

# FORSYTH COUNTY

## BOARD OF COMMISSIONERS

MEETING DATE: MAY 8, 2017 AGENDA ITEM NUMBER: 13

**SUBJECT: RESOLUTION AUTHORIZING EXECUTION OF A LEASE AMENDMENT AND A NEW LEASE BETWEEN FORSYTH COUNTY AND HORIZONS RESIDENTIAL CARE CENTER, A NON-PROFIT CORPORATION, FOR LEASE OF COUNTY OWNED PROPERTY LOCATED IN HORIZONS PARK AT 100 HORIZONS LANE, RURAL HALL, N.C.**

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

### SUMMARY OF INFORMATION:

See attached

ATTACHMENTS:  YES  NO

SIGNATURE: *J. Dudley White, Jr.* COUNTY MANAGER DATE: May 4, 2017

**RESOLUTION AUTHORIZING EXECUTION OF A LEASE AMENDMENT  
AND A NEW LEASE BETWEEN FORSYTH COUNTY AND HORIZONS  
RESIDENTIAL CARE CENTER, A NON-PROFIT CORPORATION, FOR  
LEASE OF COUNTY OWNED PROPERTY LOCATED IN  
HORIZONS PARK AT 100 HORIZONS LANE, RURAL HALL, N.C.**

**WHEREAS**, Horizons Residential Care Center, a non-profit corporation, desires to amend a ninety-nine (99) year lease with Forsyth County of approximately twenty-six (26) acres to lease approximately nine (9) acres for the remaining fifty-nine (59) years of the lease expiring October 16, 2076 and to enter into a separate one-year renewable lease of a 2,427 square foot gymnasium and related bathroom facilities each lease at an annual rent of \$1.00; and

**WHEREAS**, the County staff reports that the County does not have a need for the property for County purposes during the term of the proposed amended lease and proposed new lease and recommends that the Forsyth County Board of Commissioners authorize execution of the amended and new leases; and

**WHEREAS**, a public notice of these proposed leases has been published at least thirty (30) days prior to this meeting date pursuant to the provisions of N.C.G.S. 160A-272.

**NOW, THEREFORE, BE IT RESOLVED** that the Forsyth County Board of Commissioners hereby determines that the portions of Horizons Park which are the subject of the proposed amended lease on approximately nine (9) acres and proposed new lease of the gymnasium portions of Horizons Park located at 100 Horizons Lane, Rural Hall, N.C., which are the subject of these proposed Lease Agreements between Forsyth County and Horizons Residential Care Center, a non-profit corporation, will not be needed by the County for County purposes during the term of the proposed amended and new leases.

**BE IT FURTHER RESOLVED** that a public notice has been published pursuant to the provisions of N.C.G.S. 160A-272 announcing the Board's intent to authorize the amended and the new leases at its May 8, 2017 regular meeting, describing the property to be leased, and stating the annual lease payments.

**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, a Lease Amendment for a fifty-nine (59) year remaining term expiring in 2076 and a new Lease Agreement for a one-year, renewable term of the above-described property with Horizons Residential Care Center, a non-profit corporation, at an annual rent of \$1.00, 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 proposed Lease Amendment and new Lease Agreement are attached hereto and incorporated herein by reference.

Adopted this the 8<sup>th</sup> day of May, 2017.

## LEASE AGREEMENT

THIS AGREEMENT, made and entered into on \_\_\_\_\_, by and between Forsyth County ("Landlord"), a political subdivision of the State of North Carolina, and Horizons Residential Care Center ("Tenant"), a North Carolina nonprofit corporation;

For the purpose and subject to the terms and conditions hereinafter set forth, the parties agree that Landlord shall lease to Tenant the properties hereinafter set forth.

### 1. PREMISES

Landlord, for and in consideration of the rents, conditions, and consideration hereinafter mentioned, provided for and covenanted to be paid, kept and performed by Tenant, leases to Tenant two thousand four hundred twenty seven (2,427) square feet (the "Gym") and related bathroom facilities within the Administration building located at 100 Horizons Lane, Rural Hall, North Carolina, as shown in Exhibit 1, attached hereto and incorporated herein by reference (hereinafter called the "Premises").

### 2. TERM

The Tenant shall have and hold the Premises for a term of one year beginning on \_\_\_\_\_, and ending on \_\_\_\_\_, unless sooner terminated as hereinafter provided. Notwithstanding anything to the contrary herein, Landlord may terminate the Agreement, for any reason or for no reason, by providing written notice of at least thirty (30) days. Tenant may terminate the Agreement by providing written notice to Landlord of at least thirty (30) days.

