

**Item Title:** Request from Wake County Public Schools for Approval of a Multi-Year Operating Lease – 1436 Rock Quarry Road (Second Reading)

**Specific Action Requested:**

**That the Board of Commissioners pursuant to NCGS 115C-530:**

- 1. Adopts the attached resolution approving a Wake County Board of Education lease for educational and student support purposes in support of the Board of Education's application to the Local Government Commission for approval of the lease; and**
- 2. Appropriates \$20,533,860 in the 7-Year Capital Improvement Program to address the lease costs over the term of the lease and certain furniture, fixtures, and educational equipment for the school not covered in the lease terms.**

**Item Summary:**

On October 17, 2017, the Board of Education accepted the terms and conditions of a Lease Agreement with the Young Men's Christian Association of the Triangle Area, Inc., (YMCA), subject to approval of Board Counsel as to form, and approval by the Board of Commissioners and the NC Local Government Commission. The Lease Agreement is for a portion of a building containing a total of 115,021 square feet ("Building") consisting of 76,004 square feet ("Premises") for the operation of an elementary school on a ±18.758-acre parcel of land at 1436 Rock Quarry Road. The remaining 39,017 square feet of the Building will be occupied by the YMCA. The Board of Education will enter into a Joint Use Agreement with the YMCA that outlines the Board Space, the Common Areas, and the Shared Space and the uses of the areas between the two parties.

Since the real property upon which the Premises to be located is not owned by the Board, alternative delivery methods for the project were considered. On December 20, 2016, the Board of Education approved a Public Private Partnership delivery method pursuant to NCGS143-128.1C and 160A-20 for this unique project and approved a Development Agreement with YMCA to memorialize the intended process for the endeavor regarding the funding structure, design, development, lease and joint use of facilities. The proposed site lies within the planned E-46 future elementary school target ring as included in the Capital Improvement Plan. Purchase of the site is untenable due to the YMCA's unwillingness to sell. On January 3, 2017, the Board of Commissioners reallocated and appropriated a total \$1 million in CIP 2013 for startup design towards this public-private partnership. At that time, it was said that the lease agreement, and corresponding payments, would come before the Board of Commissioners once the guaranteed maximum price contract for construction (GMP) of the building and WCPSS allocated cost was known.

Design of the building is 60 percent or more complete and the terms of the lease agreement have been negotiated. The total cost of the project including, including land value, site work for the entire 31 acres, building construction, construction period interest, YMCA FF&E, and contingency is estimated at \$43.6 million. However, of the \$43.6 million total project cost, WCPSS costs are calculated using a project allocation budget of \$35.9 million. This is because some of the site development costs, and other project soft costs, are not attributable to the YMCA building and school site project cost allocation. Project sources and uses are in Exhibit G of the Attached Lease.

Line Item	Amount
Land Purchase	\$4,716,584
Site Work (31 Acres)	\$9,217,927
Construction (Hard and Soft)	\$28,398,014
Construction Period Interest*	\$275,000*
FF&E (YMCA)	\$510,000
Contingency	\$500,000
<b>Project Total</b>	<b>\$43,617,525</b>

\*based on 4.5%. Actual interest rate is Libor plus 0.75%, which based on December 2017 rates equals 2.15%.

