

**REGULAR MEETING
ASHEBORO CITY COUNCIL
CITY COUNCIL CHAMBER, ASHEBORO CITY HALL
THURSDAY, FEBRUARY 4, 2021
7:00 PM**

This being the time and place for a regular meeting of the Asheboro City Council, a meeting was held with the following elected officials and city management team members present:

David H. Smith) – Mayor Presiding

Clark R. Bell)

Edward J. Burks)

Walker B. Moffitt) – Council Members Present

Jane H. Redding)

Katie L. Snuggs)

Charles A. Swiers)

Linda H. Carter) – Council Member Present by Telephone Conference Call

John N. Ogburn, III, City Manager
Robert L. Brown, Jr., Assistant Chief of Police
Holly H. Doerr, CMC, NCCMC, City Clerk
Charles J. Garner, Code Enforcement Officer
Michael L. Leonard, PE, City Engineer
Trevor L. Nuttall, Community Development Director
Randy C. Purvis, Chief Building Inspector
Jeffrey C. Sugg, City Attorney
Tammy M. Williams, Deputy City Clerk

1. Call to order.

A quorum thus being present, Mayor Smith called the meeting to order for the transaction of business, and business was transacted as follows. The number of elected officials, city employees, and private citizens physically present in the council chamber at any point in time was limited in order to maintain the physical distancing recommended by public health authorities during the current coronavirus pandemic.

During each vote, specific inquiries were made to ensure that Council Member Carter, who was participating by conference call, was on the line and able to cast her vote.

2. Moment of silent prayer and pledge of allegiance.

After a moment of silence was observed in order to allow for private prayer and meditation, Mayor Smith asked everyone to stand and recite the pledge of allegiance.

3. Appearance and recognition of guests and citizens.

Mayor Smith welcomed everyone in attendance.

4. Public comment period.

Mayor Smith opened the floor for public comments.

City Manager John Ogburn presented a letter he received from Mr. Doug Shiflet in regards to citizen concerns regarding the unsightly debris and overgrown vegetation

along I-73/74. After reading the letter, Mr. Ogburn reported on actions designed to address this problem/concern.

There being no further comments, Mayor Smith closed the public comment period.

5. Report on Randolph County's assignment in the North Carolina Department of Commerce's tier level system.

Mr. Kevin Franklin, who is the President of the Randolph County Economic Development Corporation, reported that the North Carolina Department of Commerce is required to rank all 100 counties in a tier level system. The ranking of each county is based on the following four categories:

1. Unemployment rate;
2. Median household income;
3. Percentage of growth; and
4. Population and adjusted property tax base per capita.

Currently, Randolph County is a tier one county, which is the tier for the most economically distressed counties. The tier system helps the state determine which counties are most in need of financial assistance and support. While this tier status is not desired, tier one status does enhance the potential for funding opportunities. Consequently, the city will work with its economic development partners in an effort to turn this ranking into an opportunity to pursue funding that can be used to improve the community's economic prosperity.

No formal action was asked of the council during this portion of the meeting, and none was taken.

6. Annual report from the building inspections department.

Chief Building Inspector Randy Purvis presented an overview of the building inspections department's activities during 2020. Despite the challenges posed by the pandemic, the building inspections department was able to perform its mission. Changes were implemented to ensure the health and safety of the employees and customers while continuing to provide responsive customer service. The department's report reflected the issuance of a total of 972 permits with a total of \$142,473.78 in revenue received.

A copy of the annual report is on file in the city clerk's office.

No formal action was taken by the council during this portion of the meeting.

7. Annual report from the code enforcement office.

Code Enforcement Officer Charles Garner utilized a slide show to provide an overview of the code enforcement office's activities during the preceding year. Mr. Garner's report reflected a total of 307 recorded violations for 2020. These violations included, but were not limited to, unlawful tent cities and dilapidated structures. A copy of the slide show utilized by Mr. Garner is on file in the city clerk's office.

No formal action was taken by the council during this portion of the meeting.

8. Consent agenda:

Council Member Bell moved, and Council Member Redding seconded the motion, to approve/adopt, as presented, the following consent agenda items. Council Members Bell, Burks, Carter, Moffitt, Redding, Snuggs, and Swiers voted aye. There were no dissenting votes.

- (a) **The meeting minutes for the city council's regular meeting on January 7, 2021.**

The approved meeting minutes are on file in the city clerk's office, and an electronic copy of the approved minutes is posted on the city's website.

- (b) **Acknowledgement of the receipt from the Asheboro ABC Board of its meeting minutes for December 7, 2020.**

The minutes of the meeting held by the Asheboro ABC Board on December 7, 2020, have been received by the city clerk, distributed to Mayor Smith and the Council Members for review, and have been filed in the city clerk's office.

- (c) **Approval of an ordinance amending the General Fund to reflect grants received by the fire and police departments from Walmart.**

03 ORD 2-21

**ORDINANCE TO AMEND THE GENERAL FUND
FY 2020-2021**

WHEREAS, the City of Asheboro Fire Department was awarded a \$2000 grant from Walmart to purchase rescue equipment, and;

WHEREAS, the City of Asheboro Police Department was awarded a \$2000 grant from Walmart for community outreach, and;

WHEREAS, the City of Asheboro desires amend the 2020-2021 budget to incorporate these changes to be in compliance with all generally accepted accounting principles, and;

THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA:

That the following Revenue line items be increased:

<u>Line Item</u>	<u>Description</u>	<u>Change</u>
10-349-0300	Local Grants	4,000

That the following Expense line items be increased:

<u>Line Item</u>	<u>Description</u>	<u>Change</u>
10-510-3302	Community Resource	2,000
10-530-3400	Other Supplies and Materials	2,000
		<hr/> 4,000

Adopted this the 4th day of February 2021.

/s/David H. Smith
David H. Smith, Mayor

ATTEST:

/s/Holly H. Doerr
Holly H. Doerr, CMC, NCCMC, City Clerk

- (d) **Approval of an ordinance to amend the Economic & Tourism Development Fund to reflect transactions with the Asheboro/Randolph Chamber of Commerce.**

04 ORD 2-21

**ORDINANCE TO AMEND THE ECONOMIC &
TOURISM DEVELOPMENT FUND FY 2020-2021**

WHEREAS, the City of Asheboro continues to look for ways to support the downtown businesses; and;

WHEREAS, the City of Asheboro partnered with the Asheboro Randolph Chamber of Commerce on an Ad Campaign promoting shopping downtown, and;

WHEREAS, the City desires to allocate funding and appropriate for the expense in the Economic and Tourism Development fund, and;

WHEREAS, the City of Asheboro desires to be in compliance with all generally accepted accounting principles, and;

THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA:

That the following Revenue line items be increased:

<u>Line Item</u>	<u>Description</u>	<u>Increase</u>
72-350-0200	Chamber- Media Buys for Ad Campaign	\$30,000

That the following expense line items be increased:

<u>Line Item</u>	<u>Description</u>	<u>Increase</u>
72-840-2020	Chamber- Advertisement	\$30,000

Adopted this the 4th day of February 2021.