### 3. RENTAL

Tenant agrees to pay Landlord without demand, deduction or set off, an annual rental for the Premises of one dollar (\$1) due the first day of each annual term.

### 4. LATE CHARGES

If rent payment is not postmarked or hand delivered within 15 days after it becomes due, Tenant shall pay Landlord, as additional rental, a late charge equal to five percent (5%) of the overdue amount, plus any actual bank fees incurred for resumed or dishonored checks. The parties agree that such a late charge represents a fair and reasonable estimate of the cost Landlord will incur by reason of such late payment.

### 5. UTILITIES

Tenant shall be responsible for providing electric, water, stormwater, septic, and gas service to the Premises. Tenant shall also be responsible for providing its own telephone, computer and internet service (if any).

6. USE OF PREMISES

The Premises shall be used solely for the purpose of providing treatment and administration of programs regarding mental health and developmental disabilities. The Premises shall not be used for any illegal purposes, housing of staff or clientele, or in any manner to create any nuisance or trespass, nor in any manner to vitiate the insurance or increase the rate of insurance on the Premises. In the event Tenant's use of the Premises results in an increase in the rate of insurance on the Premises, Tenant shall pay to Landlord, upon demand and as additional rental, the amount of any such increase. This Lease shall be terminated immediately if the Premises are no longer used for the purpose set forth herein.

7. INDEMNITY; INSURANCE

Tenant agrees to and hereby does indemnify and hold Landlord harmless against all claims for damages to persons or property by reason of Tenant's use or occupancy of the Premises, and all expenses incurred by Landlord because thereof, including attorney's fees and court costs. Supplementing the foregoing and in addition thereto, Tenant shall during the term of this Lease and any extension or renewal thereof, and at Tenant's expense, maintain in full force the following insurance coverage:

A. Commercial General Liability Insurance. The Tenant shall maintain occurrence version commercial general liability insurance or equivalent form with a limit of not less than \$1,000,000 each occurrence. If such insurance contains a general aggregate limit, it shall apply separately to this agreement or be no less than three times the occurrence limit. Such insurance shall:

1. **Include the County, its officials, officers, and employees as additional insureds** with respect to performance of the Services. The coverage shall contain no special limitations on the scope of protection afforded to the above listed insureds.
2. Be primary with respect to any insurance or self-insured retention programs covering the County, its officials, officers, and employees.

The requirements of this section may be satisfied by a combination of self-insurance and Excess Liability insurance.

B. Commercial Property Insurance. The Landlord is responsible for maintaining property insurance for the building located at 100 Horizons Lane. The Tenant is solely responsible for maintaining insurance coverage for any improvements made to the building by the Tenant and any business personal property of the Tenant. In no event will the Landlord be required to repair or replace any improvements or personal property owned by the Tenant, its employees, or contractors.

C. Other Insurance Requirements. The Tenant shall:

1. Furnish the County with properly executed certificates of insurance which shall clearly evidence all insurance required in this section.
2. Provide certified copies of endorsements and policies, if requested by the County, in lieu of or in addition to certificates of insurance.
3. Replace certificates, policies, and endorsements for any such insurance expiring prior to completion of the services.
4. Maintain such insurance from the time the lease commences until the lease is terminated.
5. Place such insurance with insurers authorized to do business in North Carolina and having A. M. Best Company ratings of not less than A:VII. Any alternatives to this requirement shall require written approval of the County's Risk Manager.

D. The Tenant understands and acknowledges that these insurance coverage requirements are minimums and that they do not restrict or limit the hold harmless provisions of this agreement.

#### 8. SERVICES BY LANDLORD

Landlord shall be solely responsible for the following expenses and services: (a) real property taxes; (b) repairs and replacements to the roof of the Premises; (c) major repairs to the Premises, such as structural repairs, heating and cooling systems repairs, hot water heater repairs, parking lot repairs, and all repairs to under slab utilities.

Landlord to provide reasonable grounds keeping services to Tenant's area as indicated in Exhibit 2. Services provided to include mowing, care of shrubs, and other general landscaping services. Landlord shall invoice tenant annually for the services provided and will itemize the charges by date, labor hours, and cost per hour. Labor for grounds related services provided to the area shown in Exhibit 2 to be billed at an hourly rate of \$31.33 per employee.

## 9. SERVICES & REPAIRS BY TENANT

Tenant accepts the Premises in their present condition and as suited for the uses intended by Tenant. Tenant agrees to return the Premises to the Landlord at the expiration or prior termination of this Lease, in as good condition and repair as when first received, natural wear and tear, damage by storm, fire, lightning, earthquake or other casualty alone excepted. Tenant, Tenant's employees, agents, contractors or subcontractors shall take no action which may void any manufacturers or installers warranty with relation to the Premises. Tenant shall indemnify and hold Landlord harmless from any liability, claim, demand or cause of action arising on account of Tenant's breach of the provisions of this paragraph.

