

**CITY OF NEENAH
FINANCE AND PERSONNEL COMMITTEE MEETING
Monday, February 26, 2018 – 7:00 p.m.
Hauser Room, Neenah City Administration Building
211 Walnut Street, Neenah, Wisconsin**

NOTICE IS HEREBY GIVEN, pursuant to the requirements of Wis. Stats. Sec. 19.84, that a majority of the Neenah Common Council will be present at this meeting. Common Council members may be present to gather information about a subject over which they have decision-making responsibility. This constitutes a Meeting of the Neenah Common Council and must be noticed as such. The Council will follow the same agenda as the committee, but will not take any formal action at this meeting.

AGENDA

1. Public Appearances
2. Approval of Minutes from the February 12, 2018 Regular Meeting (minutes can also be found on the City's website)
3. Employee Handbook Update – Separation from Employment/Notice Requirements (attachment) H. Barber
4. Fox Cities Exhibition Center Financing Documents (attachment) J. Godlewski
5. Fox Crossing Boundary Memorandum of Understanding Status; 2nd Amendment (To be sent under separate cover) J. Godlewski
6. Consideration of Resolution 2018-11 approving a Substantial Amendment to the 2017 CDBG Program (attachment) C. Kasimor
7. The Committee will convene into closed session pursuant to Wis. Stat. §19.85(1)(e) to discuss bargaining strategy regarding the acquisition of properties on W. Cecil Street and S. Commercial Street
8. The Committee may reconvene to consider possible acquisition of properties on W. Cecil Street and S. Commercial Street
9. Adjournment

In accordance with the requirements of Title II of the Americans with Disabilities Act (ADA), the City of Neenah will not discriminate against qualified individuals with disabilities on the basis of disability in its services, programs, or activities. If you need assistance, or reasonable accommodation in participating in this meeting or event due to a disability as defined under the ADA, please call **the Neenah Finance Department at (920) 886-6140** or the **City's ADA Coordinator at (920) 886-6106** or e-mail attorney@ci.Neenah.wi.us at least 48 hours prior to the scheduled meeting or event to request an accommodation.

CITY OF NEENAH
FINANCE AND PERSONNEL COMMITTEE MEETING
Monday, February 12, 2018 – 7:00 p.m.
Hauser Room, Neenah City Administration Building
211 Walnut Street, Neenah, Wisconsin

MINUTES

Present: Chairman Pollnow; Aldermen Erickson, Stevenson and Kunz; Mayor Kaufert, City Attorney Godlewski, Director of Finance Easker.

Others Present: Alderman Lendrum, Director of Human Resources and Safety Barber, Director of Community Development and Assessment Haese, Assistant Planner Kasimor, Assistant Comptroller Kahl, Aldermanic Candidate Brian Defferding, Ruth Ann Johnson, Kevin Johnson, Steve Gibbs.

Public Appearances: None.

Minutes: **Motion/Second/Carried Erickson/Kunz to approve the minutes from the January 29, 2018 Regular Meeting and the February 7, 2018 Special Meeting.** All voting aye.

Authorization to Recruit and Hire the Assistant City Attorney: Committee reviewed memo from City Attorney Godlewski recommending Council approve the salary grade (N3) for the Assistant City Attorney and authorize staff to fill the position effective June 1, 2018. The position was funded in the 2018 Budget as part of the Department of Administrative and Legal Services staff restructuring. Attorney Godlewski explained that, while the position has been budgeted for, the Committee and Council would still need to officially create the position.

Committee and staff discussed various aspects of creating and filling the position. Issues discussed included the ability to attract qualified candidates at the proposed grade for the position and the estimated amount of time the position will be performing prosecution duties.

Motion/Second/Carried Erickson/Kunz recommending Council create the position of Assistant City Attorney at the salary grade (N3) and authorize staff to fill the position effect June 1, 2018. All voting aye.

Intermunicipal Agreement with the City of Appleton for Dial-A-Ride Cost Sharing: Committee reviewed memo from Assistant Planner Kasimor recommending approval of the 2018 Intermunicipal Agreement with the City of Appleton for Dial-A-Ride cost sharing. Consistent with previous years, the total estimated local share (Cities of Neenah and Menasha, Winnebago County and United Way) is \$49,000, of which the City of Neenah has budgeted \$12,000 for its share. Upon questioning, Assistant Comptroller Kahl said that the City of Menasha is invoiced and pays each year for their share of the Dial-A-Ride cost. Committee and staff agreed that the 2019 budget would include additional details with regard to the specific amounts expected from each of the local partners.

REPORT

Motion/Second/Carried Stevenson/Erickson recommending Council approve the 2018 Intermunicipal Agreement with the City of Appleton for Dial-A-Ride cost sharing. All voting aye.

Agreement with Habitat for Humanity for Purchase of 1213 S. Park Avenue with CDBG Funds: Committee reviewed memo from Assistant Planner Kasimor requesting authorization of the agreement with Habitat for Humanity of the Greater Fox Cities Area to assist with acquisition in the amount of \$30,000 for 1213 S. Park Avenue, with Community Development Block Grant Property Acquisition and Redevelopment funds. The property, which has an assessed value of \$83,900, is currently in disrepair. The purchase price to Habitat for Humanity includes a charitable discount from the owners, with Habitat then planning to invest up to \$70,000 to rehab the property for eventual purchase by a low-income household.

Committee and staff discussed various aspects of the proposed Agreement. Chairman Pollnow repeated his previously stated concerns about the use of government funds for this purpose when he feels such transactions are best left to the private sector.

REPORT

Motion/Second/Carried Stevenson/Erickson recommending Council authorize the agreement with Habitat for Humanity of the Greater Fox Cities Area to assist with acquisition in the amount of \$30,000 for 1213 S. Park Avenue, with Community Development Block Grant Property Acquisition and Redevelopment funds. Motion carried 3-1, with Chairman Pollnow voting no.

Acquisition of 200 W. Cecil Street Utilizing CDBG Funding: Committee reviewed memo from Director Haese recommending the City pursue the acquisition of the former Johnson Trucking property at 200 W. Cecil Street at a cost not to exceed \$225,000. He indicated that the property has been in a state of disrepair for many years. Uses have included a used car lot, waste hauling and boat repair. He indicated that no specific redevelopment was planned or imminent on the site, but that the property is better suited for higher density residential and light commercial uses. He also indicated that relocation and demolition costs will likely also need funding utilizing CDBG funds.

Discussion took place regarding various aspects of the request. Issues discussed included current zoning on the site, the type of potential developments for the site, how the purchase price was determined and how this proposal relates to the March 31 deadline for the expenditure of CDBG funds.

Extensive discussion took place as to whether this property is best suited for redevelopment with CDBG funds and whether other properties in the S. Commercial Street corridor would be better options. Director Haese said that other properties in the area are also potential sites and could fit the criteria necessary to satisfy CDBG requirements.

Motion/Second/Carried Stevenson/Kunz to direct Community Development Director Haese to research other potential redevelopment projects in which CDBG

funding could be utilized, and to report those findings with a recommendation at a future committee meeting. All voting aye.

Captioning of Council Meetings: Committee reviewed memo from City Attorney Godlewski recommending Council authorize captioning of recorded City meetings with REV and to charge the expense against Council Budget item "Other Services, Televising Meetings", Account No. 010-0101-700-0233. As was discussed at the January Common Council meeting, the City of Green Bay is requiring all municipalities that use the Green Bay public access channel to caption all government meetings in order to comply with the Americans with Disabilities Act (ADA). No meetings are currently being broadcast to cable subscribers until the meetings are closed captioned. Attorney Godlewski indicated that he had worked with UW-Fox Valley to find a captioning solution. Of the two solutions identified, he is recommending the lower cost, lower quality REV option to start as a trial. The cost is \$1.00 per minute with a projected annual cost of \$3,120.

Committee and staff discussed various aspects of the proposal. Alderman Erickson said she supported the request but continued to question the wisdom of making such accommodations when constituents continue to utilize alternative viewing options to cable TV. Chairman Pollnow agreed that the Council should look at all of the viewing options for City meetings in the future. Mayor Kaufert asked that this issue be resolved quickly to accommodate those viewers who have expressed their desire to have the meetings return to the public access cable channel.

Motion/Second/Carried Kunz/Erickson recommending Council authorize captioning of recorded City meetings with REV and to charge the expense against Council Budget item "Other Services, Televising Meetings", Account No. 010-0101-700-0233. All voting aye.

Fiscal Matters: January Vouchers: Motion/Second/Carried Erickson/Stevenson to approve the January vouchers as presented. All voting aye.

Motion/Second/Carried Stevenson/Kunz to adjourn the meeting at 8:40 p.m. All voting aye.

Respectfully submitted,



Michael K. Easker, CPA
Director of Finance

REPORT



Dept. of Human Resources and Safety
211 Walnut St. • P.O. Box 426 • Neenah WI 54957-0426
Phone 920-886-6102 • e-mail: hbarber@ci.neenah.wi.us
HEATHER BARBER
DIRECTOR OF HUMAN RESOURCES AND SAFETY

MEMORANDUM

DATE: February 13, 2018
TO: Chairman Pollnow and Members of the Finance and Personnel Committee
FROM: Heather Barber, Human Resources *HB*
RE: Employee Handbook Update – Separation from Employment / Notice Requirements

The Employee Handbook currently provides that a 2-week notice must be given to receive a payout of unused accrued leave, and that an employee must physically work their last day.

In some recent cases, recruitment has been difficult because the above parameters allow employees to use accrued leave during their 2-week notice with the exception of their last day, which means very little overlap and training time is available with the person's replacement.

I am proposing the attached language for the Employee Handbook to make changes to the current rules. By requiring employees to physically work their last 2 weeks, we are better able to transition from the exiting employee to the new employee. The policy does allow for Mayoral / Library Board exceptions to be made.

Staff requests a recommendation to Council to approve the attached update to the Employee Handbook regarding Separation from Employment – Notice Requirements.

Separation from Employment – Notice Requirements

In cases of retirement and resignation, the City requests as much notice as possible, and no less than 2 weeks of worked time. This ensures the smoothest possible transition with the least disruption to operations. Notice requirements must be satisfied in order to receive the vacation and sick leave payouts.

“Worked time” refers to time spent at work, and does not include time taken off by employees for vacation, comp time, or scheduled sick leave. Scheduled holidays are outside an employee’s control, and therefore may be taken off within the 2-week notice period.

If an employee intends to give a 2-week notice, and has a 3 day vacation scheduled, the employee would need to extend their notice by 3 days to meet these requirements. For example, if an employee gives a two-week notice Monday, April 1st, but has vacation scheduled April 8th, 9th, and 10th, the employee would need to work through April 17th instead of through April 14th.

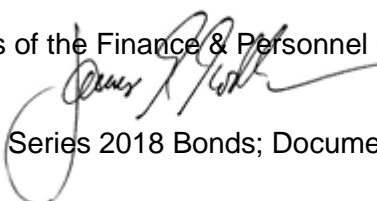
If, in December, an employee announces his or her intent to retire February 1st, the employee would need to be present at work the last 2 full weeks in January.

Exceptions to the policy above may be requested through HR to be approved by the Mayor, or, for library employees, the Library Board. If approved, employees would still be eligible for their accrual payouts. Examples would include documented illness during the notice period, and separations due to disability.



M E M O R A N D U M

DATE: February 22, 2018
TO: Chairman Pollnow, members of the Finance & Personnel Committee
FROM: City Attorney Jim Godlewski
RE: Fox Cities Exhibition Center, Series 2018 Bonds; Documents Review & Authorizing Resolution



Attached you will find the proposed authorizing resolution along with several documents, including the Pledge & Security Agreement related to the financing of the Fox Cities Exhibition Center. Because the bond issuance is scheduled for early April, we are presenting these documents for review by the Committee even though the final terms of the financing have not been completely settled. The remaining issue keeping the parties from finalizing the documents and bond issue is the inclusion in the financing package expenses for legal fees paid for the private financing option as well as computed lost interest incurred by Appleton through covering the construction expense from City reserves. The participating municipalities, including Neenah, have insisted those expenses be removed from the financing package. Those items total about \$800,000 split between carrying interest (\$285,000) and legal fees from Atty. LaFrambois for work on the private bank loan financing plan (\$515,000).

The documents submitted by Appleton's bond counsel, Foley & Lardner are an improvement over the past, if for no other reason than the process has been more transparent and open to suggested changes by the participating municipalities in the Fox Cities Tourism Zone. The language is clear and understandable. The biggest outstanding issue remains settlement of whether legal fees attributable to the private financing and the carrying cost interest are included in the bond issue. The following is a brief description of each document prepared by bond counsel, followed by any issues yet to be resolved.

Document Summary

1. Resolution 2018-10

This resolution provides for Council approval of the documents needed to complete the bond financing of the FCEC and the authorization for City officials to sign those documents. It also authorizes the Mayor to sign the documents in "substantially the forms" presented, allowing for insertions and completion of blanks to effectuate the purpose of the resolution. This authorization is given in both §§1 & 3 and includes authority to enter into additional agreements to accomplish the purpose of the

resolution. It also authorizes the City's room tax commissioners to take appropriate action to insure the room tax is directed to repayment of the bond debt service. Section 2 requires the City to notify its hoteliers that the PAC room tax is no longer be forwarded to the PAC Bond trustee and instead the Exhibition Center Room Tax should be forwarded to the trustee for the Exhibition Center bonds. The remaining room tax revenues will be forwarded to the municipality where generated for distribution in accordance with the Cooperation Agreement.

2. Amended and Restated Cooperation Agreement

This document replaces the Exhibition Center Cooperation Agreement dated November 24, 2015. Bond counsel summarized this document as follows:

The Amended and Restated Cooperation Agreement reflects the changed circumstances since the agreement was originally entered into, including most notably that the exhibition center property has been acquired and the center has been constructed, but also that the PAC bonds will have been retired (they have been called for final redemption on March 1) and that the City of Appleton has agreed to put its credit behind the bond issue (although the expected source of payment will remain the 3% Exhibition Center Room Tax adopted by all of the municipalities that are members in the Room Tax Commission). The agreement includes the determinations and recitals of facts that form the basis for the 3% Exhibition Center Room Tax and the current plan of finance. It then describes the financing structure, including the lease revenue bonds to be issued by the Appleton Redevelopment Authority, the lease of the Exhibition Center to the City of Appleton under a lease that will require lease payments equal to the debt service of the bonds, and the use of the 3% Exhibition Center Room Tax to abate the lease payments. The amended and restated agreement includes the provisions from the current 2015 agreement regarding operation of the exhibition center, including the agreement of the municipalities to cooperate in the development of tourism in connection with the operation of the Exhibition Center and the advisory committee established under the current 2015 agreement. It also continues to provide for the possibility of additional municipalities becoming parties to the agreement.

The following items remain outstanding or provide background:

- Page 3, "Series 2018 Bonds: the final dollar amount needs to be inserted before the document can be signed. This relates to the issue outlined above regarding the expenses included in the bonding amount.
- §3.03: refers to the project budget in Exhibit A, which is currently blank. Again, those expenses must be completed before the agreement is executed, which awaits settlement of the expenses included in the bond issue discussed above.
- §3.04(b) allows the ARA to issue "Additional Bonds" on terms acceptable to Appleton. "Additional Bond" is a defined term that limits the purpose of Additional Bonds to refinancing or refunding existing bonds and thus is self-limiting in the

amount that can be issued. This language is similar to the PAC Cooperation Agreement provision.

- §3.05: lays out the lease structure of the financing. Under the agreement, Appleton agrees to transfer ownership of the FCEC to the Appleton Redevelopment Authority (ARA) which will lease the center back to Appleton with the lease payments funded by the 3% room tax. However, in the event the room tax revenue is insufficient to cover debt service, Appleton is required to fund the gap, but is entitled to be reimbursed for those costs from room tax revenue after the bonds are repaid.
- §5.08: provides that on termination of the bonds, leftover room tax revenue shall be used to reimburse Appleton or any bond guarantor for costs incurred guaranteeing bond payments. Any surplus after the guarantors are repaid will be reallocated to the Tourism Development Fund, managed by an as yet to be identified entity (hence, the blank line on page 11). This tourism Development Fund needs to be better identified, but once identified, the structural clarity should avoid the dispute we had over the surplus room tax revenue from the PAC room tax.

3. First Amendment to Amended and Restated Room Tax Commission and Tourism Zone Agreement

Bond counsel's summary of this document

Similarly, the amendment to the Amended and Restated Room Tax Commission and Tourism Zone Agreement recognizes the changed circumstances since the execution of the agreement, including that the room tax ordinances have actually been adopted by the municipal members. It also reflects the revisions to the application of the room tax revenues based upon the retirement of the PAC bonds and the plan of finance for the exhibition center. It does not change the organization or governance of the Commission or otherwise change the use or priority of application of the room taxes.

Amended and Restated Room Tax Commission and Tourism Zone Agreement – this is the agreement entered into in 2015 that will be amended by the above First Amendment.