/s/David H. Smith
David H. Smith, Mayor

ATTEST:

/s/Holly H. Doerr
Holly H. Doerr, CMC, NCCMC, City Clerk

- (e) **Approval of the planning department's request to schedule for March 4, 2021, and to advertise, a legislative hearing on the question of requested zoning ordinance text amendments related to encroachments into public rights-of-way.**

The hearing concerning the application for the above-described zoning ordinance text amendments will be scheduled and advertised in accordance with the applicable statutes/ordinances and then heard by the Asheboro City Council during its regular meeting on March 4, 2021.

- (f) Approval of the final decision document for the land use case identified by file number CUP-20-12.

Case No. CUP-20-12
Final Decision Document
City Council of the City of Asheboro, North Carolina

IN THE MATTER OF THE APPLICATION BY SSV PROPERTIES, LLC FOR A
CONDITIONAL USE PERMIT AUTHORIZING WAREHOUSE
AND WHOLESALE DISTRIBUTION LAND USES

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER GRANTING, WITH
CONDITIONS, THE REQUESTED CONDITIONAL USE PERMIT

THIS LAND USE CASE came before the City Council of the City of Asheboro (the “Council”) for a properly advertised quasi-judicial hearing on the question of whether to approve an application for a conditional use permit. The hearing was conducted on January 7, 2021. Having considered all competent evidence and argument presented during the hearing, the Council, on the basis of competent, material, and substantial evidence, does hereby enter the following:

FINDINGS OF FACT

1. SSV Properties, LLC, acting by and through its authorized representatives, (the “Applicant”) properly submitted an application for a conditional use permit authorizing two land uses identified by the City of Asheboro Zoning Ordinance (the “Ordinance”) as “warehouse” and “wholesale distribution” land uses.
2. In compliance with the Ordinance, the Applicant included with its application a site plan showing the proposed land uses on an approximately 6.23-acre parcel of land owned by the Applicant. The parcel of land for which a conditional use permit is sought (the “Zoning Lot”) is identified by Randolph County Parcel Identification Number 7752905855.
3. Legal notices of the requested land use approvals were mailed to adjoining property owners on December 16, 2020.
4. The Zoning Lot is located at 124 Woodcrest Road in Asheboro.
5. The Zoning Lot is inside the city limits.
6. Woodcrest Road is a city-maintained street serving commercial and industrial properties east of the Zoning Lot and serving residential properties located to the west, on the opposite side of Northside Terrace. Northside Terrace is a state-maintained road.
7. Woodcrest Road provides access to and from the Zoning Lot. In order to proceed with the proposed land uses, the Applicant will have to obtain a driveway permit from the City of Asheboro and will have to ensure that the driveway is built in accordance with city policies.
8. The entirety of the Zoning Lot is in a conditional use I2 Industrial Development District (*i.e.*, CU-I2 zoning district) because of legislative action taken by the Council on January 7, 2021, immediately prior to the Council’s deliberations concerning the Applicant’s request for a conditional use permit.
9. Section 102 of the Ordinance describes a conditional use district as follows:

Each Conditional Use District corresponds to a related district in this Ordinance. Where certain types of zoning districts would be inappropriate under certain conditions, and the rezoning applicant desires rezoning to such a district, the CU District is a

means by which special conditions can be imposed in the furtherance of the purpose of this Ordinance.

10. A separate paragraph of Section 102 of the Ordinance further provides:

Within a CU District, only those uses specifically permitted in the zoning district to which the CU District corresponds (i.e., R15 and CUR15) shall be permitted, and all other requirements of the corresponding district shall be met. It is the intent of this ordinance that all requirements within a CU District be equal to or more stringent than those in a corresponding non-CU District.

In addition, within a CU District no use shall be submitted except as pursuant to a Conditional Use Permit authorized by the City Council, which shall specify the use or uses authorized. Such permit may further specify the location on the property of the proposed use or uses, the number of dwelling units or Floor Area Ratio, the location and extent of supporting facilities including but not limited to parking lots, driveways and access streets, the location and extent of buffer areas and other special purpose areas, the timing of development, the location and extent of rights-of-way and other areas to be dedicated for public use, and other such matters as the applicant may propose as conditions upon the request. In granting a Conditional Use Permit, the Council may impose such additional reasonable and appropriate safeguards upon such permit as it may deem necessary in order that the purpose and intent of this Ordinance are served, public welfare secured and substantial justice done.

11. Section 1013.2 of the Ordinance establishes the following standards for the issuance by the Council of a conditional use permit:

In considering an application for a Conditional Use Permit, the City Council shall give due regard that the purpose and intent of this ordinance shall be served, public safety and welfare secured and substantial justice done. If the City Council should find, after a public hearing, that the proposed Conditional Use Permit should not be granted, such proposed permit shall be denied. Specifically the following general standards shall be met:

1. *That the use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved.*
2. *That the use meets all required conditions and specifications.*
3. *That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity, and,*
4. *That the location and character of the use if developed according to the plan as submitted and approved will be in harmony with the area in which it is to be located and in general conformity with the plan of development of Asheboro and its environs.*

12. The requested warehouse and wholesale distribution land uses are permitted uses in the underlying I2 zoning district.

13. The Zoning Lot is currently used for a warehouse.

14. The surrounding land uses are as follows:

North:	Single-Family Residential	East:	Commercial and Single-Family Residential
South:	Industrial and Commercial	West:	Single-Family and Two-Family Residential and Undeveloped

15. With regard to the city's comprehensive development plans, the Growth Strategy Map identifies the area in which the Zoning Lot is located as a primary growth area, the Zoning Lot falls within the Northeast Small Area Plan, and the proposed land development plan map designates the area as industrial.

16. Subsection (N) in Section 210 of the Ordinance describes the underlying I2 zoning district as intended "to produce areas for intensive manufacturing, warehousing, processing and assembly uses, controlled by performance standards to limit the effect of such uses on uses within the district and on adjacent districts."

17. The term "warehouse" is defined by the Ordinance as follows:

A building or group of buildings for the storage of goods or wares belonging either to the owner of the facility or to one or more lessees of space in the facility or both. This definition shall be deemed to include the indoor storage of vehicles.

18. The term "wholesale distribution" is defined by the Ordinance as follows:

Establishments engaged in selling merchandise to retailers, to industrial, commercial, institutional or professional business users or to other wholesalers.

