

Cleveland County Board of Commissioners
December 20, 2021

The Cleveland County Board of Commissioners met on this date, at the hour of 10:30 a.m. in the Commission Chambers of the Cleveland County Administrative Offices.

PRESENT: Kevin Gordon, Chairman
Deb Hardin, Vice-Chair
Johnny Hutchins, Commissioner
Ronnie Whetstine, Commissioner
Doug Bridges, Commissioner
Tim Moore, County Attorney
Brian Epley, County Manager
Phyllis Nowlen, Clerk to the Board
Kerri Melton, Assistant County Manager
Martha Thompson, Deputy County Attorney
Lucas Jackson, Finance Director
Betsy Harnage, Register of Deeds

CALL TO ORDER

Chairman Bridges called the meeting to order and invited anyone from the audience to lead the Pledge of Allegiance and provide the invocation.

Betsy Harnage, Register of Deeds, provided the invocation and led the audience in the Pledge of Allegiance.

SELECTION OF COMMISSION CHAIR

County Manager Brian Epley opened the floor to accept nominations for Commission Chair.

NOMINATIONS: Commissioner Hardin made a motion to nominate Kevin Gordon for Chair (*Commissioner Bridges seconded the motion*). Hearing no further objections, nomination for Chair was closed.

Kevin Gordon was elected Chair by unanimous vote.

SELECTION OF COMMISSION VICE-CHAIR

Chairwoman Gordon opened the floor to accept nominations for Commission Vice-Chair.

NOMINATIONS: Commissioner Bridges made a motion to nominate Deb Hardin for Vice-Chair (*Commissioner Hutchins seconded the motion*). Hearing no further objections, nomination for Vice-Chair was closed. ***Deb Hardin was elected Vice-Chairman by unanimous vote.***

AGENDA ADOPTION

ACTION: Commissioner Hardin made the motion, seconded by Commissioner Bridges and unanimously adopted by the Board to, ***approve the agenda as presented.***

REGULAR AGENDA

SHELL BUILDING 4 MEMORANDUM OF UNDERSTANDING AND PROPERTY TRANSACTION

Chairman Gordon recognized County Manager Brian Epley to present Shell Building 4 Memorandum of Understanding and property transaction. The industrial shell building program continues to be a success with the partnership between Cleveland County and the City of Shelby. The county continues to see high interest from site location consultants and companies looking to either expand or relocate their business to Cleveland County.

Having a site ready shell building continues to be the number one access to job and tax base creation. Upon approval from the Board of County Commissioners and the City of Shelby Council, staff began working on the Shell Building 4 project.

The proposed site is located on Randolph Road which connects 226 and Washburn Switch Road in Shelby. In 2014/2015, the City of Shelby and the county bought 64 acres on Randolph Road. The current proposal is for the City of Shelby to facilitate the construction management side, which includes the bid process, and the county will facilitate the financing. Staff is proposing to use the same methodology that was used for Shell Building 3. The City of Shelby will need to deed the property into the county's name.

The proposed 64-acre site has been subdivided into a 31-acre and 33-acre parcels. The 31-acre portion is what is being considered to be transitioned back to the county name and would be the location for Shell Building 4. This area is already properly zoned for industrial use and will be well suited for a shell building. The proposal is for a 108,500 square foot building.

Bid openings, managed by the City of Shelby, occurred on Wednesday, December 15, 2021 with seven competitive bids received. The pre-qualification process was followed as it was in other shell building projects. All the bids were very close, but the lowest construction bid was received from Hickory Construction for \$8.58 MM. The \$8.58MM bid does include all the utilities, site grading, planning and construction costs. The proposed Memorandum of Understanding outlines the 50/50 cost share for all costs and parties, the City of Shelby running the project manager portion, the county managing the financing of the project and if there is a derivative at the conclusion of the project at time of sale, it will be split evenly if there is a surplus. The following information and PowerPoint were presented to Commissioners.



