

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 7:00 p.m. on April 22, 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 OF CHARLOTTE, NORTH CAROLINA AUTHORIZING AND APPROVING AN INSTALLMENT FINANCING CONTRACT 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 Installment Purchase Contract dated as of January 1, 2007, and an amendment thereto dated as of September 1, 2009 (collectively, the "*Existing Contract*"), with New Charlotte Corporation (the "*Corporation*") to finance and refinance, in part, cultural arts facilities in the City, including the acquisition, construction and equipping of the Bechtler Museum, the Mint Museum Annex, the Harvey B. Gantt Afro-American Cultural Center and a Performing Arts Center and the expansion of Discovery Place (collectively, the "*Cultural Arts Facilities*");

WHEREAS, the Corporation, to assist the City in financing and refinancing the Cultural Arts Facilities executed and delivered Certificates of Participation (Cultural Arts Facilities), Series 2009E (the “2009E Certificates”);

WHEREAS, the City Council of the City (the “City Council”) hereby determines that it is in the best interest of the City to enter into an installment financing contract (the “Contract”) with New Charlotte Corporation (the “Corporation”) (1) refinance the City’s installment payment obligations under the Existing Contract corresponding to the outstanding 2009E Certificates and (2) to pay certain costs incurred in connection with the execution and delivery of the Contract;

WHEREAS, in connection with the execution and delivery of the Contract, and to secure its obligations thereunder, the City Council hereby further determines that it is in the best interest of the City to authorize the City to enter into a deed of trust, security agreement and fixture filing (the “Deed of Trust”) related to all or some of the City’s interest in the Cultural Arts Facilities and any real property related thereto (the “Mortgaged Property”), as may be required for the benefit of the entity, or its assigns, providing the funds to the City under the Contract, including any future amendments thereto;

WHEREAS, City hereby determines that the Cultural Arts Facilities and the refunding of the 2009E Certificates is essential to the City’s proper, efficient and economic operation and to the general health and welfare of its inhabitants; that the Cultural Arts Facilities provide an essential use and permit the City to carry out public functions that it is authorized by law to perform; that refinancing the 2009E Certificates will enable the City to achieve debt service savings; and that entering into the Contract and Deed of Trust is necessary and expedient for the City by virtue of the findings presented herein;

WHEREAS, the City hereby determines that entering into the Contract allows the City to refinance the 2009E 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 refinancing the 2009E Certificates is an amount not to exceed \$120,000,000, 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 refinancing the 2009E Certificates pursuant to the Contract is expected to exceed the cost of refinancing the 2009E Certificates pursuant to a bond financing for the same undertaking, the City hereby determines that the cost refinancing the 2009E Certificates pursuant to the Contract 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 refinancing the 2009E Certificates; and (3) insufficient revenues are produced by the Cultural Arts Facilities so as to permit a revenue bond financing;

WHEREAS, the City has determined and hereby determines that the estimated cost of refinancing the 2009E Certificates pursuant to the Contract 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 Contract;

WHEREAS, the sums to fall due under the Contract 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 Contract and the transactions contemplated thereby are authorized by law;

WHEREAS, the obligation of the City to make installment payments under the Contract 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 Contract;

WHEREAS, no deficiency judgment may be rendered against the City in any action for its breach of the Contract;

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, to assist the City in refinancing the Cultural Arts Facilities and refunding the 2009E Certificates, the Corporation will execute and deliver certificates of participation to evidence proportionate undivided interests in rights to receive certain payments pursuant to the Contract (the "*2019B Certificates*");

WHEREAS, in connection with the sale of the 2019B Certificates by the Corporation to Wells Fargo Bank, National Association and Merrill Lynch, Pierce, Fenner & Smith Incorporated (collectively, the "*Underwriters*"), the Corporation will enter into the Contract of Purchase (as defined below) and the City will execute a Letter of Representation to the Underwriters (the "*Letter of Representation*");

WHEREAS, there have been described to the City Council the forms of the following documents (collectively, the "*Instruments*"), copies of which have been made available to the City Council, which the City Council proposes to approve, enter into and deliver, as applicable, to effectuate the proposed installment financing:

- (1) the Contract;
- (2) the Deed of Trust;

(3) an Indenture of Trust dated as of June 1, 2019 (the “*Indenture*”) between the Corporation and U.S. Bank National Association;

(4) a Contract of Purchase to be dated on or about May 9, 2019 (the “*Contract of Purchase*”) between the Corporation and the Underwriters; and

(5) the Letter of Representation;

WHEREAS, to make an offering and sale of the 2019B Certificates, there will be prepared a Preliminary Official Statement (the “*Preliminary Official Statement*”), a draft thereof having been made available to the City Council, and a final Official Statement (collectively with the Preliminary Official Statement, the “*Official Statement*”) with respect to the 2019B Certificates, which Official Statement will contain certain information regarding the City;

WHEREAS, it appears that each of the Instruments and the Preliminary Official Statement is in an appropriate form and is an appropriate instrument for the purposes intended;

