

# FORSYTH COUNTY

## BOARD OF COMMISSIONERS

MEETING DATE: JUNE 8, 2015

AGENDA ITEM NUMBER: 5

**SUBJECT: RESOLUTION RATIFYING AND AUTHORIZING EXECUTION OF AN INTERLOCAL AGREEMENT BETWEEN FORSYTH COUNTY AND THE TOWN OF KERNERSVILLE FOR THE LEASE OF PADDISON MEMORIAL LIBRARY LOCATED AT 130 EAST MOUNTAIN STREET, KERNERSVILLE, N.C.**

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

### SUMMARY OF INFORMATION:

Forsyth County proposes to lease space at 130 East Mountain Street (Paddison Memorial Library) from the Town of Kernersville beginning on July 1, 2015. The Lease agreement will be on a month-to-month basis with a 90 day right of termination by the County. The total payment to be made by the County to the Town of Kernersville for the lease of the space (10,425 square feet) is \$7,228.48 per month.

ATTACHMENTS:  YES  NO

SIGNATURE: *J. Audrey Watts, Jr.* DATE: June 4, 2015  
COUNTY MANAGER

**RESOLUTION RATIFYING AND AUTHORIZING EXECUTION OF  
AN INTERLOCAL AGREEMENT BETWEEN  
FORSYTH COUNTY AND THE TOWN OF KERNERSVILLE  
FOR THE LEASE OF PADDISON MEMORIAL LIBRARY LOCATED AT  
130 EAST MOUNTAIN STREET, KERNERSVILLE, N.C.**

**WHEREAS**, the Town of Kernersville owns certain property located at 130 East Mountain Street , Kernersville, North Carolina, commonly referred to as the Paddison Memorial Library (hereinafter referred to as the “Library”); and

**WHEREAS**, the Town of Kernersville currently leases the Library, which consists of Ten Thousand Four Hundred Twenty-Five (10,425) square feet (being 9,900 square feet on the first floor and 525 square feet in the basement), to Forsyth County and proposes to enter into a new lease of the said property with the County, on a month-to-month basis beginning July 1, 2015 at a monthly rental rate of Seven Thousand Two Hundred Twenty Eight and 48/100 Dollars (\$7,228.48), with an increase of Two and One Half Percent (2.5%) per year thereafter; and

**WHEREAS**, the Town of Kernersville and Forsyth County are planning to construct a new library at another location in Kernersville; however, until the new library is completed, the Town of Kernersville is willing to continue leasing the Library to the County on a month-to-month basis; and

**WHEREAS**, upon completion of the new Library location, the County will have the right to terminate this Lease upon 90 days notice to the Town.

**NOW, THEREFORE, BE IT RESOLVED** by the Forsyth County Board of Commissioners that the Lease Agreement between Forsyth County and the Town of Kernersville for 10,425 square feet of space at the Paddison Memorial Library located at 130 East Mountain Street, Kernersville, N.C. is hereby ratified as required by N.C.G.S. 160A-461 and authorized by N.C.G.S. 160A-274.

**BE IT FURTHER RESOLVED** that the Chairman or County Manager and the Clerk to the Board are hereby authorized to execute, on behalf of Forsyth County, the attached Lease Agreement of the above-described property with the Town of Kernersville, subject to a pre-audit certificate thereon by the County Chief Financial Officer, if applicable, and approval as to form and legality by the County Attorney. The original Lease Agreement is incorporated herein by reference.

**BE IT FURTHER RESOLVED** that this resolution ratifying interlocal cooperation between Forsyth County and the Town of Kernersville is hereby spread upon the minutes of the Forsyth County Board of Commissioners.

Adopted this the 8<sup>th</sup> day of June 2015.

NORTH CAROLINA )  
 )  
FORSYTH COUNTY )

**LEASE AGREEMENT**

**THIS LEASE AGREEMENT**, made and entered into this the \_\_\_ day of \_\_\_\_\_, 2015, by and between the **Town of Kernersville**, a North Carolina municipality, hereinafter referred to as "**Town**" or "**Lessor**"; and the **County of Forsyth, North Carolina**, hereinafter referred to as the "**County**" or "**Lessee**".