Shell Building IV
December 20, 2021

Timeline

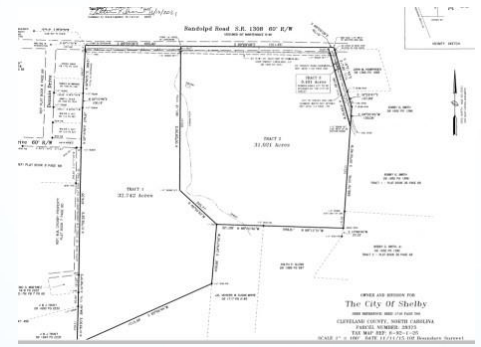
Approved Action Item	Date
Approve MOU and Deed Transfer	December 20, 2021
Preliminary Findings Resolution and Schedule Public Hearing	December 20, 2021
<ul style="list-style-type: none"> Installment Financing Contract Package Resolution – For Consideration April 7, 2020 	

Recommended Approval Items	
Approve Financing Documents	
Approve Transactional Documents	
Authorize County Staff to complete closing	

Acceptance of Property and Memorandum of Understanding

ACCEPTANCE OF PROPERTY

- Randolph Road
- Near Intersection of Randolph Road and Washburn Switch
- 31.02 Acres
- Zoned Industrial



SHELL BUILDING IV

- 100,000 sq. ft. 87% Manufacturing/Warehouse
- Expansion ability to an additional 100,000 sq. ft. Building Dimensions: 250' x 400'
- Zoning: Industrial
- Estimated Completion: December 2022
- Utility connections installed



MEMORANDUM OF UNDERSTANDING

- Cleveland County and City of Shelby
- 50/50 Cost Share (Planning, Design, Construction, Marketing, Sale and Transfer)
- City Responsible for Project Management
- City will be utility service provider
- County will finance project
- City will reimburse county for 50% of project upon project completion

ACTION

- Motion to accept property from the City of Shelby
- Motion to approve the Memorandum of Understanding

Chairman Gordon opened the floor to the Board for questions and discussion. Commissioner Hutchins commented positively on the continued success of the shell building projects

ACTION: Commissioner Hutchins made a motion, seconded by Commissioner Whetstine, and unanimously adopted by the Board to, ***approve accepting the 31 acres from the City of Shelby and the Shell Building 4 Memorandum of Understanding.***

Doc No: 200067784
 Recorded: 01/31/2022 09:11:49 AM
 Fee Amt: \$28.00 Page 1 of 2
 Transfer Tax: \$0.00
 Cleveland County North Carolina
 Betsy S. Harnage, Register of Deeds
 BK 1863 PG 2801 - 2802 (2)

RECORDING FEE \$26.00 REVENUES \$ - 0 -

NORTH CAROLINA GENERAL WARRANTY DEED

Excise Tax:	Exempt
Parcel ID:	28375
Mail/Box to:	300 South Washington St., Post Office Box 207 Shelby, NC 28151
Prepared by:	Andrea Leslie-Fite, City Attorney
Brief description for the Index:	Tract 2, Plat Book 46, Pages 92-92(1) Cleveland County Parcel No. 65586

THIS GENERAL WARRANTY DEED ("Deed") is made on the 29th day of January 20 22, by and between:

GRANTOR	GRANTEE
CITY OF SHELBY, NORTH CAROLINA, a municipal corporation 300 South Washington Street PO Box 207 Shelby, North Carolina 28150	COUNTY OF CLEVELAND, a body of politic 311 East Marion Street PO Box 1210 Shelby, North Carolina 28150

Enter in the appropriate block for each Grantor and Grantee their name, mailing address, and, if appropriate, state of organization and character of entity, e.g. North Carolina or other corporation, LLC, or partnership. Grantor and Grantee includes the above parties and their respective heirs, successors, and assigns, whether singular, plural, masculine, feminine or neuter, as required by context.

FOR VALUABLE CONSIDERATION paid by Grantee, the receipt and legal sufficiency of which is acknowledged, Grantor by this Deed does hereby grant, bargain, sell and convey to Grantee, in fee simple, all that certain lot, parcel of land or condominium unit in the City of Shelby, Cleveland County, North Carolina and more particularly described as follows (the "Property"):

Being all of Tract 2, consisting of 31.021 acres, as shown on a plat entitled Subdivision Plat for the City of Shelby and recorded in Plat Book 46, Page 92 at the Cleveland County Registry of Deeds.

All or a portion of the Property was acquired by Grantor by instrument recorded in Book 1710, page 560.
 All or a portion of the Property includes or does not include the primary residence of a Grantor.

