

6. Disposition of Property by Lease - NCSU Will Johnson

Situation: North Carolina State University has requested approval to lease approximately 130 acres of State of North Carolina land comprising Spring Hill Precinct on Centennial Campus to private developers for financing, development, ownership, and subleasing of improvements under the public-private partnership model that has been utilized by the private sector markets on its Endowment Fund land. Once the property is leased to the Endowment Fund, the fund would have the ability to enter into subleases without further statutory, policy, or regulatory approval.

Background: Through reallocation of state property in 2000, NCSU acquired 130 acres of land east of Centennial Parkway known as Spring Hill, formerly a portion of Dorothea Dix Hospital Campus. The land has been incorporated into Centennial Campus Precinct, sharing the mission and goals with the rest of Centennial Campus.

In October 2015, the Board authorized NC State University to execute a 99-year ground lease to the Board of Trustees of the Endowment Fund for North Carolina State University. This approval would supersede this prior action.

The ground leases would be executed in accordance with the existing statutory authority for disposition of property by lease at Millennial Campuses.

Assessment: Pursuant to NCGS §116-198.34(5), the Board of Governors of the University of North Carolina has the authority to approve dispositions of Millennial Campus property by lease of 99 years or less.

Action: This item requires a vote.

Disposition of Property by Lease - NCSU

NC State acquired 130 acres of land east of Centennial Parkway known as Spring Hill, through allocation by the State in 2000. The land has been incorporated into Centennial Campus by and through the rezoning of Spring Hill to mixed-use development, which has been previously approved by the Council of State and the City of Raleigh, reflecting the mission and goals of the rest of Centennial Campus. The ground leases would be executed by NC State consistent with this request and the Spring Hill Summary Terms.

Pursuant to the authority granted by the General Assembly under its amendments to N.C.G.S. 116-198.34(5), NC State University has requested approval to dispose of up to 130 acres of State land located in the Spring Hill Precinct of Centennial Campus ("Spring Hill") by ground lease, together with all appropriate ancillary transactional documents, to private developers for financing, development, ownership, and subleasing of improvements under the public-private partnership model that has been embraced by the private sector markets on its Endowment Fund land. These public-private partnerships, and the private investment in NC State that they represent, currently account for approximately 1.4 million gross square feet of Centennial Campus development, which complement and leverage State appropriated funding of approximately 1.8 million additional gross square feet. Ground leases of State land directly to private developers will permit transactions to both move at the speed of business and enhance the public-private partnership model which has proved so successful on the existing ground lease transactions on Centennial Campus. Summary terms for the public-private partnership model transactions ("Spring Hill Summary Terms") are attached.

The Board of Governors possesses the authority, by statute, to approve the disposition of Millennial Campus property by lease, up to 99 years, without the approval of the Governor and the Council of State.

It is recommended that this request to execute the ground lease agreement between NCSU and private developers be approved.

**NC State University Centennial Campus, Spring Hill Precinct (“Spring Hill”)--
NC State University/UNC Board of Governors for the State of North Carolina as Ground
Landlord and Selected Developers/Applicants as Ground Tenants**

The real estate development market and the financial markets have embraced the public-private partnership (“PPP”) model made possible on Centennial Campus under N.C.G.S. Chapter 116, Article 21B (“The Centennial Campus, the Horace Williams Campus, and the Millennial Campuses Financing Act”) and implemented by NC State University (“NC State” or “University”) through its statutorily-created Endowment Fund (the “Endowment Fund”). To date, the private sector has invested, through these PPPs, approximately \$278,000,000 in Centennial Campus in the form of private development, in furtherance of NC State’s institutional mission and to advance its programmatic needs. These PPPs, and the private investment in NC State that they represent, account for approximately 1.4 million gross square feet of Centennial Campus, which complement and leverage State appropriated funding of approximately 1.8 million additional gross square feet.

