

EXTRACTS FROM MINUTES OF CITY COUNCIL

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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 5:00 p.m. on July 11, 2022:

Members Present:

Members Absent:

* * * * *
* * *

Councilmember _____ introduced the following 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:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHARLOTTE, NORTH CAROLINA, FOR THE APPROVAL, EXECUTION AND DELIVERY OF CITY OF CHARLOTTE, NORTH CAROLINA WATER AND SEWER SYSTEM REVENUE BONDS, SERIES 2022 AND OTHER MATTERS

WHEREAS, the City of Charlotte, North Carolina (the “City”) is authorized by The State and Local Government Revenue Bond Act, General Statutes of North Carolina, Section 159-80 *et seq.* (the “Act”), to issue, subject to the approval of the Local Government Commission of North Carolina (the “LGC”), at one time or from time to time revenue bonds and refunding revenue bonds of the City for the purposes as specified in the Act;

WHEREAS, the City Council (the “City Council”) of the City has determined to issue the City’s Water and Sewer System Revenue Bonds, Series 2022 (with appropriate designations) in one or more series, tax-exempt or taxable (collectively, the “2022 Bonds”), in an aggregate principal amount not to exceed \$535,000,000 under an Amended and Restated General Trust Indenture dated as of September 24, 2020 (the “General Indenture”) between the City and U.S. Bank National Association, the successor to which is U.S. Bank Trust Company, National Association, as trustee (the “Trustee”), and Series Indenture, Number 22 (the “Series Indenture”) between the City and the Trustee to: (1) prepay in full the City’s Water and Sewer System Revenue Bond Anticipation Note, Series 2021 (the “Bond Anticipation Note”), (2) finance the costs of extensions, additions and capital improvements to, or the acquisition, renewal or replacement of capital assets of, or purchasing and installing new equipment for the City’s water and sewer system (the “2022 Projects”), (3) if advantageous to the City, refund the City’s outstanding Water and Sewer System Revenue Refunding Bonds, Series 2011 (the “2011 Bonds”) and the City’s outstanding Variable Rate Water and Sewer System Revenue Bonds, Series 2006B (the “2006B Bonds”), and pay associated costs as described below, and (4) pay the costs of issuing the 2022 Bonds;

WHEREAS, the City and the LGC have arranged for the private sale without advertisement of the 2022 Bonds to Wells Fargo Bank, National Association, as managing underwriter, on its own behalf

and on behalf of any appointed co-managing underwriters, as the underwriters (the “*Underwriters*”), under the terms of a Bond Purchase Agreement (the “*Purchase Agreement*”) among the City, the LGC, the Underwriters pursuant to which the City and the LGC will sell the 2022 Bonds to the Underwriters in accordance with the terms and conditions set forth therein;

WHEREAS, in addition to retaining the Underwriters for the sale of the 2022 Bonds, the City Council wants to (1) retain Parker Poe Adams & Bernstein LLP, as bond counsel; (2) approve the selection by the Underwriters of McGuireWoods LLP, as Underwriters’ counsel; (3) retain DEC Associates, Inc., as the financial advisor; (4) retain First Tryon Securities, LLC, as the financial consultant; (5) retain U.S. Bank Trust Company, National Association, as trustee and paying agent for the 2022 Bonds; and (6) authorize and approve the retention of such other professionals, including co-managing underwriters, as the Chief Financial Officer of the City determines may be necessary to carry out the financing contemplated in this Resolution (collectively, the “*Financing Team*”);

WHEREAS, the City Council wants the City Manager, the Chief Financial Officer of the City and the City Treasurer, or their designees, to file with the LGC an application for its approval of the 2022 Bonds, on a form prescribed by the LGC, and (1) request in such application that the LGC approve (a) the negotiation of the sale of the 2022 Bonds to the Underwriters and (b) the City’s use of the Financing Team and (2) state in such application such facts and to attach thereto such exhibits in regard to the 2022 Bonds and to the City and its financial condition, as may be required by the LGC, and to take all other action necessary to the issuance of the 2022 Bonds;

WHEREAS, copies of the forms of the following documents relating to the transactions described above (collectively, the “*Financing Documents*”) have been filed with the City and made available to the City Council:

- (1) the General Indenture;
- (2) the Series Indenture;
- (3) the Purchase Agreement;
- (4) a Preliminary Official Statement (the “*Preliminary Official Statement*”) with respect to the 2022 Bonds, which after the inclusion of certain pricing and other information will become the final Official Statement (the “*Official Statement*”) relating to the 2022 Bonds; and
- (5) 2022 Bonds in the form set forth in the Series Indenture;

WHEREAS, in connection with the 2006B Bonds, the City entered into an interest rate swap agreement with Wachovia Bank, National Association, the successor to which is Wells Fargo Bank, National Association, pursuant to a Master Agreement dated as of August 19, 2005 and related schedules, annexes and that certain Confirmation between the City and Wells Fargo Bank, National Association dated July 29, 2009 (collectively, the “*Swap Agreement*”) and, if determined to be advantageous in connection with the proposed refunding of the 2006B Bonds, the City will terminate the Swap Agreement;

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF CHARLOTTE, NORTH CAROLINA DOES RESOLVE AS FOLLOWS:

Section 1. The issuance of the 2022 Bonds in one or more series, tax-exempt or taxable, by the

City in the principal amount not to exceed \$535,000,000, in substantially the form and content set forth in the Series Indenture, subject to appropriate insertions and revisions in order to comply with the provisions of the General Indenture and the Series Indenture, is hereby in all respects approved and confirmed. The form and content of the 2022 Bonds set forth in the Series Indenture is hereby in all respects approved and confirmed. The provisions of the General Indenture, the Series Indenture and the Purchase Agreement with respect to the 2022 Bonds are hereby in all respects approved, confirmed and incorporated herein by reference.