Tenant shall be solely responsible for the following expenses and services: (a) any and all Tenant improvements (as defined below); (b) construction changes to the interior of the Premises; (c) costs of purchase and installation of any and all trade fixtures; (d) maintenance to the interior of the Premises and related bathroom facilities; (e) janitorial services rendered to the areas indicated on Exhibit 1.

## 10. ALTERATIONS

Tenant shall not make any alterations, additions, or improvements to the Premises without Landlord's prior written consent. Tenant shall promptly remove any alterations, additions, or improvements constructed in violation of this Paragraph upon Landlord's written request. All approved alterations, additions, and improvements will be accomplished in a good and workmanlike manner, in conformity with all applicable laws and regulations, and by a contractor approved by Landlord, free of any liens or encumbrances. Landlord may require Tenant to remove any alterations, additions or improvements (whether or not made with Landlord's consent) at the termination of the Lease and to restore the Premises to its prior condition, all at Tenant's expense. All alterations, additions and improvements which Landlord has not required Tenant to remove shall become Landlord's property and shall be surrendered to Landlord upon the termination of this Lease, except that Tenant may remove any of Tenant's machinery or equipment which can be removed without material damage to the Premises. Tenant shall repair, at Tenant's expense, any damage to the Premises caused by the removal of any such machinery or equipment.

## 11. REMOVAL OF FIXTURES

Tenant may (if not in default hereunder) prior to the expiration of this Lease, or any extension or renewal thereof, remove all fixtures and equipment which it has placed in the Premises, provided Tenant repairs all damage to the Premises caused by such removal.

## 12. DESTRUCTION OF OR DAMAGE TO PREMISES

If the Premises are totally destroyed by storm, fire, lightning, earthquake or other casualty, this Lease shall terminate as of the date of such destruction and rental

shall be accounted for as between Landlord and Tenant as of that date. If the Premises are damaged but not wholly destroyed by any such casualties, rental shall abate in such proportion as effective use of the Premises has been affected and Landlord shall restore Premises to substantially the same condition as before damage as speedily as is practicable, whereupon full rental shall recommence. Tenant is responsible for insuring its personal property stored on the Premises, and Landlord shall not be responsible for any damage or loss to Tenant's property.

### 13. GOVERNMENTAL ORDERS

Tenant agrees, at its own expense, to comply promptly with all requirements of any legally constituted public authority made necessary by reason of Tenant's occupancy of the Premises. Landlord agrees to comply promptly with any such requirements if not made necessary by reason of Tenant's occupancy.

### 14. CONDEMNATION

If the whole of the Premises, or such portion thereof as will make the Premises unusable for the purposes herein leased, is condemned by any legally constituted authority for any public use or purpose, then in either of said events the term hereby granted shall cease from the date when possession thereof is taken by public authorities, and rental shall be accounted for as between Landlord and Tenant as of said date. Such termination, however, shall be without prejudice to the rights of either Landlord or Tenant to recover compensation and damage caused by condemnation from the condemner. It is further understood and agreed that Tenant shall not have any rights in any award made to Landlord by any condemnation authority.

### 15. ASSIGNMENT AND SUBLETTING

Tenant shall not, without the prior written consent of Landlord, which shall not be unreasonably withheld, assign this Lease or any interest hereunder, or sublet the Premises or any part thereof, or permit the use of the Premises by any party other than the Tenant. Consent to any assignment or sublease shall not impair this provision and all later assignments or subleases shall be made likewise only on the prior written consent of Landlord. The Assignee of Tenant, at the sole option of Landlord which option may be exercised only by written notice of Landlord to Tenant, may become directly liable to Landlord for all obligations of Tenant hereunder, but no sublease or assignment by Tenant shall relieve Tenant of any liability hereunder. Any assignee or sublessee of the Premises must comply with the use provisions set forth in Section 6 herein.

### 16. EVENTS OF DEFAULT

To the extent allowed by law, the happening of any one or more of the following events (hereinafter any one of which may be referred to as an "Event of Default") during the term of this Lease or any renewal or extension thereof, shall constitute a breach of this Lease on the part of the Tenant: (a) Tenant fails to pay the rental as provided for herein; (b) Tenant abandons or vacates the Premises; (c) Tenant

fails to comply with or abide by and perform any other obligation imposed upon Tenant under this Lease; (d) Tenant is adjudicated bankrupt; (e) A permanent receiver is appointed for Tenant's property and such receiver is not removed within sixty (60) days after written notice from Landlord to Tenant to obtain such removal; (f) Tenant, either voluntarily or involuntarily, takes advantage of any debt or relief proceedings under any present or future law, whereby the rent or any part thereof is, or is proposed to be reduced or payment thereof deferred; (g) Tenant makes an assignment for benefit of creditors; (h) Tenant's effects are levied upon or attached under process against Tenant, which is not satisfied or dissolved within thirty (30) days after written notice from Landlord to Tenant to obtain satisfaction thereof.