The following are observations regarding this document:

- Section 2: This section rewrites §§5, 7, 8, 9, 12(intro), 12(c), 13, and 14 of the Amended and Restated Room Tax Commission and Tourism Zone Agreement. The various room taxes imposed under the agreement are accurately reflected in the Agreement when compared to the Room Tax Ordinance. The changes made in the First Amendment reflect the changed circumstances since November 2015 when the Amended and Restated Room Tax Commission and Tourism Zone Agreement was approved.

4. Pledge & Security Agreement.

Bond counsel's summary of this document

The Pledge and Security Agreement uses the same structure of pledging a portion of the room tax revenues as the similar agreement that was used for the PAC bonds. It provides for the hotel and motel operators to make payment of the 3% Exhibition Center Room Taxes directly to the trustee for the bonds, and for the municipalities to cooperate in collection and enforcement of those room taxes. The agreement provides for the Exhibition Center Room Tax revenues to be used to pay debt service and administrative costs of the bonds, with excess Exhibition Center Room Tax revenues to be used to retire the bonds early.

The following are observations regarding this document:

- This document is the instrument by which each municipality pledges the 3% room tax for repayment of the FCEC bonds. The document is much more clearly written and less burdensome than the corresponding provisions under the private bank financing proposal.
- The Agreement, at Article III, states each municipality participating in the agreement represent it has the authority to enter into and undertake the responsibilities outlined in the agreement.
- It further provides that each municipality will execute additional documents required by the trustee (Associated Trust Company) to “make effective this Agreement.”
- The Agreement requires each municipality to enforce its Room Tax Ordinance and not repeal the FCEC Room Tax or amend the Commission Agreement in any manner that will restrict the ability of the Trustee to collect the Exhibition Center room tax.

Conclusion

The documents provided in connection with the Exhibition Center Bond financing are a clear improvement over past efforts. Given the deadline pressures related to the bond closing, it would be appropriate to recommend approval of the adopting resolution subject to certification by the Mayor that the final budget numbers reflect the appropriate project expenditures.

An appropriate motion would be to recommend adoption of Resolution 2018-10, authorizing execution of various documents relating to the bond financing of the Fox Cities Exhibition Center subject to certification by the Mayor that the appropriate project expenditures are reflected in the final documents.



RESOLUTION NO. 2018-10

A RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF DOCUMENTS RELATING TO THE FOX CITIES EXHIBITION CENTER PROJECT

WHEREAS, the City of Neenah, Wisconsin (the "Municipality"), certain other municipalities in the Fox Cities area (together with the Municipality, the "Municipalities"), the Redevelopment Authority of the City of Appleton, Wisconsin (the "Authority"), the Fox Cities Room Tax Commission (the "Commission"), and the Fox Cities Performing Arts Center, Inc. (the "PAC") have entered into an Exhibition Center Cooperation Agreement, dated as of November 24, 2015 (the "Original Cooperation Agreement"), pursuant to which the Municipalities, the Authority, and the Commission agreed, among other things, to enact resolutions, ordinances, and all other municipal acts necessary to effect a 3% room tax (the "Exhibition Center Room Tax"), in addition to the room taxes then being collected, to be pledged to pay debt service on bonds to be issued by the Authority (the "Bonds") to finance the construction and equipping of the Fox Cities Exhibition Center (the "Exhibition Center") and related payments or deposits such as costs of issuance, a debt service reserve fund, a stabilization fund, and any capitalized interest; and

WHEREAS, the Municipality adopted an ordinance (the "Room Tax Ordinance"), that levied a 10% room tax (the "Room Tax"), which included the Exhibition Center Room Tax, restated other existing room tax percentage allocations, including the 2% PAC Room Tax (the "PAC Room Tax") pledged to pay debt service on bonds issued by the Authority to finance or refinance the Fox Cities Performing Arts Center (the "PAC Bonds"), and set forth the priority of application of payments of the Room Tax; and

WHEREAS, in connection with the execution of the Original Cooperation Agreement, the Municipalities and the Commission also entered into an Amended and Restated Room Tax Commission and Tourism Zone Agreement, dated as of November 24, 2015 (the "Commission and Zone Agreement"), to restate a prior agreement, to confirm the establishment of the Fox Cities Tourism Zone, to confirm the establishment of the Commission and its powers, duties, and membership, to appoint the Fox Cities Convention & Visitors Bureau (the "CVB") as a tourism entity to provide the administrative support for collecting and allocating a portion of the Room Tax, and to confirm the Municipalities' agreements set forth in the Original Cooperation Agreement with respect to the Exhibition Center and the Room Tax; and

WHEREAS, the Original Cooperation Agreement and the Tourism Entity Agreement, dated December 31, 2015, by and between the Commission and the CVB (the "Tourism Entity Agreement") contemplate that when the Bonds are issued to finance the Exhibition Center, a Pledge and Security Agreement will be entered into by and among the Municipalities, the Commission, and a trustee (the "Pledge and Security Agreement") to provide for the pledge of the Exhibition Center Room Tax for the payment of the Bonds; and

WHEREAS, pursuant to the Pledge and Security Agreement, the Exhibition Center Room Tax will be required to be paid to the trustee for the Bonds; and

WHEREAS, subsequent to the execution of the Original Cooperation Agreement, the Commission and Zone Agreement, and the Tourism Entity Agreement, certain facts and assumptions contemplated in said agreements have changed, including that

- (i) the Bonds have not yet been issued,
- (ii) the Pledge and Security Agreement has not been entered into,
- (iii) the PAC Bonds are being called for redemption in full on March 1, 2018, at which time the PAC Cooperation Agreement (defined in the Original Cooperation Agreement) will terminate and the PAC Room Tax will be reallocated,
- (iv) a municipality that is party to the Original Cooperation Agreement has been incorporated as a village, and
- (v) the City of Appleton, Wisconsin has constructed the Exhibition Center with its own funds; and

WHEREAS, the hotelkeepers, motel operators, and other persons or entities furnishing accommodations that are available to the public in the Municipality and obligated to collect the Room Tax (the "Operators") have been forwarding the PAC Room Tax directly to the trustee for the PAC Bonds; and

WHEREAS, it is necessary and desirable to amend and restate the Original Cooperation Agreement and amend the Commission and Zone Agreement to reflect current facts and assumptions, and to enter into the Pledge and Security Agreement as contemplated under the above agreements; and

WHEREAS, there have been presented to the Municipality substantially final drafts of an Amended and Restated Cooperation Agreement, a First Amendment to the Amended and Restated Room Tax Commission and Tourism Zone Agreement, and a Pledge and Security Agreement (collectively, the "Exhibition Center Documents");

NOW, THEREFORE, BE IT RESOLVED by the Common Council (the "Governing Body") of the Municipality as follows:

Section 1. Approval of Exhibition Center Documents.

The terms and provisions of the Amended and Restated Cooperation Agreement, the First Amendment to the Amended and Restated Room Tax Commission and Tourism Zone Agreement, and the Pledge and Security Agreement are hereby approved. The Mayor and Clerk are hereby authorized for and in the name of the Municipality to execute and deliver the Exhibition Center Documents in substantially the forms thereof presented herewith, with such insertions therein or corrections or changes thereto as shall be approved by such officers consistent with this resolution, their execution thereof to constitute conclusive evidence of their approval of any such insertions, corrections, or changes.

Section 2. Notification to Operators; Exhibition Center Room Tax to Trustee.

The officers of the Municipality are hereby directed to cause notice to be delivered to each Operator that, effective April 1, 2018, (i) the PAC Room Tax (2%) shall no longer be forwarded to the trustee for the PAC Bonds, (ii) the Exhibition Center Room Tax (3%) shall instead be forwarded to the trustee for the Bonds on the quarterly dates set forth in the Pledge and Security Agreement, and (iii) the remaining Room Tax (7%), which includes the PAC Room Tax, shall be forwarded to the Municipality.

Section 3. General Authorizations.

The officers of the Municipality are hereby each authorized to execute, publish, file, and record such other documents, instruments, notices, and records and to take such other actions, including entering into additional agreements and amending existing agreements, as shall be necessary or desirable to accomplish the purposes of this resolution and to comply with the obligations of the Municipality under the Commission and Zone Agreement and the Exhibition Center Documents, as each may be amended and restated, and to facilitate the issuance of the Bonds. In addition, the representatives of the Municipality that serve as commissioners on the Commission are hereby authorized and directed to take any necessary action on behalf of the Municipality with respect to actions taken by the Commission relating to the Bonds and the Exhibition Center Room Tax allocated to the payment, either directly or indirectly, of debt service on the Bonds.

Section 4. Effective Date.

This resolution shall be effective immediately upon its passage and approval. To the extent that any prior resolutions of the Governing Body are inconsistent with the provisions hereof, this resolution shall control, and such prior resolutions shall be deemed amended to such extent as may be necessary to bring them in conformity with this resolution.

Recommended by:

CITY OF NEENAH, WISCONSIN

Moved: _____

Dean R. Kaufert, Mayor

Passed: _____

Patricia A. Sturn, City Clerk

**AMENDED AND RESTATED
COOPERATION AGREEMENT
FOR THE
FOX CITIES EXHIBITION CENTER**

Dated as of [April 1], 2018

Amending and Restating in its entirety
the Exhibition Center Cooperation Agreement,
dated as of November 24, 2015

by and among

THE MUNICIPALITIES NAMED HEREIN

the

REDEVELOPMENT AUTHORITY OF THE
CITY OF APPLETON, WISCONSIN

and the

FOX CITIES AREA ROOM TAX COMMISSION

TABLE OF CONTENTS

ARTICLE I DEFINITIONS 1

ARTICLE II FACTS AND RECITALS 4

 Section 2.01 Governing Body Authorizations..... 4

 Section 2.02 Tourism Zone Objectives. 4

 Section 2.03 Importance of Exhibition Center. 4

 Section 2.04 Construction of Exhibition Center..... 4

 Section 2.05 Levy and Importance of Room Tax Revenues. 5

 Section 2.06 Contract with CVB. 5

 Section 2.07 Management Agreement. 5

 Section 2.08 Termination of PAC Cooperation Agreement..... 5

ARTICLE III FINANCING OF THE EXHIBITION CENTER PROJECT 5

 Section 3.01 Contribution of Exhibition Center Property to ARA. 5

 Section 3.02 Acceptance of Appleton Contribution..... 6

 Section 3.03 Total Costs of Construction; Reimbursement to Appleton. 6

 Section 3.04 Issuance of Bonds..... 6

 Section 3.05 Lease of Exhibition Center Property. 7

 Section 3.06 Municipalities to Pledge the Exhibition Center Room Tax..... 7

 Section 3.07 Mortgage of the Exhibition Center Property. 8

 Section 3.08 Credit Enhancement. 8

ARTICLE IV OPERATION OF THE CONVENTION CENTER 8

 Section 4.01 Appleton to Provide Administrative Support to ARA. 8

 Section 4.02 Advisory Committee. 8

 Section 4.03 Municipalities to Plan to Promote Private Development. 9

 Section 4.04 Municipalities to Participate in the Room Tax Commission..... 9

 Section 4.05 Nondiscrimination. 9

ARTICLE V MISCELLANEOUS 9

 Section 5.01 Amendment and Restatement of Original Agreement. 9

 Section 5.02 Additional Municipalities..... 9

 Section 5.03 Assignment of Rights Under this Agreement..... 10

 Section 5.04 No Personal Liability..... 10

 Section 5.05 Parties and Interests..... 10

 Section 5.06 Notices..... 10

 Section 5.07 Amendment..... 10

 Section 5.08 Termination of Agreement; Sunset of Exhibition Center Room
Tax..... 10

 Section 5.09 Governing Law..... 11

 Section 5.10 Captions..... 11

 Section 5.11 Counterparts. 11

 Section 5.12 Severability..... 11

EXHIBIT A - Exhibition Center Project A-1
EXHIBIT B - Exhibition Center Property Description.....B-1
EXHIBIT C – Form of Joinder AgreementC-1

**AMENDED AND RESTATED
COOPERATION AGREEMENT
FOR THE
FOX CITIES EXHIBITION CENTER**

This AMENDED AND RESTATED COOPERATION AGREEMENT (this “**Agreement**”), is made as of [April 1], 2018, by and among the CITY OF APPLETON, WISCONSIN, a Wisconsin municipal corporation and political subdivision (“**Appleton**”), the CITY OF KAUKAUNA, WISCONSIN, a Wisconsin municipal corporation and political subdivision (“**Kaukauna**”), the CITY OF NEENAH, WISCONSIN, a Wisconsin municipal corporation and political subdivision (“**City of Neenah**”), the VILLAGE OF KIMBERLY, WISCONSIN, a Wisconsin municipal corporation and political subdivision (“**Kimberly**”), the VILLAGE OF LITTLE CHUTE, WISCONSIN, a Wisconsin municipal corporation and political subdivision (“**Little Chute**”), the TOWN OF GRAND CHUTE, WISCONSIN, a Wisconsin political subdivision (“**Grand Chute**”), the TOWN OF NEENAH, WISCONSIN, a Wisconsin political subdivision (“**Town of Neenah**”), the VILLAGE OF FOX CROSSING, WISCONSIN, a Wisconsin municipal corporation and political subdivision (“**Fox Crossing**”), the CITY OF MENASHA, WISCONSIN, a Wisconsin municipal corporation and political subdivision (“**Menasha**”), and the VILLAGE OF SHERWOOD, WISCONSIN, a Wisconsin municipal corporation and political subdivision (“**Sherwood**” and, collectively with Appleton, Kaukauna, City of Neenah, Kimberly, Little Chute, Grand Chute, Town of Neenah, Fox Crossing, and Menasha, the “**Municipalities**”), the REDEVELOPMENT AUTHORITY OF THE CITY OF APPLETON, WISCONSIN, a Wisconsin body corporate and politic (the “**ARA**”), and the FOX CITIES AREA ROOM TAX COMMISSION, a Wisconsin intergovernmental commission (the “**Room Tax Commission**”), to amend and restate in its entirety the Exhibition Center Cooperation Agreement, dated as of November 24, 2015 (the “**Original Agreement**”), entered into by and among the above parties and the Fox Cities Performing Arts Center, Inc. (the “**PAC**”), as a result of certain changes in facts and assumptions that have occurred subsequent to the execution of the Original Agreement.

ARTICLE I

DEFINITIONS

In addition to those terms defined throughout this Agreement, the following terms shall have the following meanings ascribed to them:

“**Additional Bonds**” means such revenue bonds in such series and in such principal amounts as the ARA may issue from time to time pursuant to a supplement to the Indenture for the purpose of refinancing or refunding then-outstanding Bonds.

“**Additional Municipality**” means any municipality within the Tourism Zone which, subsequent to the date of this Agreement, becomes a member of the Room Tax Commission and which, pursuant to Section 5.02, becomes a party to this Agreement.

“**Bonds**” means, collectively, the Series 2018 Bonds and any Additional Bonds issued by the ARA for the purposes set forth in this Agreement.

“**Commission Agreement**” means the Amended and Restated Room Tax Commission and Tourism Zone Agreement, dated as of November 24, 2015, by and between the Municipalities and the Room Tax Commission, as amended by a First Amendment to Amended and Restated Room Tax Commission and Tourism Zone Agreement, dated as of [April 1], 2018, and as further amended from time to time.

“**Credit Enhancement**” means a policy of bond insurance, a letter of credit, a guaranty, or another form of credit enhancement as security for payment of debt service on the Bonds

“**CVB**” shall mean the Fox Cities Convention & Visitors Bureau, Inc., a Wisconsin nonprofit corporation, or its successors and assigns pursuant to the Tourism Entity Agreement.

“**Exhibition Center**” means the Fox Cities Exhibition Center, a convention center as referenced in the Room Tax Act, more specifically described in Exhibit A hereto and situated on the Exhibition Center Property.

“**Exhibition Center Property**” means [the real property legally described in Exhibit B hereto.]

“**Exhibition Center Room Tax**” means the 3% Room Tax levied by each Municipality pursuant to the Room Tax Act and the Commission Agreement for purposes of paying, directly or indirectly, [the costs of construction of the Exhibition Center and debt service on the Bonds and/or such other reasonable and customary payments or deposits related to the Bonds as may be provided in the Indenture, such as, but not limited to, costs of issuance and administration, Credit Enhancement, debt service reserve and room tax stabilization funds, and capitalized interest, if any].

“**Governing Body**” means, when used with reference to a Municipality, the Common Council, Village Board, or Town Board, as applicable, of such Municipality.

“**Governing Body Authorizations**” means (i) the Ordinances, (ii) the resolutions titled [“Resolution Authorizing the Execution and Delivery of Documents relating to the Fox Cities Exhibition Center Project”] adopted by the Governing Bodies of: (a) Appleton on _____, 2018, (b) Grand Chute on _____, 2018 (c) Kaukauna on _____, 2018, (d) Kimberly on _____, 2018, (e) Little Chute on _____, 2018, (f) City of Menasha on _____, 2018, (g) Town of Menasha on _____, 2018, (h) City of Neenah on _____, 2018, (i) Town of Neenah on _____, 2018, and (j) Sherwood on _____, 2018, (iii) the resolution of the Room Tax Commission adopted on _____, 2018 relating to the Exhibition Center, and (iv) the resolution[s] of the ARA adopted on [February 16, 2018 and March 7, 2018, each] relating to the Exhibition Center.