Through its recent amendments to N.C.G.S. Section 116-198.34(5), the General Assembly has removed the statutory limitations that had essentially confined private sector participation in the development of Centennial Campus to those portions of Centennial Campus owned by the Endowment Fund (“Endowment Land”) and has authorized private sector investment in the whole of Centennial Campus, including State land, with the approval of the UNC Board of Governors. These statutory amendments would allow NC State to use the PPP model--which it has developed and refined over time through Endowment Land transactions--on the State land that comprises the rest of Centennial Campus, with the approval of the Board of Governors. Under this PPP model and the amendments to N.C.G.S. Section 116-198.34(5), the owner of the land (either the Endowment Fund, historically, or the State, by and through the Board of Governors, by virtue of the amended statute), ground leases a parcel of land on Centennial Campus to a private developer (and its successors and assigns), who then privately finances, develops, constructs, owns, operates, subleases or otherwise disposes of a building(s) on the parcel for the term of the ground lease, not to exceed 99 years (but typically 65 years). At the end of the ground lease term, ownership of the private building(s) reverts to the landowner (the Endowment Fund or the State). During the term of the ground lease, the rights, duties and obligations of the parties are governed by the provisions of the ground lease and ancillary documents. Developer/Applicants who are successful in responding to a Request for Proposal/Request for Qualifications for a ground lease transaction on State land would be bound by the same kinds of terms and conditions reflected in ground lease transactions on Endowment Land, as they may change from time to time in response to market conditions, and as more particularly described below.

Pursuant to the amendments of N.C.G.S. Section 116-198.34(5), NC State seeks approval from the Board of Governors to lease that portion of Centennial Campus referred to as Spring Hill, containing 130 acres, to private developers under this PPP model for ground lease terms not to exceed 99 years.

Transaction Summary

Successful Developer/Applicants for a particular parcel on Spring Hill will complete and deliver for University review a Development Feasibility Study (DFS) prepared according to an agreed scope, budget and schedule, all as provided in a University Request for Applications and Qualifications. The DFS will provide the University a good faith estimate of scope, schedule (including phasing) and budget for utilities and other capital infrastructure budget to complete a project, all at the sole expense of the Developer/Applicant. The University may then, in its sole discretion, elect to enter into contractual transaction documents with successful Developer/Applicants to complete plans and provide final terms and conditions for the private financing, development, construction, ownership and long term operation of a project, all in the context of the broader scope of the mixed-use development of the entirety of Spring Hill, as permitted under its zoning, approved by the Council of State and the City of Raleigh. The transactions will include an exclusive right to negotiate a ground lease, a development agreement, and other ancillary agreements.

1. Permitted Tenants: University approval for all building tenants is required. Permitted tenants are those tenants having existing or potential partnerships with the University (for example, in the area of scientific research and study) and must provide for the advancement of the University's institutional mission.

The University issues a permitted tenant approval letter upon completion of its evaluation of each prospective space lease tenant's programmatic connectivity. The decision of the University is final.

2. Deposits and Fees: Selected developers will enter into an Exclusive Right to Negotiate ("ERN") for the purpose of negotiating a ground lease and associated agreements and will be required to submit a non-refundable fee of \$25,000 within 21 days of University's acceptance of DFS terms and conditions for a project. A refundable deposit will be required to reimburse University development coordination and legal expenses incurred during the ERN, including third party consultant costs and attorney's fees for negotiation and preparation of the proposed agreement. If development coordination and legal expenses incurred by the University during the ERN are less than the deposit, the University will return the remaining portion of the deposit.

3. Ground Lease: The University's ground lease will provide for a term generally acceptable to the private real estate financing market (typically, for example, 65 years for office and laboratory use). No subordination of the land or ground lease rent is permitted. Assignment or transfer of lease requires prior approval of the University and incurs a transfer fee representing a percentage of the incremental increase in the value of the then-current value of the project's improvements' total capitalization (debt and equity) and its most recent prior transfer or sale. The ground tenant/developer will be required to enter into agreements that include provision for payment and performance bonds and other remedies to ensure completion of the project. Typically, no assignment or transfer of the ground lease will be permitted prior to issuance of Certificate Completion by the City of Raleigh.

University ground leases require measurable development and construction performance milestones with penalties for non-performance. Building improvements for projects will vary in size and use, subject to University approval, and will include associated structured parking. The University does not pay real estate brokerage commission for ground lease transactions.

