

**City Council – Action Request Form**

**Date:** July 20, 2009

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**To:** The City Manager

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**From:** Denise Bell, Chief Financial Officer  
Gregory M. Turner, Assistant City Manager

**Council Action Requested:**

1. Adopt a Resolution of the City of Winston-Salem, North Carolina Directing the Application to the Local Government Commission for Approval of a Taxable Special Obligation Bond; Requesting Local Government Commission Approval of the City’s Taxable Special Obligation Bond; and Certain Related Matters.
2. Adopt Resolution Clarifying the Terms for the Acquisition of Property from Brookstown Development Partners, LLC and Sports Menagerie, LLC.

**Summary of Information:**

The City anticipated \$12.7 million of its additional funding for the Brookstown Project would be financed by Branch Bank and Trust. To start that process, City Council approved on June 17, 2009 a resolution directing application to the Local Government Commission for approval of the financing with Branch Bank and Trust. The City has since obtained more favorable financing terms with First Tennessee Bank to fund the \$12.7 million. First Tennessee Bank has a location in downtown Winston-Salem and is part of First Horizon National Corporation, the nation’s twenty-fourth largest commercial bank. We are requesting City Council approve the attached resolution directing application to the Local Government Commission for approval of a Taxable Special Obligation Bond to be provided through First Tennessee Bank. It should also be noted that Stewart Holmes, who serves as Chairman for the Winston-Salem Police Officers’ Retirement Commission is a Senior Vice President for First Tennessee Bank. The City Attorney has reviewed Mr. Holmes relationship with the City and determined there is no conflict of interest in this financing transaction.

**Committee Action:**

<b>Committee</b>	<b>Action</b>
_____	_____
<b>For</b>	<b>Against</b>
_____	_____

**Remarks:**

On June 17, 2009, the City Council authorized the acquisition of the land under the footprint of the stadium, adjacent land for on-site parking and easements for off site parking, the procurement of subordinated security interest in the improvements on the stadium land from Sports Menagerie, LLC, and Phase II land owned by Brookstown Development Partners (“BDP”). Exhibit A attached to the resolution indicated that the City would immediately receive a security interest in the stadium building and receive clear title to the stadium at the end of a 25 year ground lease. In addition, the terms indicated that the City would receive title to land for parking on (Lot 2) or easements for parking during the time events are occurring at the stadium.

Subsequent conversations with the developer have resulted in two structural clarifications. First, the City will now immediately at closing receive title to the stadium building subject to a 25 year ground lease to BDP and Sports Menagerie Stadium (“SMS”), their affiliates, successors and assigns, with a first lien leasehold deed of trust to the Bank Group for the \$15 million dollar construction loan. This change enhances the City’s security position in the acquisition, and still requires SMS to pay property taxes on the stadium.

Secondly, for parking on Lot 2, the City will receive title to the land, or an easement on the land, or would require an alternative parking plan approved by the City Council. In the event, access to Lot 2 and/or other adjacent parking lots is restricted in future years by planned Phase II construction or by an action of a lien holder, SMS would be required to develop an alternative parking plan that was subject to City Council approval. An alternative plan would most likely include the use of nearby public and private parking decks and lots, with a shuttle system.

The attached resolution authorizes these structural clarifications.

D-26999

D-27220

**RESOLUTION OF THE CITY OF WINSTON-SALEM, NORTH CAROLINA, DIRECTING THE APPLICATION TO THE LOCAL GOVERNMENT COMMISSION FOR APPROVAL OF A TAXABLE SPECIAL OBLIGATION BOND; REQUESTING LOCAL GOVERNMENT COMMISSION APPROVAL OF THE CITY'S TAXABLE SPECIAL OBLIGATION BOND; AND CERTAIN RELATED MATTERS**

**WHEREAS**, the City Council (the "*City Council*") of the City of Winston-Salem, North Carolina (the "*City*"), hereby determines that it is necessary to improve a municipal service district known as the Central Business District, including acquisition of land and rights-of-way and easements in connection therewith, to provide for a downtown minor league baseball stadium, related parking facilities and other improvements further the public welfare, and convenience (the "*Project*"); and

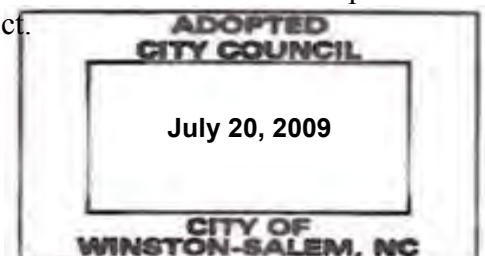
**WHEREAS**, the City Council is considering the issuance of not to exceed \$13,000,000 in principal amount of a Taxable Special Obligation Bond, Series 2009 (the "*2009 Bond*") to finance the Project and pay the costs of issuing the 2009 Bond; and

**WHEREAS**, the City Council has determined to (1) retain Parker Poe Adams & Bernstein LLP of Charlotte, North Carolina, as bond counsel, (2) retain DEC Associates, Inc. of Charlotte, North Carolina, as financial advisor, (3) retain The Bank of New York Mellon Trust Company, N.A., as trustee, in connection with the issuance by the City of the 2009 Bonds, and (4) place the 2009 Bond with First Tennessee Bank, National Association (collectively, the "*Financing Team*"); and