“**Indenture**” means the Indenture of Trust, dated as of [April 1], 2018, by and between the ARA and the Trustee with respect to the Series 2018 Bonds as supplemented or amended from time to time pursuant to the terms thereof, including pursuant to which Additional Bonds are issued.

“**Lease**” means the instrument of lease between the ARA and Appleton described in Section 3.05 hereof, as amended from time to time pursuant to the terms thereof, including in connection with the issuance of Additional Bonds.

“**Management Agreement**” means the Management Agreement dated November 18, 2015 entered into by Appleton Holdings, LLC, as owner and operator of the Paper Valley Hotel, and [_____], a single purpose entity owned by Appleton Holdings, LLC, as amended from time to time.

[“**Mortgages**” means, collectively, any and all mortgages and assignments of leases, security agreements or other agreements or instruments entered into by the ARA and delivered to the Trustee for the purpose of granting the Trustee a mortgage lien on the Exhibition Center Property and all improvements located thereon, including the Exhibition Center [, and a security interest in the personal property described therein,] as collateral security for the payment of the Bonds, in each case as amended from time to time pursuant to the terms thereof.]

“**Municipality**” means each of, Appleton, Kaukauna, City of Neenah, Kimberly, Little Chute, Grand Chute, Town of Neenah, Fox Crossing, Menasha, Sherwood, and any Additional Municipality.

“**Operators**” means any hotelkeepers, motel operators, and other persons that furnish accommodations that are available to the public and are obligated to collect the Room Tax.

“**Ordinances**” means the room tax ordinances adopted in November, 2015 by each Municipality’s Governing Body pursuant to the Room Tax Act, which levied a 10% Room Tax, including the Exhibition Center Room Tax.

“**Pledge and Security Agreement**” means the Pledge and Security Agreement, dated as of [April 1], 2018, by and among the Municipalities, the Room Tax Commission, and the Trustee, incorporating the pledge of Exhibition Center Room Taxes to the payment, directly or indirectly, of debt service on the Bonds and related purposes, as amended from time to time pursuant to the terms thereof.

“**Redevelopment Act**” means Section 66.1333 of the Wisconsin Statutes, as amended.

“**Room Tax**” means a tax levied pursuant to the Room Tax Act.

“**Room Tax Act**” means Section 66.0615 of the Wisconsin Statutes, as amended.

“**Room Tax Commission**” means the Fox Cities Area Room Tax Commission created by the Municipalities for the purpose of coordinating tourism promotion and tourism development in the Tourism Zone, the membership of which shall be established as set forth in the Commission Agreement and subsection (1m)(c)(2) of the Room Tax Act.

“**Series 2018 Bonds**” means the ARA’s Taxable Lease Revenue Bonds, Series 2018 (Fox Cities Exhibition Center Project), dated their date of initial delivery, issued in the aggregate principal amount of \$_____ pursuant to the Indenture.

“**Tourism Entity Agreement**” means Tourism Entity Agreement, dated as of December 31, 2015, between the CVB and the Room Tax Commission, as amended by a First Amendment to Tourism Entity Agreement, dated as of [April 1], 2018, and as further amended from time to time.

“**Tourism Zone**” as means the Fox Cities Tourism Zone, established pursuant to the Commission Agreement and the Room Tax Act, encompassing the Municipalities and any neighboring municipalities.

“**Trustee**” means Associated Trust Company, National Association, as trustee under the Indenture, and its successors in such capacity.

ARTICLE II

FACTS AND RECITALS

Section 2.01 Governing Body Authorizations.

The execution, delivery and performance of this Agreement by the Municipalities, the Room Tax Commission, and the ARA have been authorized by the respective Governing Body Authorizations and pursuant to Section 66.0301 of the Wisconsin Statutes, the Room Tax Act and the Redevelopment Act.

Section 2.02 Tourism Zone Objectives.

The Municipalities, the Room Tax Commission and the ARA have identified the development and redevelopment of the Tourism Zone and the promotion and development of tourism within the Tourism Zone as matters of group interest.

Section 2.03 Importance of Exhibition Center.

The Municipalities, the Room Tax Commission and the ARA have found and determined:

(a) that (i) each Municipality is located in a county or counties with a population of less than 380,000; (ii) the counties in which the Municipalities are located are not located adjacent to any county with a population of over 380,000; and (iii) the Municipalities have worked cooperatively together to construct and finance the Exhibition Center, as contemplated by subsection (1m)(am)(3) of the Room Tax Act; and

(b) that the control, disposition, and use of the Exhibition Center is crucial to the achievement of a sound and coordinated development of the Tourism Zone and for the promotion and development of tourism activities within the Tourism Zone.

Section 2.04 Construction of Exhibition Center.

Since the date of the Original Agreement, the Exhibition Center project has been undertaken and completed by Appleton on behalf of the Municipalities, the Room Tax

Commission, and the ARA. Appleton has acquired the Exhibition Center Property within the Tourism Zone and has completed the construction of the Exhibition Center as described in Exhibit A hereto. The Exhibition Center project involved the construction, installation, and improvement of real property within the Tourism Zone, which improvements and interrelated facilities constitute a “convention center” within the meaning of the Room Tax Act.

Section 2.05 Levy and Importance of Room Tax Revenues.

The Municipalities have enacted the Ordinances to levy, and authorize the collection and enforcement of, a 10% Room Tax, which includes the Exhibition Center Room Tax, as permitted in the Room Tax Act. The Exhibition Center Room Tax revenues, as pledged and utilized pursuant to this Agreement and the Pledge and Security Agreement, will assist in the financing of the Exhibition Center.

Section 2.06 Contract with CVB.

The Room Tax Commission has entered into the Tourism Entity Agreement with the CVB, as a tourism entity, to obtain staff, support services, and assistance in developing and implementing programs to promote the Tourism Zone to visitors, and to receive and administer certain of the Room Taxes on behalf of the Room Tax Commission.

Section 2.07 Management Agreement.

Appleton has entered into the Management Agreement, providing for the operation and management of the Exhibition Center in such a manner as to promote and develop tourism within the Tourism Zone.

Section 2.08 Termination of PAC Cooperation Agreement.

The Cooperation Agreement dated June 1, 2000 (the “**PAC Cooperation Agreement**”), in which the Municipalities (excluding the City of Menasha and Sherwood, but including Fox Crossing, into which the Town of Menasha was incorporated, and Little Chute, which was added as a party after the initial execution) agreed to impose a Room Tax at the rate of two percent (2%) (the “**PAC Room Tax**”) and pledged certain revenues thereof to the payment of bonds (the “**PAC Bonds**”) which were issued to pay the costs associated with the construction of the Fox Cities Performing Arts Center has been terminated, and the PAC Bonds have been paid in full. The continued imposition and collection of the PAC Room Tax was authorized by the Ordinances.

ARTICLE III

FINANCING OF THE EXHIBITION CENTER PROJECT

Section 3.01 Contribution of Exhibition Center Property to ARA.

Acting pursuant to Section[s 6(f) and] 13 of the Redevelopment Act, to provide general support and assistance to the ARA in carrying out redevelopment as provided in the Redevelopment Act, Appleton shall contribute to the ARA, all Appleton’s right, title, and

interest in and to the Exhibition Center and the Exhibition Center Property. Appleton shall execute and deliver to the ARA such deeds, bills of sale, and other instruments as the ARA may reasonably request to evidence and perfect such contribution from Appleton.

Section 3.02 Acceptance of Appleton Contribution.

The ARA agrees to accept ownership of the Exhibition Center and the Exhibition Center Property from Appleton pursuant to Section 3.01 hereof. The ARA shall accept said ownership at any time as deemed appropriate by Appleton and the ARA.

Section 3.03 Total Costs of Construction; Reimbursement to Appleton.

The amounts spent by Appleton on the costs of the Exhibition Center project are set forth in Exhibit A. The Municipalities hereby agree that the following amounts shall be paid to Appleton to reimburse it for such project costs:

- (a) net proceeds of the Series 2018 Bonds, after payment of costs of issuance and funding of debt service reserve and stabilization funds as provided in the Indenture;
- (b) all Exhibition Center Room Taxes collected from January 1, 2016 through [_____] [the date of issuance of the Series 2018 Bonds], which are held by the CVB in the [Room Tax Clearing Account] pursuant to the Tourism Entity Agreement,
- (c) \$750,000 of funds held by the trustee for the PAC Bonds and remaining after payment of the PAC Bonds.

The Municipalities acknowledge that the application of the funds described in (b) and (c) above will reduce the principal amount of the Series 2018 Bonds necessary to finance the Exhibition Center project. The Room Tax Commission shall direct the CVB to apply the funds described in (b) above to such reimbursement, and the ARA shall direct the trustee for the PAC Bonds to apply the funds described in (c) above to such reimbursement.

Section 3.04 Issuance of Bonds.

- (a) The ARA shall issue and sell the Series 2018 Bonds upon terms acceptable to Appleton. Appleton's acceptance shall be conclusively evidenced by its execution of the Lease as provided in Section 3.05.
- (b) The ARA may, from time to time, issue and sell Additional Bonds upon terms acceptable to Appleton. Appleton's acceptance shall be conclusively evidenced by its execution of an amendment to the Lease with respect to Additional Bonds pursuant to the terms thereof.
- (c) The Bonds will be limited obligations of the ARA and shall not constitute a debt or obligation of the ARA, Appleton, or the other Municipalities and shall not be a charge against the general credit or taxing powers of the ARA or any Municipality except for and limited to the Exhibition Center Room Tax revenues pursuant to the Pledge and Security Agreement. Each series of Additional Bonds shall be payable by the ARA

solely from revenues derived by the ARA from the Lease, the Pledge and Security Agreement, amounts recovered by recourse to any Mortgage or any Credit Enhancement pursuant to Sections 3.07 or 3.08, and cash and securities held from time to time in certain trust funds held by the Trustee under the Indenture and the investment earnings thereon.

Section 3.05 Lease of Exhibition Center Property.

The ARA agrees to lease to Appleton the Exhibition Center and the Exhibition Center Property contributed to the ARA. The Lease shall contain restrictions on the use of the Exhibition Center Property consistent with the restrictions on the use of the Exhibition Center and the Exhibition Center Property as a “convention center” within the meaning of the Room Tax Act and otherwise consistent with the terms hereof. The Lease shall be a “triple net lease” and shall provide for rents payable on such dates and in such amounts as shall be sufficient to make all payments of principal of and premium, if any, and interest on the Bonds. The obligation of Appleton to pay rents or other amounts due under the Lease shall be conditioned upon Appleton’s “quiet enjoyment” of the Exhibition Center Property. The ARA shall waive any rights it may have to reenter or retake possession of the premises or accelerate the payment of rents or other amounts due under the Lease in the event of a default by Appleton under the Lease. The Lease will also grant to Appleton an option to purchase all of the ARA’s right, title, and interest in and to the Exhibition Center Property for a price of \$100, which may be exercised at any time after the date of the full and final retirement of all outstanding Bonds (or provision therefor in accordance with the Indenture), except in the event of a termination of the Lease as provided therein.

The Lease shall provide for a credit against the rents due from Appleton for all Exhibition Center Room Taxes then on deposit with the Trustee and available for payment of debt service on the Bonds. The ARA and Appleton anticipate that the Exhibition Center Room Taxes will be sufficient to make all payments of debt service on the Bonds; *however*, in the event that such Exhibition Center Room Taxes are insufficient to make such payments, Appleton will agree, subject to the terms of the Lease, to fund such payments then due and payable under the Lease.

To the extent that Appleton is required to fund such payments under the Lease, such payments shall be considered a loan or advance to the Room Tax Commission to be reimbursed from future Exhibition Center Room Taxes, together with interest at a rate equal to the rate of interest established by the Local Government Investment Pool of the State of Wisconsin on the date of such loan or advance; such reimbursement to occur as soon as reasonably practicable and to the extent that the Room Tax Commission has received Exhibition Center Room Taxes in excess of that amount required for payment of principal, interest and premium, if any, on the Bonds.

Section 3.06 Municipalities to Pledge the Exhibition Center Room Tax.

The Municipalities and the Room Tax Commission shall enter into the Pledge and Security Agreement setting forth the terms and conditions of the pledge of Exhibition Center Room Taxes, which pledge shall terminate upon payment in full of all outstanding Bonds.

Section 3.07 Mortgage of the Exhibition Center Property.

The ARA may grant to the Trustee, as security for the payment of the Bonds, a Mortgage. Any Mortgage will be subordinate to the Lease and will not give the Trustee any right to evict Appleton or retake possession of the Exhibition Center Property or to accelerate the payment of rents under the Lease.

Section 3.08 Credit Enhancement.

As further security for any Additional Bonds, the ARA may provide or cause to be provided Credit Enhancement with respect to the Bonds. Any premium or other fees payable to the issuer of a policy of bonds insurance or a letter of credit or any other guarantor of the Bonds (such issuer or other guarantor, a “**Bond Guarantor**”) may be paid from Exhibition Center Room Tax revenues or other funds as provided in the Indenture. In the event a Bond Guarantor is required to make debt service payments, Exhibition Center Room Tax revenues may be used to reimburse the Bond Guarantor for all payments of debt service on the Bonds.

ARTICLE IV

OPERATION OF THE CONVENTION CENTER

Section 4.01 Appleton to Provide Administrative Support to ARA.

Appleton agrees to provide the necessary administrative support to enable the ARA to achieve the objectives set forth herein. Administrative support may include services such as the provision of office space and the provision of financial, accounting, legal and engineering consultation in connection with the financing and operation of the Exhibition Center.

Section 4.02 Advisory Committee.

During the term of this Agreement, the ARA shall provide an opportunity for reasonable participation of the Municipalities in decisions relating to the operation of the Exhibition Center through the creation of an advisory committee which is intended to provide counsel to the ARA and to assist in program development and operations for the Exhibition Center (the “**Advisory Committee**”). The membership of the Advisory Committee shall include the following: one representative from each Municipality (appointed by the Municipality); two Operators collecting Room Taxes (appointed by the ARA Chairperson and approved by ARA), two community members residing within a Municipality (appointed by the ARA Chairperson and approved by ARA), one member of the ARA (appointed by the ARA Chairperson); and the Executive Director of the CVB, or his/her designee. The Appleton Community and Economic Development Director, or a designee thereof, shall also be a non-voting, advisory member of the Committee. The Chair and Vice-Chair of the Committee shall be designated by ARA and shall serve one-year terms that may be renewed at the discretion of ARA. Committee members, with the exception of the Executive Director of the CVB and Appleton Community and Economic Development Director, or designees thereof, shall serve terms of two years and may serve up to three consecutive terms. However, upon establishment of the Advisory Committee, the following shall serve an initial term of three years: one half of the participating Municipalities

chosen by random selection, one of the hotelier representatives, and one of the community members, chosen by the ARA Chairperson.

The roles and responsibilities and general operating rules of the Advisory Committee shall be as passed and approved by the Advisory Committee from time to time.

Section 4.03 Municipalities to Plan to Promote Private Development.

The Municipalities agree to continue to work with the Room Tax Commission and the CVB to develop plans for the use of the Exhibition Center property in a manner that will promote and assist the future private development of the Tourism Zone and that will promote and develop tourism and redevelopment.

Section 4.04 Municipalities to Participate in the Room Tax Commission.

The Municipalities agree to continue the existence of, and to participate in, the Room Tax Commission as provided by the Room Tax Act until payment in full of all outstanding Bonds.

Section 4.05 Nondiscrimination.

Each party agrees that the Exhibition Center shall not be operated in a manner to permit discrimination or restriction on the basis of race, color, ancestry, religion, national origin, political affiliation (except to members of political groups or parties who advocate the overthrow of the United States government), sex, gender identity, gender expression, age, disability, marital status, arrest or conviction record, sexual orientation, disabled veteran or a covered veteran status and that the Exhibition Center shall be operated in compliance with all effective laws, ordinances and regulations relating to discrimination on any of the foregoing grounds.

ARTICLE V

MISCELLANEOUS

Section 5.01 Amendment and Restatement of Original Agreement.

This Agreement amends and restates the Original Agreement and shall become effective as of the date of this Agreement, on which date the Original Agreement shall be superseded in its entirety. The PAC has executed and delivered this Agreement solely to acknowledge and agree that its rights and obligations under the Original Agreement have been terminated by this Agreement.

Section 5.02 Additional Municipalities.