4. Ground Rent: Base rent is based on a risk-weighted return on 100 percent of the land's value, payable annually in advance. Initial annual ground rent will be based on a minimum value to be determined by current MAI Appraisal. Final project acreage is subject to survey. Developer/Applicants will include a proposed land value per acre in the DFS, the acceptance of which is in the University's sole discretion and is a material consideration in the University's developer selection process.

Periodic adjustments will be made to the initial ground rents based on changes in appraised value and required rate of return.

5. Financing: Selected developer/ground tenants must demonstrate to the University's satisfaction, in its sole discretion, the developer's financial capacity to complete capital development of the project within an agreed phasing schedule with measurable milestones following the ground lease execution date. Capital costs include all project site utilities and infrastructure appropriately engineered and sized to accommodate the development of the balance of Spring Hill (or a fee equaling such developer's prorata share of the costs of such infrastructure).

Project is to be privately financed with University approval of funding source and terms. Typically acceptable terms include limitations on loan to value, stipulated debt service coverage ratios, and correlation between amortization of debt and expiration of the ground lease, as well as the market reputation of the equity and debt holders.

Re-financing incurs a transaction fee to Ground Landlord of one-half of one percent of new funds plus \$10,000.

Developer assumes 100% of equity and debt risk subject to agreement of costs and feasibility. The University is not required to offer any guarantee, credit enhancement, or space lease commitments.

6. Site: Spring Hill will not require any rezoning by the developer. All permits and fees are the responsibility of the developer.

Spring Hill is currently a combination of undeveloped land, surface parking, and a to be demolished building, all allocated by the State of North Carolina to the use of NC State and reflected in the zoning. The land will be offered as is. All site development expenses including, but not limited to any necessary building demolition, utilities, roadways and other infrastructure, City of Raleigh impact and other site and building development fees, compliance with applicable laws, grading, survey, tree protection, site fencing and all other costs related to site work are the responsibility of the Developer.

7. **Building Improvements:** The site is offered for the construction of a variety of permitted uses under its zoning. Building and other improvements must be designed and built in accordance with the Centennial Campus Development and Design Guidelines (http://www.ncsu.edu/facilities/physical_master_plan/pdfs/CC_Guideline_09-09-2008.pdf). Site and Building plans are subject to review and approval by the University administration and Board of Trustees.

8. **Capital Repair and Replacement Reserve:** Beginning with the Certificate of Substantial Completion for each building phase of a project, developer shall establish a capital repair and replacement reserve escrow fund (the "Reserve Fund"), and shall, at the beginning of the second lease year and at the beginning of each lease year thereafter, deposit an agreed amount into the amount into the Reserve Fund. Developer/Applicants will submit a proposed annual Reserve Fund (in \$/SF/Yr.) as part of a DFS. The proposal must exhibit a factual basis in the consideration of building systems life cycle costs, Generally Accepted Accounting Principles, and comparable capital reserve funding appropriate to its type and use of space. The University may accept or reject the proposed Reserve Fund in its sole discretion. The Reserve Fund proposal is a material consideration in the University's developer selection process.

The Reserve Fund will follow a project at any ownership transfer and is subject to audit by the University. Residuals in the Reserve Fund revert with the improvements to the ground landlord at lease termination.

9. **Parking, University Fees:** Parking on non-ground lease portions of campus is governed by the NC State's Department of Transportation Regulations for Parking and Traffic on Campus. Parking permits for parking on campus in spaces other than those provided on site by the developer are required and may be obtained at prevailing rates.

10. **Common Area Maintenance Fees ("CAM"):** An annual payment to the University in return for the management, operation, maintenance, repair, and servicing of the Centennial Campus common areas by the University and for supervisory expenses and fees with respect thereto and shall be subject to increase. Developer/Applicants will include its proposed CAM fee in the DFS. The University may accept or reject the proposed CAM fee in its sole discretion. The CAM Fee proposal is a material consideration in the University's developer selection process.

11. **Environmental Assessment, Street Frontage Improvements, Storm Water and Quality Management, Public Services, Utilities and Easements** provisions will be addressed by the parties in the same manner as provided in the Request for Applications and Qualifications.