### WCPSS/YMCA Project Cost Allocation

	2017 60% CD Revised <sup>(1)</sup>		
	YMCA	WCPSS Share	Total
<b>Construction</b>			
Building w/escalation (10% - Feb. 2018)	\$ 7,060,127	\$ 12,166,006	\$ 19,226,133
Site Development w/escalation (15% - Feb. 2018)	\$ 2,523,115	\$ 1,347,009	\$ 3,870,124
General Conditions/Fee/Bonds & Insurance	\$ 1,614,313	\$ 1,364,850	\$ 2,979,163
CM Contingency (1%)	\$ 484,173	\$ 131,552	\$ 615,725
Design Contingency	\$ 256,249	\$ 236,331	\$ 492,580
Master Site Development (Wellness/Education)	\$ 2,692,983	\$ 1,488,883	\$ 4,181,866
Owner Construction Contingency (5%)	\$ 229,476	\$ 263,104	\$ 492,580
Value Management	\$ (625,340)	\$ (355,680)	\$ (981,020)
<b>Sub-Total CCAP</b>	<b>\$ 14,235,097</b>	<b>\$ 16,642,054</b>	<b>\$ 30,877,151</b>
<b>Other Costs</b>			
Playgrounds	\$ -	\$ 330,000	\$ 330,000
Aquatics Center	\$ 1,532,670	\$ -	\$ 1,532,670
Permits/Fees/Taxes/Impact Fees	\$ -	\$ -	\$ -
<b>Sub-Total</b>	<b>\$ 1,532,670</b>	<b>\$ 330,000</b>	<b>\$ 1,862,670</b>
Consultants	\$ 1,101,801	\$ 1,526,083	\$ 2,627,883
Instructional & Program Costs	\$ 394,600	\$ 30,650	\$ 425,250
FF&E	\$ 85,000	\$ -	\$ 85,000
Miscellaneous (Security, Custodial, Contingency)	\$ 84,238	\$ -	\$ 84,238
<b>Sub-Total</b>	<b>\$ 1,665,639</b>	<b>\$ 1,556,733</b>	<b>\$ 3,222,371</b>
<b>Total Project Cost</b>	<b>\$ 17,433,406</b>	<b>\$ 18,528,786</b>	<b>\$ 35,962,192</b>

The source of the YMCA's estimated share of funding necessary for the project will be provided from existing cash, New Market Tax Credits, and cash from Capital Campaign Pledges. The Executive Committee of the Board of Directors of the YMCA has passed a resolution authorizing YMCA cash on hand to pay the costs of the project in the case campaign pledges are not realized. SunTrust and the YMCA have come to terms for a taxable construction bridge loan to cover construction costs prior to payments on Capital Pledges and Board of Education prepaid lease payments. The YMCA Board has also obtained a performance bond for the project.

Per the lease agreement, WCPSS payment to the YMCA is capped at \$18,528,786, including the \$1 million previously paid to the YMCA as part of the development agreement, unless the Board of Education approves a change order for the project. WCPSS will have other capital costs for furniture, fixtures, and equipment that is not accounted for in the payment to the YMCA, but is budgeted for as part of the appropriation for E-46 in the WCPSS capital projects fund.

The lease calls for payments at certain milestones, with most of the Tenant Improvement Costs after substantial completion and when WCPSS can take occupancy of the building, on or about July 1, 2019. Two more Tenant Improvement Costs payments are due after that payment.

<u>Term Payment Dates</u>	<u>Tenant Improvement Costs</u>
Upon commencement of Building construction after a building permit has been issued ("Tenant Commencement Payment")	\$2,500,000
Paid when Building construction is at 50% completion, as certified by the Architect (the "Tenant Mid Point Payment")	\$2,500,000
Paid when Architect has issued a certificate of Substantial Completion (the "Substantial Completion Payment")	\$11,275,907 <sup>1</sup> An amount equal to 90% of the remaining Tenant's share of construction cost plus construction period interest as modeled at an assumed rate of 4.5%, less amounts previously paid, including costs paid by Tenant under the Development Agreement
Completion of Punch List items, the permanent Certificate of Occupancy is obtained and final payment is authorized under the construction contract	\$ 939,659 <sup>1</sup> 7.5% of Tenant's share of construction cost plus construction financing interest, less amounts previously paid
Final Payment After Open Book Examination	\$313,220 <sup>2</sup>

<sup>1</sup> Based on GMP of not to exceed of \$26,695,285 and an interest rate of 4.5%. Actual interest rate is LIBOR plus 0.75%, which based on January 2018 rates, is 2.86%.

<sup>2</sup> Final payment after an open book examination of the construction costs by a third party, and will take into account any tax credits (other than new market tax credits), allowances or contingency retained by or returned to the YMCA, and actual financing charges and reimbursement of sales tax.

The lease term is twenty (20) years, with options for three additional ten (10) year term extensions. The lease commences on the delivery date, defined as substantial completion, or when the Board of Education can utilize the premises for its intended use, estimated on or about July 1, 2019. Prior to lease commencement, there will be two additional payments made by WCPSS during construction, in addition to the \$1 million paid as part of the development agreement. These payments are included as part of the Tenant Improvement Costs.

