

STATE OF NORTH CAROLINA

SECOND AMENDMENT TO GROUND LEASE

COUNTY OF WAKE

This Second Amendment to that certain Ground Lease Agreement originally entered into as of April 2, 2001 and subsequently modified by a First Amendment entered into as of April 24, 2002, by and between the State of North Carolina ("Landlord") and Wake County ("Tenant"), the original document referred to as "Ground Lease", is made and entered into by and between Landlord and Tenant as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_. Both Landlord and Tenant are also referred to as a "Party" or collectively as the "Parties" as the context requires. All capitalized terms not otherwise defined in this Amendment shall have the meanings given to them in the Ground Lease.

WHEREAS, the Landlord and Tenant entered into the Ground Lease whereby Landlord leases to Tenant and Tenant leases from Landlord certain Land for use as a county park known as Yates Mill County Park and a Building for use as a teaching and research facility known as the Yates Mill County Park Center and University Teaching and Research Facility; and

WHEREAS, the execution of the Lease Agreement dated April 2, 2001, for and on behalf of the State of North Carolina, was approved by the Council of State at a meeting held in the City of Raleigh, North Carolina, on September 29, 2000, and amended on November 6, 2001, and

WHEREAS, at the execution of the Ground Lease the Building consisted of approximately 16,000 square feet of which Tenant has used approximately 11,000 square feet as the park center and NC State University has used approximately 5,000 square feet for teaching and research; and

WHEREAS, pursuant to the requirements of the Ground Lease, Tenant and NC State University entered into a use agreement on April 2, 2001 to establish the terms and conditions governing the programming, scheduling, use, maintenance, repair and control of the Building including the Common Areas and NC State Space ("Use Agreement"); and

WHEREAS, Tenant in collaboration with NC State University, North Carolina Department of Transportation, and U.S. Fish and Wildlife Service identified the Land and Building as a desirable location to establish an aquatic species propagation facility as part of NCDOT's mitigation requirements associated with the future I-540 corridor to be constructed in Wake County ("Project"); and

WHEREAS, pursuant to the Ground Lease, Section 6.4 "Alterations, Additions, and Improvements", Tenant obtained Landlord's release and approval to renovate a portion of the Building for the Project as set forth in the "Non-Binding Letter of Intent" dated April 5, 2017; and

WHEREAS, Tenant and North Carolina Department of Transportation entered into a "Reimbursable Agreement" dated January 5, 2018 providing for the funding of the facility; and

WHEREAS, Tenant and North Carolina State University entered into a “Memorandum of Understanding” dated January 16, 2018 related to the Project; and

WHEREAS, the parties desire to revise the Basic Lease Information by providing updated addresses for the Tenant and Landlord, and an updated description of the Building; and

WHEREAS, the parties desire to revise the current Exhibit “B” “The Building” to reflect the construction of the Project; and

WHEREAS, the parties desire to revise the current Exhibit “F” “Use Agreement” to address the addition of the Project to the Building; and

WHEREAS, execution of the instrument for and on behalf of Landlord has been duly approved by the Governor and Council of State at a meeting held in the City of Raleigh, North Carolina, on the 4<sup>th</sup> day of August, 2020.

NOW, THEREFORE, in consideration of the premises and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord and Tenant hereby agree as follows:

1. The recitals above are incorporated herein and made part of this Agreement.
2. Landlord and Tenant each warrant and covenant to the other that it has full right and authority to execute this First Amendment to Ground Lease upon the terms and conditions set forth herein.
3. The Ground Lease is hereby amended:
  - a. In ARTICLE I. BASIC LEASE INFORMATION:

- 1) by replacing the LANDLORD’S ADDRESS in Section 1.1.1 with the following:

State of North Carolina  
c/o State Property Office  
116 West Jones Street  
Raleigh, North Carolina 27603-8003

With copy to:  
North Carolina State University  
c/o University Real Estate & Development  
Campus Box 7408  
Raleigh, North Carolina 27695-7408

- 2) by replacing the TENANT'S ADDRESS in Section 1.1.2 with the following:

Wake County  
Attn: Wake County Manager  
P.O. Box 550  
Raleigh, N.C. 27602

With copy to:  
Wake County  
Attn: County Attorney  
P.O. Box 550  
Raleigh, N.C. 27602

With copy to:  
Wake County  
Attn: Director Parks, Recreation & Open Space  
PO Box 550  
Raleigh, N.C. 27602

With copy to:  
Wake County  
Attn: Director, General Services Administration  
PO Box 550  
Raleigh, NC 27602

With copy to:  
Wake County  
Attn: Director, Facilities Design & Construction  
P. O. Box 550  
Raleigh, NC 27602

- 3) by replacing the description for BUILDING in Section 1.1.4 with the following:

A building of 17,448 square feet more or less to be known as the Yates Mill County Park Center and University Teaching and Research Facility constructed by Tenant for the use of Tenant and NC State University. Tenant shall use approximately 11,650 square feet including the canoe shed (80 square feet) and NC State University shall use approximately 6,771 square feet including a new pump house building (893 square feet) The

Building floor plan and assigned spaces are more particularly shown on Exhibit "B", as amended herein.

- b. by replacing Exhibit "B" "The Building" to the current Lease Agreement with the amended Exhibit "B" the Building Dated January 2020 and incorporating the same by reference into the Lease Agreement. The amended Exhibit "B" "The Building" Dated January 2020 shall replace and supersede Exhibit "B" "The Building" to the current Lease Agreement.
  - c. by replacing Exhibit "F" "Use Agreement" to the current Lease Agreement with the amended Exhibit "F" "the Amended Use Agreement Dated \_\_\_\_\_ and incorporating the same by reference into the Lease Agreement. The amended Exhibit "F" "Amended Use Agreement Dated \_\_\_\_\_" shall replace and supersede Exhibit "F" "Use Agreement" to the current Lease Agreement.
4. Except as expressly amended by the provisions of this First Amendment to Ground Lease, the Lease Agreement shall remain in full force and effect in accordance with its terms and is ratified and confirmed by the Parties hereto.

(signatures to follow)

IN WITNESS WHEREOF, Landlord and Tenant have executed this instrument under seal as of the day and year above first written.

**LANDLORD:**

STATE OF NORTH CAROLINA

By: \_\_\_\_\_  
Governor

ATTEST:

\_\_\_\_\_  
Secretary of State

APPROVED AS TO FORM:  
JOSHUA H. STEIN, Attorney General

By: \_\_\_\_\_  
Special Deputy Attorney General

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

I, \_\_\_\_\_, a Notary Public for \_\_\_\_\_  
County, North Carolina, do certify that ELAINE F. MARSHALL, Secretary of State of the State of North Carolina, personally came before me this day and acknowledged that she is Secretary of State of the State of North Carolina, and that by authority duly given and as an act of the State, the foregoing instrument was signed in its name by ROY COOPER, Governor of the State of North Carolina, sealed with the Great Seal of the State of North Carolina, and attested by herself as Secretary of State.

IN WITNESS WHEREOF, I have hereunto set my hand and Notarial Seal, this the \_\_\_\_\_  
day of \_\_\_\_\_, 2020.

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

My Commission Expires: \_\_\_\_\_

Print Name: \_\_\_\_\_

**TENANT:**

**WAKE COUNTY**

By: \_\_\_\_\_

Gregory D. Ford, Chairman

Wake County Board of Commissioners

**ATTEST BY:**

\_\_\_\_\_

(Official Seal)

Yvonne C. Gilyard

Deputy Clerk to the Board

**STATE OF NORTH CAROLINA**

**COUNTY OF WAKE**

I a Notary Public of the County and State aforesaid, do hereby certify that Yvonne C. Gilyard personally came before me and acknowledged that she is the Deputy Clerk to the Wake County Board of Commissioners, and that by authority duly given, the foregoing instrument was signed in its name by Gregory D. Ford, Chairman of the Wake County Board of Commissioners, sealed with its corporate seal and attested by Yvonne C. Gilyard as its Deputy Clerk.

IN WITNESS WHEREOF, I have hereunto set my hand and Notarial Seal, this the \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
NOTARY PUBLIC

Print Name: \_\_\_\_\_

My Commission expires: \_\_\_\_\_