**WITNESSETH:**

**WHEREAS**, the **Town** owns certain property located at 130 East Mountain Street , Kernersville, North Carolina, commonly referred to as the Paddison Memorial Library (hereinafter referred to as the "**Library**");

**WHEREAS**, pursuant to a certain lease agreement entered into by the parties on or about August 10, 2005, the **Town** currently leases a total of Ten Thousand Four Hundred Twenty-Five (10,425) square feet of said property, (being 9,900 square feet on the first floor and 525 square feet in the basement), hereinafter referred to as the "**Premises**", to the **County**;

**WHEREAS**, the **Town** and the **County** are currently planning on building a new library at an alternative location; however, until such time as that new library is completed, **Lessor** desires to continue leasing the **Premises** to the **Lessee** for a period of time as outlined below upon the following terms and conditions as contained herein this Lease; and

**WHEREAS**, the **Lessee** desires to lease the **Premises** from the **Lessor** upon the following terms and conditions as contained within this Lease.

**NOW, THEREFORE**, in consideration of the mutual covenants and promises contained herein this Lease Agreement, the parties, both the **Lessor** and **Lessee**, do hereby agree to the following terms and conditions as follows:

**1. TERM OF LEASE.**

The term of this Lease shall commence on the 1st day of July, 2015, the same being the beginning of the 2015 fiscal year of the **Town**, and shall continue on a month-to-month basis until such time as either the **Lessee** or **Lessor** terminates this Lease by providing written notice of the same, in accordance with section hereof, at least ninety (90) days prior to the intended termination date.

**2. RENT.**

The rent for each month of this Lease during the 2015 fiscal year of the **Town** shall be Seven Thousand Two Hundred Twenty Eight and 48/100 Dollars (\$7,228.48). Beginning on July 1, 2016, and every year thereafter (each subsequent fiscal year of the **Town**), the monthly rent amount due under this Lease shall increase by Two and One Half Percent (2.5%). All rent shall be paid to the **Lessor** at the following address: P. O. Drawer 728, Kernersville, NC 27285. **Lessor's** tax identification number is 56-1013949.

### 3. USE OF PREMISES.

The Premises are to be used and occupied by the Lessee in the general operation of a public library, together with auxiliary use of meeting rooms, and for no other purpose without the express written permission for other use(s) by Lessor to be granted only in Lessor's sole discretion.

### 4. UTILITIES, CARE, MAINTENANCE, REPAIRS.

(a) The Lessee acknowledges by the execution of this Lease that the Premises are in good order and repair.

(b) The Lessor shall maintain and keep in a good state of repair at its expense the roof, outside walls and, in general, the exterior of the Premises. Lessor further agrees to correct any structural defects to the interior or the exterior of the Premises at its own expense. All major repairs or replacements to the proper functioning of the heating, air conditioning, electric or plumbing systems shall be borne by the Lessor. Lessor further agrees to keep all parking areas well lit, clean and in good repair. All grass and landscaping for the Premises shall be maintained by the Lessor. Lessor shall be responsible for water, sewer, air conditioning, storm water and trash disposal fees for the Premises.

(c) The Lessee shall maintain and keep in a good state of repair at its own expense all the interior painting of the Premises and decorations of every kind, including, without limitation, door and window hardware. The Lessee shall be responsible for replacing all broken or damaged glass or other damages caused by its patrons. The Lessee further acknowledges that it shall be responsible for all fees for electric, internet, and telephone services delivered to the Premises. Upon being billed monthly by Duke Power, the Town shall calculate the cost attributable to the Premises' use and shall invoice Lessee for the same. Lessee shall reimburse Lessor for the billed amount within fourteen (14) days of billing.

### 5. INSURANCE.

Lessor agrees to maintain replacement value coverage property insurance on the Library building (structure), together with general liability insurance, with combined single limit coverage of \$1,000,000 and \$2,000,000 aggregate. The Lessee may maintain such insurance on the personal property contents as the Lessee may desire.

### 6. INDEMNIFICATION OF LESSOR.

The Lessee will indemnify and hold the Lessor harmless from and against any and all actions, damages, liability and expense in connection with personal injury, death, and damages to property arising from or out of the use and occupancy by the Lessee of the Premises or any part thereof, to the extent such loss, injury, or damage is the result of the negligent acts or omissions of Lessee, its employees, agents, or contractors.