19. The Ordinance requires a minimum 10-foot wide landscaped yard along street yards and a 25-foot landscaped yard when parking is located between new buildings and the street. Screening or buffering is also generally required when non-residential uses are adjacent to residential districts. Existing vegetation may be preserved to count towards the landscaping requirements.

20. No additions are proposed to the Zoning Lot's existing structure. The Applicant is proposing to pave the existing gravel parking area and to make some changes to the design of the loading dock in addition to minor changes to the outside of the building (e.g., changes to the building trim and door canopy).

21. A legal nonconforming situation exists, and will continue to be present on the Zoning Lot, because the existing gravel parking area is situated within the required 25-foot landscaped yard that is located between the building and the street. However, the Applicant's proposal to pave this parking area will eliminate one legal nonconforming situation by coming into compliance with the Ordinance's specification that required parking must be paved.

22. Mark Trollinger, who testified as an agent for the Applicant, confirmed the Applicant's consent to the attachment of the following conditions to the requested conditional use permit:

- (A) The Applicant may use existing vegetation to meet landscaping (buffering, screening) requirements; provided, however, if any required vegetation is removed, additional plantings will be required in compliance with the applicable landscaping provisions in the Asheboro Zoning Ordinance.
- (B) Prior to the issuance of a zoning compliance permit, the Applicant shall obtain a City of Asheboro driveway permit as required by city policies.

- (C) Prior to the issuance of a zoning compliance permit, the Applicant shall provide the details necessary to demonstrate that the proposed outdoor lighting complies with Section 316A.B.1 (Performance Standards in Industrial Districts, Light) of the Asheboro Zoning Ordinance.
- (D) If the Applicant proposes adding parking spaces to the parking area depicted on the site plan, the Applicant may do so in compliance with Article 400 of the Asheboro Zoning Ordinance and outside of any required setbacks or buffer/screening/landscaping areas. Such a change shall not be deemed a modification of the conditional use permit and may be reviewed by city staff for inclusion into the file without further review by the Council.
- (E) Prior to the issuance of a zoning compliance permit for the proposed land uses, the owner(s) of the Zoning Lot shall properly execute, and deliver to the zoning administrator for recordation in the Office of the Randolph County Register of Deeds, a Memorandum of Land Use Restrictions prepared by the city attorney for the purpose of placing notice of the conditions attached to this conditional use permit in the chain of title for the Zoning Lot.

23. With the acceptance and attachment of the above-stated conditions, the site plan presented to the Council conforms to the regulations prescribed by the Ordinance.

24. Mark Trollinger testified that he has a degree in architecture and has over thirty-eight years of experience in the construction industry in Asheboro and Randolph County. In his professional opinion, the Applicant's proposed land uses for the Zoning Lot will not substantially injure the value of adjoining or abutting property. No objections were raised by any party to this testimony.

Based on the foregoing findings of fact, the Council hereby enters the following:

CONCLUSIONS OF LAW

1. When an applicant has produced competent, material, and substantial evidence tending to establish the existence of the facts and conditions that the Ordinance requires for the issuance of a conditional use permit, prima facie the applicant is entitled to the permit. A denial of the permit has to be based upon findings contra that are supported by competent, substantial, and material evidence appearing in the record.

2. In this case, the Applicant properly submitted an application for a conditional use permit authorizing warehouse and wholesale distribution land uses on the Zoning Lot in a CU-I2 zoning district.

3. In light of the evidence and the acceptance by the Applicant of the conditions proposed for attachment to the requested conditional use permit, the Applicant's proposed land uses are compliant with the applicable requirements of the Ordinance.

4. As part of its deliberations, the Council further noted for the record that the site plan's depiction of an "island" design feature in the proposed driveway did not have a material or consequential impact, either positive or negative, on the Council's deliberations as to whether to issue the requested conditional use permit.

5. On the basis of substantial evidence in the record, the Council has concluded that the proposed land uses meet the four general standards for granting the requested conditional use permit. More specifically, the proposed land uses will not materially endanger the public health or safety, meet all required conditions and specifications of the Ordinance, will not substantially injure the value of adjoining or abutting property, and will be in harmony with the area in which the land uses are to be located and are in general conformity with Asheboro's plan of development.

Based on the above-recited findings of fact and conclusions of law, the Council hereby enters the following:

After receiving a favorable recommendation from Mr. Leonard, Council Member Moffitt moved, and Council Member Burks seconded the motion, to accept the construction materials testing proposal and to award the contract to S&ME, Inc. Council Members Bell, Burks, Carter, Moffitt, Redding, Snuggs, and Swiers voted aye. There were no dissenting votes.

(ii) Consideration of ordinances to amend the General Fund and the Zoo City Sportsplex Fund to account for the awarding of the construction materials testing contract

Mr. Leonard presented and recommended adoption, by reference, of ordinances to amend the General Fund and the Zoo City Sportsplex Fund to account for the preceding action of awarding the construction materials testing contract.

Council Member Moffitt moved, and Council Member Snuggs seconded the motion, to approve/adopt the following ordinances by reference. Council Members Bell, Burks, Carter, Moffitt, Redding, Snuggs, and Swiers voted aye. There were no dissenting votes.

05 ORD 2-21

ORDINANCE TO AMEND
THE GENERAL FUND
FY 2020-2021

WHEREAS, the City of Asheboro is ready to begin Phase II of the development of the Zoo City Sportsplex, and;

WHEREAS, the first part of Phase II is the construction materials testing and special inspection services in the categories of 1) Subgrade Evaluation & Engineered Fill Testing, 2) ABC Stone & Asphalt Observations and 3) Project Management and Administration, and;

WHEREAS, the preliminary cost estimate is approximately \$57,500, and;

WHEREAS, the City of Asheboro desires to appropriate fund balance in the General Fund for this purpose, and;

WHEREAS, revenues and expenses in the General Fund have changed in relation to the current budget, and;

WHEREAS, the City Council of the City of Asheboro desires to be in compliance with all generally accepted accounting principles.

THEREFORE, BE IT ORDAINED by the City Council of the City of Asheboro, North Carolina that following revenue and expense line items are changed as follows:

Section 1: That the following revenue line item be increased:

<u>Account #</u>	<u>Expense Description</u>	<u>Increase</u>
10-399-0000	Fund Balance Appropriation	\$57,500

Section 2: That the following expense line item be increased:

<u>Account #</u>	<u>Expense Description</u>	<u>Increase</u>
10-620-7474	Contribution to Zoo City Sportsplex Fund	\$57,500

Adopted this 4th day of February, 2021.