Any Additional Municipality that becomes an additional member of the Room Tax Commission pursuant to the Commission Agreement shall, as a condition of such membership under said agreement, become an additional party to this Agreement. Each Additional Municipality shall be bound to the terms, conditions, and obligations of the Municipalities under this Agreement by execution and delivery to the Room Tax Commission of a joinder agreement in substantially the form attached hereto as Exhibit C. A copy of the executed joinder agreement

shall be delivered by the Room Tax Commission to the other then-current parties to this Agreement. Acceptance by the Room Tax Commission of such joinder agreement shall, without further action or approval of the parties to this Agreement, be deemed an approval of such Additional Municipality as an additional party to this Agreement by the then-current parties to this Agreement.

Any Additional Municipalities to hereafter become a party to this Agreement agree to enact governing body authorizations to effect the same as the Governing Body Authorizations.

Section 5.03 Assignment of Rights Under this Agreement.

No party may assign its rights under this Agreement without the written consent of all the other parties, except in the case of a Municipality's assignment to a successor municipality that has complied with the requirements of an Additional Municipality under Section 5.02 hereof.

Section 5.04 No Personal Liability.

Under no circumstances shall any officer, official, director, member or employee of the Municipalities, the Room Tax Commission or the ARA have any personal liability arising out of this Agreement, and no party shall seek or claim any such personal liability.

Section 5.05 Parties and Interests.

This Agreement is made solely for the benefit of the parties hereto, the Trustee and the owners of the Bonds and no other person, partnership, association or corporation shall acquire or have any rights hereunder or by virtue hereof.

Section 5.06 Notices.

All notices, demands, certificates or other communications under this Agreement shall be sufficiently given and shall be deemed given when hand delivered, or when sent by first class mail, email, or overnight delivery service, with proper address as indicated in each party's address indicated beneath the signature(s) of such party to this Agreement. Any party may, by written notice to the other parties, designate a change of address for the purposes aforesaid.

Section 5.07 Amendment.

No modification, alteration or amendment to this Agreement shall be binding upon any party hereto until such modification, alteration or amendment is agreed upon in writing and executed by all parties hereto.

Section 5.08 Termination of Agreement; Sunset of Exhibition Center Room Tax.

This Agreement and the terms and obligations hereunder shall terminate upon payment in full of all outstanding Bonds, and discharge of the Indenture, and upon any reimbursement to (i) Appleton, in accordance with the Lease or (ii) any Bond Guarantor for any debt service payments made and other amounts due to such Bond Guarantor pursuant to Section 3.08 hereof.

Pursuant to the Ordinances, the Exhibition Center Room Tax shall sunset upon payment in full of all outstanding Bonds and thereafter the Room Tax shall be reduced by 3%, with such reduction being deemed to be the share of the Room Tax allocated to the Exhibition Center Room Tax. At the time all outstanding Bonds are fully satisfied, any excess Exhibition Center Room Tax collected but not needed for the payment of the Bonds or any reimbursement due to Appleton or a Bond Guarantor shall be reallocated to [_____] (the “**Tourism Development Fund**”) for use of tourism promotion and tourism development in the Fox Cities Tourism Zone. [[Notwithstanding the forgoing, Operators shall continue to collect Exhibition Center Room Tax until the respective Municipality has given notice of the termination of the Exhibition Center Room Tax.]]

Section 5.09 Governing Law

The laws of the State of Wisconsin shall govern this Agreement.

Section 5.10 Captions.

The captions or headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any of the provisions of this Agreement.

Section 5.11 Counterparts.

This Agreement may be signed in any number of counterparts with the same effect as if the signatures thereto and hereto were upon the same instrument.

Section 5.12 Severability.

If any provisions of this Agreement shall be held or deemed to be or shall, in fact, be inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases because it conflicts with any other provision or provisions hereof or any constitution or statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative or unenforceable to any extent whatever.

[Signature Pages Follow]

IN WITNESS WHEREOF, the parties have executed this Cooperation Agreement as of the date first written above.

CITY OF APPLETON, WISCONSIN

By: _____
Its: Mayor

And: _____
Its: Clerk

ADDRESS:

City of Appleton
Attention: Director of Finance
100 North Appleton Street
Appleton, Wisconsin 54911

Email: tony.saucerman@appleton.org

IN WITNESS WHEREOF, the parties have executed this Cooperation Agreement as of the date first written above.

CITY OF KAUKAUNA, WISCONSIN

By: _____
Its: Mayor

And: _____
Its: Clerk

ADDRESS:

City of Kaukauna
Attention: Clerk-Treasurer
201 West Second Street
Kaukauna, Wisconsin 54130

Email: clerk-treasurer@kaukauna.org

IN WITNESS WHEREOF, the parties have executed this Cooperation Agreement as of the date first written above.

CITY OF NEENAH, WISCONSIN

By: _____
Its: Mayor

And: _____
Its: Clerk

ADDRESS:

City of Neenah
Attention: Finance Director
211 Walnut Street
Neenah, Wisconsin 54956

Email: measker@ci.neenah.wi.us

IN WITNESS WHEREOF, the parties have executed this Cooperation Agreement as of the date first written above.

VILLAGE OF KIMBERLY, WISCONSIN

By: _____
Its: President

And: _____
Its: Clerk

ADDRESS:

Village of Kimberly
Attention: Village Administrator
515 West Kimberly Avenue
Kimberly, Wisconsin 54136

Email: dblock@vokimberly.org

IN WITNESS WHEREOF, the parties have executed this Cooperation Agreement as of the date first written above.

VILLAGE OF LITTLE CHUTE, WISCONSIN

By: _____
Its: President

And: _____
Its: Clerk

ADDRESS:

Village of Little Chute
Attention: Village Administrator
108 West Main Street
Little Chute, Wisconsin 54140

Email: jfenlon@littlechutewi.org

IN WITNESS WHEREOF, the parties have executed this Cooperation Agreement as of the date first written above.

TOWN OF GRAND CHUTE, WISCONSIN

By: _____
Its: Chairperson

And: _____
Its: Clerk

ADDRESS:

Town of Grand Chute
Attention: Town Administrator
1900 West Grand Chute Boulevard
Grand Chute, Wisconsin 54913

Email: jim.march@grandchute.net

IN WITNESS WHEREOF, the parties have executed this Cooperation Agreement as of the date first written above.

TOWN OF NEENAH, WISCONSIN

By: _____
Its: Chairperson

And: _____
Its: Clerk

ADDRESS:

Town of Neenah
Attention: Clerk-Treasurer
1600 Breezewood Lane
Neenah, Wisconsin 54956

Email: ellen@townofneenah.com

IN WITNESS WHEREOF, the parties have executed this Cooperation Agreement as of the date first written above.

VILLAGE OF FOX CROSSING, WISCONSIN

By: _____
Its: President

And: _____
Its: Clerk

ADDRESS:

Village of Fox Crossing
Attention: Village Administrator
2000 Municipal Drive
Neenah, Wisconsin 54956

Email: jsturgell@foxcrossingwi.gov

IN WITNESS WHEREOF, the parties have executed this Cooperation Agreement as of the date first written above.

CITY OF MENASHA, WISCONSIN

By: _____
Its: Mayor

And: _____
Its: Clerk

ADDRESS:

City of Menasha
Attention: Director of Administrative Services/Comptroller/Treasurer
140 Main Street
Menasha, Wisconsin 54952

Email: jjacobs@ci.menasha.wi.us

IN WITNESS WHEREOF, the parties have executed this Cooperation Agreement as of the date first written above.

VILLAGE OF SHERWOOD, WISCONSIN

By: _____
Its: President

And: _____
Its: Clerk

ADDRESS:

Village of Sherwood
Attention: Village Administrator
W482 Clifton Road
Sherwood, Wisconsin 54169

Email: administrator.sherwood@newbc.rr.com

IN WITNESS WHEREOF, the parties have executed this Cooperation Agreement as of the date first written above.

**REDEVELOPMENT AUTHORITY OF THE CITY
OF APPLETON, WISCONSIN**

By: _____
Its: Executive Director

ADDRESS:

Appleton Redevelopment Authority
Attention: Executive Director
100 North Appleton Street
Appleton, Wisconsin 54911

Email: karen.harkness@appleton.org

IN WITNESS WHEREOF, the parties have executed this Cooperation Agreement as of the date first written above.

FOX CITIES AREA ROOM TAX COMMISSION

By: _____
Its: _____

And: _____
Its: _____

ADDRESS:

Fox Cities Area Room Tax Commission
Attention: Chairperson
c/o Fox Cities Convention & Visitors Bureau
3433 West College Avenue
Appleton, Wisconsin 54914

Email: bruce.sherman@grandchute.net

**ACKNOWLEDGEMENT OF
AMENDED AND RESTATED COOPERATION AGREEMENT**

The undersigned hereby acknowledges that it is a party to the Exhibition Center Cooperation Agreement, dated as of November 24, 2015, by and among certain Municipalities in the Fox Cities area, the Redevelopment Authority of the City of Appleton, Wisconsin, and the Fox Cities Area Room Tax Commission (the “**Original Agreement**”) and that the Original Agreement has been amended and restated by the foregoing Amended and Restated Cooperation Agreement, dated as of [April 1], 2018, to which the undersigned is not a party. The undersigned further acknowledges that it has no further rights or obligations under the Original Agreement.

FOX CITIES PERFORMING ARTS CENTER, INC.

By _____
Title: _____

[Acknowledgement of Amended and Restated Cooperation Agreement]

EXHIBIT A

Exhibition Center Project

[The Fox Cities Exhibition Center (“FCEC”) is an approximately 30,000 square foot facility with an iconic spire and glass façade overlooking Jones Park located at _____ Lawrence Street, Appleton, Wisconsin, includes exhibition, trade show, and meeting space with state of the art technical capabilities. The exhibition space can be divided into three 10,000 square foot sections and features a pre-function space and dedicated meeting space. The FCEC also has 17,000 square feet of outdoor exhibition space that can be rented. The FCEC is connected to the Radisson Paper Valley Hotel, which offers an additional 40,000 square feet of meeting, banquet and break-out space and 390 sleeping rooms]

Costs Paid by Appleton:

Reimbursement Amount to Appleton: \$_____

EXHIBIT B

Exhibition Center Property Description

[Legal Description Attached]

Legal Description

Parcel No. 312011600

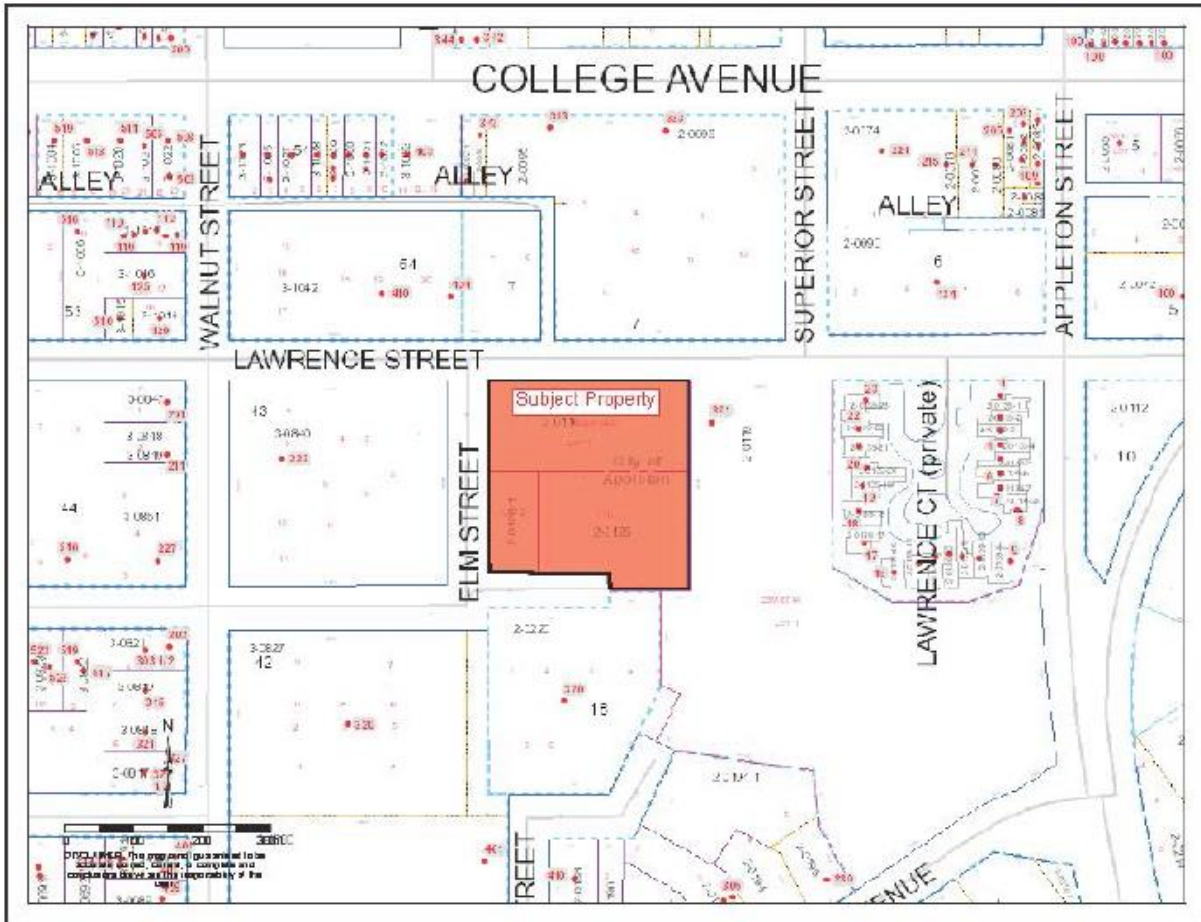
CSM 5460 Lot 1 Vol 31 Doc 1726114 being all of Lots 1,2,3,4,5,8,9,10, 11 & 12 Blk 8 Appleton Plat and Prt of Vac Eighth St

Parcel No. 312012601

CSM 5460 Lot 2 Vol 31 Doc 1726114 being all of Lots 1,2,3,4,5,8,9,10, 11 & 12 Blk 8 Appleton Plat and Prt of Vac Eighth St

Parcel No. 312012600

CSM 5460 Lot 3 Vol 31 Doc 1726114 being all of Lots 1,2,3,4,5,8,9,10, 11 & 12 Blk 8 Appleton Plat and Prt of Vac Eighth St



[Acknowledgement of Amended and Restated Cooperation Agreement]

EXHIBIT C

JOINDER AGREEMENT TO

AMENDED AND RESTATED COOPERATION AGREEMENT

The undersigned municipality hereby agrees that it shall be an Additional Municipality as defined in the Amended and Restated Cooperation Agreement, dated as of [April 1], 2018 (the “**Agreement**”), and hereby agrees to enter into and be bound by the terms, conditions, and obligations of the Municipalities under the Agreement, as amended from time to time. On and after the date of this Joinder Agreement, the undersigned shall be deemed a Municipality under the Agreement.

IN WITNESS WHEREOF, the undersigned Municipality has duly executed this Joinder Agreement effective as of _____, 20____.

