

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 APPROVING AN AMENDMENT TO AN INSTALLMENT PURCHASE CONTRACT WITH NEW CHARLOTTE CORPORATION TO REFINANCE CERTAIN FACILITIES RELATED TO THE NASCAR HALL OF FAME AND OTHER RELATED MATTERS

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 and New Charlotte Corporation (the "*Corporation*") previously entered into an Installment Purchase Contract dated as of February 1, 2007, as amended and supplemented (the "*Original Contract*") in order to finance and refinance (1) the construction, equipping and furnishing of the NASCAR Hall of Fame (the "*HOF*"), (2) the construction, equipping and furnishing of a ballroom to be connected to the HOF and the Convention Center (the "*Ballroom*"), (3) the construction of a parking facility adjacent to the HOF (the "*Parking Facility*"), (4) the renovation and improvement of the Convention Center to allow for light rail (the "*Convention Center Renovation*" and collectively with the HOF, the Ballroom and the Parking Facility, the "*Projects*") and (5) costs related to the execution and delivery of the Original Contract;

WHEREAS, the Corporation, to assist the City in financing and refinancing the Projects, executed and delivered Certificates of Participation (NASCAR Hall of Fame Facilities), Series 2009C evidencing proportionate undivided interests in rights to receive certain Revenues under the Original Contract (the “2009C Certificates”) under an Indenture of Trust dated as of February 1, 2007, as amended and supplemented (the “General Indenture”) and Supplemental Indenture, Number 2 dated as of June 1, 2009 each between the Corporation and U.S. Bank National Association, as trustee (the “Trustee”);

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 Amendment Number Three to the Original Contract dated as of June 1, 2019 (the “Contract Amendment,” and together with the Original Contract, the “Contract”) with the Corporation in order to obtain funds to pay (1) the cost of prepaying the portion of the City’s installment payments under the Original Contract corresponding to the 2009C Certificates maturing on June 1, 2039 (the “Refunded Certificates”) and (2) certain costs incurred in connection with the execution and delivery of the Contract Amendment;

WHEREAS, to assist the City in refinancing the Projects and prepaying the Refunded Certificates, the Corporation will execute and deliver Refunding Certificates of Participation (NASCAR Hall of Fame Public Facilities), Series 2019C (the “2019C Certificates”) under the General Indenture and Supplemental Indenture, Number 4 dated as of June 1, 2019 between the Corporation and the Trustee, evidencing proportionate undivided interests in rights to receive certain Revenues (as defined in the Contract) pursuant to the Contract;

WHEREAS, in connection with the sale of the 2019C 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 Amendment;
- (2) the Letter of Representation; and
- (3) a Contract of Purchase relating to the 2019C Certificates between the Corporation and the Underwriters (the “Contract of Purchase”);

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

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

WHEREAS, City hereby determines that the prepayment of the Refunded Certificates in order to refinance the Projects is essential to the City’s proper, efficient and economic operation and to the general health and welfare of its inhabitants; that the Projects continue to provide an essential use and permit the

City to carry out public functions that it is authorized by law to perform; that prepaying the 2019C Certificates will enable the City to achieve debt service savings; and that entering into the Contract Amendment is necessary and expedient for the City by virtue of the findings presented herein;

WHEREAS, the City hereby determines that entering into the Contract Amendment allows the City to prepay 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 prepaying the Refunded Certificates is an amount not to exceed \$40,000,000, 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 prepaying the Refunded Certificates pursuant to the Contract Amendment is expected to exceed the cost of prepaying the Refunded Certificates pursuant to a bond financing for the same undertaking, the City hereby determines that the cost prepaying the Refunded Certificates pursuant to the Contract Amendment 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 decrease the financial benefits of completing the prepayment of the Refunded Certificates; and (3) insufficient revenues are produced by the Projects so as to permit a revenue bond financing;

WHEREAS, the City hereby determines that the estimated cost of prepaying the Refunded Certificates pursuant to the Contract Amendment 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 Amendment 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, the City has filed with the LGC an application with respect to the Contract Amendment and approval of the LGC with respect to entering into Contract must be received;

WHEREAS, with respect to the Contract Amendment and the 2019C 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*"); and

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 Amendment and the City's prepayment of the Refunded Certificates in order to refinance of the Projects;

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, individually and collectively (the "*Authorized Officers*"), whether previously or hereinafter taken, in effectuating the proposed financing are 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. The use of the Official Statement by the Underwriters in connection with the sale of the 2019C Certificates is in all respects authorized, approved and confirmed.

Section 3. Authorization to Execute the Contract Amendment. The City approves the prepayment of the Refunded Certificates in order to refinance the Projects pursuant to the Contract Amendment in an amount not to exceed \$40,000,000, which will be a valid, legal and binding obligation of the City in accordance with its terms. The form and content of the Contract Amendment are in all respects authorized, approved and confirmed. The Authorized Officers are authorized, empowered and directed to execute and deliver the Contract Amendment, 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 Amendment will constitute conclusive evidence of the City Council's approval of any and all changes, modifications, additions or deletions therein from the form and content

of the Contract Amendment presented to the City Council. From and after the execution and delivery of the Contract Amendment, the Authorized Officers are 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. **Letter of Representation.*** The form and content of the Contract of Purchase are in all respects authorized, approved and confirmed. 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 5. **City Representative.*** The Authorized Officers are 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 prepayment of the Refunded Certificates and refinancing of the Projects 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 as required by law. The City's representatives or designees are in all respects authorized on behalf of the City to supply to the Underwriters all information pertaining to the City as required for use in the Official Statement and the transactions contemplated by the Instruments or the Official Statement. The Authorized Officers are 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.

*Section 6. **Financing Team.*** The Financing Team for the Contract Amendment and the 2019C Certificates is in all respects authorized, approved and confirmed. The Authorized Officers are hereby authorized to retain any other professionals they deem necessary to complete the transaction contemplated by this Resolution.

*Section 7. **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 8. **Repealer.*** All motions, orders, resolutions and parts thereof in conflict with this Resolution are repealed.

*Section 9. **Effective Date.*** This Resolution is effective on the date of its adoption.

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

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 OF CHARLOTTE, NORTH CAROLINA APPROVING AN AMENDMENT TO AN INSTALLMENT PURCHASE CONTRACT WITH NEW CHARLOTTE CORPORATION TO REFINANCE CERTAIN FACILITIES RELATED TO THE NASCAR HALL OF FAME AND OTHER RELATED MATTERS**” 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