/s/David H. Smith
David H. Smith, Mayor

ATTEST:

/s/Holly H. Doerr
Holly H. Doerr, CMC, NCCMC, City Clerk

06 ORD 2-21

**ORDINANCE TO AMEND THE ZOO CITY SPORTSPLEX FUND (74)
FY 2020-2021**

WHEREAS, the City of Asheboro is ready to begin Phase II of the development of the Zoo City Sportsplex, and;

WHEREAS, the first part of Phase II is the construction materials testing and special inspection services in the categories of 1) Subgrade Evaluation & Engineered Fill Testing, 2) ABC Stone & Asphalt Observations and 3) Project Management and Administration, and;

WHEREAS, the preliminary cost estimate is approximately \$57,500, and;

WHEREAS, the City of Asheboro desires to appropriate fund balance in the General Fund for this purpose, and;

WHEREAS, the City of Asheboro desires amend the Zoo City Sportsplex fund budget to incorporate these changes to be in compliance with all generally accepted accounting principles, and;

THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA:

That the following Revenue line items be increased:

<u>Line Item</u>	<u>Description</u>	<u>Increase</u>
74-300-1000	Contribution from General Fund	57,500

That the following Expense line items be increased:

<u>Line Item</u>	<u>Description</u>	<u>Increase</u>
74-400-0002	Construction Materials Testing Services	57,500

Adopted this the 4th day of February 2021.

/s/David H. Smith
David H. Smith, Mayor

ATTEST:

/s/Holly H. Doerr
Holly H. Doerr, CMC, NCCMC, City Clerk

(b) David and Pauline Jarrell Center City Garden Project.

(i) Consideration of awarding a design services contract

City Engineer Michael Leonard, PE reported that, in response to a request for qualifications, three firms had been evaluated for the provision of programming, conceptual design, master planning, and construction drawings for the David and Pauline Jarrell Center City Garden Project. After reviewing the qualifications of the potential design firms, Prospect Landscape Architecture, PLLC was selected for the project.

In response to the selection of the firm for this project, Prospect Landscape Architecture, PLLC submitted a fee proposal to provide the requested design consultation and deliverables for a lump sum fee of \$107,000.00. After receiving a favorable recommendation from Mr. Leonard, Council Member Bell moved, and Council Member Swiers seconded the motion, to accept the recommended proposal and award the design services contract to Prospect Landscape Architecture, PLLC.

Council Members Bell, Burks, Carter, Moffitt, Redding, Snuggs, and Swiers aye. There were no dissenting votes.

A copy of the proposal from Prospect Landscape Architecture PLLC is on file in the city's engineering department and the city clerk's office.

(ii) Consideration of an ordinance to establish the David and Pauline Jarrell Center City Garden Project Fund

In accordance with the preceding council action to approve the proposal from Prospect Landscape Architecture, PLLC, Mr. Leonard presented and recommended adoption, by reference, of the following budget ordinance. Council Member Burks moved, and Council Member Swiers seconded the motion, to approve/adopt the budget ordinance by reference.

Council Members Bell, Burks, Carter, Moffitt, Redding, Snuggs, and Swiers voted aye. There were no dissenting votes.

07 ORD 02-21

**PROJECT ORDINANCE
DAVID AND PAULINE JARRELL CITY GARDEN FUND
FY 2020-2021**

WHEREAS, In September 2019, the City Council of the City of Asheboro authorized the purchase of two parcels of land to become part of the proposed David & Pauline Jarrell Center City Garden, and;

WHEREAS, along with the parcel of land donated to the City of Asheboro, there are approximately 3 acres available for development, and;

WHEREAS, the City of Asheboro is ready to proceed with creating a master plan for the landscape design of the Garden;

THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ASHEBORO:

Pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following Project Ordinance is adopted:

Section 1: The David and Pauline Jarrell Center City Garden Project is hereby authorized as a project with current revenues and expenditures projected as listed below.

Section 2: The officers of the City of Asheboro are hereby authorized to proceed with the project within the terms of the agreement approved by the City Council and the budget contained herein.

Section 3: The following revenues are anticipated to be available at this time for this project:

<u>Line Item</u>	<u>Description</u>	<u>Amount</u>
75-300-1000	Contribution from General Fund	\$107,000

Section 4: The following amounts are appropriated as expenditures for this project:

That the following Expense line items be increased:

<u>Line Item</u>	<u>Description</u>	<u>Amount</u>
74-400-0000	Professional Services –Landscape Design	\$107,000

Adopted this the 4th day of February 2021.

/s/David H. Smith
David H. Smith, Mayor

ATTEST:

/s/Holly H. Doerr
Holly H. Doerr, CMC, NCCMC, City Clerk

(c) I-73/74 Place-Making and Branding Project.

(i) Consideration of awarding a design services contract

City Engineer Michael Leonard, PE reported that, in response to a request for qualifications, three firms had been evaluated for the design of signature landscape and art placements along the I-73/I-74 corridor. After reviewing the qualifications of the potential design firms, JDavis Architects was selected for the project.

In response to the selection of the firm for the project, JDavis Architects submitted a proposal to provide the requested place-making and branding services for phase one design fees in the range of \$170,000.00 to \$185,000.00, depending on the final scope of services rendered. After receiving a favorable recommendation from Mr. Leonard, Council Member Moffitt moved, and Council Member Redding seconded the motion, to accept/approve the proposal from JDavis Architects.

Council Members Bell, Burks, Carter, Moffitt, Redding, Snuggs, and Swiers voted aye. There were no dissenting votes.

A copy of the above-referenced proposal is on file in the city's engineering department and the city clerk's office.

(ii) Consideration of an ordinance to amend the Economic and Tourism Development Fund for the I-73/74 Place-Making and Branding Project

During the course of discussing this item and the preceding acceptance of the proposal from JDavis Architects, a general consensus emerged to have city staff members revise the initial draft of the ordinance in order to obtain better alignment of the contemplated amendment with the design fees listed in the

proposal from JDavis Architects. A revised ordinance will be presented for consideration during the next regular council meeting.

No formal action was taken by the council during this portion of the meeting.

(d) Review of public-right-of-way needs for Sunset Avenue from Davis Street to Church Street.

City Engineer Michael Leonard, PE discussed preliminary survey work performed along a city-maintained section of Sunset Avenue between Church Street and Davis Street. It appears the existing 70-foot public right-of-way for this section of Sunset Avenue could be narrowed for the benefit of adjoining property owners without harming public safety and access to this area. Before discussing a potential reduction in public right-of-way with multiple adjoining property owners, city staff wanted to confirm that the governing board has no objections to this project continuing to the next stage.

The council members raised no objections to the active continuation of the project to potentially reduce the width of the public right-of-way along the above-identified section of Sunset Avenue. City staff will bring this issue back to the council when action can be considered for advancing the process.

(e) Asheboro Regional Airport Items.

(i) Consideration of Work Authorization #5 between the City of Asheboro and WK Dickson for the Hangar N (T-Hangar) Acquisition

City Engineer Michael Leonard, PE presented and recommended approval of Asheboro Regional Airport Work Authorization No. 5 between the City of Asheboro and W.K. Dickson & Co., Inc. (the city's project engineer at the airport) for assistance with the potential acquisition of the outstanding leasehold interest in Hangar N at the Asheboro Regional Airport. The contemplated acquisition is eligible for funding from the Division of Aviation.