_____ OF _____, WISCONSIN

By: _____

Its: _____

And: _____

Its: _____

ADDRESS:

_____ of _____

Attention: _____

_____, Wisconsin _____

Email: _____

Accepted on behalf of itself, the Municipalities, and the Redevelopment Authority of the City of Appleton, Wisconsin:

FOX CITIES AREA ROOM TAX COMMISSION

By: _____

Its: _____

And: _____

Its: _____

FIRST AMENDMENT TO
AMENDED AND RESTATED
ROOM TAX COMMISSION AND TOURISM ZONE AGREEMENT

Dated as of [April 1], 2018

by and among

THE MUNICIPALITIES NAMED HEREIN

and the

FOX CITIES AREA ROOM TAX COMMISSION

**FIRST AMENDMENT TO AMENDED AND RESTATED
ROOM TAX COMMISSION AND TOURISM ZONE AGREEMENT**

This FIRST AMENDMENT TO AMENDED AND RESTATED ROOM TAX COMMISSION AND TOURISM ZONE AGREEMENT, dated as of [April 1], 2018 (this “**First Amendment**”), by and among the CITY OF APPLETON, WISCONSIN, a Wisconsin municipal corporation and political subdivision (“**Appleton**”), the CITY OF KAUKAUNA, WISCONSIN, a Wisconsin municipal corporation and political subdivision (“**Kaukauna**”), the CITY OF NEENAH, WISCONSIN, a Wisconsin municipal corporation and political subdivision (“**City of Neenah**”), the VILLAGE OF KIMBERLY, WISCONSIN, a Wisconsin municipal corporation and political subdivision (“**Kimberly**”), the VILLAGE OF LITTLE CHUTE, WISCONSIN, a Wisconsin municipal corporation and political subdivision (“**Little Chute**”), the TOWN OF GRAND CHUTE, WISCONSIN, a Wisconsin political subdivision (“**Grand Chute**”), the TOWN OF NEENAH, WISCONSIN, a Wisconsin political subdivision (“**Town of Neenah**”), the VILLAGE OF FOX CROSSING, WISCONSIN, a Wisconsin municipal corporation and political subdivision (“**Fox Crossing**”), the CITY OF MENASHA, WISCONSIN, a Wisconsin municipal corporation and political subdivision (“**Menasha**”), and the VILLAGE OF SHERWOOD, WISCONSIN, a Wisconsin municipal corporation and political subdivision (“**Sherwood**” and, collectively with Appleton, Kaukauna, City of Neenah, Kimberly, Little Chute, Grand Chute, Town of Neenah, Fox Crossing, and Menasha, the “**Municipalities**”), and the FOX CITIES AREA ROOM TAX COMMISSION, an authority formed pursuant to the powers provided in Section 66.0615 of the Wisconsin Statutes (the “**Commission**”), is an amendment to the Amended and Restated Room Tax Commission and Tourism Zone Agreement, dated as of November 24, 2015, by and among the Municipalities and the Commission (the “**Commission Agreement**”). *Capitalized terms used but not otherwise defined herein shall have the meanings set forth in the Commission Agreement.*

RECITALS

WHEREAS, the Municipalities (including the Town of Menasha, Wisconsin as the predecessor to Fox Crossing) and the Commission have entered into the Commission Agreement; and

WHEREAS, subsequent to the date of the Commission Agreement, certain facts and assumptions contemplated in the Commission Agreement have changed, including that the bonds contemplated to be issued (the “**Exhibition Center Bonds**”) to finance the Fox Cities Exhibition Center (the “**Exhibition Center**”) have not yet been issued, Appleton has constructed the Exhibition Center with its own funds, the PAC Bonds have been paid in full and the Amended and Restated Pledge and Security Agreement relating to the PAC Bonds has been terminated, the Room Tax Act has been amended, and the Town of Menasha, Wisconsin, a party to the Commission Agreement, has been incorporated as the Village of Fox Crossing, Wisconsin; and

WHEREAS, each Municipality has adopted an ordinance imposing a 10% Room Tax, allocated as described in the Commission Agreement; and

WHEREAS, the Commission has contracted with the Fox Cities Convention & Visitors Bureau, Inc. (the “**CVB**”), as a tourism entity, to obtain staff, support services and

assistance in developing and implementing programs to promote the zone to visitors and to receive and administer certain of the 10% Room Taxes on behalf of the Room Tax Commission pursuant to the Tourism Entity Agreement dated as of December 31, 2015, between the CVB and the Room Tax Commission, as amended by a First Amendment to Tourism Entity Agreement, dated as of [April 1], 2018 (the “**Tourism Entity Agreement**”).

WHEREAS, the Municipalities, the Commission, and Redevelopment Authority of the City of Appleton, Wisconsin (the “**Authority**”) have entered into an Amended and Restated Cooperation Agreement for the Fox Cities Exhibition Center, dated as of [April 1], 2018 (the “**Amended and Restated Exhibition Center Cooperation Agreement**”), which amends and restates the Exhibition Center Cooperation Agreement, dated as of November 24, 2015, in its entirety; and

WHEREAS, the Municipalities and the Commission have entered into a Pledge and Security Agreement, dated as of [April 1], 2018 (the “**Pledge and Security Agreement**”), with Associated Trust Company, National Association, as trustee (the “**Trustee**”), pursuant to which the 3% Room Tax imposed for the payment of the Exhibition Center Bonds shall be forwarded directly to the Trustee by the Operators; and

WHEREAS, the Exhibition Center Bonds are being issued contemporaneously with the execution and delivery of this First Amendment; and

WHEREAS, the Municipalities and the Commission desire that the Commission Agreement be amended to reflect current facts, circumstances, and documents;

NOW, THEREFORE in consideration of the mutual agreements herein contained, the parties hereto agree as follows:

Section 1. References to Certain Terms.

Certain terms in the Commission Agreement shall be revised as follows:

- (a) References in the Commission Agreement to “this Amended and Restated Room Tax Commission and Tourism Zone Agreement” or “this Agreement” shall be deemed to refer to the Commission Agreement as amended by this First Amendment.
- (b) References in the Commission Agreement, including as amended hereby, to the “Exhibition Center Cooperation Agreement dated of even date herewith” or to the “Exhibition Center Cooperation Agreement” shall be deemed to refer to the Amended and Restated Exhibition Center Cooperation Agreement.

Section 2. Amendments to Agreement.

- (a) **Section 5 is amended in its entirety to read as follows:**

Imposition of Room Tax. Pursuant to the Room Tax Act, each municipality that imposes a Room Tax in the Fox Cities Tourism Zone shall levy the same percentage of Room

Tax. If the Municipalities are unable to agree on the percentage of tax to be levied in the Fox Cities Tourism Zone, then the Fox Cities Room Tax Commission shall set the percentage. The Municipalities have each adopted an ordinance that imposed a 10% Room Tax. Pursuant to subsection (1m)(am)(3) of the Room Tax Act, the parties hereto find and agree that (i) each Municipality is located in a county or counties having a population of less than 380,000, (ii) the counties in which the Municipalities are located are not located adjacent to any county with a population of over 380,000, and (iii) the Municipalities have worked cooperatively to construct and finance the Exhibition Center.

(b) **Section 7 is amended in its entirety to read as follows:**

Collection of Room Tax. Each Municipality shall cause each Operator within its jurisdiction to collect the 10% Room Tax imposed by such Municipality pursuant to its ordinance (the "Ordinance"). The 10% Room Tax is comprised of (i) a 3% Room Tax collected for the support of the CVB (the "CVB Room Tax"), (ii) the 2% PAC Room Tax for the development and support of amateur sports facilities within the Fox Cities Tourism Zone and/or other facilities which are reasonably likely to generate paid overnight stays at more than one hotel or motel establishment within the Fox Cities Tourism Zone, (iii) a 3% Room Tax collected for the direct or indirect payment of the costs of construction of the Exhibition Center or debt service on bonds (the "Exhibition Center Bonds") issued to finance or refinance the Exhibition Center (the "Exhibition Center Room Tax"), (iv) a 1% Room Tax collected for general purposes, including, but not limited to tourism support and development in the Municipality (the "Municipal Room Tax"), and (v) 1% Room Tax collected for the development and support of amateur sports facilities within the Fox Cities Tourism Zone and/or other facilities which are reasonably likely to generate paid overnight stays at more than one hotel or motel establishment within the Fox Cities Tourism Zone (the "Tourism Facilities Room Tax"). Pursuant to the Ordinances, the Exhibition Center Room Tax shall sunset upon payment in full of all outstanding Exhibition Center Bonds and thereafter the 10% Room Tax shall be reduced by 3%, with such reduction being deemed to be the share of the Room Tax allocated to the Exhibition Center Room Tax. The Municipalities acknowledge that, because the PAC Bonds have been paid in full, the PAC Room Tax and the Tourism Facilities Room Tax are dedicated to the same purposes; however they are assigned separate payment priorities in Section 9 hereof and in the Ordinances.

The Municipalities shall cause each Operator to forward the Exhibition Center Room Tax directly to Associated Trust Company, National Association, or its successor as trustee for the Exhibition Center Bonds (the "Trustee"), quarterly no later than each January 31, April 30, July 31, and October 31 pursuant to the Pledge and Security Agreement, dated as of [April 1], 2018 (the "Pledge and Security Agreement"), entered into by and among the Municipalities, the Fox Cities Room Tax Commission, and the Trustee.

Each Municipality shall distribute the remaining 7% Room Tax collected as follows:

- a. 95% of the 3% CVB Room Tax shall be forwarded by the Municipality to the CVB on behalf of the Fox Cities Room Tax Commission;

- b. 5% of the 3% CVB Room Tax may be retained by the Municipality for general purposes, including, but not limited to tourism support and development in the Municipality in accordance with the requirements of the Room Tax Act;
- c. the 2% PAC Room Tax shall be forwarded by the Municipality to the CVB on behalf of the Fox Cities Room Tax Commission;
- d. the 1% Municipal Room Tax shall be retained the Municipality; and
- e. the 1% Tourism Facilities Room Tax shall be forwarded by the Municipality to the CVB on behalf of the Fox Cities Room Tax Commission.

(c) **Section 8 is amended in its entirety to read as follows:**

Use of Room Tax. The 95% portion of the CVB Room Tax, the PAC Room Tax, and the Tourism Facilities Room Tax received by the Fox Cities Room Tax Commission shall be utilized as described in Section 7.a., c., and e. The 5% portion of the CVB Room Tax and the Municipal Room Tax retained by the Municipalities shall be utilized as described in Section 7.b. and d. The Exhibition Center Room Tax shall be utilized as described in the Pledge and Security Agreement.

Notwithstanding the foregoing, the parties agree that (i) the Exhibition Center Room Tax received by the CVB on behalf of the Fox Cities Room Tax Commission, or by the Fox Cities Room Tax Commission or any Municipality received from January 1, 2016 through [_____, 2018] [the Effective Date of the First Amendment] shall be applied as provided in the Exhibition Center Cooperation Agreement, (ii) funds held by the trustee for the PAC Bonds in the amount of \$750,000 shall also be applied as provided in the Exhibition Center Cooperation Agreement, and all remaining funds held by such trustee shall be applied to the purposes for which the PAC Room Tax is to be applied, and (iii) at the time all outstanding Exhibition Center Bonds are fully satisfied, any excess Exhibition Center Room Tax collected but not needed for the payment of the Exhibition Center Bonds or any reimbursement due to Appleton or to a Bond Guarantor, as defined in and pursuant to the Exhibition Center Cooperation Agreement, shall be reallocated to [_____] (the “**Tourism Development Fund**”) for use of tourism promotion and tourism development in the Fox Cities Tourism Zone.

(d) **Section 9 is amended in its entirety to read as follows:**

Priority of Payment. In the event any Operator fails to remit to the Trustee or to the Municipality the Room Tax for a period of one calendar quarter, or is in arrears by one calendar quarter or more after any January 31, April 30, July 31, or October 31 quarterly payment date, or in the event the Municipality fails to remit to the CVB on behalf of the Room Tax Commission, the applicable remaining Room Tax described in Section 7 within [10 business days] after receipt of such quarterly payment (a “Deficient Payment”) under this Agreement, the Pledge and Security Agreement, and the ordinances imposing the Room Tax, the Deficient Payment amounts actually received by the Municipality, the Trustee, or the CVB on behalf of the Fox Cities Room Tax Commission shall be applied in the following priority order:

- a. *First*, toward the payment of the 3% CVB Room Tax;
- b. *Second*, toward the payment of the 2% PAC Room Tax;
- c. *Third*, toward the payment of the 3% Exhibition Center Room Tax (for so long as it is being collected);
- d. *Fourth*, toward the payment of the 1% Municipal Room Tax; and
- e. *Fifth*, toward the payment of the 1% Tourism Facilities Room Tax.

(e) **The introduction to Section 12 is amended to read as follows:**

Powers and Duties. The Fox Cities Room Tax Commission shall have the powers, rights, and duties as provided for a “commission” in the Room Tax Act, including:

(f) **Subsection 12(c) is amended to read as follows:**

c. To report, or cause the CVB to report, no less than annually to each Municipality from which it received Room Taxes, the purposes for which the revenues were spent and the information required to be reported to the Wisconsin Department of Revenue (the “DOR”) under subsection (4) of the Room Tax Act; *provided, however*, that such report shall be delivered to each Municipality so that it may timely comply with its required annual certification to the DOR due on or before each May 1.

(g) **Section 13 is amended in its entirety to read as follows:**

Additional Municipalities. It is anticipated that from time to time the geographic area comprising the Fox Cities Tourism Zone may change such that additional municipalities not party to this Agreement may become part of the Fox Cities Tourism Zone. The Fox Cities Room Tax Commission shall use its best efforts to encourage and accept such additional municipalities (each, an “Additional Municipality”) to become a member of the Fox Cities Room Tax Commission. Each Additional Municipality shall be required, as a condition to becoming a member of the Fox Cities Room Tax Commission, to impose by ordinance the 10% Room Tax as described in Sections 7 and 9 hereof (or, after the termination of the Exhibition Center Room Tax, a 7% Room Tax), and for so long as the Exhibition Center Bonds remain outstanding, to become a party to the Pledge and Security Agreement and the Exhibition Center Cooperation Agreement. Each Additional Municipality shall become bound to the terms, conditions, and obligations of the Municipalities hereunder by execution of a joinder agreement, in substantially the form attached hereto as Exhibit B, accepted by the Fox Cities Room Tax Commission, which shall provide a copy of such joinder agreement to the other then-current parties to this Agreement.

(h) **Section 14 is amended in its entirety to read as follows:**

Municipal Action. The Municipalities shall enact such ordinances and/or resolutions as are necessary to satisfy the terms of this Agreement and to effect any provisions of this Agreement.

(i) **Exhibit B is added to the Commission Agreement, to read as set forth in Exhibit A to this First Amendment.**

Section 3. Effective Date; Ratification of Agreement.

The amendment to the Commission Agreement contained herein shall be effective as of the date of this First Amendment. Except as expressly provided in this First Amendment, the provisions of the Commission Agreement shall remain in full force and effect.

Section 4. Counterparts; Headings.

This First Amendment may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. The section headings in this First Amendment are for convenience only and in no way define, limit or describe the scope or intent of any provision of this First Amendment.

[Signature Pages Follow]

IN WITNESS WHEREOF, the parties have executed this First Amendment to Amended and Restated Room Tax Commission and Tourism Zone Agreement as of the date first written above.

CITY OF APPLETON, WISCONSIN

By: _____
Its: Mayor

And: _____
Its: Clerk

ADDRESS:

City of Appleton
Attention: Director of Finance
100 North Appleton Street
Appleton, Wisconsin 54911

Email: tony.saucerman@appleton.org

[Signature Page to First Amendment to Amended and Restated
Room Tax Commission and Tourism Zone Agreement – Appleton]

IN WITNESS WHEREOF, the parties have executed this First Amendment to Amended and Restated Room Tax Commission and Tourism Zone Agreement as of the date first written above.

CITY OF KAUKAUNA, WISCONSIN

By: _____
Its: Mayor

And: _____
Its: Clerk

ADDRESS:

City of Kaukauna
Attention: Clerk-Treasurer
201 West Second Street
Kaukauna, Wisconsin 54130

Email: clerk-treasurer@kaukauna.org

[Signature Page to First Amendment to Amended and Restated
Room Tax Commission and Tourism Zone Agreement – Kaukauna]

IN WITNESS WHEREOF, the parties have executed this First Amendment to Amended and Restated Room Tax Commission and Tourism Zone Agreement as of the date first written above.

CITY OF NEENAH, WISCONSIN

By: _____
Its: Mayor

And: _____
Its: Clerk

ADDRESS:

City of Neenah
Attention: Finance Director
211 Walnut Street
Neenah, Wisconsin 54956

Email: measker@ci.neenah.wi.us

[Signature Page to First Amendment to Amended and Restated
Room Tax Commission and Tourism Zone Agreement – City of Neenah]

IN WITNESS WHEREOF, the parties have executed this First Amendment to Amended and Restated Room Tax Commission and Tourism Zone Agreement as of the date first written above.

VILLAGE OF KIMBERLY, WISCONSIN

By: _____
Its: President

And: _____
Its: Clerk

ADDRESS:

Village of Kimberly
Attention: Village Administrator
515 West Kimberly Avenue
Kimberly, Wisconsin 54136

Email: dblock@vokimberly.org

[Signature Page to First Amendment to Amended and Restated
Room Tax Commission and Tourism Zone Agreement – Kimberly]

IN WITNESS WHEREOF, the parties have executed this First Amendment to Amended and Restated Room Tax Commission and Tourism Zone Agreement as of the date first written above.

VILLAGE OF LITTLE CHUTE, WISCONSIN

By: _____
Its: President

And: _____
Its: Clerk

ADDRESS:

Village of Little Chute
Attention: Village Administrator
108 West Main Street
Little Chute, Wisconsin 54140

Email: jfenlon@littlechutewi.org

[Signature Page to First Amendment to Amended and Restated
Room Tax Commission and Tourism Zone Agreement – Little Chute]

IN WITNESS WHEREOF, the parties have executed this First Amendment to Amended and Restated Room Tax Commission and Tourism Zone Agreement as of the date first written above.

TOWN OF GRAND CHUTE, WISCONSIN

By: _____
Its: Chairperson

And: _____
Its: Clerk

ADDRESS:

Town of Grand Chute
Attention: Town Administrator
1900 West Grand Chute Boulevard
Grand Chute, Wisconsin 54913

Email: jim.march@grandchute.net

[Signature Page to First Amendment to Amended and Restated
Room Tax Commission and Tourism Zone Agreement – Grand Chute]

IN WITNESS WHEREOF, the parties have executed this First Amendment to Amended and Restated Room Tax Commission and Tourism Zone Agreement as of the date first written above.