The 2022 Bonds will be issued by the City for the purpose of providing funds to (1) prepay in full the Bond Anticipation Note, (2) finance the 2022 Projects, (3) to the extent deemed advantageous to the City, refund the 2011 Bonds and the 2006B Bonds, including paying any termination fee associated with terminating the Swap Agreement and (4) pay the costs of issuing the 2022 Bonds. The use of the proceeds of the 2022 Bonds, as described, is necessary in order to (1) fix the long-term interest cost of the City related to the projects financed from the proceeds of the Bond Anticipation Note, (2) meet the demands of the users of the City's water and sewer systems, (3) achieve debt service savings for the City related to the refunding of the 2011 Bonds and (4) fix the interest cost of the City, lower the City's risk and potentially achieve savings for the City related to the refunding of the 2006B Bonds and the termination of the Swap Agreement. The City's Chief Financial Officer, and her respective designees, are each hereby directed to evaluate the merits and potential benefits to the City of refunding the 2011 Bonds and refunding the 2006B Bonds and terminating the Swap Agreement.

The 2022 Bonds will be special obligations of the City. The principal of, premium, if any, and interest on the 2022 Bonds shall not be payable from the general funds of the City, nor shall they constitute a legal or equitable pledge, charge, lien or encumbrance upon any of its property or upon any of its income, receipts or revenues except the funds which are pledged under the General Indenture and the Series Indenture. Neither the credit nor the taxing power of the State of North Carolina or the City are pledged for the payment of the principal of, premium, if any, or interest on the 2022 Bonds, and no holder of 2022 Bonds has the right to compel the exercise of the taxing power by the State of North Carolina or the City or the forfeiture of any of its property in connection with any default thereon.

Section 2. The filing of the application with the LGC for its approval of the issuance of the 2022 Bonds is hereby ratified and approved. The City Manager and the Chief Financial Officer of the City, and their designees, with advice from the City Attorney and bond counsel, are hereby authorized, directed and designated to provide such information to the LGC as may be required for the LGC's approval of such application. The Financing Team for the 2022 Bonds is hereby approved.

Section 3. The City Council finds and determines and asks the LGC to find and determine from the City's application and supporting documentation:

- (a) that the issuance of the 2022 Bonds is necessary or expedient;
- (b) that the not to exceed stated principal amount of the 2022 Bonds will be sufficient but is not excessive, when added to other money available for such purpose, to pay the costs of prepaying in full the Bond Anticipation Note, refunding the 2011 Bonds and the 2006B Bonds, and financing the 2022 Projects;
- (c) that the City's water and sewer system as now constituted and as it will be constituted after the completion of the prepayment in full of the Bond Anticipation Note, the refunding of the 2011 Bonds and the 2006B Bonds, and the financing of the 2022 Projects is feasible;
- (d) that the City's debt management procedure and policies are good; and
- (e) that the 2022 Bonds can be marketed at a reasonable interest cost to the City.

Section 4. The form and content of the Series Indenture and the exhibits thereto are hereby in all respects approved and confirmed. The Mayor, the City Manager and the Chief Financial Officer, or their respective designees, are authorized, empowered and directed to execute and deliver the Series Indenture for and on behalf of the City, including necessary counterparts, in substantially the form and content presented to the City, but with such changes, modifications, additions or deletions therein as to them seem necessary, desirable or appropriate, their execution thereof to constitute conclusive evidence of their approval of any and all such changes, modifications, additions or deletions therein. From and after the execution and delivery of the Series Indenture, the Mayor, the City Manager, the Chief Financial Officer, the City Treasurer, the City Debt Manager, the City Clerk and their respective designees (the “*Authorized Officers*”), are hereby authorized, empowered and directed to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of the Series Indenture as executed.

Section 5. The City Council requests that the LGC sell the 2022 Bonds at private sale without advertisement to the Underwriters at such prices as the LGC determines to be in the best interest of the City, at a true interest cost of not to exceed 5.75% and pursuant to the terms of the Purchase Agreement. The form and content of the Purchase Agreement are hereby in all respects approved and confirmed. The Authorized Officers are hereby authorized, empowered and directed to execute and deliver the Purchase Agreement for and on behalf of the City, including necessary counterparts, in substantially the form and content presented to the City, but with such changes, modifications, additions or deletions therein as to them seem necessary, desirable or appropriate, their execution thereof to constitute conclusive evidence of their approval of any and all such changes, modifications, additions or deletions therein. From and after the execution and delivery of the Purchase Agreement, the Authorized Officers are hereby authorized, empowered and directed to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of the Purchase Agreement as executed.

