

Resolution # 19-0038
Resolution Book 1, Volume 1
WITHDRAWN

**RESOLUTION AUTHORIZING MODIFICATION AND EXECUTION OF A LEASE
FOR SURPLUS SPACE IN THE UNION STATION BUILDING AT
300 SOUTH MARTIN LUTHER KING, JR. DRIVE UNDER
THE PROVISIONS OF N.C.G.S. 160A – 272**

WHEREAS, on December 21, 2015, the City Council authorized the Simon G. Atkins Community Development Corporation (Atkins CDC) to serve as the leaseholder of 12,000 sq. ft. of the Union Station building and the subleasing of that space to other retail entities; and

WHEREAS, on May 21, 2018, the City Council authorized a lease with Elizabeth's Pizza for 3,000 sq. ft. in Suite 210 for \$12,000 in years 1 and 2, \$24,000 in year 3, \$36,000 in years 4 and 5, and, if exercised, the first five-year option would pay \$40,500 per year and the second five-year option would pay \$50,250 per year; and

WHEREAS, additional negotiations regarding the size of the various suites has necessitated Elizabeth's Pizza to require the lease of space in Suite 218 containing 992 sq. ft., for a total of 3,914 sq. ft.; and

WHEREAS, due to the super adequacy of the men's and women's lounge/restrooms, it is proposed that Elizabeth's Pizza pay the equivalent of 3,540 sq. ft., while actually having use of the entire 3,914 sq. ft.; and

WHEREAS, Elizabeth's Pizza is agreeable to pay the same rate for the additional 540 sq. ft. which would increase the lease payments from \$12,000 to \$14,160 in years 1 and 2, from \$24,000 to \$28,320 in year 3, and from \$36,000 to \$42,480 in years 4 and 5, and if exercised in the first five-year option, the amount would be increased from \$40,500 to \$47,790 per year, and if exercised in the second five-year option, the amount would be increased from \$50,250 to \$59,295 per year; and

WHEREAS, the modification of the lease as described could result in an additional \$103,275 in lease payments to the City over the term of the lease; and

WHEREAS, the modified lease would include the lease of the entire 3,914 sq. ft. in Suites 210 and 218, including the super-adequate men's and women's lounge/restrooms; and

WHEREAS, in order for the City to share in the success of the restaurant, Elizabeth's Pizza has agreed to an additional rent payment of 3% of the annual net sales over \$1,000,000, which could potentially further the lease income beyond that which is known; and

WHEREAS, this lease would provide an anchor tenant for the Union Station retail space and add a new restaurant to the area; and

WHEREAS, the City Manager is authorized to modify this lease regarding space 208 as necessary.

NOW, THEREFORE, BE IT RESOLVED that the Mayor and the City Council of the City of Winston-Salem, hereby authorize the modification and execution by the appropriate City officials of a lease, approved by the City Attorney, for a 3,914 sq. ft. portion of the Union Station building identified as Suites 210 and 218 to Simon G. Atkins Community Development Corporation and a sublease of the same to Elizabeth's Pizza or their assigns, or Francesca, LLC or its assigns, or as an alternative for the City to lease to Elizabeth's Pizza or their assigns, as shown on Exhibit A, for a term of five years with two additional five-year options based on the rate, term, and conditions described herein.

BE IT FURTHER RESOLVED that in accordance with N.C.G.S. 160A-269, the City Secretary shall cause a notice of proposed lease, containing a general description of the property, amount and terms of the lease offer, and a notice that within ten days any person may raise the bid by not less than ten percent of the first \$1,000 and five percent of the remainder, be

published, without further authorization of the City Council, shall re-advertise the offer at the increased bid; and this procedure shall be repeated until no further qualifying bids are received, at which time the City Council may accept the offer and lease the property to the highest bidder or reject any and all offers.

BE IT FURTHER RESOLVED in the event that no raised bid is received, the lease offer set forth above is hereby accepted, and that the appropriate City officials are hereby authorized to execute instruments required to lease the property to Elizabeth's Pizza as stated herein.