TOWN OF NEENAH, WISCONSIN

By: _____
Its: Chairperson

And: _____
Its: Clerk

ADDRESS:

Town of Neenah
Attention: Clerk-Treasurer
1600 Breezewood Lane
Neenah, Wisconsin 54956

Email: ellen@townofneenah.com

[Signature Page to First Amendment to Amended and Restated
Room Tax Commission and Tourism Zone Agreement – Town of Neenah]

IN WITNESS WHEREOF, the parties have executed this First Amendment to Amended and Restated Room Tax Commission and Tourism Zone Agreement as of the date first written above.

VILLAGE OF FOX CROSSING, WISCONSIN

By: _____
Its: President

And: _____
Its: Clerk

ADDRESS:

Village of Fox Crossing
Attention: Village Administrator
2000 Municipal Drive
Neenah, Wisconsin 54956

Email: jsturgell@foxcrossingwi.gov

[Signature Page to First Amendment to Amended and Restated
Room Tax Commission and Tourism Zone Agreement – Fox Crossing]

IN WITNESS WHEREOF, the parties have executed this First Amendment to Amended and Restated Room Tax Commission and Tourism Zone Agreement as of the date first written above.

CITY OF MENASHA, WISCONSIN

By: _____
Its: Mayor

And: _____
Its: Clerk

ADDRESS:

City of Menasha
Attention: Director of Administrative Services/Comptroller/Treasurer
140 Main Street
Menasha, Wisconsin 54952

Email: jjacobs@ci.menasha.wi.us

[Signature Page to First Amendment to Amended and Restated
Room Tax Commission and Tourism Zone Agreement – Menasha]

IN WITNESS WHEREOF, the parties have executed this First Amendment to Amended and Restated Room Tax Commission and Tourism Zone Agreement as of the date first written above.

VILLAGE OF SHERWOOD, WISCONSIN

By: _____
Its: President

And: _____
Its: Clerk

ADDRESS:

Village of Sherwood
Attention: Village Administrator
W482 Clifton Road
Sherwood, Wisconsin 54169

Email: administrator.sherwood@newbc.rr.com

[Signature Page to First Amendment to Amended and Restated
Room Tax Commission and Tourism Zone Agreement – Sherwood]

IN WITNESS WHEREOF, the parties have executed this First Amendment to Amended and Restated Room Tax Commission and Tourism Zone Agreement as of the date first written above.

FOX CITIES AREA ROOM TAX COMMISSION

By: _____

Its: _____

[And: _____]

Its: _____]

ADDRESS:

Fox Cities Area Room Tax Commission
Attention: Chairperson
c/o Fox Cities Convention & Visitors Bureau
3433 West College Avenue
Appleton, Wisconsin 54914

Email: bruce.sherman@grandchute.net

[Signature Page to First Amendment to Amended and Restated
Room Tax Commission and Tourism Zone Agreement – Sherwood]

EXHIBIT B

JOINDER AGREEMENT

**AMENDED AND RESTATED
ROOM TAX COMMISSION AND TOURISM ZONE AGREEMENT**

The undersigned municipality hereby agrees that it shall be an Additional Municipality as defined in the Amended and Restated Room Tax Commission and Tourism Zone Agreement, dated as of November 24, 2015, among the Fox Cities Area Room Tax Commission and the municipal members of such commission as amended by a First Amendment to Amended and Restated Room Tax Commission and Tourism Zone Agreement, dated as of [April 1], 2018 (collectively, the “**Agreement**”), and hereby agrees to be bound by the terms, conditions, and obligations of the Municipalities under the Agreement, as amended from time to time. On and after the date of this Joinder Agreement, the undersigned shall be deemed a Municipality under the Agreement.

IN WITNESS WHEREOF, the undersigned Municipality has duly executed this Joinder Agreement effective as of _____, 20____.

_____ OF _____, WISCONSIN

By: _____
Its: _____

And: _____
Its: _____

ADDRESS:

_____ of _____
Attention: _____

_____, Wisconsin _____

Email: _____

Accepted on behalf of itself and the Municipalities:

FOX CITIES AREA ROOM TAX COMMISSION

By: _____
Its: _____

And: _____
Its: _____

**AMENDED AND RESTATED
ROOM TAX COMMISSION AND
TOURISM ZONE AGREEMENT**

Pursuant to §66.0301, Wis. Stats., the municipalities of the CITY OF APPLETON, WISCONSIN, a Wisconsin municipal corporation and political subdivision ("Appleton"), the CITY OF KAUKAUNA, WISCONSIN, a Wisconsin municipal corporation and political subdivision ("Kaukauna"), the CITY OF NEENAH, WISCONSIN, a Wisconsin municipal corporation and political subdivision ("City of Neenah"), the VILLAGE OF KIMBERLY, WISCONSIN, a Wisconsin municipal corporation and political subdivision ("Kimberly"), the VILLAGE OF LITTLE CHUTE, WISCONSIN, a Wisconsin municipal corporation and political subdivision ("Little Chute"), the TOWN OF GRAND CHUTE, WISCONSIN, a Wisconsin municipal corporation and political subdivision ("Grand Chute"), the TOWN OF NEENAH, WISCONSIN, a Wisconsin municipal corporation and political subdivision ("Town of Neenah"), the TOWN OF MENASHA, WISCONSIN, a Wisconsin municipal corporation and political subdivision ("Town of Menasha"), the CITY OF MENASHA, WISCONSIN, a Wisconsin municipal corporation and political subdivision ("City of Menasha"), and the VILLAGE OF SHERWOOD, WISCONSIN, a Wisconsin municipal corporation and political subdivision ("Sherwood"), collectively, the "Municipalities", and the Fox Cities Area Room Tax Commission, an authority formed pursuant to the powers provided in §66.0615 Wis. Stats. ("Fox Cities Room Tax Commission") enter into this Amended and Restated Room Tax Commission and Tourism Zone Agreement ("Agreement") on this, the 24th day of November, 2015, for the purposes of coordinating the promotion and development of tourism within the Municipalities.

WHEREAS, the Wisconsin legislature has established statutory guidelines for the collection of a tax on the privilege of furnishing, at retail, rooms or lodging to transients by hotelkeepers, motel operators and other persons furnishing accommodations (collectively, "Operators") which are available to the public ("Room Tax") pursuant to §66.0615 Wis. Stats. ("Room Tax Act"); and

WHEREAS, the Room Tax Act sets forth requirements as to the formation of a Room Tax Commission to coordinate tourism promotion and tourism development for a Zone using Room Tax revenues when two (2) or more municipalities are located in a Zone, as that term is

defined in the Room Tax Act, and the imposition of Room Tax within a Zone by the Municipalities; and

WHEREAS, the Municipalities (excluding the City of Menasha and Sherwood) previously entered into that Room Tax Commission and Tourism Zone Agreement (“Existing Agreement”), to which Little Chute was added as a party following its initial execution, and to which future municipalities may be added, in which the parties acknowledged that the geographic area encompassing the parties is considered to be a single destination as perceived by the traveling public (“Fox Cities Tourism Zone”), which necessitated the formation of a Room Tax Commission to coordinate tourism promotion and tourism development within the Fox Cities Tourism Zone pursuant to the Room Tax Act (“Fox Cities Room Tax Commission”); and

WHEREAS, the Existing Agreement created the Fox Cities Room Tax Commission for the sole purpose of promoting tourism and development within the Fox Cities Tourism Zone by utilizing revenues collected from a Room Tax imposed to pay debt service on bonds (“PAC Bonds”) issued by the Redevelopment Authority of the City of Appleton, Wisconsin in order to finance a portion of the construction of the Fox Cities Performing Arts Center (“PAC Room Tax”); and

WHEREAS, the Existing Agreement directs that the Fox Cities Room Tax Commission will terminate and cease to exist upon payment in full of the PAC Bonds; and

WHEREAS, the Municipalities presently collect Room Taxes over and above the PAC Room Taxes and now desire to impose additional Room Taxes to help fund the construction of the Fox Cities Exhibition Center as well as to development and support amateur sports facilities within the Fox Cities Tourism Zone and/or other facilities which are reasonably likely to generate paid overnight stays at more than one hotel or motel establishment within the Fox Cities Tourism Zone; and

WHEREAS, the Municipalities further desire to enter into this Amended and Restated Room Tax Commission and Tourism Zone Agreement in order to (i) amend the terms of the Existing Agreement; (ii) set forth the Municipalities’ agreements relating to the Exhibition Center; (iii) ensure uniformity in the collection and use of all Room Taxes collected in accordance with the Room Tax Act; (iv) set ongoing procedural requirements for the Fox Cities Room Tax Commission; (v) confirm the operations of the Fox Cities Room Tax Commission are conducted in accordance with recent amendments to the Room Tax Act; and

WHEREAS, the Municipalities deem it to be in best interest of their constituents and the public at large to enter into this Agreement.

NOW THEREFORE, for valuable consideration and mutual benefit, the sufficiency of which is hereby acknowledged, it is agreed by the contracting municipalities as follows:

1. Recitals. The above recitals are incorporated by reference herein and made a part hereof.

2. Restatement of Existing Agreement. The Existing Agreement is hereby amended and restated in its entirety as set forth in this Amended and Restated Room Tax Commission and Tourism Zone Agreement. There shall be no interruption in the administration of PAC Room Taxes or services provided by the Fox Cities Room Tax Commission as set forth under the Existing Agreement.

3. Confirmation of Tourism Zone. The geographic area encompassing the Municipalities is hereby confirmed to be a single destination as perceived by the traveling public, and, therefore, a Tourism Zone, as that term is used in the Room Tax Act. It shall be referred to as the "Fox Cities Tourism Zone".

4. Confirmation of Room Tax Commission. The formation of the "Fox Cities Room Tax Commission", established under the Existing Agreement, is hereby ratified and confirmed. The Fox Cities Room Tax Commission is tasked with coordinating and promoting tourism and tourism development within the Fox Cities Tourism Zone and to do all other things necessary to accomplish its purposes as provided for by the Room Tax Act.

5. Imposition of Room Tax. Pursuant to the Room Tax Act, each Municipality that imposes a Room Tax in the Fox Cities Tourism Zone shall levy the same percentage of Room Tax. If the Municipalities are unable to agree on the percentage of tax to be levied in the Fox Cities Tourism Zone, the Fox Cities Room Tax Commission shall set the percentage. Room Taxes shall be imposed by passage of an ordinance in substantially the same form as that Form Ordinance attached as Exhibit "C" to that Exhibition Center Cooperation Agreement, dated of even date herewith. Pursuant to (1m)(am)(3) of the Room Tax Act, the parties hereto find and agree that (i) each Municipality is located in a county or counties having a population of less than 380,000; (ii) the counties in which the Municipalities are located are not located adjacent to any county with a population of over 380,000; (iii) the Municipalities are working cooperatively together to construct the Exhibition Center.

6. Tourism Entity. The parties hereby appoint the Fox Cities Convention & Visitors Bureau (“CVB”) to act as the "tourism entity" as that term is defined in the Room Tax Act, for purposes of providing staff, support services and assistance to the Fox Cities Room Tax Commission in developing and implementing programs to promote the Fox Cities Tourism Zone to visitors, as more fully set forth in an agreement between the Fox Cities Room Tax Commission and the CVB.

7. Collection of Funds. Unless otherwise provided herein, each Municipality shall collect and forward the Room Tax revenues collected to the Fox Cities Room Tax Commission or its designees or assigns, for the funding of the coordination of tourism promotion and tourism development activities for the Fox Cities Tourism Zone.

- a. Notwithstanding the foregoing, the parties acknowledge the existence of that Amended and Restated Pledge and Security Agreement between the parties hereto (excluding the City of Menasha and Sherwood) and the Associated Trust Company dated May 1, 2012 in which PAC Room Tax revenues were directed to be paid by the Municipalities directly to Associated Trust Company for the payment of debt service on the PAC Bonds. PAC Room Taxes shall continue to be sent directly to Associated Trust Company until the PAC Bonds have been paid in full, at which point all future PAC Room Tax revenues shall be paid to the Fox Cities Room Tax Commission.
- b. In addition, the Municipalities are authorized to retain from their respective collections (i) five percent (5%) of the revenues collected from that three percent (3%) Room Tax which was imposed for the support of the Fox Cities Convention & Visitors Bureau, to be used for the promotion of the Fox Cities Tourism Zone as a tourism destination; and (ii) the entire one percent (1%) Room Tax imposed by the Municipalities for general tourism support and development within the Fox Cities Tourism Zone in accordance with the requirements of the Room Tax Act.

8. Use of Funds. All Room Taxes received by the Fox Cities Room Tax Commission shall be utilized for tourism promotion and tourism development within the Fox Cities Tourism Zone, including the support and development of tourism facilities. It is acknowledged by the parties that certain Room Taxes have been reserved for specific tourism purposes and that those reserved Room Taxes shall be used consistent with the following:

- a. The PAC Room Tax revenues shall be utilized in a manner consistent with that Cooperation Agreement dated June 1, 2000, as amended from time to time.

- b. The Exhibition Center Room Tax revenues shall be utilized consistent with the Exhibition Center Cooperation Agreement dated of even date herewith.
- c. Room Taxes imposed for the support of the Fox Cities Convention & Visitors Bureau shall be utilized for those purposes.
- d. Room Taxes permitted to be retained by the Municipalities shall be used for tourism promotion and tourism development within the Fox Cities Tourism Zone.
- e. Room Taxes imposed for the development and support of amateur sports facilities within the Fox Cities Tourism Zone and/or other facilities which are reasonably likely to generate paid overnight stays at more than one hotel or motel establishment within the Fox Cities Tourism Zone shall be utilized for those purposes ("Tourism Facilities Room Tax").

9. Priority of Payment. In the event any Operator or Municipality fails to remit the full amounts owed in any quarterly payment ("Deficient Payment") under this Agreement, the Exhibition Center Cooperation Agreement or the ordinances executed as required thereunder, the parties agree and acknowledge that the Deficient Payment amounts actually received by the Commission shall be applied in the following priority order:

- a. The Deficient Payment amounts received shall first be applied toward the three percent (3%) Room Tax imposed for the support of the Fox Cities Convention & Visitors Bureau;
- b. The Deficient Payment amounts remaining after payment to the Fox Cities Convention & Visitors Bureau as required in subsection (a) above, shall be applied toward the two percent (2%) Room Tax pledged as collateral for payment of the PAC Bonds;
- c. The Deficient Payment amounts remaining after payment toward the PAC Bonds as required in subsection (b) above, shall be applied toward the three percent (3%) Room Tax pledged as collateral for payment of the Exhibition Center Bonds; and
- d. The Deficient Payment amounts remaining after payment toward the Exhibition Center Bonds as required in subsection (c) above, shall be applied toward the one percent (1%) Municipal Room Tax, as defined in the Cooperation Agreement; and
- e. All remaining Deficient Payment amounts shall be applied toward the one percent (1%) Tourism Facilities Room Tax.

10. Fox Cities Room Tax Commission Membership. The membership, including the procedures relating to confirmation of appointment, of the Fox Cities Room Tax Commission shall be consistent with §66.0615(1m)(c), which requires, inter alia:

- a. The Fox Cities Room Tax Commission shall consist of three members from each Municipality in which annual tax collections exceed \$1,000,000, two members from each Municipality in which annual tax collections exceed \$300,000 but are not more than \$1,000,000 and one member from each Municipality in which annual tax collections are \$300,000 or less. Two additional members, who represent the Wisconsin hotel and motel industry, shall be appointed to the Fox Cities Room Tax Commission by the chairperson of the commission, shall serve for a one-year term at the pleasure of the chairperson and may be reappointed. Except as otherwise provided herein, members shall be appointed as specified in Section 10(b), below.
- b. Members of the Fox Cities Room Tax Commission shall be appointed by the principal elected official in the Municipality and shall be confirmed by a majority vote of the members of the Municipality's governing body who are present when the vote is taken. Commissioners shall serve for a one-year term, at the pleasure of the appointing official, and may be reappointed.
- c. The Fox Cities Room Tax Commission shall meet regularly, and, from among its members, it shall elect a chairperson, vice chairperson and secretary.
- d. The Fox Cities Room Tax Commission shall report any delinquencies or inaccurate reporting to the Municipality that is due the tax.

11. Applicability of State Open Meetings Law. The Fox Cities Room Tax Commission shall be subject to the provisions of the Wisconsin Open Meetings and Open Records laws, as amended from time to time. Any contract entered into between the Fox Cities Room Tax Commission and the CVB, shall require that all records and meetings of the CVB, pursuant to or related to the performance of that contract, shall be subject to the Open Meetings of Governmental Bodies law as well as the Public Records and Property law, respectively.