**MEMORANDUM OF UNDERSTANDING ("MOU")
 CONCERNING ECONOMIC DEVELOPMENT OF
 RANDOLPH ROAD SHELL BUILDING #4
 BETWEEN
 CLEVELAND COUNTY, NORTH CAROLINA ("COUNTY")
 AND
 THE CITY OF SHELBY, NORTH CAROLINA ("CITY")**

I. PURPOSE

The purpose of this MOU is to outline the Parties' responsibilities concerning economic development of the herein-described Project.

II. DEFINITIONS

- A. "City" means the City of Shelby, North Carolina.
- B. "County" means Cleveland County, North Carolina.
- C. "MOU" means this Memorandum of Understanding.
- D. "Project" means the Parties' joint undertaking to construct and develop, and sale of, a shell building on the Property for the purpose of economic development.
- E. "Property" means the property on which the Project is to be undertaken, specifically the property labeled as "Tract 2" on the survey attached hereto as 'Exhibit A'. While that survey shows the property as being owned by the City of Shelby, the City shall convey the Property to the County. The Property is also known as the "Randolph Road Property" and/or "Shell Building #4".

III. RESPONSIBILITIES OF COUNTY

- A. Sharing of Costs. The County will share in the costs of planning, design, construction, marketing, sale and transfer at fifty (50) percent as described in Section V. below.
- B. Financing. Subject to the approval of the Board of Commissioners, the County will provide financing for the Project through installment contract as described in N.C.G.S. § 160A-20(g).

IV. RESPONSIBILITIES OF CITY

- A. Sharing of Costs. The City will share in the cost of planning, design, construction, marketing, sale and transfer at fifty (50) percent, as discussed in Section V. below.

A map showing the Property is recorded in Plat Book 46, page 92.
 TO HAVE AND TO HOLD the Property and all privileges and appurtenances thereto belonging to Grantee in fee simple. Grantor covenants with Grantee that Grantor is seized of the Property in fee simple, Grantor has the right to convey the Property in fee simple, title to the Property is marketable and free and clear of all encumbrances, and Grantor shall warrant and defend the title against the lawful claims of all persons whomsoever, other than the following exceptions:

Rights of way and easements of record

IN WITNESS WHEREOF, Grantor has duly executed this North Carolina General Warranty Deed, if an entity by its duly authorized representative.

CITY OF SHELBY, NORTH CAROLINA
 D. Stanhope Anthony, III
 Mayor

ATTEST:
 Carol Williams
 Carol Williams
 Interim City Clerk

STATE OF North Carolina, COUNTY OF Cleveland

I, Heather S. Black, a Notary of the above state and county, certify that the following person(s): O. Stanhope Anthony, III and Carol Williams, personally appeared before me on the 29 day of January 2022, each acknowledging to me that he or she signed the foregoing document, in the capacity represented and identified therein (if any): Mayor (Interim City Clerk)

Affix Notary Seal/Stamp
 HEATHER S. BLACK
 Notary Public, North Carolina
 Cleveland County
 My Commission Expires
 May 26, 2022

Heather S. Black
 Notary Public (Official Signature)
 My commission expires May 28, 2022

- B. Project Management. The City will provide Project Management for the Project and upon successful completion (sale) of the Project the City will receive \$80,000 for management fees.

- C. Utility Selection. The City of Shelby will be the utility service provider for water and sewer, gas, electric and natural gas at the Property. The City will be paid its customary rates for the aforementioned services.

V. PROCESS FOR SHARING OF COSTS

- A. The City will receive invoices from Project vendors and, upon approval pay such invoices to such vendors.
- B. After paying a Project invoice to a vendor, the City will send the invoice, City approval, and evidence of payment to the County as a request for reimbursement.
- C. Upon receipt of such a Project reimbursement request from the City, the County will pay to the City the entire amount of the invoice.
- D. Upon completion of the Project, the City will be responsible for fifty (50) percent of the total Project costs.
- F. If any debt service payments come due on the County's installment financing prior to the sale of the Property, the City shall reimburse the County for fifty percent (50%) of such debt service payments.

VI. MISCELLANEOUS

- A. Amendments. This MOU may be amended by written consent of both parties, and all amendments shall be attached to this MOU.
- B. Termination. This MOU may be terminated by either party on sixty (60) days' written notice to the other party.
- C. Consideration. No consideration is exchanged pursuant to this MOU, and this MOU shall not be considered a contract giving rise to binding obligations between the Parties.