However, the assistance of W.K. Dickson & Co., Inc., including its subcontractors, will be needed in order to complete all of the requirements that must be satisfied in order to obtain the desired funding. The engineering firm has agreed that full compensation for the services specified under Work Authorization No. 5 would be \$26,219.00.

After receiving a favorable recommendation from Mr. Leonard, Council Member Moffitt moved, and Council Member Burks seconded the motion, to approve the above-described Work Authorization No. 5. Council Members Bell, Burks, Carter, Moffitt, Redding, Snuggs, and Swiers voted aye. There were no dissenting votes.

A written copy of Asheboro Regional Airport Work Authorization No. 5 is on file in the city engineering department and in the city clerk's office.

(ii) Discussion of the comparative analysis between purchasing the outstanding leasehold interest in Hangar N versus constructing a new corporate hangar

City Engineer Michael Leonard, PE reported that the Asheboro Airport Authority has requested a comparative analysis of the cost of constructing a new hangar versus acquiring the outstanding leasehold interest in Hangar N

at the Asheboro Regional Airport. The engineering department has now completed this analysis, and the findings were shared with the governing board.

On the basis of the city staff's analysis, the council received a recommendation to purchase the leasehold interest in Hangar N. A copy of the analysis prepared by the city engineering department is on file in the city clerk's office.

In light of the staff report, the council members expressed no opposition to allowing the project to potentially acquire the leasehold interest in Hangar N by means of a voluntary purchase to proceed.

(iii) Consideration of the short-term hangar lease agreement template to be used to implement recently approved month-to-month rental rates.

City Engineer Michael Leonard, PE reported that, as a follow-up to the council's action last month to approve new monthly rental rates for certain hangars at the Asheboro Regional Airport, the city attorney has drafted a hangar lease agreement template that can be used to implement the new monthly hangar rental rates. In view of the need for a new standardized month-to-month lease agreement template to fully implement the council's action in January 2021, Mr. Leonard recommended adoption, by reference, of the following resolution.

Council Member Moffitt moved, and Council Member Bell seconded the motion, to adopt the following resolution by reference. Council Members Bell, Burks, Carter, Moffitt, Redding, Snuggs, and Swiers voted aye. There were no dissenting votes.

RESOLUTION NUMBER 03 RES 2-21

CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA

A RESOLUTION APPROVING A LEASE AGREEMENT TEMPLATE FOR MONTH-TO-MONTH HANGAR RENTALS AT THE ASHEBORO REGIONAL AIRPORT

WHEREAS, in conjunction with the city charter and other laws of this state, Section 63-53(4) of the North Carolina General Statutes authorizes the City of Asheboro to lease any city-owned real or personal property acquired for the Asheboro Regional Airport when such property is not otherwise needed by the city during the term of the lease; and

WHEREAS, with regard to the city setting rental fees in compliance with Article 6 (Public Airports and Related Facilities) in Chapter 63 (Aeronautics) of the North Carolina General Statutes, G.S. 63-53(5) provides, in pertinent part, as follows:

In addition to the general powers in this Article conferred, and without limitation thereof, a municipality which has established or may hereafter establish airports . . . is hereby authorized:

- (5) *To determine the charge or rental for the use of any properties under its control . . . and the terms and conditions under which such properties may be used, provided that in all cases the public is not deprived of its rightful, equal, and uniform use of such property. Charges shall be reasonable and uniform for the same class of service and established with due regard to the property and improvements used and the expense of the operation to the municipality; and*

2. Hangar C (1,440 Square Feet)

Square Foot Rental Rate: \$3.00/square foot
Monthly Rental Rate: \$360.00
Utilities: Included in Rent (City pays because hangars are on a common meter)
HVAC Unit: N/A
Annual Hangar Rent Increase: 3%

3. Hangar D (1,440 Square Feet)

Square Foot Rental Rate: \$3.00/square foot
Monthly Rental Rate: \$360.00
Utilities: Included in Rent (City pays because hangars are on a common meter)
HVAC Unit: N/A
Annual Hangar Rent Increase: 3%

4. Hangar E (2,000 Square Feet)

Square Foot Rental Rate: \$3.00/square foot
Monthly Rental Rate: \$500.00
Utilities: Tenant Pays
HVAC Unit: Tenant Maintains HVAC Unit after Start of Lease
Annual Hangar Rent Increase: 3%

5. Hangar F (1,512 Square Feet)

Square Foot Rental Rate: \$3.00/square foot
Monthly Rental Rate: \$378.00
Utilities: Tenant Pays
HVAC Unit: Tenant Maintains HVAC Unit after Start of Lease
Annual Hangar Rent Increase: 3%

6. Hangar K (6,400 Square Feet)

Square Foot Rental Rate: \$1.875/square foot
Monthly Rental Rate: \$1,000.00
Utilities: Tenant Pays
HVAC Unit: N/A
Annual Hangar Rent Increase: 3%

Attachment B

STATE OF NORTH CAROLINA

ASHEBORO REGIONAL AIRPORT MONTH-
TO-MONTH HANGAR LEASE AGREEMENT

COUNTY OF RANDOLPH

THIS ASHEBORO REGIONAL AIRPORT MONTH-TO-MONTH HANGAR LEASE AGREEMENT (the “Lease Agreement”) is made and entered into, as of the date of the last signature affixed hereto, by and between the **CITY OF ASHEBORO (the “Landlord” or “City”)**, a North Carolina municipal corporation with a mailing address of Post Office Box 1106, Asheboro, North Carolina 27204-1106, and the tenant or lessee listed in the immediately following spaces (the **“Tenant”**).

Tenant's Legal Name (Please Print): _____

If Tenant is not a natural person, print the legal entity's state of incorporation or formation:

If Tenant is not a natural person, print the name and title of the person authorized to act on behalf of the Tenant: _____

Tenant's Mailing Address: _____

WITNESSETH:

In consideration of the monthly rental fee set forth below and the other mutual promises contained herein, the parties agree as follows:

Section 1. PREMISES

1.1 Description of Premises. Landlord hereby leases to Tenant, and Tenant hereby accepts, the following designated area of aircraft hangar rental space (the "Premises") at the Asheboro Regional Airport:

Hangar _____ as shown in the cross hatch area on Schedule "C" (as amended through October 2013) for the Asheboro Regional Airport; Schedule "C" is attached to this leasing instrument as EXHIBIT 1 and is incorporated into this Lease Agreement by reference as if copied fully herein.

