

## RESOLUTION AUTHORIZING THE EXCHANGE OF REAL PROPERTY

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**WHEREAS**, the City of Charlotte (“City”) owns a 3.262 acre ± parcel of real property located across from the NASCAR Hall of Fame in Council District 1, bounded by South Caldwell Street, East Brooklyn Village Avenue and South Davidson Street, and identified as all of Tax Parcel No. 125-071-08 (the “Entire City Parcel”);

**WHEREAS**, 401 S. College Street NC, LLC, a Delaware limited liability company (“401 College”), is under contract to purchase from Duke Energy the 2.3 acre ± parcel located at the corner of South College Street and East Martin Luther King Jr. Boulevard in Council District 1, and identified as all of Tax Parcel No. 125-062-01 (the “Entire 401 College Parcel”);

**WHEREAS**, the City and Charlotte Regional Visitors Authority (“CRVA”) propose to exchange the southwesternmost 1.9 acre ± portion of the Entire City Parcel (the “City Portion”) for the northernmost 0.7 acre ± portion of the 401 College Property (the “401 College Portion”), which are more particularly described on the attached map. 401 S College proposes to convey the 401 College Portion subject to a deed restriction preventing residential or office development for a period of five (5) years from the date of the conveyance, excluding the operation of a hotel and office uses that are incidental to the permitted hotel use; however, in the event 401 College, its successors or assigns, elects to develop a hotel use on its 401 S. College St. project, the deed restriction on the 401 College Portion shall expire; the City Portion will be conveyed by City to 401 College “as is” and “with all faults”;

**WHEREAS**, an appraisal dated November 15, 2022 estimates the fair market value of the City Portion to be \$18,456,000.00 and the 401 S College Portion to be \$12,017,500.00;

**WHEREAS**, in addition to the 401 S College Portion, the City proposes to receive the following consideration: 1) following its acquisition from Duke Energy, at 401 College’s sole cost, the existing data center structure on the Entire 401 College Parcel will be demolished; the apportionment of the cost allocated to demolition on the 401 College Portion is valued at \$2,500,000; thereafter, the 401 College Portion shall be conveyed to City as a vacant lot; and 2) redevelopment of the Convention Center Plaza (limited to the 29,236 SF common area) will be the responsibility of 401 College and its development partners and will include landscaping, seating areas, public facilities. 401 College will be granted an exclusive temporary construction easement to redevelop the Convention Center Plaza in connection with its development of the 401 South College Parcel. The final design of the Convention Center Plaza will be subject to approval by the City

and CRVA, which approvals will be in the City's and CRVA's sole discretion. The cost of the redevelopment will be at least \$4,000,000;  
**WHEREAS**, CRVA is supportive of the transaction described herein;

**WHEREAS**, this transaction shall be submitted and reviewed by the Planning Committee of the Charlotte-Mecklenburg Planning Commission in accordance with Mandatory Referral Legislation before the exchange of the real property contemplated hereby; and

**WHEREAS**, in accordance with NCGS §160A-271, notice of the proposed exchange was advertised at least ten (10) days prior to the adoption of this Resolution.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council for the City of Charlotte, that, pursuant to North Carolina Gen. Stat. §160A-271, it hereby authorizes the conveyance of the above described real property to 401 College in exchange for the receipt of real property from 401 College, as set out hereinabove; and

The City Manager, or his designee, is authorized to execute all documents necessary to complete the above-described exchange of real property in accordance with the terms and conditions hereof.

THIS THE 28<sup>th</sup> DAY OF NOVEMBER 2022.

**CERTIFICATION**

I, Stephanie C. Kelly, City Clerk of the City of Charlotte, North Carolina, DO HEREBY CERTIFY that the foregoing is a true and exact copy of a Resolution adopted by the City Council of the City of Charlotte, North Carolina, in regular session convened on the 28<sup>th</sup> day of November 2022, the reference having been made in Minute Book 157 and recorded in full in Resolution Book 53, Page(s) 540-541.

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this 28<sup>th</sup> day of November 2022.



Stephanie C. Kelly, City Clerk, MMC, NCCMC

**RESOLUTION PROVIDING APPROVAL OF INLIVIAN'S ISSUANCE OF ITS MULTIFAMILY HOUSING REVENUE BONDS IN AN AMOUNT NOT TO EXCEED \$17,000,000 FOR THE FINANCING OF A MULTIFAMILY HOUSING FACILITY TO BE KNOWN AS 8<sup>TH</sup> & TRYON IN THE CITY OF CHARLOTTE, NORTH CAROLINA**

WHEREAS, the City Council (the "City Council") of the City of Charlotte (the "City") met in Charlotte, North Carolina at 6:30 p.m. on the 28<sup>th</sup> day of November, 2022; and

WHEREAS, INLIVIAN (the "Issuer") has tentatively agreed to issue its multifamily housing revenue bonds in an amount not to exceed \$17,000,000 (the "Bonds"), for the purpose of financing the acquisition, construction and equipping by 8th and Tryon AUOE, LLC, a North Carolina limited liability company, or an affiliated or related entity (the "Borrower"), of a qualified residential rental project (the "Development"); and

WHEREAS, the Development will consist of approximately 106 affordable housing units in one residential building and related facilities, located on an approximately 2.2-acre site at 426 N. Tryon Street in the City of Charlotte, Mecklenburg County, North Carolina; and

WHEREAS, such building will also contain 247 market rate apartment units that will be owned by a separate entity and are not being financed with the Bonds; and

WHEREAS, Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code"), requires that any bonds issued by the Issuer for the Development may only be issued after approval of the plan of financing by the City Council of the City following a public hearing with respect to such plan; and