Annual payments for common area charges would be \$2.25 per rentable square foot, and includes exterior building maintenance, lighting, landscaping, and insurance for an annual cost of \$258,750. The WCPSS portion of these charges is 66 percent, or \$170,775 or \$14,231.25 a month. In addition, WCPSS will be responsible for utilities and maintenance outside of the annual common area maintenance charges and will be responsible for proportional utilities of the shared space.

Lease Yr	Fiscal Year	Est. CAM	Est. Utilities	Est. Janitorial	Total
	2018		\$0	\$0	\$0
	2019		\$0	\$0	\$0
1	2020	\$170,775	\$99,565	\$53,507	\$323,847
2	2021	\$175,044	\$103,050	\$55,380	\$333,474
3	2022	\$179,420	\$106,657	\$57,318	\$343,395
4	2023	\$183,906	\$110,390	\$59,324	\$353,620
5	2024	\$188,504	\$114,253	\$61,400	\$364,157
6	2025	\$193,216	\$118,252	\$63,549	\$375,018
7	2026	\$198,047	\$122,391	\$65,774	\$386,211
8	2027	\$202,998	\$126,675	\$68,076	\$397,748
9	2028	\$208,073	\$131,108	\$70,458	\$409,639
10	2029	\$213,275	\$135,697	\$72,924	\$421,896
11	2030	\$218,606	\$140,447	\$75,477	\$434,530
12	2031	\$224,072	\$145,362	\$78,118	\$447,552
13	2032	\$229,673	\$150,450	\$80,852	\$460,976
14	2033	\$235,415	\$155,716	\$83,682	\$474,813
15	2034	\$241,301	\$161,166	\$86,611	\$489,078
16	2035	\$247,333	\$166,807	\$89,643	\$503,782
17	2036	\$253,516	\$172,645	\$92,780	\$518,941
18	2037	\$259,854	\$178,687	\$96,027	\$534,569
19	2038	\$266,351	\$184,941	\$99,388	\$550,680
20	2039	\$273,009	\$191,414	\$102,867	\$567,291
	Totals:	\$2,821,024	\$1,760,013	\$945,839	\$5,526,877

### Resolution

State law prohibits the Board of Education from entering into operational leases for school buildings and/or other facilities for more than three years without prior approval from the Board of Commissioners (NCGS §115C-530). Board approval, in the form of a resolution, is a commitment to appropriate funds to meet the obligations of the contract. Should the Board of Commissioners approve the resolution, the Board of Education is required to

use the \$20,533,860 appropriated by the Board of Commissioners from the WCPSS Capital Projects Fund for the Tenant Improvement Costs payments and any other furniture, fixtures, and equipment necessary for the school. The resolution includes language that states that Board of Commissioners finds that because the property is not for sale, and because the school system has found that there is a critical need for YMCA and WCPSS school project under NCGS 143-128.1C as a public-private partnership, that the Board of Commissioners appropriates capital project funding for the project. The source of the Tenant Improvement Costs payment is cash funding transferred from the general fund to the WCPSS capital projects fund in FY 2018 for WCPSS school projects. Annual lease payments shall come from Wake County annual operating appropriations to WCPSS. Property taxes will be due and payable unless otherwise exempt. WCPSS shall be responsible for property tax payments due to the landlord.

**Wake County Staff Comments:**

County staff has been involved in certain aspects of the site selection process, has reviewed the findings, and provided input into development of the lease agreement. A draft of the development agreement (development contract pursuant to NCGS 143-128.1c) between the YMCA and the Board of Education is attached. Although Wake County is not a party to the development agreement, the terms of the agreement are significant as the County needs to approve the lease agreement and joint use agreement to form and the corresponding appropriations related to the structure of such agreement. Based on the information presented, County staff supports the lease of the Premises for educational and student support purposes.

**Attachments:**

1. PowerPoint Presentation
2. Draft BOC Resolution
3. Board of Education Precis
4. Construction Cost Allocation
5. Lease Agreement
6. Joint Use Agreement
7. Seven-Year CIP Appropriation Summary as of February 5, 2018