12. Powers and Duties: The Fox Cities Room Tax Commission shall have the following powers, rights and duties, as provided by the Room Tax Act, and as designated by the Municipalities hereto:

- a. To monitor and collect Room Taxes from each Municipality within the Fox Cities Tourism Zone in accordance with the provisions of this Agreement;

- b. To contract with the CVB to obtain staff, support services and assistance in developing and implementing programs to promote the Fox Cities Tourism Zone to visitors;
- c. To report no less than annually to each Municipality from which it receives Room Tax revenue the purposes for which the revenues were spent;
- d. To report any delinquencies or inaccurate reporting to the Municipality that is due the Room Tax;
- e. To prepare forms for use by Operators in reporting and remitting quarterly Room Tax payments, to be based upon that form attached as Exhibit "A" hereto and which may be amended or revised by the Fox Cities Room Tax Commission as deemed appropriate;
- f. To report to the participating municipalities the name of any municipality failing to make proper reports to the room tax commission and to collect from any delinquent municipality those room taxes that such municipality has failed to turn over to the room tax commission;
- g. To make available financial records and meeting minutes of the Fox Cities Room Tax Commission for inspection and copying upon the request of any Municipality; and
- h. To delegate or assign its powers, rights and duties hereunder as it deems necessary or prudent.

13. Additional Municipalities. It is anticipated that from time to time the area that the public perceives to be a single destination may change, and additional municipalities enacting a room tax may recognize that they have become part of the Fox Cities Tourism Zone; therefore, it is anticipated that additional municipalities may join this Agreement and the Room Tax Commission in the future, and the respective membership compositions will be adjusted accordingly.

14. Municipal Action. The Municipalities shall enact such ordinances and/or resolutions as are necessary to satisfy the terms of this Agreement and to effect any provisions of this Agreement, including but not limited to, that Form Ordinance attached as Exhibit "C" to the Exhibition Center Cooperation Agreement dated of even date herewith.

15. Authority. In signing this Agreement, the respective Municipalities represent and warrant that the terms herein have been approved by the legislative body of that Municipality and that appropriate authority rests in the signatories on behalf of the respective Municipalities.

16. Term. The Fox Cities Room Tax Commission created herein, shall continue in existence for as long as the Municipalities continue to impose a Room Tax pursuant to §66.0615 Wis. Stats. and shall not terminate until official action to do so has been taken by the governing bodies of each party hereto. Notwithstanding the foregoing, the Fox Cities Room Tax Commission shall continue in existence as long as either the PAC Bonds or the Exhibition Center Bonds are outstanding.

17. Effective Date. The effective date of this Agreement shall be the date upon which the last listed Municipality so enters.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

SIGNATURE PAGES TO FOLLOW

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Room Tax Commission and Tourism Zone Agreement as of the date first above written.

CITY OF APPLETON, WISCONSIN

By: [Signature]
Name: LINDSEY M. HANNA
Its: Mayor


Countersigned:
[Signature]
Name: Kami Schield
Its: Clerk

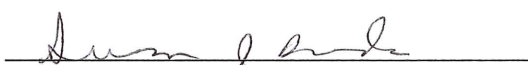
APPROVED AS TO FORM:

By: [Signature]
Name: James P. Walsh
Its: Attorney

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Room Tax Commission and Tourism Zone Agreement as of the date first above written.

CITY OF KAUKAUNA, WISCONSIN

By: 
Name: GENE ROSIO
Its: Mayor

Countersigned:

Name: Susan J. Pade
Its: Clerk

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Room Tax Commission and Tourism Zone Agreement as of the date first above written.

CITY OF NEENAH, WISCONSIN

By: Dean R. Kauff
Name: Dean R. Kauff
Its: Mayor

Countersigned:
Samuel F. Hatula
Name: Samuel F. Hatula
Its: Clerk

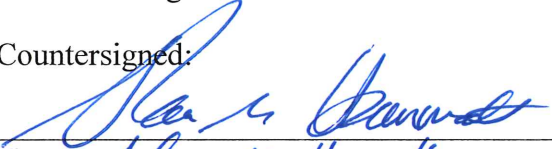
APPROVED AS TO FORM:

By: James G. Gardlewski
Name: James G. Gardlewski
Its: Attorney

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Room Tax Commission and Tourism Zone Agreement as of the date first above written.


VILLAGE OF KIMBERLY, WISCONSIN

By: 
Name: Charles A. Kuen
Its: Village Board President

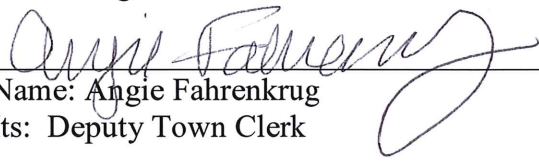
Countersigned: 
Name: Alan M. Hammett
Its: Village Clerk

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Room Tax Commission and Tourism Zone Agreement as of the date first above written.

**TOWN OF GRAND CHUTE,
WISCONSIN**

By: 
Name: David Schowalter
Its: Town Board Chairman

Countersigned:


Name: Angie Fahrenkrug
Its: Deputy Town Clerk

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Room Tax Commission and Tourism Zone Agreement as of the date first above written.

TOWN OF NEENAH, WISCONSIN

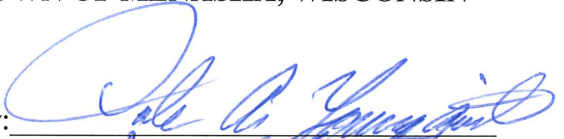
By: Robert E. Schmeichel
Name: Robert E. Schmeichel
Its: Town Board, Chairman

Countersigned:

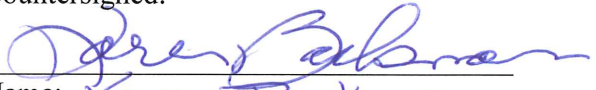
Ellen Skerke
Name: Ellen Skerke
Its: Town Clerk

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Room Tax Commission and Tourism Zone Agreement as of the date first above written.

TOWN OF MENASHA, WISCONSIN

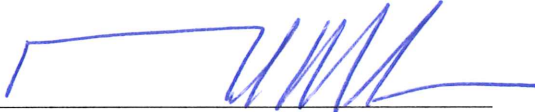
By: 
Name: Dale A. Poythornt
Its: Town Board Chairman

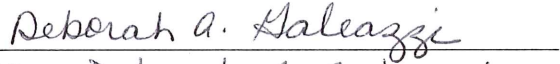
Countersigned:


Name: Karen Beckman
Its: Town Clerk


IN WITNESS WHEREOF, the parties have executed this Amended and Restated Room Tax Commission and Tourism Zone Agreement as of the date first above written.

CITY OF MENASHA, WISCONSIN

By: 
Name: DONALD MEKES
Its: ~~President~~ MAYOR

Countersigned:

Name: Deborah A. Galeazzi
Its: Clerk/~~Administrator~~

APPROVED AS TO FORM:

By: 
Name: PAMELA A. CAPTAIN
Its: Attorney

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Room Tax Commission and Tourism Zone Agreement as of the date first above written.

**VILLAGE OF LITTLE CHUTE,
WISCONSIN**

By: Michael R. Vandenberg
Name: Michael R. Vandenberg
Its: Village Board President

Countersigned:

Laurie Decker
Name: Laurie Decker
Its: Village Clerk

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Room Tax Commission and Tourism Zone Agreement as of the date first above written.

VILLAGE OF SHERWOOD, WISCONSIN

By: Jim Rath
Name: Jim Rath
Its: President

Countersigned:
Randy Friday
Name: Randy Friday
Its: Administrator

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Room Tax Commission and Tourism Zone Agreement as of the date first above written.

**FOX CITIES AREA ROOM TAX
COMMISSION**

By: Karen E. Harkness
Name: Karen E. Harkness
Its: Chairperson

Countersigned: [Signature]
Name: Carla L. Donahoe, Jr.
Its: Secretary

EXHIBIT "A"
Collection Form - Operators

**HOTEL AND MOTEL TRANSIENT ROOM TAX
QUARTERLY RETURN**

From: _____ Quarter Ending: _____
 _____ Taxable Room Receipts: _____

Allocation of Room Tax	Multiply Taxable Room Receipts by the percentage below:	Amount of tax allocated to each use:
CVB Room Tax	3%	\$
PAC Room Tax	2%	\$
Exhibition Center Room Tax	3%	\$
Municipality Room Tax	1%	\$
Tourism Facility Room Tax	1%	\$
Total	10%	\$

For: _____ Account: _____
 Name of Hotel or Motel

At: _____ Date Completed: _____
 Street Address of Business

Make check payable to: [MUNICIPALITY NAME]

Mail to:

In Person:

Persons failing to comply with the provisions of the enabling City legislation will be subject to penalties as provided in the City's Code of Ordinances.

I hereby certify that the information supplied hereon is true, accurate and complete.

 Signature of Owner or Authorized Person

 Date

 Title

NOTICE TO NEW OWNERS: PRIOR TO USING THIS FORM, Owners must apply for a Transient Room Permit.

REASONABLE ACCOMMODATIONS FOR PERSONS WITH DISABILITIES WILL BE MADE UPON REQUEST AND IF FEASIBLE

Dated as of [April 1], 2018

PLEDGE AND SECURITY AGREEMENT

Relating To:

FOX CITIES EXHIBITION CENTER

PLEDGE AND SECURITY AGREEMENT

THIS PLEDGE AND SECURITY AGREEMENT, dated as of [April 1], 2018 (this “**Agreement**”), is made and entered into by and among the CITY OF APPLETON, WISCONSIN, a Wisconsin municipal corporation and political subdivision (“**Appleton**”), the CITY OF KAUKAUNA, WISCONSIN, a Wisconsin municipal corporation and political subdivision (“**Kaukauna**”), the CITY OF NEENAH, WISCONSIN, a Wisconsin municipal corporation and political subdivision (“**City of Neenah**”), the VILLAGE OF KIMBERLY, WISCONSIN, a Wisconsin municipal corporation and political subdivision (“**Kimberly**”), the VILLAGE OF LITTLE CHUTE, WISCONSIN, a Wisconsin municipal corporation and political subdivision (“**Little Chute**”), the TOWN OF GRAND CHUTE, WISCONSIN, a Wisconsin political subdivision (“**Grand Chute**”), the TOWN OF NEENAH, WISCONSIN, a Wisconsin political subdivision (“**Town of Neenah**”), the VILLAGE OF FOX CROSSING, WISCONSIN, a Wisconsin municipal corporation and political subdivision (“**Fox Crossing**”), the CITY OF MENASHA, WISCONSIN, a Wisconsin municipal corporation and political subdivision (“**Menasha**”), and the VILLAGE OF SHERWOOD, WISCONSIN, a Wisconsin municipal corporation and political subdivision (“**Sherwood**”), collectively with Appleton, Kaukauna, City of Neenah, Kimberly, Little Chute, Grand Chute, Town of Neenah, Fox Crossing, Menasha, and Sherwood (the “**Municipalities**”), the FOX CITIES AREA ROOM TAX COMMISSION, a Wisconsin intergovernmental commission (the “**Room Tax Commission**”), and ASSOCIATED TRUST COMPANY, NATIONAL ASSOCIATION, a national bank organized under the laws of the United States of America, as trustee under the Bond Indenture (as defined herein) (together with its successors in such capacity, the “**Trustee**”).

RECITALS:

WHEREAS, pursuant to Section 66.0615 of the Wisconsin Statutes, as amended (the “**Room Tax Act**”), each of the Municipalities has imposed a room tax at a percentage rate of 3% (the “**Exhibition Center Room Tax**”), which the Municipalities have agreed to cause to be collected by the hotelkeepers, motel operators, and other persons furnishing accommodations that are available to the public and obligated to collect the Exhibition Center Room Tax (the “**Operators**”); and

WHEREAS, the Municipalities, the Room Tax Commission, and the Redevelopment Authority of the City of Appleton, Wisconsin (the “**Authority**”), are parties to an Amended and Restated Cooperation Agreement for the Fox Cities Exhibition Center, dated as of [April 1], 2018 (the “**Cooperation Agreement**”); and

WHEREAS, under the terms of the Cooperation Agreement:

- (a) Appleton will convey to the Authority the Fox Cities Exhibition Center, a convention center (the “**Exhibition Center**”) as referenced in the Room Tax Act; and
- (b) to assist in the financing of the Exhibition Center, the Authority will issue its Taxable Lease Revenue Bonds, Series 2018 (Fox Cities Exhibition Center Project) (the “**Series 2018 Bonds**”) the proceeds of which will be

made available to pay, or reimburse Appleton for, the construction costs of the Exhibition Center; and

- (c) the Municipalities and the Room Tax Commission have agreed to the use of the Exhibition Center Room Taxes for the purposes of paying, either directly or indirectly, the costs of the construction of the Exhibition Center, debt service on the Series 2018 Bonds and any additional bonds issued by the Authority for the purpose of refinancing or refunding the Series 2018 Bonds, directly or indirectly through a series of refinancings or refundings (collectively, the “**Bonds**”), and such other reasonable or customary payments or deposits related to the Bonds as may be provided in the Bond Indenture, such as, but not limited to, costs of issuance and administration of the Bonds, reserve or stabilization funds, capitalized interest payments, if any, and reimbursement of payments made by Appleton or a provider of credit enhancement for the Bonds, all subject to any restrictions related thereto in the Room Tax Act (collectively, the “**Purposes of the Exhibition Center Room Taxes**”); and
- (d) the Municipalities and the Room Tax Commission agree to pledge the Exhibition Center Room Taxes to the Trustee for the Purposes of the Exhibition Center Room Taxes; and
- (e) all parties to the Cooperation Agreement found, and reaffirm herein, that the Exhibition Center constitutes a “convention center” and is, and will be, crucial to “tourism promotion and tourism development” within the meaning of the Room Tax Act, and the achievement of a sound and coordinated development and redevelopment of the territory described as the “Tourism Zone” in the Cooperation Agreement and for the promotion and development of tourism activities within the Tourism Zone; and

WHEREAS, the terms and conditions of this Agreement are in compliance with the Room Tax Act; and

WHEREAS, the execution and delivery of this Agreement have been in all respects duly and validly authorized by resolutions of the governing bodies of the Municipalities and the Room Tax Commission; and

WHEREAS, all procedures necessary to constitute this Agreement as a valid pledge and assignment of the Exhibition Center Room Taxes have been done and performed;

NOW, THEREFORE, THE PARTIES TO THIS AGREEMENT AGREE AS FOLLOWS:

ARTICLE I

PLEDGE AND ASSIGNMENT OF PLEDGED ROOM TAXES TO THE TRUSTEE

The Municipalities and the Room Tax Commission do hereby pledge, sell, assign, transfer, and set over unto the Trustee, all their respective right, title, and interest in and to all Exhibition Center Room Taxes, subject to any limitations imposed thereon by the Room Tax Act, for the Purposes of the Exhibition Center Room Taxes. The Exhibition Center Room Taxes shall not be used for any purpose other than the Purposes of the Exhibition Center Room Taxes set forth in the recitals of this Agreement. The pledge and assignment hereunder shall remain in full force and effect until the full discharge of the Indenture of Trust, dated as of [April 1], 2018, from the Authority to the Trustee (the “**Bond Indenture**”), pursuant to which the Series 2018 Bonds are being issued and pursuant to which additional Bonds may be issued to refinance or refund (i) the Series 2018 Bonds or (ii) any other Bonds.

ARTICLE II

DEPOSIT OF EXHIBITION CENTER ROOM TAXES WITH TRUSTEE

Section 2.01 Deposit of Room Taxes.

The Municipalities, the Room Tax Commission, and the Trustee hereby agree and direct that, in order to effect the pledges of the Exhibition Center Room Taxes hereunder, all Exhibition Center Room Taxes imposed by the Municipalities shall be deposited directly with the Trustee by the Operators, and shall be applied to the Purposes of the Exhibition Center Room Taxes as specified in the Bond Indenture.

The deposit of Exhibition Center Room Taxes with the Trustee shall be in accordance with the following procedure:

(a) Notice to Operators. No later than the 10th day of the month following the end of each calendar quarter, the Trustee shall send a notice in substantially the form attached hereto as Exhibit A (or with such changes as may be necessary or appropriate to reflect changes in room taxes other than the Exhibition Center Room Tax) (a “**Room Tax Deposit Notice**”) to each Operator to be completed and delivered to the Trustee together with the deposit of the Exhibition Center Room Taxes it has collected during the preceding calendar quarter as described in (b) below.

(b) Room Tax Due Dates. Each Operator shall be directed to deposit with the Trustee, no later than January 31, April 30, July 31, and October 31 of each year, together with a completed Room Tax Deposit Notice as described in (a) above, the Exhibition Center Room Taxes it has collected during the preceding calendar quarter. The Trustee shall accept the Exhibition Center Room Taxes for deposit in accordance with the terms of this Agreement and of the Bond Indenture.

(c) Application of Pledged Room Tax Deposits. The Trustee shall, upon receipt of deposits of the Exhibition Center Room Taxes, allocate such deposits to the Revenue Fund created under the Bond Indenture for the Purposes of the Exhibition Center Room Taxes.

Section 2.02 Trustee Reports.