#### 17. REMEDIES UPON DEFAULT

Upon the occurrence of Event of Default, Landlord may pursue any one or more of the following remedies separately or concurrently, without prejudice to any other remedy herein provided or provided by law; (a) if the Event of Default involves nonpayment of rental and Tenant fails to cure such default with five (5) days after receipt of written notice thereof from Landlord, or if the Event of Default involves a default in performing any of the terms or provisions of this Lease other than the payment of rental and Tenant fails to cure such default within thirty (30) days after receipt of written notice of default from Landlord, Landlord may terminate this Lease. (if Tenant has failed to cure such default after receiving 30 days written notice) by giving written notice to Tenant and upon such termination shall be entitled to recover from Tenant damages as may be permitted under applicable law; or (b) if the Event of Default involves any matter other than those set forth in item (a) of this paragraph, Landlord may terminate this Lease by giving written notice to Tenant and, upon such termination, shall be entitled to recover from the Tenant damages in an amount equal to all rental which is due and all rental which would otherwise have become due throughout the remaining term of this Lease, or any renewal or extension thereof (as if this Lease had not been terminated); or (c) upon any Event of Default (if Tenant has failed to cure such default after 30 days written notice), Landlord may, without terminating this Lease, re-let the Premises, in whole or in part, at the best price obtainable by reasonable effort, without advertisement and by private negotiations and for any term Landlord deems proper, with Tenant being liable to Landlords for the deficiency, if any, between Tenant's rent hereunder and the price obtained by Landlord on reletting, provided however, that Landlord shall not be considered to be under any duty by reason of this provision to take any action to mitigate damages by reason of Tenant's default. In the event Landlord hires an attorney to enforce its rights upon default, Tenant shall in addition be liable for reasonable attorney's fees and all costs of collection.

#### 18. EXTERIOR SIGNS

Tenant shall place no signs upon the outside walls or roof of the Premises, except with the express written consent of the Landlord. Any and all signs placed on the Premises by Tenant shall be maintained in compliance with governmental rules



and regulations governing such signs and Tenant shall be responsible to Landlord for any damage caused by installation, use or maintenance of said signs, and all damage incident to removal thereof.

19. PARKING

Tenant shall be entitled to use parking spaces as available and as assigned by Landlord in the lots serving the Premises.

20. LANDLORD'S ENTRY OF PREMISES

Landlord may advertise the Premises For Rent or For Sale. Landlord may enter the Premises at reasonable hours to exhibit the Premises to prospective purchasers or tenants, to inspect the Premises and to make repairs required of Landlord or to provide services under the terms hereof or to make repairs to Landlord's adjoining property, if any.

21. EFFECT OF TERMINATION OF LEASE

No termination of this Lease prior to the normal ending thereof, by lapse of time or otherwise, shall affect Landlord's right to collect rent for the period prior to termination thereof.

22. MORTGAGEE'S RIGHTS

Tenant's rights shall be subject to any bona fide mortgage, deed of trust or other security interest which is now or may hereafter be placed upon the Premises by Landlord. Tenant shall, if requested by Landlord, execute a separate agreement reflecting such subordination, and shall be obligated to execute such documentation as may facilitate Landlord's sale or refinancing of the Premises, including, but not limited to estoppel certificates, subordination or attornment agreements.

23. QUIET ENJOYMENT

So long as Tenant observes and performs the covenants and agreements contained herein, it shall at all times during the Lease term peacefully and quietly have and enjoy possession of the Premises, but always subject to the terms hereof. Notwithstanding anything to the contrary herein, in the event Landlord shall sell or otherwise transfer its interest in the Premises, Tenant agrees to attorn to any new owner or interest holder and shall, if requested by Landlord, execute a separate agreement reflecting such attornment, provided that said agreement requires the new owner or interest holder to recognize its obligations and Tenant's rights hereunder.

24. HOLDING OVER

If Tenant remains in possession of the Premises after expiration of the term hereof, with Landlord's acquiescence and without any express agreement of the parties, Tenant shall be a tenant at will at the rental rate which is in effect at end of this Lease and there shall be no renewal of this Lease by operation of law. If Tenant remains in possession of the Premises after expiration of the term hereof

without Landlord's acquiescence, Tenant shall be a tenant at sufferance and commencing on the fraction thereof during which Tenant so remains in possession of the premises, be twice the monthly rental otherwise payable under Paragraph 3 above.