In the event of any loss, damage, or injury to property or to any person, including death, caused in whole or in part by the negligent acts or omissions of the Lessor, its agents, employees, or contractors, Lessor will be liable for such loss or damage and shall indemnify and hold Lessee harmless from any and all actions, damages, liability and expense arising from such loss, damage, or injury.

## **7. LESSOR'S DEFAULT AND LESSEE'S REMEDIES.**

Lessor shall be deemed to be in default under this Lease if Lessor shall fail to comply with any term, provision, or covenant of this Lease and does not cure such failure within thirty (30) days after receipt of written notice thereof to Lessor or twenty-four (24) hours if the default shall fundamentally interfere with Lessee's use or occupancy of the Premises as a Library provided that, in the event such failure to comply cannot reasonably be cured within thirty (30) days, Lessor shall commence cure within thirty (30) days and pursue to a diligent conclusion.

In the event the Lessor is in default under this Lease, Lessee may, at its option:

- a) pursue any right or remedy in equity to seek specific performance by Lessor; or
- b) terminate this Lease by giving Lessor written notice and this Lease shall terminate and be void as of the date given in such notice.

## **8. FORCE MAJEURE.**

Except for the obligation of Lessee to pay rent as provided herein, other charges due under this Lease, whenever a period of time is herein prescribed for action to be taken by either Lessor or Lessee, neither shall be liable or responsible for, and there shall be excluded from the computation of any such period of time, any delays due to strikes, riots, Acts of God, war, governmental laws, regulation or restriction or other causes which are beyond the control of either party.

## **9. NOTICES.**

All notices to either the Lessor or Lessee shall be sent by Certified or Registered Mail, return receipt requested; facsimile transmission; hand delivery; or overnight delivery service and shall be deemed duly given upon date of receipt or refusal of receipt, or in the event of notice by facsimile transmission on the date of return acknowledgment by the receiving party.

Notices will be addressed as shown or at such other place as either party hereto may subsequently designate in writing to the other party as herein provided.

To Lessor: Town of Kernersville  
Attention Town Manager  
P. O. Drawer 728  
Kernersville, NC 27285

Copy to: John G. Wolfe, III, Attorney for the Town of Kernersville  
John G. Wolfe, III & Associates, P.L.L.C.  
101 South Main Street  
Kernersville, NC 27284

To Lessee: County of Forsyth  
Attention County Manager  
201 North Chestnut Street  
Winston-Salem, NC 27101

**10. APPLICABLE LAW.**

This Lease will be governed by the law of the State of North Carolina and will be construed and interpreted according to that law.

**11. ENTIRE AGREEMENT.**

This Lease contains the entire agreement between the parties and may not be altered, changed or amended, except by instrument in writing signed by both parties hereto. No provision of this Lease shall be deemed to have been waived by Lessor or Lessee unless such waiver be in writing signed by Lessor and Lessee, nor shall any custom or practice which may grow up between the parties in the administration of the terms hereof be construed to waive or lessen the right of Lessor or Lessee to insist upon the performance by the other party in strict accordance with the terms hereof. The terms, provisions, covenants and conditions contained in this Lease shall apply to, inure to the benefit of, and be binding upon the parties hereto, and upon their respective successors-in-interest, assigns, and legal representatives, except as may be otherwise expressly provided in this Lease.

**12. SECTION HEADINGS.**

The section headings are inserted only reference purposes as a matter of convenience and shall not affect the meaning or interpretation of the terms and conditions of this Lease.

**13. AUTHORITY TO EXECUTE.**

The signatories of this document each represent that they have been duly authorized to execute this document by duly adopted Resolutions of their respective Boards (Board of Aldermen and County Commissioners).

IN WITNESS WHEREOF, the parties hereto have executed two duplicate originals of this Lease Agreement on the day first above written, one copy to be retained by each of the parties hereto.

LESSOR:

TOWN OF KERNERSVILLE

By: Curtis Swisher  
Curtis Swisher, Town Manager



LESSEE:

COUNTY OF FORSYTH

By: \_\_\_\_\_ (SEAL)  
J. Dudley Watts, Jr., County Manager

Attested to:

Dale F. Martin  
Dale F. Martin, Town Clerk

Attested to:

\_\_\_\_\_  
Carla Holt, County Clerk