1.2 Condition of the Premises. Tenant accepts the Premises "AS IS" and subject to all applicable laws, inclusive of Constitutional law, federal and state statutes, federal and state case law, municipal ordinances, and federal, state, and municipal administrative rules and regulations of any kind that may impact the use of the property at the Asheboro Regional Airport. Tenant acknowledges that neither the Landlord nor the Landlord's officials, employees, or agents have made any representation or warranty as to the physical state of the Premises, or any present or future suitability of the Premises.

Section 2. TERM OF THE LEASE AGREEMENT

The term of this Lease Agreement shall be on a month-to-month basis beginning on the Commencement Date, which is the first day of the calendar month immediately following the date of the last signature fixed hereto, and continuing on a month-to-month basis thereafter. The Lease Agreement may be terminated by either party by giving at least 30 calendar days written notice as provided herein.

Section 3. TERMINATION OF THE LEASE AGREEMENT

3.1 30-Day Notice. This Lease Agreement is terminable with or without cause by either party upon 30 calendar days written notice setting forth a date of termination of the Lease Agreement (the "Date of Termination"). Upon notice of termination, Tenant shall be obligated to pay immediately any Basic Rental and additional charges, specifically including late charges, due and owing to the Landlord. Subject to an allowance for usual and reasonable wear and tear, when this Lease Agreement terminates for any reason, Tenant shall surrender the Premises in the same condition as when Tenant took possession of the Premises.

3.2 Removal of Personal Property. Upon the Date of Termination, Tenant shall vacate the Premises and immediately remove all personal property, specifically including without limitation any aircraft, from the Premises. If the Tenant fails to vacate the Premises or fails to remove all personal property from the Premises, Landlord may seek to reenter and

recover possession of the Premises by any lawful means. Landlord may also, at its election, dispose of any remaining personal property in the appropriate manner provided for by law and charge all costs associated with such disposal to the Tenant. Any personal property remaining on the Premises after the Date of Termination will be deemed to be abandoned by the Tenant.

Section 4. DURATIONAL LIMIT

Notwithstanding any other provisions contained within this Lease Agreement, and in compliance with Section 160A-272 of the North Carolina General Statutes and Asheboro City Council Resolution Number 29 RES 8-19, the Tenant's occupancy of the Premises cannot, under any circumstances, extend to a date in excess of one calendar year from the Commencement Date.

Section 5. RENT

5.1 Rental Amount. Tenant agrees to pay the sum of \$ _____ per calendar month as the Basic Rental for the Premises.

5.2 Payment of Basic Rental. Tenant agrees to pay, in advance, the Basic Rental on or before the first calendar day of each month, without any set-off or deduction of any kind. Basic Rental shall be paid by check or in any manner deemed acceptable by the City's finance department. Checks shall be made payable to the City of Asheboro and delivered to the City's finance department by delivery to Asheboro City Hall at 146 North Church Street, Asheboro, North Carolina 27203 or by using the United States Postal Service to mail Basic Rental payments to the City of Asheboro at Post Office Box 1106, Asheboro, North Carolina 27204-1106.

5.3 Acceptance of Lesser Amounts by Landlord. Any payment by the Tenant or acceptance by the Landlord of a lesser amount than shall be due from the Tenant shall be treated as a payment on account. The acceptance by the Landlord of a check for a lesser amount with an endorsement or statement thereon, or upon any letter accompanying such check, that such amount is payment in full shall be given no effect, and Landlord may accept such check without prejudice to any other rights or remedies which Landlord may have against Tenant. Landlord may, at its option, terminate the Lease Agreement in the event that Tenant fails to pay the Basic Rental obligation in a timely manner.

5.4 Invoices. The Landlord's issuance of any invoice is a courtesy performed for the Tenant and is not determinative of the amount of rent due and owing or the dates such obligations accrue, which are specified in the Lease Agreement.

5.5 Late Charges. In the event that Tenant fails to pay the above-described Basic Rental within ten (10) calendar days after such payment is due, Tenant shall be obligated to pay a late charge in the amount of ten percent (10%) of the Basic Rental amount for the month ("Late Charges"). Late Charges shall constitute additional rental and shall be payable with the next installment of Basic Rental.

Section 6. PERMITTED USE AND ACTIVITY

6.1 Permitted Use. Tenant may use the Premises for the sole purpose of keeping and maintaining designated aircraft owned or leased by the Tenant (the "Permitted Aircraft"). In addition to the storage of designated aircraft, the Premises may also be used for the storage of aircraft related equipment connected to or associated with the Permitted Aircraft. Parking of the Tenant's automobile on the Premises while the Permitted Aircraft is being flown is permitted. Any other use of the Premises is subject to the written approval of the Asheboro Airport Authority (the "Airport Authority").

6.2 Permitted Aircraft Form. The Permitted Aircraft must be listed and more specifically identified on one or more pages of the PERMITTED AIRCRAFT form (the "Aircraft Form") attached hereto as EXHIBIT 2, which is hereby incorporated into this Lease Agreement by reference as if copied fully herein. In the event that Tenant seeks to substitute different aircraft for the aircraft listed with the Landlord, the Tenant must submit a revised

Aircraft Form to the Airport Authority for written consent. As part of the evaluation process for reviewing revised Aircraft Form submittals, the Airport Authority may request documents confirming the Tenant's legal interest in the proposed aircraft or other documents as deemed necessary in the reasonable discretion of the Airport Authority.

6.3 Use Restrictions. The Tenant shall not conduct or permit any activity on the Premises that violates any of the applicable laws, inclusive of Constitutional law, federal and state statutes, federal and state case law, municipal ordinances, and federal, state, and municipal administrative rules and regulations of any kind. The Tenant expressly agrees that the Premises shall not, at any time, be used for such purpose or in such manner that the sight, sound, or traffic into or out of the Premises could reasonably be considered to be objectionable or hazardous to the facilities and operations of the Asheboro Regional Airport. Any unapproved use of the premises shall be deemed a material breach of this Lease Agreement by the Tenant.

Section 7. UTILITIES

7.1 Utilities are included in the Basic Rental because the Premises are on a common meter.

7.2 Tenant shall pay for utilities supplied to the Premises.

Section 8. HVAC UNIT

8.1 No HVAC unit on the Premises.

8.2 Tenant maintains HVAC unit during the term of the Lease Agreement.

Section 9. MISCELLANEOUS EXPENSES

With regard to any expense not otherwise explicitly addressed to the contrary by this Lease Agreement, the Tenant is responsible for any and all expenses associated with its on-going use of the Premises. These expenses include, by way of illustration and not limitation, any applicable taxes, insurance, permits, and the cost of compliance with governmental regulations such as compliance with fire and safety inspections.