25. RIGHTS CUMULATIVE

All rights, powers and privileges conferred hereunder upon parties hereto shall be cumulative and not restrictive of those given by law.

26. WAIVER OF RIGHTS

No failure of Landlord or Tenant to exercise any power given hereunder or to insist upon strict compliance of its obligations hereunder and no custom or practice of the parties at variance with the terms hereof shall constitute a waiver of Landlord's or Tenant's right to demand exact compliance with the terms hereof.

27. ENVIRONMENTAL LAWS

Tenant shall be liable for all environmental damage, liability or cost, including reasonable attorney's fees, arising out of Tenant's use of the Premises and shall defend and hold Landlord harmless from any claims or actions relating to environmental damage, spills, exposure or other effects caused by Tenant within the Premises. Tenant shall comply with all federal, state, and local laws, ordinances, and regulations. Tenant shall not bring unto the Premises any Hazardous Materials without the prior written approval by Landlord. Any approval must be preceded by submission to Landlord of appropriate Material Safety Data Sheets (MSDS Sheets). In the event of approval by Landlord, Tenant covenants that it comply with all requirements of any constituted public authority and all federal, state, and local codes, statutes, rules and regulations, and laws, whether now in force or hereafter adopted relating to Tenant's use of the Premises, or relating to the storage, use, disposal, processing, distribution, shipping or sales of any hazardous, flammable, toxic or dangerous materials, waste or substance, the presence of which is regulated by a federal, state, or local law, ruling, rule or regulation (hereafter collectively referred to as "Hazardous Materials"); (2) comply with any reasonable recommendations by the insurance carrier of either Landlord or Tenant relating to the use by Tenant on the Premises of such Hazardous Materials; (3) refrain from unlawfully disposing of or allowing the disposal of any Hazardous Materials upon, within, about or under the Premises; and (4) remove all Hazardous Materials from the Premises, either after their use by Tenant or upon the expiration or earlier termination of this Lease, in compliance with all applicable laws.

28. TIME OF ESSENCE

Time is of the essence in this Lease.

29. ABANDONMENT

Tenant shall not abandon the Premises at any time during the Lease term. If Tenant shall abandon the Premises or be dispossessed by process of law, any personal property belonging to Tenant and left on the Premises shall, at the option of Landlord, be deemed abandoned, and available to Landlord to use or sell to offset any rent due or any expenses incurred by removing same and restoring the Premises.

30. DEFINITIONS

“Landlord” as used in this Lease shall include the undersigned, its representatives, assigns, and successors in title to the Premises. “Tenant” shall include the undersigned and its representatives, assigns and successors, and if this Lease shall be validly assigned or sublet, shall include also Tenant’s assignees or sublease as to the Premises covered by such assignment or sublease. “Landlord” and “Tenant”, include male and female, singular and plural, corporation, partnership or individual, as may fit the particular parties.

31. NOTICES

All notices required or permitted under this Lease shall be in writing and shall be personally delivered or sent by U.S. certified mail, return receipt requested, postage prepaid. Notices to Tenant shall be delivered or sent to the following address:

David Adams  
Executive Director  
100 Horizons Lane  
Rural Hall, NC 27045

Notice to Landlord shall be delivered or sent to the following address:

Dudley Watts  
County Manager  
Forsyth County Government Center  
201 N. Chestnut St.  
Winston-Salem, NC 27101

All notices shall be effective upon delivery. Any party may change its notice address upon written notice to the other parties, given as provided herein.

32. ENTIRE AGREEMENT

This Lease contains the entire agreement of the parties hereto, and no representations, inducements, promises or agreements, oral or otherwise, between the parties, not embodied herein shall be of any force or effect. This Lease may not be modified except by a writing signed by all the parties hereto.

33. AUTHORIZED LEASE EXECUTION

Each individual executing this Lease as director, officer, partner, member or agent of a corporation, limited liability company, or partnership represents and warrants that he/she is duly authorized to execute and deliver this Lease on behalf of such corporation, limited liability company, or partnership.

34. TRANSFER OF LANDLORD'S INTEREST

In the event of the sale, assignment or transfer by Landlord of its interest in the Premises or in this Lease (other than a collateral assignment to secure a debt of Landlord) to a successor in interest who expressly assumes the obligations of Landlord under this Lease, Landlord shall thereupon be released and discharged from all its covenants and obligations under this Lease, except those obligations that have accrued prior such sale, assignment or transfer. Landlord's assignment of this Lease, or of any or all of its rights in this Lease, shall not affect Tenant's obligations hereunder, and Tenant shall attorn and look to the assignee as Landlord, provided Tenant has first received written notice of the assignment of Landlord's interest.