WHEREAS, on November 7, 2022, the Issuer held a public hearing with respect to the issuance of the Bonds to finance, in part, the Development (as evidenced by the Certificate and Summary of Public Hearing attached hereto) and has requested the City Council to approve the issuance of the Bonds as required by the Code; and

WHEREAS, on December 13, 2021, the City Council adopted a resolution approving the issuance of the Bonds solely to satisfy the requirements of Section 147(f) of the Code; and

WHEREAS, under the Code, bonds approved by an elected body for purposes of Section 147(f) of the Code must be issued within one year of the date of such approval; and

WHEREAS, due to an unexpected delay in completing the financing for the Development, the closing of the Bonds has been delayed such that the Bonds may not be issued by December 13, 2022, and the Issuer and the Borrower have requested the City Council reaffirm its approval of the issuance of the Bonds for purposes of Section 147(f) of the Code; and

WHEREAS, the City has determined that approval of the Issuer's issuance of the Bonds is solely to satisfy the requirement of Section 147(f) of the Code and shall in no event constitute an endorsement of the Bonds or the Development or the creditworthiness of the Borrower, nor shall such approval in any event be construed to obligate the City of Charlotte, North Carolina for the payment of the principal of or premium or interest on the Bonds or for the performance of any

pledge, mortgage or obligation or agreement of any kind whatsoever which may be undertaken by the Issuer, or to constitute the Bonds or any of the agreements or obligations of the Issuer an indebtedness of the City of Charlotte, North Carolina, within the meaning of any constitutional or statutory provision whatsoever;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CHARLOTTE:

1. The issuance of the Issuer's multifamily housing revenue bonds for the proposed housing development consisting of the acquisition, construction and equipping of the Development described above in the City of Charlotte, North Carolina by the Borrower and in an amount not to exceed \$17,000,000 is hereby approved for purposes of Section 147(f) of the Code.

2. This resolution shall take effect immediately upon its passage.

#### **CERTIFICATION**

I, Stephanie C. Kelly, City Clerk of the City of Charlotte, North Carolina, DO HEREBY CERTIFY that the foregoing is a true and exact copy of a Resolution adopted by the City Council of the City of Charlotte, North Carolina, in regular session convened on the 28<sup>th</sup> day of November 2022, the reference having been made in Minute Book 157 and recorded in full in Resolution Book 53, Page(s) 542-545.

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this 28<sup>th</sup> day of November 2022.



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Stephanie C. Kelly, City Clerk, MMC, NCCMC

**Exhibit A**

**Certificate and Summary of Public Hearing**

(Attached)

### CERTIFICATE AND SUMMARY

The undersigned designated hearing officer of INLIVIAN hereby certifies as follows:

1. Notice of a public hearing (the "Hearing") to be held on November 7, 2022, with respect to the issuance of bonds by INLIVIAN for the benefit of 8th and Tryon AUOE, LLC, a North Carolina limited liability company, or an affiliate or subsidiary thereof (the "Borrower") was published on October 31, 2022, in *The Charlotte Observer*.
2. I was the hearing officer for the Hearing.
3. The following is a list of names and addresses of all persons who spoke at the Hearing:

None

4. The following is a summary of the oral comments made at the Hearing:

None

IN WITNESS WHEREOF, my hand this 7<sup>th</sup> day of November, 2022.



By: \_\_\_\_\_

Name: Kevin Boyett

Title: Hearing Officer

A RESOLUTION AUTHORIZING CONDEMNATION PROCEEDINGS  
FOR THE ACQUISITION OF CERTAIN REAL PROPERTY

WHEREAS, the City Council of the City of Charlotte finds as a fact that it is necessary to acquire certain property as indicated below for the **NORTH TRYON PRESSURE ZONE BOUNDARY CHANGE AND 960 ZONE N-S TRANSMISSION MAIN (HIDDEN VALLEY)** Project; and

WHEREAS, the City either in good faith has undertaken to negotiate for the purchase of this property but has been unable to reach an agreement with the owners for the purchase price or, after reasonable diligence, has been unable to negotiate a purchase price;

NOW, THEREFORE, BE IT RESOLVED by the City Council of The City of Charlotte that condemnation proceedings are hereby authorized to be instituted against the property indicated below, under the authority and procedures of the laws of the State of North Carolina:

PROPERTY DESCRIPTION:

Amount necessary for the **NORTH TRYON PRESSURE ZONE BOUNDARY CHANGE AND 960 ZONE N-S TRANSMISSION MAIN (HIDDEN VALLEY)** Project estimated to be:

**8,000 sq. ft. (0.18 ac.) in Fee Simple**  
**2,199 sq. ft. (0.05 ac.) in Permanent Utility Easement**

and any additional property or interest as the City may determine to complete the Project as it relates to **Tax Parcel No. 047-011-10**; said property currently owned by **Kinza, Inc.** and or their owners' successors in interest.

ESTIMATED JUST COMPENSATION:

Such estimated just compensation as may be determined based upon the takings required by the final construction plans.

IT IS FURTHER RESOLVED that the estimated just compensation for the property is hereby authorized to be deposited in the Office of the Clerk of Superior Court, Mecklenburg County, North Carolina, together with the filing of the Complaint and Declaration of Taking.

**CERTIFICATION**

I, Stephanie C. Kelly, City Clerk of the City of Charlotte, North Carolina, DO HEREBY CERTIFY that the foregoing is a true and exact copy of a Resolution adopted by the City Council of the City of Charlotte, North Carolina, in regular session convened on the 28<sup>th</sup> day of November 2022, the reference having been made in Minute Book 157 and recorded in full in Resolution Book 53, Page(s) 546.

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this 28<sup>th</sup> day of November 2022.



Stephanie C. Kelly, City Clerk, MMC, NCCMC