



## REQUEST FOR BOARD ACTION

ITEM NO. 8.

**DATE OF MEETING:** September 21, 2009

**REQUESTED BY:** Rick Benton, County Manager

**SHORT TITLE:** Resolution Approving Lease Modification for Probation Offices Lease at 312 W. Williams Street, Burgaw

**BACKGROUND:** The state budget passed by the General Assembly recently included a special provision that terminates lease payments to counties for the provision of office space for probation offices. This shifts the funding responsibility to the counties. Pender County has historically leased office space for this purpose at a facility located at 312 W. Williams Street, and the current lease expires January, 2012. The lease payment has been \$21,931 annually.

A new lease agreement has been drafted which keeps the same terms and conditions but deletes the rent provision, a copy of which is attached. The new lease term is for one year, which will expire October 31, 2010. This will need to be renewed annually.

**SPECIFIC ACTION REQUESTED:** To adopt a resolution approving the lease modification for the offices at 312 W. Williams Street, Burgaw.

**COUNTY MANAGER'S RECOMMENDATION**

Respectfully recommend approval.

PS  
Initial

**RESOLUTION**

**NOW, THEREFORE BE IT RESOLVED** by the Pender County Board of Commissioners that:

the attached lease providing space for State of North Carolina, Department of Corrections Probation Offices at 312 W. Williams Street, Burgaw is hereby approved. The County Manager is authorized to execute any/all documents necessary to implement this resolution.

**AMENDMENTS:**

MOVED \_\_\_\_\_ SECONDED \_\_\_\_\_

APPROVED \_\_\_\_\_ DENIED \_\_\_\_\_ UNANIMOUS

YEA VOTES: Tate \_\_\_ Brown \_\_\_ Blanchard \_\_\_ Rivenbark \_\_\_ Williams \_\_\_

\_\_\_\_\_  
Jimmy T. Tate, Chairman

\_\_\_\_\_  
Date

\_\_\_\_\_  
ATTEST

\_\_\_\_\_  
Date



North Carolina Department of Correction  
DIVISION OF COMMUNITY CORRECTIONS  
2020 Yonkers Rd. • 4250 MSC • Raleigh, N.C. 27699-4250  
Phone: (919) 716-3100 Fax: (919) 716-3996

Beverly Eaves Perdue  
Governor

Timothy D. Moose  
Director  
August 28, 2009

Alvin W. Keller, Jr.  
Secretary

Pender County Manager  
P. O. Box 1578  
Burgaw, North Carolina 28425

Re: *(G.S. 15-209) Accommodations for Probation Offices*

Dear County Manager:

This serves as a follow-up to Secretary Keller's correspondence dated August 25, 2009 regarding the above-referenced special provision. Please be advised that your county falls within the category of **County Provided Lease Space** as defined in the Secretary's correspondence.

Pursuant to the special provision, counties shall provide office space for the following positions: all Probation/Parole Officer I, II, III classifications, Surveillance Officers, Chief Probation/Parole Officers, Judicial Services Coordinators (Court Intake Officers), Office Assistants to Chief Probation/Parole Officers, and Data Entry Positions. Statutorily, counties already provide office space for Community Service Work Program Coordinators.

Our records reflect that Pender County currently provides leased office space at 312 West Williams Street, Burgaw, North Carolina for the following staff:

Chief Probation/Parole Officer	1
Office Assistant III	1
Probation/Parole Officers	6

These positions are covered by the special provision; therefore, effective October 31, 2009, the Department will stop lease payments to your county for the office space.

Please be advised that you will receive a phone call from Ron Moore, DOC Real Property Agent, within the next week to discuss other details surrounding this change.

Please know that we appreciate the services and support that you provide to our staff.

Sincerely,

Timothy D. Moose

TDM:shp

cc: Barbara Baker, Budget Director/Chief Procurement Officer  
Don McLeod, Assistant Chief Procurement Officer  
Mike Joyner, Assistant Budget Director  
Ron Moore, Real Property Agent  
Sandra Shearin, Chief of Administrative Services  
Cornell McGill, Judicial Division Administrator  
Jean Walker, Judicial District Manager  
John Webb, Manager – Planning & Leasing – DOA

**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 \_\_\_\_\_, 2009, by and between **COUNTY of PENDER**, 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 Burgaw, County of Pender**, North Carolina, more particularly described as follows:

**Being +/- 1,687 net square feet of office space located at 312 W. Williams Street, Burgaw, Pender County, North Carolina. (Exhibit A-Floor Plan Attached).**

**(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 one **(1) Year** commencing on the **1st day of November, 2009** or as soon thereafter as the leased premises are ceded to the Lessee and terminating on the **31<sup>st</sup>. day of October 2010**.

2. The Lessee shall pay to the Lessor as rental for said premises the sum of **\$1.00** Dollars per annum 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 tenable 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 5, Burgaw, North Carolina 28425** 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.

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:

*Rick Benton* (SEAL)  
The County of Pender  
Rick Benton, 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 **Rick Benton**, personally came before me this day and acknowledged that he is the **County Manager**, and that by authority and given as an act of **Pender County** and acknowledged the due execution of the foregoing instrument in its name.

WITNESS my hand and Notarial Seal, this the \_\_\_\_\_ day of \_\_\_\_\_, 2009.

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

My Commission Expires:

\_\_\_\_\_

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

I, Sandra M. Barnes, a Notary Public in and for the County of Wake and State aforesaid, do hereby certify that **BARBARA BAKER**, personally appeared before me this date and acknowledged the due execution by him of the foregoing instrument as Budget Officer/Chief Procurement Officer of the Department of Correction of the State of North Carolina, for the purposes therein expressed.

WITNESS my hand and Notarial Seal, this the \_\_\_\_ day of \_\_\_\_\_, 2009.

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

My commission expires November 28, 2009