Section 10. OPERATING PROCEDURES AND LIMITATIONS

10.1 Environmental Hazards. In the event the Tenant brings any gasoline, paint solvent, or any other flammable liquids or otherwise potentially environmentally hazardous substances onto the Premises, such items shall be properly stored at Tenant's expense in compliance with all applicable laws, inclusive of Constitutional law, federal and state statutes, federal and state case law, municipal ordinances, and federal, state, and municipal administrative rules and regulations of any kind.

10.2 Aircraft Engines. Tenant will not operate aircraft engine(s) inside the hangar structure on the Premises and will not run-up aircraft engine(s) with propeller blast directed toward any hangar door, hangar, or other aircraft.

10.3 Securing of Aircraft. Tenant shall assure proper chocking and securing of aircraft after each usage. The Tenant is not required, but may leave hangar and aircraft keys with the Airport Manager for emergency use.

10.4 Portable Fire Extinguisher. Tenant shall provide, install, and maintain a suitable portable fire extinguisher in the hangar structure on the Premises.

10.5 Maintenance of the Hangar. At the Tenant's sole cost and expense, Tenant shall maintain the hangar structure on the Premises in a safe, clean, and sanitary condition. Tenant agrees to not allow refuse, garbage, or trash to accumulate on or adjacent to the Premises. Such waste materials must be kept in appropriate receptacles located in areas designated for such purposes and approved by the Landlord.

10.6 Prohibited Construction and Alterations. Unless advance written consent is obtained from the Airport Authority, Tenant shall not construct any structure or facility on the Premises and shall not materially alter the existing hangar structure, floor, walls, or exterior. Likewise, unless advance written consent is obtained from the Airport Authority, Tenant shall not materially alter any common use areas adjoining the Premises. For the purposes of this section of the Lease Agreement, a material alteration is defined as any alteration that significantly alters the appearance, character, or composition of the hangar or any of its structural components. Upon receipt of notice from the Landlord of the discovery of construction or alteration violation(s) for which the Tenant is responsible, Tenant agrees to correct immediately each and every violation.

Section 11. AIRPORT AUTHORITY RULES AND REGULATIONS

Tenant hereby agrees to strictly comply with the Airport Authority rules and regulations in effect, and as amended, during the term of the Lease Agreement.

Section 12. LANDLORD ACCESS

The Landlord hereby expressly reserves for itself, and its officers, employees, contractors, and the Airport Authority, the right to enter the Premises and any part thereof at reasonable times to make inspections designed to ensure compliance with the terms and conditions of the Lease Agreement; to exhibit the Premises to prospective Tenants; to perform any acts reasonably related to the preservation of the Premises; and to enforce reasonably required safety and health regulations affecting the nature of the structure located on the Premises and the operations therein.

Section 13. PROHIBITION OF LIENS

Tenant shall keep the Premises free and clear from all liens of mechanics and materialmen and all liens of a similar character arising out of the Tenant's use of the Premises.

Section 14. PROHIBITION OF ASSIGNMENT AND SUBLEASING

Tenant is prohibited from assigning or subleasing all or any portion of the Premises.

Section 15. RISK OF LOSS

Landlord shall not be liable for loss arising out of damage to or destruction of the Premises or its contents from any cause, except such loss as may be recoverable under the Landlord's standard liability insurance policy. In the event of the partial or total destruction of the Premises and any contents located therein, the risk of loss lies entirely with the Tenant. With regard to the issue of repairing or constructing a new hangar in the event of the partial or total destruction of the existing structure, the Tenant hereby expressly acknowledges and agrees that the Landlord is under no obligation of any kind to repair the existing structure or to construct a new structure.

Section 16. INDEMNIFICATION

Tenant hereby agrees to defend, indemnify, and hold harmless the Landlord, the Asheboro City Council, the Airport Authority, and, in their official and individual capacities, the City's elected and appointed officers, employees, agents, volunteers, and contractors from any and all loss, damage, cost, expense, liability, claims, demands, suits, attorneys' fees, and judgments arising directly or indirectly from or in any manner related to Tenant's possession, occupancy, or use of the Premises.

Section 17. INSURANCE

17.1 Minimum Limits/Scope of Insurance. Prior to the Commencement Date of this Lease Agreement, Tenant shall procure and maintain at Tenant's own cost and expense, for the duration of the Lease Agreement, aircraft or general liability insurance against liability for financial loss resulting from bodily injury, including death or personal injury, and damage to property caused by the ownership, operation, storage, maintenance, and use of aircraft arising from or related to this Lease Agreement. The required policy shall not exclude

property damage to aircraft and other property of others in the care, custody, and control of the Tenant. The City of Asheboro shall be named as an additional insured on the policy. The policy shall provide limits of coverage of no less than \$1,000,000 per occurrence.

17.2 Verification of Coverage. On or before the Commencement Date of this Lease Agreement, Tenant shall provide to the Landlord a certificate of insurance verifying the existence of the insurance coverage required herein. The certificate of insurance must provide, at a minimum, for a 30-day notice of cancellation or non-renewal. The failure to supply the required verification of coverage in a timely manner shall not waive Tenant's obligation to provide the mandated documentation. The Landlord reserves the right to require complete certified copies of all required insurance policies, including endorsements, at any time.

Section 18. DEFAULTS AND REMEDIES

18.01 Defaults. The occurrence of any one or more of the following events shall constitute a material default or breach of this Lease Agreement by the Tenant:

- (A) The abandonment of the Premises by the Tenant;
- (B) The failure by the Tenant to make any payment of Basic Rental, or any other payment required to be made by Tenant hereunder, as and when due, where such failure shall continue for a period of three calendar days after written notice of such failure to make a required payment has been given by the Landlord to the Tenant in accordance with Section 19 of this Lease Agreement;
- (C) Tenant becomes a "debtor" as defined in 11 U.S.C. Section 101 or any successor statute thereto (unless, in the case of a petition filed against Tenant, the same is dismissed within 60 days);
- (D) The filing or execution of an attachment, encumbrance, lien, or stop work notice against either the Premises, Landlord, or Tenant in connection with the use or possession of the Premises;
- (E) The discovery by the Landlord that any material information provided by Tenant in connection with this Lease Agreement is materially false;
- (F) The failure by the Tenant to strictly comply with all applicable laws, inclusive of Constitutional law, federal and state statutes, federal and state case law, municipal ordinances, and federal, state, and municipal administrative rules and regulations of any kind;
- (G) Any unapproved or unauthorized transfer of any interest acquired under this Lease Agreement;
- (H) The failure to comply with any of the insurance requirements stated in this Lease Agreement;
- (I) The failure to comply with any other provision of this Lease Agreement other than as described above where such failure shall continue for a period of 15 calendar days after written notice of such noncompliance has been provided by the Landlord to the Tenant in accordance with Section 19 of this Lease Agreement; and
- (J) The occurrence of any other event described as constituting an event of default or breach elsewhere in this Lease Agreement.