**WHEREAS**, the City Council wants the Chief Financial Officer of the City to file with the North Carolina Local Government Commission (the "*Commission*") an application for its approval of the 2009 Bond, on a form prescribed by the Commission, and (1) request in such application that the Commission approve (a) the negotiation of the sale of the 2009 Bond to First Tennessee Bank, National Association, (b) the City's use of Parker Poe Adams & Bernstein LLP, as bond counsel for the City, (c) the City's use of DEC Associates, Inc., as financial advisor, and (d) the City's use of The Bank of New York Mellon Trust Company, N.A., as trustee, and (2) state in such application such facts and to attach thereto such exhibits in regard to the 2009 Bond and to the City and its financial condition, as may be required by the Commission, and to take all other action necessary to the issuance of the 2009 Bond.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Winston-Salem, North Carolina, as follows:

**Section 1.** That the 2009 Bond is to be issued by the City for the purpose of providing funds (1) to finance the costs of the Project and (2) to pay the costs of issuing the 2009 Bond all as set out fully in the documents attached to the City's application to the Commission. The use of the proceeds of the 2009 Bond, as described, is necessary in order to meet the expanding needs of the users of the municipal service district known as the Central Business District.



**Section 2.** That the use of the Financing Team in connection with the issuance by the City of the 2009 Bond is hereby ratified.

**Section 3.** That the Chief Financial Officer of the City with advice from the City Manager, the City Attorney, and bond counsel, is hereby authorized, directed, and designated to file an application with the North Carolina Local Government Commission for its approval of the issuance of the 2009 Bond.

**Section 4.** That the City Council finds and determines and asks the Commission to find and determine from the City's application and supporting documentation:

- (a) that the issuance of the 2009 Bond is necessary or expedient;
- (b) that the not to exceed stated principal amount of the 2009 Bond will be sufficient but is not excessive, when added to other moneys available to the City, for the proposed Project and to refund the Refunded Bonds;
- (c) that the City's debt management procedure and policies are excellent; and
- (d) that the 2009 Bond can be marketed at a reasonable interest cost to the City.

**Section 5.** The City Council has considered and evaluated fixed rate and variable rate financing alternatives and has determined to incur variable rate indebtedness in order to take advantage of short-term interest rates and to preserve the option to prepay the 2009 Bond at any time without a prepayment premium. The City Council recognizes that (a) variable rate debt instruments are subject to risk of higher interest rates in the future and (b) that additional costs are associated with variable rate financings. However, the City Council hereby determines that a variable rate financing is in the best interests of the City for its current financing needs.

**Section 6.** That the Mayor, the City Manager, and the Chief Financial Officer are hereby authorized to do any and all other things necessary to complete the steps necessary for the issuance of the 2009 Bond.

**Section 7.** That the City Council requests that the Commission sell the 2009 Bond through negotiation with First Tennessee Bank, National Association, on such terms as may be agreed on but at a maximum interest cost rate not exceeding 15.00%.

**Section 8** That this Resolution is effective on the date of its adoption.

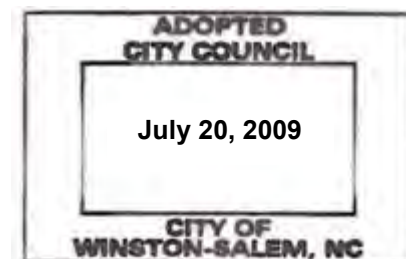
**RESOLUTION CLARIFYING THE TERMS FOR THE ACQUISITION OF  
PROPERTY FROM BROOKSTOWN DEVELOPMENT PARTNERS, LLC  
AND SPORTS MENAGERIE, LLC**

**WHEREAS**, the City Council, on June 17, 2009 authorized the acquisition of the land under the footprint of the stadium, adjacent land for on-site parking and easements for off site parking, and the procurement of subordinated security interest in the improvements on the stadium land from Sports Menagerie, LLC, and Phase II land owned by Brookstown Development Partners, LLC (“BDP”); and

**WHEREAS**, The terms of the acquisition indicated that the City would immediately receive a security interest in the stadium building and receive title to the stadium at the end of a 25 year ground lease. In addition, the terms indicated that the City would receive title to land for parking on (Lot 2) or easements for parking during the time events are occurring at the stadium; and

**WHEREAS**, continued discussions with the developer and the lenders have resulted in a two structural clarifications. First, the City would now immediately receive title to the stadium building subject to a 25 year ground lease to Brookstown BDP and Sports Menagerie Stadium (“SMS”), their affiliates, successors and assigns, with a first lien leasehold deed of trust to the Bank Group for the \$15 million dollar construction loan. Secondly, for parking on Lot 2, the City would receive title to the land, or an easement on the land, or would require an alternative parking plan reviewed by Holly Avenue, West End, West End Village, West Salem and other surrounding areas prior to review and approval by the City Council..

**NOW, THEREFORE, BE IT RESOLVED**, that the Winston-Salem City Council authorizes the attached amendment to Exhibit A clarifying the terms of acquisition for the stadium and adjacent parking.



APPROVED

**BE IT FURTHER RESOLVED** that the City Manager and City Secretary are hereby authorized to execute all documents necessary to effectuate the actions authorized by this resolution.