

EXTRACTS FROM MINUTES OF CITY COUNCIL

* * *

A Regular Meeting of the City Council of the City of Charlotte, North Carolina was duly held in the Meeting Chamber at the Charlotte-Mecklenburg Government Center in Charlotte, North Carolina, the regular place of meeting, at 7:00 p.m. on February 25, 2019:

Members Present:

Members Absent:

* * * * *

* * *

Councilmember _____ introduced the following resolution (the "*Resolution*"), a summary of which had been provided to each Councilmember, copy of which was available with the City Clerk and which was read by title:

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHARLOTTE, NORTH CAROLINA, AUTHORIZING THE NEGOTIATION OF AN INSTALLMENT FINANCING AND PROVIDING FOR CERTAIN OTHER RELATED MATTERS THERETO

WHEREAS, the City of Charlotte, North Carolina (the "*City*") is a municipal corporation duly created and validly existing under and by virtue of the Constitution, statutes and laws of the State of North Carolina (the "*State*");

WHEREAS, the City has the power, pursuant to the General Statutes of North Carolina to (1) enter into installment contracts in order to purchase, or finance or refinance the purchase of, real or personal property and to finance or refinance the construction or repair of fixtures or improvements on real property and (2) create a security interest in some or all of the property financed or refinanced to secure repayment of the purchase price;

WHEREAS, the City has previously entered into an Amended and Restated Installment Purchase Contract dated as of August 1, 1993 with New Charlotte Corporation (the "*Corporation*") to finance the acquisition of the City's Convention Center and the City and the Corporation have since that time entered into various contract amendments to finance and refinance convention related facilities (collectively, the "*1993 Contract*");

WHEREAS, to secure its obligations under the 1993 Contract, the City has granted a lien on the site of the Convention Center and all improvements thereon under a deed of trust and security agreement (the "*Deed of Trust*");

WHEREAS, the Corporation, to assist the City in financing and refinancing the convention related facilities has executed and delivered various series of certificates of participation;

WHEREAS, the City Council of the City (the "*City Council*") determines that it is in the best interest of the City to enter into an installment financing (the "*2019A Installment Financing*") to (1) finance (a) renovations and improvements to the Convention Center and (b) the acquisition of a condominium interest in meeting and ballroom space in the Hotel and Conference Center being

constructed by The Foundation of the University of North Carolina at Charlotte, Inc. (collectively, the "2019A Project"), (2) refinance the City's installment payment obligations under the 1993 Contract corresponding to the outstanding Certificates of Participation (Convention Facility Project), Series 2009B (the "Refunded Certificates") in order to achieve debt service savings and (3) to pay certain costs related to the execution and delivery of the 2019A Installment Financing;

WHEREAS, the City hereby determines that financing the 2019A Project and refinancing the Refunded Certificates is essential to the City's proper, efficient and economic operation and to the general health and welfare of its inhabitants; that financing the 2019A Project will provide an essential use and will permit the City to carry out public functions that it is authorized by law to perform; that refinancing the Refunded Certificates will enable the City to achieve debt service savings; and that entering into the 2019A Installment Financing is necessary and expedient for the City by virtue of the findings presented herein;

WHEREAS, the City hereby determines that entering into the 2019A Installment Financing allows the City to finance the 2019A Project and refinance the Refunded Certificates at a favorable interest rate currently available in the financial marketplace and on terms advantageous to the City;

WHEREAS, the City hereby determines that the estimated cost of financing the 2019A Project and refinancing the Refunded Certificates is an amount not to exceed \$142,500,000, and that such cost exceeds the amount that can be prudently raised from currently available appropriations, unappropriated fund balances and non-voted bonds that could be issued by the City in the current fiscal year pursuant to Article V, Section 4 of the Constitution of the State;

WHEREAS, although the cost of financing the 2019A Project and refinancing the Refunded Certificates pursuant to the 2019A Installment Financing is expected to exceed the cost of financing the 2019A Project and refinancing the Refunded Certificates pursuant to a bond financing for the same undertaking, the City hereby determines that the cost of financing the 2019A Project and refinancing the Refunded Certificates pursuant to the 2019A Installment Financing and the obligations of the City thereunder are preferable to a general obligation bond financing or revenue bond financing for several reasons, including but not limited to the following: (1) the cost of a special election necessary to approve a general obligation bond financing, as required by the laws of the State, would result in the expenditure of significant funds; (2) the time required for a general obligation bond election would cause an unnecessary delay which would thereby decrease the financial benefits of completing the 2019A Project and refinancing the Refunded Certificates; and (3) insufficient revenues are produced by the 2019A Project and the convention facilities so as to permit a revenue bond financing;

WHEREAS, the City has determined and hereby determines that the estimated cost of financing the 2019A Project and refinancing the Refunded Certificates pursuant to the 2019A Installment Financing reasonably compares with an estimate of similar costs under a bond financing for the same undertaking as a result of the findings delineated in the above preambles;