18.02 Remedies. In the event of a material default or breach of this Lease Agreement by Tenant, Landlord may at any time thereafter, with or without notice or demand and without limiting Landlord in the exercise of any right or remedy that that the Landlord may have by reason of such default or breach, avail itself of the following remedies, which are cumulative and not exclusive:

- (A) Landlord may seek to reenter and recover possession of the Premises by any lawful means available to it, in which case this Lease Agreement shall terminate immediately and Tenant shall immediately remove all personal property, including aircraft, from the Premises. Tenant may choose to surrender possession of the Premises to Landlord by giving the Landlord notice of its intent to do so. Landlord may choose to accept Tenant's surrender of the Premises and agree not to evict Tenant on condition of Tenant's surrender. Upon Landlord's acceptance of Tenant's surrender of possession of the Premises, Tenant's tenancy terminates, and no future Basic Rental will come due. However, Tenant would still be obligated to pay the Landlord any and all outstanding unpaid rental amounts, fees, or late charges;
- (B) Landlord shall be entitled to recover from Tenant all damages incurred by Landlord by reason of Tenant's default, including, but not limited to, the cost of recovering possession of the Premises, delinquent rent, interest at the maximum amounts allowed by law on the delinquent rent, and reasonable attorneys' fees; and
- (C) Landlord may elect to pursue any other legal remedy or equitable remedy now or hereafter available to Landlord under the laws of the State of North Carolina.

Section 19. NOTICES

All notices, demands, requests, or approvals to be given under this Lease Agreement shall be given in writing and shall be given by hand-delivery, registered or certified mail, or regular first-class mail. Notice shall be deemed given if by hand-delivery, on the date of delivery; if by registered or certified mail, on the date indicated on the receipt for delivery; and if by regular first-class mail, five days after deposit of the notice, with postage fully prepaid, in a mailbox maintained by the United States Postal Service. Notices shall be addressed as follows:

All notices, demands, requests, or approvals from Tenant to Landlord shall be addressed as follows:

*City of Asheboro
Attn: City Manager John N. Ogburn, III
Post Office Box 1106
Asheboro, NC 27204-1106*

All notices, demands, requests, or approvals from Landlord to Tenant shall be addressed to Tenant's mailing address listed on the first page of this Lease Agreement.

Either party may change the addresses listed herein upon written notice to the other party in accordance with this section (Section 19 of the Lease Agreement).

Section 20. CONTROL OF ACCESS

Landlord, at its option and in its sole discretion, may at any time control and limit access to, in, or about the Asheboro Regional Airport for the public health, safety, welfare, or any public purpose. Landlord shall not be liable or responsible for any damages arising therefrom. Tenant further agrees that any such action by the Landlord does not entitle the Tenant to a proration of any Basic Rental or other fees or charges.

Section 21. WAIVER

No failure by Landlord to insist upon the strict performance of any agreement, term, covenant, or condition hereof; no failure by Landlord to exercise any right or remedy consequent upon a breach thereof; and no acceptance of full or partial payment(s) of rental during the continuance of any such breach shall constitute a waiver of any such breach, agreement, term, covenant, or condition. No waiver by Landlord of any breach by Tenant under this Lease Agreement or of any breach by any other tenant under any other lease of any portion of the Asheboro Regional Airport shall affect or alter this Lease Agreement in

any way whatsoever. Landlord's consent to or approval of any act shall not be deemed to render unnecessary the obtaining of Landlord's consent to or approval of any subsequent act.

Section 22. LANDLORD'S MUNICIPAL REGULATORY AUTHORITY

Nothing in this Lease Agreement shall be construed as restraining, impairing, or restricting the City in its regulatory capacity, or granting any rights to the Tenant with respect to the use, occupancy, or operation of the Premises, in any manner inconsistent with the applicable laws, inclusive of Constitutional law, federal and state statutes, federal and state case law, municipal ordinances, and federal, state, and municipal administrative rules and regulations of any kind. This Lease Agreement does not grant to the Tenant any development rights with respect to the Premises, and any such development shall be subject to all applicable provisions in the Code of Asheboro, including, but not limited to, the Asheboro Zoning Ordinance.

Section 23. COUNTERPARTS

This Lease Agreement may be executed in several counterparts, each of which is an original, and all of which together constitute but one in the same document.

Section 24. GOVERNING LAW

This Lease Agreement has been made in the State of North Carolina and shall be governed, construed, and interpreted in accordance with the laws of the State of North Carolina.

Section 25. FORUM SELECTION

In the event any dispute concerning this Lease Agreement arises, suit may be brought only in Randolph County, North Carolina or the Middle District of North Carolina.

Section 26. MERGER OF NEGOTIATIONS

This Lease Agreement represents the full and complete understanding of every kind or nature whatsoever between the parties hereto and all preliminary negotiations and agreements of any kind or nature are merged herein. No verbal agreement or implied covenant shall be held to vary the provisions hereof.

Section 27. E-VERIFY

Pursuant to Section 143-133.3 of the North Carolina General Statutes, the Landlord, as a North Carolina municipal corporation, may not enter into this contract unless the Tenant and the Tenant's subcontractors, if any, comply with the requirements of Article 2 in Chapter 64 of the General Statutes. Article 2 in Chapter 64 establishes North Carolina's E-Verify requirements for employers. For the sole and limited purpose of creating a valid contract with the Landlord, the Tenant hereby represents and covenants that it and its subcontractors who may perform work on the Premises are compliant, and will remain compliant throughout the duration of this Lease Agreement, with Article 2 in Chapter 64 of the General Statutes.

IN WITNESS WHEREOF, the parties have executed this Lease Agreement on the dates indicated below.

CITY OF ASHEBORO,
A North Carolina municipal corporation

By: _____
John N. Ogburn, III, City Manager

Date: _____

TENANT

By: _____
Signature of Authorized Person

Typed/Printed Name of Authorized Person

Typed/Printed Title of Authorized Person

Date: _____

**[The diagram attached in the original document as EXHIBIT 1
is on file in the city engineering department and
in the city clerk's office.]**

EXHIBIT 2

PERMITTED AIRCRAFT

Aircraft Make and Model: _____

Aircraft Registration No.: _____

Name(s) of Registered
Owner(s): _____

**10. City Manager John Ogburn updated the council on the impact of the
COVID-19 pandemic on municipal operations and the city at large.**

Mr. Ogburn utilized a slide show in order to update the council members on the continuing impact of the pandemic. As of February 3, 2021, there were 11,700 confirmed cases and 186 confirmed deaths. Randolph County is still a code red county with critical community spread. Mr. Ogburn emphasized the continued use of "The 3 W's:"

1. Wash-hands
2. Wear-face covering
3. Wait-at least six (6) feet apart)

The above-referenced agenda item was for informational purposes only, and no formal action was taken by the council during this portion of the meeting.