35. MEMORANDUM OF LEASE

Upon request by either Landlord or Tenant, the parties hereto shall execute a short form lease (Memorandum of Lease) in recordable form, setting forth such provisions hereof (other than the amount of Base Monthly Rent and other sums due) as either party may wish to incorporate. The cost of recording such Memorandum of Lease shall be borne by the party requesting execution of same.

36. GOVERNING LAW

This Agreement is governed by the laws of North Carolina, except that provisions relating to conflict of laws shall not apply.

37. EXHIBITS

Exhibit 1, a drawing that shows the Premises described in Section 1 hereinabove, is incorporated herein by reference. **This drawing is not a formal survey and is only a general representation of boundaries. If there is any discrepancy between Exhibit 1 and any other provision of this Agreement, such other provision of this Agreement shall govern.** Exhibit 2, a drawing that shows the additional area to which Landlord will provide additional grounds keeping services as described in Section 8 above, is incorporated herein by reference.

IN WITNESS WHEREOF, Landlord and Tenant have set their hands and seals as of the day and year first above written.

**FORSYTH COUNTY, NORTH CAROLINA**

By: \_\_\_\_\_  
County Manager

ATTEST:

\_\_\_\_\_  
Clerk to the Board

(SEAL)

**HORIZONS RESIDENTIAL CARE CENTER**

By: \_\_\_\_\_  
David Adams  
Executive Director

Exhibit 1 & 2  
(attached hereto)

RF # 19-530  
CF # 26-260  
BOC Adpt. 10-17-1977

5. RESOLUTION AUTHORIZING AND APPROVING OF A LEASE  
AGREEMENT BETWEEN FORSYTH COUNTY AND HORIZONS  
RESIDENTIAL CARE CENTER (CONTINUED)

Mr. Newcomer noted that this matter had been discussed at the Commissioners' briefing session on October 13, 1977.

Mr. Price explained that at the time Horizons gave the County an option to purchase this property, the option provided that if the County bought the property, they would lease back the campus of Horizons which is where the physical facilities and improvements are located. The proposed resolution would authorize a lease agreement with Horizons Residential Care Center for the campus, and the lease would be given to Horizons at the same time Horizons gives a deed to the County for all of the property.

Mr. Drummond asked if the Commissioners needed to act on the purchase itself at this time.

Mr. Price pointed out that the Board of Commissioners had exercised the option to purchase the property on June 6, 1977. Mr. Price stated that the lease of the campus back to Horizons is to use the property for the purpose for which Horizons was formed; i.e., to provide care for the mentally retarded and handicapped, and they must remain a non-profit corporation for these purposes. The lease would be for a period of 99 years.

Upon motion of Mr. Hall, seconded by Mrs. Woodruff, the following Resolution authorizing and approving of the following Lease Agreement between Forsyth County and Horizons Residential Care Center was unanimously adopted:

R.F. #19-530, C.F. #26-260.

78437

RESOLUTION AUTHORIZING AND APPROVING OF  
A LEASE AGREEMENT BETWEEN FORSYTH COUNTY  
AND HORIZONS RESIDENTIAL CARE CENTER

BE IT RESOLVED by the Board of Commissioners of Forsyth County, in accordance with the agreement made with Horizons Residential Care Center dated April 21, 1975, recorded in Deed Book 1145, page 1370, Forsyth County Register of Deeds office, and as required by said agreement in consideration of Horizons' granting the County an option to purchase the land described therein, which option the County exercised on June 6, 1977, that the Board does hereby authorize and approve of the attached Lease Agreement between Forsyth County and Horizons Residential Care Center as part of the closing of the real property purchase by the County; and authorizes the Chairman and Clerk to the Board to execute said agreement, subject to the approval of the County Attorney as to form and legality, and delivery concurrently with the delivery of a warranty deed from Horizons for the purchase of the real property by the County.

Adopted this the 17th day of October, 1977.

78438

9/77

Approved  
10-17-1977

NORTH CAROLINA )  
                  ;  
FORSYTH COUNTY  )

LEASE AGREEMENT

THIS LEASE AGREEMENT, made and entered into the 17th day of October, 1977, by and between the COUNTY OF FORSYTH, a political subdivision of the State of North Carolina (the "Lessor"), and HORIZONS RESIDENTIAL CARE CENTER, a nonprofit corporation, organized and existing under the laws of the State of North Carolina (the "Lessee");

W I T N E S S E T H:

In consideration of the agreements made in that certain lease with an option to purchase dated April 21, 1975, and recorded in Deed Book 1145, page 1370, Forsyth County Registry, and the rent hereinafter agreed to be paid by the Lessee to the Lessor, and in consideration of the covenants and agreements hereinafter contained, the Lessor does hereby demise and lease to the Lessee; and the Lessee does hereby take and lease from the Lessor, the following described premises:

Those certain tracts or parcels of land described in Exhibit A, attached hereto, and incorporated herein by reference.