WHEREAS, the City does not anticipate a future property tax increase to pay installment payments falling due under the 2019A Installment Financing;

WHEREAS, the sums to fall due under the 2019A Installment Financing will be adequate but not excessive for its proposed purpose;

WHEREAS, Parker Poe Adams & Bernstein LLP, as special counsel, will render an opinion to the effect that entering into the 2019A Installment Financing and the transactions contemplated thereby are authorized by law;

WHEREAS, the obligation of the City to make installment payments for the 2019A Installment Financing does not constitute a pledge of the faith and credit of the City within the meaning of any constitutional debt limitation and the taxing power of the City is not and may not be pledged in any way directly or indirectly or contingently to secure any money due under the 2019A Installment Financing;

WHEREAS, no deficiency judgment may be rendered against the City in any action for breach of an obligation under the 2019A Installment Financing;

WHEREAS, the City is not in default under any of its debt service obligations;

WHEREAS, the City's budget process and Annual Budget Ordinance are in compliance with the Local Government Budget and Fiscal Control Act, and external auditors have determined that the City has conformed with generally accepted accounting principles as applied to governmental units in preparing its Annual Budget Ordinance;

WHEREAS, past audit reports of the City indicate that its debt management and contract obligation payment policies have been carried out in strict compliance with the law, and the City has not been censured by the Local Government Commission of North Carolina (the "LGC"), external auditors or any other regulatory agencies in connection with such debt management and contract obligation payment policies;

WHEREAS, a public hearing on entering into the 2019A Installment Financing after publication of a notice with respect to such public hearing will be held by the City Council and approval of the LGC with respect to entering into 2019A Installment Financing must be received;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CHARLOTTE, NORTH CAROLINA, AS FOLLOWS:

Section 1. ***Authorization to Negotiate 2019A Installment Financing.*** The Mayor, the City Manager, the Deputy City Manager, the Finance Officer (as defined in Section 159-24 of the General Statutes of North Carolina, as amended), the City Treasurer, the City Debt Manager, the City Clerk, the Deputy City Clerk and the City Attorney, including anyone serving as such in an interim capacity, or their respective designees (the "*Authorized Officers*"), are hereby authorized and directed to proceed and negotiate on behalf of the City for the financing of the 2019A Project and the refinancing of the Refunded Certificates for a principal amount not to exceed \$142,500,000 in accordance with the provisions of Section 160A-20 of the General Statutes of North Carolina, as amended. The Authorized Officers are authorized, in connection with securing the City's obligations under the 2019A Installment Financing, to enter into a new deed of trust related to the Convention Center and other property being financed or to enter into amendments or revisions to the existing Deed of Trust as may be required.

Section 2. ***Application to LGC.*** The City Manager and the Finance Officer, individually or collectively, or their designees, are hereby directed to file with the LGC an application for its approval of the 2019A Installment Financing and all relevant transactions contemplated thereby on a form prescribed by the LGC and to state in such application such facts and to attach thereto such exhibits regarding the City and its financial condition as may be required by the LGC.

Section 3. ***Financing Team.*** The financing team of Parker Poe Adams & Bernstein LLP, as special counsel, DEC Associates, Inc., as financial advisor, Wells Fargo Bank, National Association and Merrill Lynch, Pierce, Fenner & Smith, Incorporated, as underwriters, U.S. Bank National Association, as trustee, and McGuireWoods LLP, as underwriters' counsel, is approved. The Authorized Officers are hereby authorized to retain any other professionals they deem necessary to complete the transaction contemplated by this Resolution.

Section 4. **Public Hearing.** A public hearing shall be conducted by the City Council on March 25, 2019 (the “*Public Hearing*”) concerning the approval of the financing of the 2019A Project and the refinancing of the Refunded Certificates as part of the 2019A Installment Financing. The City Clerk is hereby directed to cause a notice of the Public Hearing to be published at least once in a qualified newspaper of general circulation within the City no fewer than 10 days prior to the Public Hearing.

Section 5. **Repealer.** All motions, orders, resolutions and parts thereof in conflict herewith are hereby repealed.

Section 6. **Effective Date.** This Resolution is effective on the date of its adoption.

STATE OF NORTH CAROLINA)
)
CITY OF CHARLOTTE) ss:

I, STEPHANIE C. KELLY, the City Clerk of the City of Charlotte, North Carolina, ***DO HEREBY CERTIFY*** that the foregoing is a true and exact copy of a resolution entitled “**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHARLOTTE, NORTH CAROLINA, AUTHORIZING THE NEGOTIATION OF AN INSTALLMENT FINANCING AND PROVIDING FOR CERTAIN OTHER RELATED MATTERS THERETO**” adopted by the City Council of the City of Charlotte, North Carolina, at a meeting held on the 25th day of February, 2019, the reference having been made in Minute Book _____, and recorded in full in Resolution Book _____, Page(s) _____.

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this the ____ day of _____, 2019.

Stephanie C. Kelly
City Clerk
City of Charlotte, North Carolina