date