The lease herein provided is subject to the following terms and conditions:

1. Term. The term hereof shall be for a period of ninety-nine (99) years beginning from the date hereof, unless sooner terminated as provided in paragraph 9 below.
2. Rent. As rent for the Leased Premises, the Lessee covenants and agrees to pay to the Lessor during the term hereof the sum of one dollar (\$1.00) per annum, payable on each anniversary of the date hereof in advance.
4. Taxes and Assessments. It is understood that at the time of the execution of this lease, the Leased Premises are not subject to ad valorem taxes by reason of the present use of the Leased Premises. If, however, for any reason the Leased Premises



become subject to ad valorem or other taxes, assessments, or public charges arising by reason of the occupancy, use or possession of the Leased Premises by the Lessee, Lessee agrees to pay, as additional rent, such charges and assessments.

5. Utilities and Other Expenses. Lessee shall pay and discharge all charges and claims by reason of the consumption of water, gas, and electricity, and any and all other utility services and all other utilities and other expenses for the Leased Premises, and shall indemnify Lessor and save it harmless against any liability or damage on such account.

6. Insurance. Any insurance obtained for improvements and other insurance coverage on the Leased Premises shall be the Lessee's obligation and at the Lessee's expense. The Lessor and Lessee shall be named as insureds as their interests may appear with regard to insurance which may be obtained on the Leased Premises for damage or destruction resulting from any insurable hazard.

7. Alterations and Improvements. Lessee shall have the right to make any changes, alterations, additions, removals from, and improvements to or upon the Leased Premises it deems necessary or desirable consistent with the purposes of Lessee's charter, at its sole cost and expense. Any and all changes, alterations, additions, and improvements made to or placed upon the Leased Premises, as well as all fixtures attached to or made a part of the Leased Premises, shall become subject to this Lease Agreement, and shall become the property of and shall be surrendered to the Lessor upon termination of this lease; and the term "Leased Premises" as used herein shall be deemed to include such substituted property. All equipment, furniture, supplies and machinery used in or on the Leased Premises shall be supplied and installed at the sole cost

and expense of Lessee and shall at all times be and remain the property of Lessee. Lessee shall have the right at any time during the term of this lease to remove any equipment, furniture, supplies, merchandise and machinery from the Leased Premises.

At the end of the lease term, the Lessee shall return the Leased Premises to the Lessor in as good a condition as when received, ordinary wear and tear excepted. Repairs, replacements, additions, or alterations to the Leased Premises shall be surrendered to the Lessor at the end of the lease term in as good a condition as when properly made or acquired, ordinary wear and tear excepted.

8. Repairs and Maintenance. Lessee agrees to accept the Leased Premises in the condition existing on the date of the commencement of this lease; and Lessor shall be under no obligation to make any repairs or replacements to any building, buildings, or other improvements now located on the Leased Premises or hereafter placed thereon by Lessee or any sublessee during the term of this lease; and Lessee will, at its sole cost and expense, maintain and keep the buildings and all other improvements located on or to be constructed or placed on the Leased Premises in good condition and repair.

9. Default. If Lessee shall

(i) default in the payment of rent, or

(ii) cease to use the Leased Premises for the purposes set forth in Lessee's Corporate Charter as presently written, or

(iii) should Lessee cease to be an organization described in Section 501(c)(3) of the Internal Revenue Code of 1954 ("Code"), or the equivalent provision of any future revenue laws of the United States of general application as they may be from time to time amended, or

(iv) default in the performance of any of its obligations under this lease,

and if such default shall continue for a period of sixty (60) days after written notice thereof by Lessor to Lessee, then the Lessor may lawfully enter and possess the Leased Premises and expel the Lessee and those claiming under Lessee; and this lease shall terminate. In the event of such default, Lessee agrees to peacefully surrender possession of the Leased Premises to the Lessor.

10. Assignment and Subletting. Lessee may assign or sublet the Leased Premises to any organization which is described in Section 501(c)(3) of the Code, provided such organization uses the Leased Premises for the same purposes as that used by Lessee or for such purposes as would not constitute a Default pursuant to paragraph 9 hereof if so used by Lessee; provided, Lessee may not assign or sublet the Leased Premises without the prior written consent of Lessor.

