

Item Title: First Amendment to Use Agreement with NC State University and Second Amendment to Ground Lease Agreement with the State of North Carolina for the Aquatic Species Propagation Facility Project at Historic Yates Mill County Park

Specific Action Requested:
That the Board of Commissioners:

- 1. Approves the First Amendment to Use Agreement with NCSU and the Second Amendment to Ground Lease Agreement with the State of North Carolina for the Aquatic Species Propagation Facility Project at Historic Yates Mill County Park; and**
- 2. Authorizes the Chairman to execute said documents (along with any other supporting documentation), subject to the terms and conditions acceptable to the County Attorney.**

Item Summary:

Purpose: The Board of Commissioners must approve all real estate transactions, including long term leases. NC General Statute 160A-274 authorizes the Board of Commissioners to sell, lease, jointly use and exchange property with another governmental unit.

Background: Wake County entered into a ground lease agreement with the State of North Carolina in 2001, for a term of 40 years for the operation of the Historic Yates Mill County Park. Subsequently, the parties in 2002 entered into a first amendment to this lease. Then in 2003, Wake County constructed a 16,000 sf building in the park, the AE Finley Center for Education and Research, approximately 5000 sf of which is occupied by NC State University (NCSU) as a research center. The building is owned by Wake County. The research center wing is operated by NCSU through a Use Agreement which outlines the roles and responsibilities of the parties. For construction of the Aquatic Species Propagation Facility Project to commence, both the ground lease agreement with the State of North Carolina, and Use Agreement with NCSU must be amended.

Board Goal: This action supports routine County operations.

Fiscal Impact: There is no fiscal impact to the County associated with the agreements with NCSU and the State of North Carolina.

Additional Information:

The North Carolina Department of Transportation (NCDOT) has been planning for the extension and eventual final connection of the I-540 outer loop for several years. Areas that will be impacted by the construction of I-540 contain aquatic systems that are home to many rare and endangered species. Captive breeding and propagation are practices that aid natural ecosystems in recovery and help to restore diversity of the species living in these areas.

In response to these environmental impacts, NCDOT has agreed to certain mitigation requirements associated with construction of this final connection of I-540. The US Fish and Wildlife Service (USFWS) has approached Wake County and NCSU about establishing an aquatic species propagation facility at Yates Mill County Park.

With a grant provided by the US Fish and Wildlife Service (USFWS), Wake County completed a Fresh Water Mussel Propagation Feasibility Study in July 2016. The objective of the study was to confirm the feasibility of renovating the existing research wing at the AE Finley Education and Research Center at Yates Mill County Park, to house and support the captive breeding of aquatic species like the Dwarf Wedgemussel. The conclusion of the collaborative study indicated that the Yates Mill facility would be an appropriate location for a successful propagation facility. Yates Millpond and the AE Finley Center were selected for this work because of the ability of the pond to sustain aquatic species and the availability of space in the existing research wing for NCSU. The study recommended a renovation of this research wing with construction of a modest expansion space. The project scope will include an extensive amount of aquatic tank installation and associated piping, pumps, generator and other unique accommodations.

On November 6, 2017 the Board of Commissioners approved entering into a funding agreement with NCDOT and entering a Memorandum of Understanding (MOU) with NCSU. Through the funding agreement, NCDOT is providing funding for the project at the AE Finley Center including design, permitting and construction. Wake County will serve as the Project Manager/Construction Manager for the design and construction of the project. Wake County will not be a funding partner and will have no duty or obligation to expend or advance its own funding for any aspect of the project.

The MOU between Wake County and NCSU was established to set forth the understanding and mutual agreement as it relates to the renovation and expansion of the NCSU Research Center within the AE Finley Education and Research Center. The MOU defined the roles and responsibilities of each party in the development and operation of this aquatic species propagation facility. The MOU also acknowledged the Ground Lease Amendment and Use Agreement Amendments which would be required between the parties prior to construction beginning. The executed MOU is attached for reference.

Construction plans are near completion and currently in review for site related permitting with the City of Raleigh. Construction of the project is anticipated to begin early in 2021.

County staff from Facilities Design & Construction, the County Attorney's office, Parks Recreation & Open Space and General Services Administration have been working collaboratively with NCSU, the State of North Carolina, NCDOT, USFWS and North Carolina Wildlife Resources Commission (NCWRC) to make this project a reality. The County was notified by NCSU that the draft Second Amendment to Ground Lease received approval by the Council of State at their August 4, 2020 meeting and is currently at the Attorney General's Office. Therefore, in order to keep the project on schedule, staff recommends approval of the specific actions requested subject to terms and conditions acceptable to the County Attorney.

Attachments:

1. MOU Between Wake County & NCSU
2. Draft Second Amendment to Ground Lease & Exhibit
3. Draft First Amendment to Use Agreement & Exhibits