VII. EFFECTIVE DATE shall be the 3rd day of January 2022.

[SIGNATURE PAGE TO FOLLOW]

FOR CLEVELAND COUNTY:

FOR THE CITY OF SHELBY:

Brian Epley
Brian Epley
County Manager
Cleveland County

Rick Howell
Rick Howell
City Manager
City of Shelby

Date: 1-5-2022

Date: 1/6/2022

I certify that this instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Contract Act.

I certify that this instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Contract Act.

Lucas Jackson 1/5/22
Lucas Jackson date
Finance Director
Cleveland County

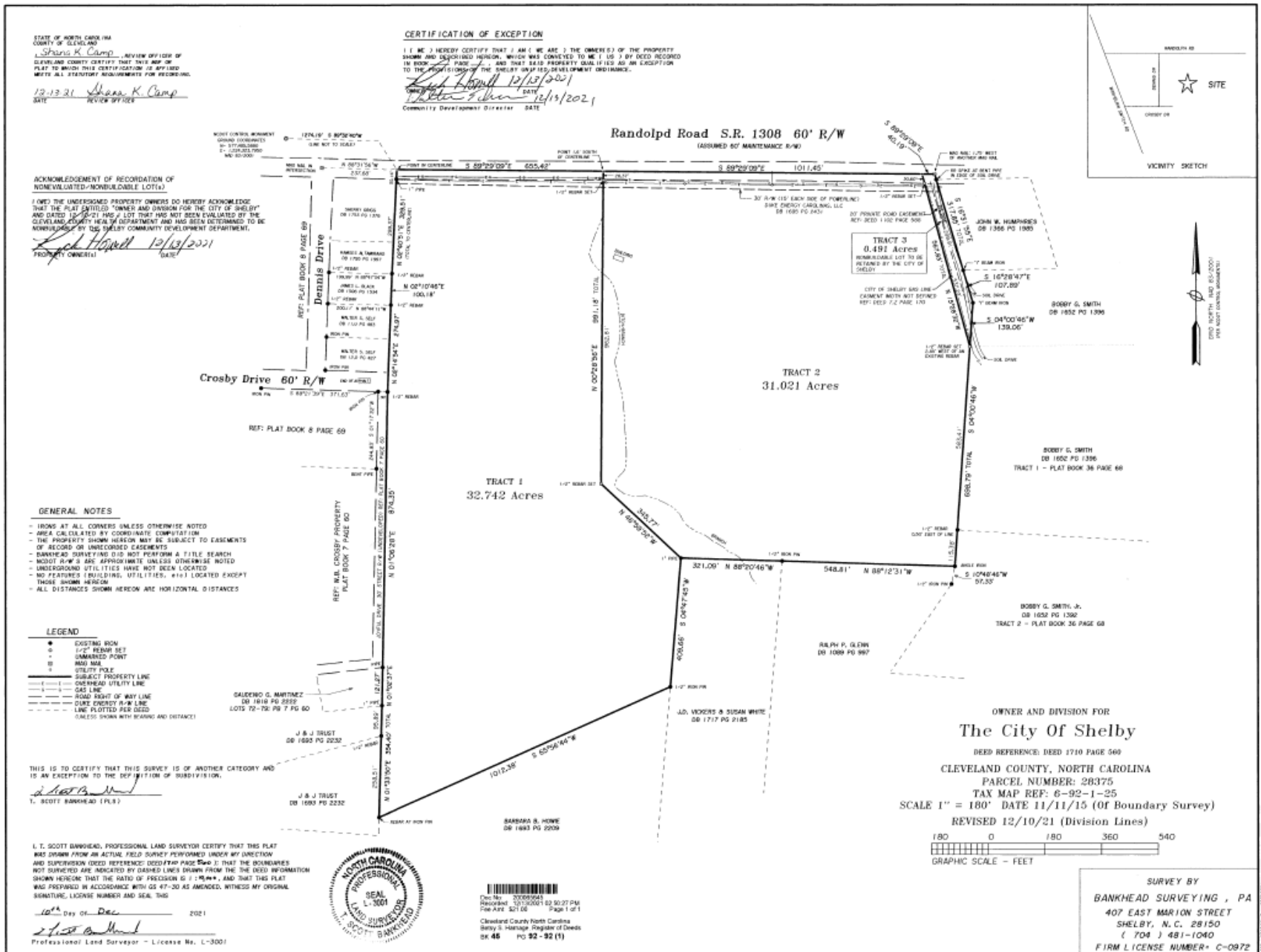
Beth Beam 1/6/2022
Beth Beam date
Finance Director
City of Shelby