11. Compliance With Lease and Applicable Laws. The Lessee agrees to comply with this lease and all applicable laws, and the Lessor shall have the right of entry upon reasonable notice for the purpose of inspection and to insure compliance with this lease and applicable laws.

12. Entire Agreement. This instrument contains the entire understanding and agreement by and between the parties hereto, and all prior or contemporaneous oral or written agreements or instruments are merged herein, and no amendment to this Lease Agreement shall be effective unless the same is in writing and signed by both of the parties hereto.

13. Successors and Assigns. All rights and obligations provided for hereunder shall inure to the benefit of and shall be binding upon the parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF, Lessor has caused this lease to be



EXHIBIT A

TRACT 1: Beginning at a point, said beginning point being located in the northern right of way of Memorial Industrial School Road (N.C.S.R. 1920), said beginning point also being located N 49° 32' E 131.15' from the northeast corner of the property of Grady R. Hawks (See Deed Book 1028, p.151, Forsyth County Registry); thence from said beginning point along the northern right of way of Memorial Industrial School Road the following bearings and distances, S 78° 05' N 704.51' to a point; thence on a curve to the right on a chord N 89° 41' W 403.51' to a point, thence N 77° 09' W 346.26' to a point; thence N 76° 55' W 271.41' to a point in the eastern edge of a noted farm road; thence along the eastern edge of said farm road; N 04° 51' W 124.01' to a point; thence N 08° 38' W 245.57' to a point; thence N 00° 55' W 220.88' to a point; thence N 87° 48' E 162.65' to a point, thence S 87° 52' E 317.88' to a point; thence N 74° 20' E 174.73' at a fence; thence S 88° 18' E 968.54' to a point, thence S 12° 13' E 609.05' to the point and place of beginning, containing 26.61 acres more or less. All according to a survey of the premises drawn by Lee M. Hinshaw, dated May 22, 1971 and revised August 8, 1977.

TRACT 2: Beginning at a point (marked by an iron), said beginning point being in the northern right of way of Memorial Industrial School Road (N.C.S.R. 1920), said beginning point being approximately 350' along the northern right of way of Memorial Industrial School Road from the southwest corner of Tract 1 as described herein; running thence from said beginning point along the northern right of way of Memorial Industrial School Road N 76° 38' W 100' to an iron; thence N 03° 45' E 200' to an iron; thence S 77° 24' E 113.77' to an iron; thence S 07° 44' W 200' to the point and place of beginning, containing 21,198 square feet more or less. All according to a survey of this property drawn by Lee M. Hinshaw, dated August 5, 1977.

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(8)

**RESOLUTION AUTHORIZING EXECUTION OF A LEASE AMENDMENT  
BETWEEN FORSYTH COUNTY AND THE UNITED STATES OF AMERICA,  
ON BEHALF OF ITS DIVISION OF FARM SERVICE AGENCY, FOR LEASE  
OF COUNTY OWNED PROPERTY**

**WHEREAS**, Forsyth County owns the Forsyth County Agricultural Building located at 1450 Fairchild Drive, Winston-Salem, N.C. in which it intends to execute a two-year lease amendment, beginning August 1, 2015 and ending July 31, 2017 of 2,813 square feet of office space (Rooms 56, 58, 59, 60 and 61) to the United States of America, on behalf of its Division of Farm Service Agency, at an annual rental of \$23,232 payable in equal monthly installments; and

**WHEREAS**, the United States of America, on behalf of its Farm Service Agency, desires to execute a two-year amended lease agreement with Forsyth County under the above terms; and

**WHEREAS**, pursuant to the provisions of N.C.G.S. 160A-272, a thirty-day notice has been given by publication describing the property to be leased or rented, stating the annual rental or lease payments, and announcing the Forsyth County Board of Commissioners' intent to authorize the lease or rental at its December 19, 2016 regular meeting; and

**WHEREAS**, the above-described property will not be needed by Forsyth County during the term of the proposed amended lease;

**NOW, THEREFORE, BE IT RESOLVED** by the Forsyth County Board of Commissioners that the above-described property will not be needed by Forsyth County during the term of the amended lease.

**BE IT FURTHER RESOLVED** that the Chairman or County Manager and the Clerk to the Board are hereby authorized to execute the above-described Lease Amendment, on behalf of Forsyth County, with the United States of America, on behalf of its Division of Farm Service Agency, subject to a pre-audit certificate thereon by the County Chief Financial Officer, where applicable, and approval as to form and legality by the County Attorney. The original Lease Amendment is attached hereto and incorporated herein by reference.

Adopted this the 19<sup>th</sup> day of December 2016.

**ADOPTED**  
**DEC 19 2016**  
Forsyth County Board  
of Commissioners

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