WHEREAS, the City Council conducted a public hearing on April 22, 2019 to receive public comment concerning the approval of the execution and delivery of the Contract and the Deed of Trust and the City’s refinancing of the Cultural Arts Facilities; and

WHEREAS, the City has filed with the LGC an application with respect to the Contract and approval of the LGC with respect to entering into Contract must be received;

WHEREAS, with respect to the Contract and the 2019B Certificates, Parker Poe Adams & Bernstein LLP will serve as special counsel and Corporation’s counsel, DEC Associates, Inc. will serve as financial advisor, Waters and Company LLC will serve as financial consultant, Wells Fargo Bank, National Association and Merrill Lynch, Pierce, Fenner & Smith Incorporated will serve as underwriters, U.S. Bank National Association will serve as trustee and McGuireWoods LLP will serve as underwriters’ counsel, (collectively, the “*Financing Team*”);

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

Section 1. Ratification of Instruments. All actions of the City, the Mayor, the City Manager, the Deputy City Manager, the Finance Officer (as defined in §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*”), whether previously or hereinafter taken, in effectuating the proposed financing are hereby approved, ratified and authorized pursuant to and in accordance with the transactions contemplated by the Instruments.

Section 2. Authorization of the Official Statement. The form, terms and content of the Official Statement are in all respects authorized, approved and confirmed, and the use of the Official Statement by the Underwriters in connection with the sale of the 2019B Certificates is hereby in all respects authorized, approved and confirmed.

Section 3. Authorization to Execute the Contract. The City approves the refinancing of the Cultural Arts Facilities pursuant to the Contract, which will be a valid, legal and binding obligation of the

City in accordance with its terms. The form and content of the Contract are hereby authorized, approved and confirmed in all respects, and the Authorized Officers are hereby authorized, empowered and directed to execute and deliver the Contract, including necessary counterparts, in substantially the form and content presented to the City Council, but with such changes, modifications, additions or deletions therein as they may deem necessary, desirable or appropriate. Execution by the Authorized Officers of the Contract will constitute conclusive evidence of the City's approval of any and all changes, modifications, additions or deletions therein from the form and content of the Contract presented to the City Council. From and after the execution and delivery of the Contract, 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 Contract as executed.

Section 4. *Authorization to Execute the Deed of Trust.* The City approves the form and content of the Deed of Trust and the Deed of Trust is hereby authorized, approved and confirmed in all respects. The Authorized Officers are hereby authorized, empowered and directed to execute and deliver the Deed of Trust, including necessary counterparts, in substantially the form and content presented to the City Council, but with such changes, modifications, additions or deletions therein as they may deem necessary, desirable or appropriate. Execution by the Authorized Officers of the Deed of Trust will constitute conclusive evidence of the City's approval of any and all such changes, modifications, additions or deletions therein from the form and content of the Deed of Trust presented to the City Council. From and after the execution and delivery of the Deed of Trust, 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 Deed of Trust as executed.

Section 5. *Letter of Representation.* The form and content of the Contract of Purchase are hereby approved in all respects. The Mayor, the City Manager, the Deputy City Manager, the Finance Officer, or their respective designees, are authorized to execute the Letter of Representation for the purposes stated therein.

Section 6. *City Representative.* The Authorized Officers are hereby designated as the City's representatives to act on behalf of the City in connection with the transaction contemplated by the Instruments and the Official Statement. Each Authorized Officer is authorized to proceed with the refinancing of the Cultural Arts Facilities in accordance with the Instruments and to seek opinions as a matter of law from the City Attorney, which City Attorney is authorized to furnish on behalf of the City, and opinions of law from such other attorneys for all documents contemplated hereby as required by law. The City's representatives or designees are in all respects authorized on behalf of the City to supply all information pertaining to the City as purchaser under the Contract for use in the Official Statement and the transactions contemplated by the Instruments or the Official Statement. 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 or appropriate to consummate the transactions contemplated by the Instruments or the Official Statement or as they deem necessary or appropriate to implement and carry out the intent and purposes of this Resolution including the on-going administration of the Instruments. Any and all acts of the Authorized Officers authorized by this Resolution may be done individually or collectively.

Section 7. *Financing Team.* The Financing Team for the Contract and the 2019B Certificates is hereby approved.

*Section 8. **Severability.*** If any section, phrase or provision of this Resolution is for any reason declared to be invalid, such declaration will not affect the validity of the remainder of the sections, phrases or provisions of this Resolution.

*Section 9. **Repealer.*** All motions, orders, resolutions and parts thereof in conflict with this Resolution are hereby repealed.

*Section 10. **Effective Date.*** This Resolution is effective on the date of 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
**“RESOLUTION OF THE CITY OF CHARLOTTE, NORTH CAROLINA AUTHORIZING AND APPROVING AN
INSTALLMENT FINANCING CONTRACT AND PROVIDING FOR CERTAIN OTHER RELATED MATTERS
THERE TO”** adopted by the City Council of the City of Charlotte, North Carolina, at a meeting held on the
22nd day of April, 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.

[Seal]

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