Approved as to form and content:

Martha Thompson 12.14.21
Martha Thompson date
Deputy County Attorney
Cleveland County

Approved as to form and content:

Andrea Leslie-Fite 1/4/2022
Andrea Leslie-Fite date
City Attorney
City of Shelby



SHELL BUILDING 4 FINANCING

County Manager Brian Epley remained at the podium to present Shell Building 4 Financing. The county will formally begin the financing process for Shell Building 4. This agenda item requires two actions: 1. the preliminary findings resolution and 2. the disciplinary bond resolution. The first action is approving the preliminary findings resolution, declares this project will be for the sole purpose of economic development. That specific purpose is the only public purpose clause that will approve the county's Local Government Commission (LGC) application. The completed application must be submitted by January 3, 2022 to be on the February 1, 2022 LGC debt agenda. Staff has already met with the LGC regarding the Shell Building 4 project and financing. The Commission approved of the Memorandum of Understanding terms. The county's finance Request for Proposal (RFP) should be back in the

following days. The second action is approval of the disciplinary bond resolution which establishes public purpose, outlines the county's application to the LGC and financing. A public hearing will need to be scheduled for Tuesday, January 18, 2022. During the January meeting, the public hearing will be held, presentation of the received RFP's will be presented to the Board of Commissioners, a request will be made for approval of the financing terms and lending institution. The following information and PowerPoint were presented to Commissioners.

 <h2 style="text-align: center;">Shell Building IV Financing</h2>	 <h2 style="text-align: center;">PRELIMINARY FINDINGS RESOLUTION</h2> <ul style="list-style-type: none">• Cleveland County to finance Shelby Building IV• Amount not to exceed \$8,500,000• Findings<ul style="list-style-type: none">• Purpose- Economic Development• Installment Financing over General Obligation Bonds• Funds not excessive for project• Debt will be managed in compliance with law• No increase in taxes due to financing• County Manager, Finance Director and County Attorney designated to file application with LGC
 <h2 style="text-align: center;">SCHEDULE PUBLIC HEARING</h2> <ul style="list-style-type: none">• Necessary to schedule public hearing on proposed installment financing• Public Hearing to be held on January 18, 2022 at 6:00pm in Commission Chamber• Purpose to approve installment financing for Shell IV to be used for economic development	 <h2 style="text-align: center;">ACTION</h2> <ul style="list-style-type: none">• Adopt Preliminary Findings Resolution• Adopt Public Hearing and Public Purpose Resolution

ACTION: Commissioner Bridges made a motion, seconded by Commissioner Hardin, and unanimously adopted by the Board to, *approve the Preliminary Findings Resolution, Public Purpose Resolution and schedule the public hearing as requested.*



Resolution

22-2021

RESOLUTION MAKING CERTAIN FINDINGS AND APPOINTMENTS AND REQUESTING APPROVAL OF THE LOCAL GOVERNMENT COMMISSION FOR AN ECONOMIC DEVELOPMENT PROJECT

WHEREAS, the County of Cleveland (the "County") has determined to finance a portion of the cost of acquiring, constructing, improving and equipping a shell building to be located on land acquired from the City of Shelby on Randolph Road in Shelby, North Carolina (the "Project") for the purpose of an economic development project pursuant to Section 158-7.1 of the North Carolina General Statutes; and

WHEREAS, the County is considering undertaking an installment financing pursuant to G.S. §160A-20, as amended, for the purpose of providing funds in an amount not to exceed \$8,500,000, with other available funds, for the acquisition, construction, improvement and equipping and other accomplishment of the Project.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners as follows:


1. The Board of Commissioners hereby finds and determines in connection with the proposed installment financing contract for the purpose of economic development that (a) such proposed installment financing is necessary or expedient to the County, (b) such proposed installment financing, under current circumstances, is preferable to a general obligation bond issue of the County for the same purpose, (c) the sums estimated to fall due under such proposed installment financing are adequate and not excessive for their proposed purpose, (d) the County's debt management procedures and policies are good and its debt will continue to be managed in strict compliance with the law, (e) no increase in taxes will be necessary due to the proposed installment financing and (f) the County is not in default regarding any of its debt service obligations.