Section 6. The form, terms and content of the Preliminary Official Statement be and the same hereby are in all respects authorized, approved and confirmed, and the use of the Preliminary Official Statement in connection with the sale of the 2022 Bonds with investors is hereby in all respects authorized, approved, ratified and confirmed. The City Manager, Chief Financial Officer of the City and the City Treasurer are hereby each authorized, empowered and directed to deliver the Official Statement for and on behalf of the City in substantially the form and content of the Preliminary Official Statement presented to the City Council but with such changes, modifications, additions or deletions therein as to them seem necessary, desirable or appropriate. The use of the Official Statement in connection with the sale of the 2022 Bonds with investors is hereby authorized, approved and confirmed.

Section 7. The City Manager, Chief Financial Officer of the City and the City Treasurer are each hereby authorized to execute a no-arbitrage certificate in order to comply with Section 148 of the Internal Revenue Code of 1986, as amended, and the applicable regulations promulgated thereunder.

Section 8. The Chief Financial Officer of the City is hereby authorized to pursue the refunding of the 2011 Bonds if the City can achieve net present value savings from the refunding of the 2011 Bonds.

The Chief Financial Officer of the City is hereby authorized to pursue the refunding of the 2006B Bonds and negotiate the termination of the Swap Agreement if she determines in her discretion that it is advantageous to the City for any or all of the purposes of fixing the interest cost of the City, lowering the City’s risk and achieving savings for the City. The City Manager and the Chief Financial Officer of the City, or their respective designees, individually or collectively, are each hereby authorized to do any and all other things necessary to complete the steps necessary for the refunding of the 2006B Bonds and the termination of the Swap Agreement, to retain such professionals as may be necessary and prudent to carry out the termination and seek approval from the North Carolina Local Government Commission for such

termination. The City Manager and the Chief Financial Officer of the City, or their respective designees, individually or collectively, are each hereby authorized to execute and deliver any agreements and other necessary documentation to terminate the Swap Agreement as described in this Resolution and to pay any termination payment owed Wells Fargo Bank, National Association in connection therewith.

Section 9. No stipulation, obligation or agreement herein contained or contained in the 2022 Bonds, the General Indenture, the Series Indenture, the Purchase Agreement or any other instrument related to the issuance of the 2022 Bonds shall be deemed to be a stipulation, obligation or agreement of any officer, agent or employee of the City in his or her individual capacity, and no such officer, agent or employee shall be personally liable on the 2022 Bonds or be subject to personal liability or accountability by reason of the issuance thereof.

Section 10. The Authorized Officers are hereby authorized, empowered and directed to do any and all other acts and to execute any and all other documents, which they, in their discretion, deem necessary and appropriate in order to consummate the transactions contemplated by (a) this Resolution, (b) the General Indenture, (c) the Series Indenture and (d) the Purchase Agreement; except that none of the above shall be authorized or empowered to do anything or execute any document which is in contravention, in any way, of (1) the specific provisions of this Resolution, (2) the specific provisions of the General Indenture, the Series Indenture or the Purchase Agreement, (3) any agreement to which the City is bound, (4) any rule or regulation of the City or (5) any applicable law, statute, ordinance, rule or regulation of the United States of America or the State of North Carolina.

Section 11. All acts and doings of the Authorized Officers previously taken and required to be taken in the future that are in conformity with the purposes and intents of this Resolution, the furtherance of the issuance of the 2022 Bonds, the execution, delivery and performance of the Series Indenture, the Purchase Agreement and the refundings described herein are hereby in all respects ratified, approved and confirmed. Any provision in this Resolution that authorizes more than one officer of the City to take certain actions shall be read to permit such officers to take the authorized actions either individually or collectively.

Section 12. If any one or more of the agreements or provisions herein contained shall be held contrary to any express provision of law or contrary to the policy of express law, though not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements or provisions shall be null and void and shall be deemed separable from the remaining agreements and provisions and shall in no way affect the validity of any of the other agreements and provisions hereof or of the 2022 Bonds authorized hereunder.

Section 13. All resolutions or parts thereof of the City Council in conflict with the provisions herein contained are, to the extent of such conflict, hereby superseded and repealed.

Section 14. This Resolution is effective on its adoption.

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

I, _____, the _____ of the City of Charlotte, North Carolina, ***DO HEREBY CERTIFY*** that the foregoing is a true and exact copy of a resolution entitled “**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHARLOTTE, NORTH CAROLINA, FOR THE APPROVAL, EXECUTION AND DELIVERY OF CITY OF CHARLOTTE, NORTH CAROLINA WATER AND SEWER SYSTEM REVENUE BONDS, SERIES 2022 AND OTHER MATTERS**” adopted by the City Council of the City of Charlotte, North Carolina, at a meeting held on the 11th day of July, 2022, 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 _____, 2022.

City Clerk
City of Charlotte, North Carolina