



Agenda Action Form Overview

The Board is requested to approve and authorize execution of a Lease Agreement with Topsy Bull Inc. to operate a restaurant in the County Administration Building II located at 201 E Main Street, in accordance with the terms and conditions as set forth in the Lease Agreement attached to this Agenda Item. The proposed lease term is 10 years with options for one 5-year renewal. The starting lease rate for the first year is \$61,140 escalating three percent (3%) annually to \$79,773 in year 10. The lease agreement requires that Topsy Bull Inc. complete all upfit construction within 180 days at their cost, with the County contributing \$91,710 toward the total cost for all tenant improvements. The restaurant is anticipated to be open in the 4th quarter of 2020. Topsy Bull will be a contemporary, upscale full-service restaurant and sports bar, serving lunch and dinner. The interior design will have a distinctive Durham theme with occasional live music, and a disc jockey on weekend nights. The owners will obtain all ABC permits to sell liquor, beer and wine. The hours of operation will be 11:00 a.m. to 2:00 a.m., on weekdays, and 5:00 p.m. to 2:00 a.m. on Saturday and Sunday.

Background/Justification

The renovation of the Durham County Administrative Building II included two first floor spaces designed and built to provide restaurant lease spaces. These spaces are considered “cold, dark shells,” meaning that there is no heat, lighting or finishes installed. Each lease space is separately metered for electricity, natural gas, and water, and tenants are responsible for all utility costs. Tenants must design and install all electrical, plumbing, and mechanical systems (HVAC) needed to operate. The County will contribute \$91,710 toward the cost of these improvements paid upon receipt and approval of progress payment applications. It is standard practice in restaurant leases for the landlord to provide funds towards the initial upfit, which includes improvements made to the space which are retained by the landlord at the end of the lease. The tenant will pay Additional Rent to cover the cost to the County for trash and recycling services for the restaurants, and maintenance of the grease trap which is shared between the two lease spaces.

In June 2018, the Board endorsed the plan for leasing the restaurant space in Admin II. The process for securing the best tenant fit for these highly visible spaces was defined around a set of Guiding Principles that spelled out the County’s objectives for the new restaurant spaces, including: activation of East Main Street with pedestrian activity and outdoor dining, presentation of a strong business plan and a solid financial position to ensure long-term success, a process that encouraged diverse and small business participation, high quality menu options at moderate prices, and something unique in the market to stimulate interest and encourage customer loyalty.

Topsy Bull Inc. presented a Letter of Intent to the County’s commercial broker, Trademark Properties, in May of this year. This proposal was presented to the Board in closed session where staff was instructed to move into negotiation of the lease. The parties have concluded negotiations, and the proposed terms and conditions are now presented to the Board for its approval.

Policy Impact

This is Durham County’s first lease for restaurant space in the newly renovated Admin II building. The Board has been very supportive of having commercial restaurant space on the first floor to support multiple downtown goals, particularly activating this stretch of Main Street with uses that



are open in the evenings and on weekends. This lease supports the guiding principles for leased space, approved by the Board in June 2018 and listed above.

The attached Lease Agreement supports Strategic Plan Goal 1 “Community Empowerment and Enrichment,” and Goal 5 “Accountable, Efficient and Visionary Government”

Procurement Background

Durham County retained the services of TradeMark Properties to market the property, and facilitate negotiation of terms and conditions under a listing agreement originally executed in April 2019, and renewed in April 2020.

Fiscal Impact

Based on the lease rates for each year of the proposed Lease Agreement, Durham County will receive \$700,901.60 over the initial ten-year lease period, minus the County contribution toward Tenant Improvements of \$91,710 for a net \$609,191.60.

Tenant will pay Additional Rent to allow the County to fully recover the cost of trash/recycling removal, and grease trap maintenance. This expense is passed through to the Tenant at full costs without any overhead or administrative fee added.

Recommendation

The County Manager recommends that the Board approve and authorize execution of a Lease Agreement with Topsy Bull Inc. to operate a restaurant in the County Administration Building II located at 201 E Main Street, in accordance with the terms and conditions as set forth in the Lease Agreement attached to this Agenda Item.