2. The County Manager, the Finance Director and the County Attorney of the County are each hereby designated as a representative of the County to file an application for approval of such installment financing with the Local Government Commission of North Carolina and are authorized to take such other actions as may be advisable in connection with such proposed acquisition and the development of such installment financing; and all actions heretofore taken by any of such officers or any other officer of the County relating to such matters on behalf of the County are hereby approved, ratified and confirmed.


3. The Board hereby requests the Local Government Commission of North Carolina to approve such proposed installment financing under Article 8 of Chapter 159 of the General Statutes of North Carolina. The Board appoints Robinson Bradshaw & Hinson P.A. as special counsel for the transaction and Davenport & Company LLC as financial advisor for the transaction.

4. This Resolution shall become effective immediately upon its adoption.

Adopted this 20th day of December, 2021.


Kevin Gordon, Chairman
Cleveland County Board of Commissioners

ATTEST:


Phyllis Nowlen, Clerk To The Board
Cleveland County Board of Commissioners



Resolution

23-2021

RESOLUTION CALLING A PUBLIC HEARING ON WHETHER THE BOARD OF COMMISSIONERS FOR THE COUNTY OF CLEVELAND, NORTH CAROLINA SHOULD APPROVE A PROPOSED INSTALLMENT FINANCING AND WHETHER SAID COUNTY SHOULD USE CERTAIN PROPERTY FOR ECONOMIC DEVELOPMENT PURPOSES

WHEREAS, the County of Cleveland (the "County") has determined to finance a portion of the cost of acquiring, constructing, improving and equipping a shell building to be located on land acquired from the City of Shelby on Randolph Road in Shelby, North Carolina (the "Project") for the purpose of an economic development project pursuant to Section 158-7.1 of the North Carolina General Statutes; and

WHEREAS, the County is considering undertaking an installment financing pursuant to Section 160A-20 of the North Carolina General Statutes, as amended, for the purpose of providing funds in an amount not to exceed \$8,500,000, with other available funds, for the construction and other accomplishment of this economic development Project, and the County is authorized to do so only after a public hearing on such proposed agreement; and

WHEREAS, in connection with the proposed installment financing, the County has acquired from the City of Shelby, North Carolina an interest in the real and personal property through Section 160A-274 of the North Carolina General Statutes to be included in the Project, including specifically the site of the Project and the improvements thereon for economic development purposes and pursuant to Section 158-7.1(c) of the North Carolina General Statutes, the County is authorized to use this property for economic purposes only after a public hearing; and

WHEREAS, it is necessary to call a public hearing on such proposed installment financing agreement and designation of acquired property;

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners as follows:

1. A public hearing shall be held at 6:00 P.M., or as soon thereafter as the matter can be heard, on January 18, 2022 in the Commission Chamber of the Cleveland County Administration Building, 311 East Marion Street, Shelby, North Carolina, for the purpose of considering whether the Board of Commissioners for the County (the "Board") should approve (a) such proposed installment financing and certain related documents pursuant to Section 160A-20 of the North Carolina General Statutes, as amended, for the purpose of providing funds in an

amount not to exceed \$8,500,000, with any other available funds, for the acquisition, construction and other accomplishment of the Project for the purpose of an economic development project pursuant to Section 158-7.1 of the North Carolina General Statutes, as amended. The County would secure the repayment by it of moneys advanced pursuant to such proposed agreement by granting a security interest in all or a portion of the Project and certain related property.

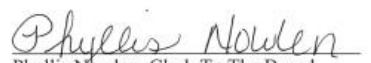
2. The Clerk to the Board shall cause a notice of such public hearing to be published in the Shelby Star once at least 10 days before January 18, 2022.

3. This resolution shall take effect immediately upon its passage.

Adopted this 20th day of December, 2021.


Kevin Gordon, Chairman
Cleveland County Board of Commissioners

ATTEST:


Phyllis Nowlen, Clerk To The Board
Cleveland County Board of Commissioners



ADJOURN

There being no further business to come before the Board at this time, Commissioner Bridges made a motion, seconded by Commissioner Hardin and unanimously adopted by the Board, *to adjourn*. The next meeting of the Commission is scheduled for *Tuesday, January 18, 2022 at 6:00 p.m. in the Commissioners Chambers*.

*Kevin Gordon, Chairman
Cleveland County Board of Commissioners*

*Phyllis Nowlen, Clerk to the Board
Cleveland County Board of Commissioners*