The Trustee shall (i) not later than the 15th day of each month, send a report as of the last day of the prior month to the Room Tax Commission and to each Municipality, that includes a list of the then current Operators that submit Exhibition Center Room Taxes, and the amount of Exhibition Center Room Taxes received from each Operator, and identifies the Operators that have not paid Exhibition Center Room Taxes then due under Section 2.01(b) (the “**Monthly Report**”), (ii) not later than the 15th day of the month following the end of each calendar quarter, send a statement of transactions to each Municipality and the Room Tax Commission that includes all financial transactions relating to the Municipality as of the end of the calendar quarter (the “**Quarterly Statement**”), and (iii) not later than the 15th day of the month following each due date of the Exhibition Center Room Taxes described in Section 2.01(b) hereof, send a list to the Room Tax Commission, with a copy to the related Municipality, of the Operators in each Municipality that have not paid Exhibition Center Room Taxes as of such due date (the “**Delinquency Report**”).

Section 2.03 Collection of Room Taxes; Late Payments.

(a) Each of the Municipalities agrees to direct all Operators within its jurisdiction to deposit all Exhibition Center Room Taxes with the Trustee pursuant to the terms of this Agreement and the instructions of the Trustee. Each Municipality agrees to forward to the Trustee, immediately upon receipt, any payments of Exhibition Center Room Taxes made by an Operator directly to such Municipality, and the Room Tax Commission agrees to forward to the Trustee, immediately upon receipt, any payments of Exhibition Center Room Taxes made by a Municipality or an Operator directly to the Room Tax Commission or the Fox Cities Convention & Visitors Bureau, Inc. (“**CVB**”) on behalf of the Room Tax Commission. The Municipality may request from the Trustee the form of Room Tax Deposit Notice as described in Section 2.01(a) hereof to accompany such payments.

(b) If an Operator has not paid Exhibition Center Room Taxes for a period of one calendar quarter or is in arrears by one calendar quarter or more, then an authorized officer of the related Municipality shall, within 30 days after the receipt of the first Monthly Report after a Delinquency Report has been received from the Trustee, commence collection and enforcement action against such Operator; *provided* that said Monthly Report shows Exhibition Center Room Taxes remain unpaid by such Operator.

(c) Each of the Municipalities agrees to commence such collection and enforcement action as described in (b) above and to take all reasonable action to diligently pursue such action and to collect the Exhibition Center Room Taxes

with any applicable/corresponding forfeiture or interest charge for late payment. Each Municipality agrees to send a written notice to the Room Tax Commission, within 10 days after receipt of a Monthly Report as described in (b) above, describing the status of such action and collection until the Exhibition Center Room Taxes have been collected from the Operator. Upon such collection, the Municipalities shall, within 20 business days, deposit with the Trustee the collected Exhibition Center Room Taxes, subject to the deficient payments allocation described in (e) below, and any applicable/corresponding forfeiture or interest charge; which shall be treated as part of the Exhibition Center Room Taxes. All costs of collection and enforcement actions relating to any such Exhibition Center Room Taxes shall (except to the extent they may be recovered from Operators) be the sole responsibility of the related Municipality.

(d) Notwithstanding (b) and (c) above, the Trustee shall have the right, with the consent of the Room Tax Commission, to demand that any such Exhibition Center Room Taxes paid by the Operators but not deposited with the Trustee be immediately deposited with the Trustee in accordance with this Article II .

(e) Pursuant to the Amended and Restated Room Tax Commission and Tourism Zone Agreement, dated as of November 24, 2015, as amended by a First Amendment to Amended and Restated Room Tax Commission and Tourism Zone Agreement, dated as of [April 1], 2018 (the “**Commission Agreement**”) and the ordinances adopted by the Municipalities imposing a 10% room tax (the “**Room Taxes**”), which includes the Exhibition Center Room Tax, provision was made for delinquent Room Taxes received from the Operators to be allocated in a specific order to the purposes for which the Room Taxes were imposed. Upon receipt of notice from a Municipality, the Room Tax Commission, or the CVB with respect to such allocation of delinquent Room Taxes, the Trustee agrees that it shall cooperate with said parties in the application of delinquent Exhibition Center Room Taxes that it has received to the allocation to the purposes entitled to a payment priority over the Exhibition Center Room Taxes.

Section 2.04 Failure of Operator Not a Default of Municipality.

A failure of an Operator to timely pay Exhibition Center Room Taxes shall not constitute a default of a Municipality hereunder provided that the Municipality, in accordance with Section 2.03 above, promptly undertakes and pursues all reasonable collection actions until such delinquent Exhibition Center Room Taxes are collected and deposited with the Trustee.

Section 2.05 Statutory Obligations of Room Tax Commission.

The Room Tax Commission has determined, and the Municipalities agree, that the actions of the Trustee under this Agreement fulfill the statutory obligations of the Room Tax Commission (i) to monitor the collection of room taxes from each Municipality and (ii) to report any delinquencies or inaccurate reporting to the Municipality that is due the tax, as such obligations relate to the Exhibition Center Room Tax.

ARTICLE III

REPRESENTATIONS, WARRANTIES, AND COVENANTS

Each of the Municipalities and the Room Tax Commission hereby represents and warrants to the Trustee that it has good right and authority to enter into this Agreement; that as of the date of this Agreement it has not alienated, assigned, pledged, or otherwise disposed of or encumbered any of the Exhibition Center Room Taxes, and that it has not performed any acts or executed any other instruments which might prevent the Trustee from receiving any Exhibition Center Room Taxes under any of the terms and conditions of this Agreement or which would limit the Trustee in such receipt.

Each of the Municipalities and the Room Tax Commission hereby covenants and agrees:

- (a) to observe, perform, and discharge, duly and punctually, all and singular, the obligations, terms, covenants, conditions, and warranties of this Agreement on its part to be kept, observed, and performed;
- (b) that it will, upon the request of the Trustee, execute and deliver to the Trustee such further instruments and do and perform such other acts and procedures as the Trustee may deem necessary or appropriate to make effective this Agreement and its various covenants herein contained and to more effectively vest in and secure to the Trustee the Exhibition Center Room Taxes, including without limitation, the execution of such additional assignments as shall be deemed necessary by the Trustee to effectively vest in and secure the Exhibition Center Room Taxes;
- (c) that it will take any and all action reasonably necessary to enforce its room tax levies and collect all room taxes from the Operators within its jurisdiction. Such actions shall include, if necessary, commencing suit or other action to recover delinquent room taxes; and
- (d) that it will not repeal any or all of the Exhibition Center Room Tax or amend the Commission Agreement in any manner that affects the Trustee's right to receive the Exhibition Center Room Tax.

ARTICLE IV

MISCELLANEOUS

Section 4.01 Counterparts.

This Agreement may be executed, acknowledged, and delivered in any number of counterparts, each of which shall constitute an original, but all together only one, instrument. The laws of the State of Wisconsin shall govern this Agreement.

Section 4.02 Severability.

If any term, covenant, or condition of this Agreement, or the application thereof to any person or circumstance, shall, to any extent, be invalid or unenforceable, then the remainder of this Agreement and the application of such term, covenant, or condition to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term, covenant, and condition of this Agreement shall be valid and enforceable to the fullest extent permitted by law. In the event of any ambiguity in any terms or provisions of this Agreement, such ambiguity shall be construed in favor of the Trustee, notwithstanding any rules of construction to the contrary.

Nothing contained in this Agreement, the Cooperation Agreement, or the Bond Indenture shall in any manner be construed as making the parties hereto and thereto or their assignees partners.

Section 4.03 Additional Parties to this Agreement.

Any municipal government that hereafter becomes an additional member of the Room Tax Commission (an “**Additional Municipality**”) pursuant to the Commission Agreement shall, as a condition of such membership under the Commission Agreement, become an additional party to this Agreement. Each Additional Municipality shall be bound to the terms, conditions, and obligations of the Municipalities under this Agreement by execution and delivery to the Trustee of a joinder agreement in substantially the form attached hereto as Exhibit B, and a copy of the executed joinder agreement shall be delivered by the Trustee to the other then-current parties to this Agreement. Acceptance by the Trustee of such joinder agreement shall, without further action or approval of the parties to this Agreement, be deemed an approval of such Additional Municipality as an additional party to this Agreement by the then-current parties to this Agreement.

Section 4.04 Amendments to this Agreement.

This Agreement may be amended from time to time by a written instrument for any purpose not inconsistent with the terms of the Bond Indenture or to cure any ambiguity or to correct or supplement any provision contained in this Agreement which may be defective or inconsistent with any other provision contained in this Agreement or to make such other provisions as shall not be inconsistent with the provisions of the Bond Indenture and shall not, in the judgment of the Trustee, adversely affect the interests of the owners of the Bonds.

Section 4.05 Termination.

This Agreement shall terminate upon the discharge and termination of the Bond Indenture. The Trustee shall notify the Room Tax Commission and each Municipality of such termination and discharge.

Section 4.06 Notices.

Any notice, request, report, statement, or other communication to be given pursuant to this Agreement, shall be sufficiently given, and shall be deemed given, when hand delivered or sent by first class mail, email, or overnight delivery service as follows:

If to the Room Tax Commission at:

Fox Cities Area Room Tax Commission
Attention: Chairperson
c/o Fox Cities Convention & Visitors Bureau
3433 West College Avenue
Appleton, Wisconsin 54914
Phone: (800) 236-6673
Email: bruce.sherman@grandchute.net

If to the Trustee at:

Associated Trust Company, National Association
Attention: Corporate Trust Department
200 North Adams Street
Green Bay, Wisconsin 54301
Phone: (920) 433-3275
Email: eric.wied@associatedbank.com

If to a Municipality, at the address indicated beneath the signature to this Agreement of such Municipality.

Any party may, by written notice to the other parties, designate a change of address for the purposes aforesaid.

[Signature Pages Follow]

IN WITNESS WHEREOF, the parties have caused this Pledge and Security Agreement to be duly executed and delivered as of the date first written above.

FOX CITIES AREA ROOM TAX COMMISSION

By: _____
Its Chairperson

And: _____
Its Secretary

ASSOCIATED TRUST COMPANY, NATIONAL ASSOCIATION, as trustee

By: _____
Its _____

And: _____
Its _____

IN WITNESS WHEREOF, the parties have executed this Pledge and Security Agreement as of the date first written above.

CITY OF APPLETON, WISCONSIN

By: _____
Its: Mayor

And: _____
Its: Clerk

ADDRESS:

City of Appleton
Attention: Director of Finance
100 North Appleton Street
Appleton, Wisconsin 54911

Email: tony.saucerman@appleton.org

IN WITNESS WHEREOF, the parties have executed this Pledge and Security Agreement as of the date first written above.

CITY OF KAUKAUNA, WISCONSIN

By: _____
Its: Mayor

And: _____
Its: Clerk

ADDRESS:

City of Kaukauna
Attention: Clerk-Treasurer
201 West Second Street
Kaukauna, Wisconsin 54130

Email: clerk-treasurer@kaukauna.org

IN WITNESS WHEREOF, the parties have executed this Pledge and Security Agreement as of the date first written above.

CITY OF NEENAH, WISCONSIN

By: _____
Its: Mayor

And: _____
Its: Clerk

ADDRESS:

City of Neenah
Attention: Finance Director
211 Walnut Street
Neenah, Wisconsin 54956

Email: measker@ci.neenah.wi.us

IN WITNESS WHEREOF, the parties have executed this Pledge and Security Agreement as of the date first written above.

VILLAGE OF KIMBERLY, WISCONSIN

By: _____
Its: President

And: _____
Its: Clerk

ADDRESS:

Village of Kimberly
Attention: Village Administrator
515 West Kimberly Avenue
Kimberly, Wisconsin 54136

Email: dblock@vokimberly.org

IN WITNESS WHEREOF, the parties have executed this Pledge and Security Agreement as of the date first written above.

VILLAGE OF LITTLE CHUTE, WISCONSIN

By: _____
Its: President

And: _____
Its: Clerk

ADDRESS:

Village of Little Chute
Attention: Village Administrator
108 West Main Street
Little Chute, Wisconsin 54140

Email: jfenlon@littlechutewi.org

IN WITNESS WHEREOF, the parties have executed this Pledge and Security Agreement as of the date first written above.

TOWN OF GRAND CHUTE, WISCONSIN

By: _____
Its: Chairperson

And: _____
Its: Clerk

ADDRESS:

Town of Grand Chute
Attention: Town Administrator
1900 West Grand Chute Boulevard
Grand Chute, Wisconsin 54913

Email: jim.march@grandchute.net

IN WITNESS WHEREOF, the parties have executed this Pledge and Security Agreement as of the date first written above.

TOWN OF NEENAH, WISCONSIN

By: _____
Its: Chairperson

And: _____
Its: Clerk

ADDRESS:

Town of Neenah
Attention: Clerk-Treasurer
1600 Breezewood Lane
Neenah, Wisconsin 54956

Email: ellen@townofneenah.com

IN WITNESS WHEREOF, the parties have executed this Pledge and Security Agreement as of the date first written above.

VILLAGE OF FOX CROSSING, WISCONSIN

By: _____
Its: President

And: _____
Its: Clerk

ADDRESS:

Village of Fox Crossing
Attention: Village Administrator
2000 Municipal Drive
Neenah, Wisconsin 54956

Email: jsturgell@foxcrossingwi.gov

IN WITNESS WHEREOF, the parties have executed this Pledge and Security Agreement as of the date first written above.

CITY OF MENASHA, WISCONSIN

By: _____
Its: Mayor

And: _____
Its: Clerk

ADDRESS:

City of Menasha
Attention: Director of Administrative Services/Comptroller/Treasurer
140 Main Street
Menasha, Wisconsin 54952

Email: jjacobs@ci.menasha.wi.us

IN WITNESS WHEREOF, the parties have executed this Pledge and Security Agreement as of the date first written above.

VILLAGE OF SHERWOOD, WISCONSIN

By: _____
Its: President

And: _____
Its: Clerk

ADDRESS:

Village of Sherwood
Attention: Village Administrator
W482 Clifton Road
Sherwood, Wisconsin 54169

Email: administrator.sherwood@newbc.rr.com

EXHIBIT A

ROOM TAX DEPOSIT NOTICE

FOR THE CALENDAR QUARTER ENDING _____, 20____

Date: _____, 20____

Associated Trust Company, National Association
Attention: Corporate Trust Operations
2985 South Ridge Road, Suite C
Green Bay, Wisconsin 54304

[[Enclosed are]] the Exhibition Center Room Taxes from
_____ for the above referenced calendar quarter.

Total 10% Room Tax Receipts For Quarter: \$ _____

Distribution of 10% Room Tax:

3% Room Tax (Exhibition Center Room Tax) — Amount \$ _____

[Enclosed]

Balance Paid Directly to Municipality \$ _____

If you have any questions, please feel free to contact me at _____.

Sincerely,

[Name of Hotel/Motel or other lodging facility]

EXHIBIT B

JOINDER AGREEMENT TO

PLEDGE AND SECURITY AGREEMENT

The undersigned municipality hereby agrees that it shall be an Additional Municipality as defined in the Pledge and Security Agreement, dated as of [April 1], 2018 (the “**Agreement**”), among the Fox Cities Area Room Tax Commission, the municipal members of such commission and Associated Trust Company, National Association, as trustee, and hereby agrees to be bound by the terms, conditions, and obligations of the Municipalities under the Agreement, as amended from time to time. On and after the date of this Joinder Agreement, the undersigned shall be deemed a Municipality under the Agreement.

IN WITNESS WHEREOF, the undersigned Municipality has duly executed this Joinder Agreement effective as of _____, 20____.

_____ OF _____, WISCONSIN

By: _____
Its: _____

And: _____
Its: _____

ADDRESS:

_____ of _____
Attention: _____

_____, Wisconsin _____

Email: _____

Accepted on behalf of itself, the Room Tax Commission, and the Municipalities:

ASSOCIATED TRUST COMPANY, NATIONAL ASSOCIATION, as trustee

By _____

Its: _____



M E M O R A N D U M

DATE: February 23, 2018
TO: Chairman Pollnow, members of the Finance & Personnel Committee
FROM: City Attorney Jim Godlewski
RE: Town of Menasha Boundary Agreement Amendment

In September, 2015, the City entered into a Boundary Memorandum of Understanding with the Town of Menasha. The MOU anticipated that the parties would complete the process for a formal boundary agreement under Wis. Stat. § 66.0301(6) or 66.0307 shortly after a referendum approving the incorporation of the town into a village so that the new village would be a party to the agreement. It was anticipated that the incorporation referendum would be adopted at the February spring primary election. The MOU therefore provided for a March 1, 2016 deadline for the formal boundary agreement. Ultimately, the village incorporation didn't occur until later in 2016 resulting in the parties extending the original deadline to September 1, 2016. Also, as indicated when the original deadline was extended, I was able to obtain a court order that made the original Boundary MOU binding on the Village.

Subsequent to the extended deadline, work has begun on a draft boundary agreement to establish a common boundary line. As I worked on drafting, I realized that the MOU was not clear on what kind of agreement the parties intended: a general agreement under §66.0301(6) or a cooperative plan agreement under §66.0307. Before completing a draft, I realized we needed to discuss with the committee the differences between the two statutory boundary agreements and determine which was appropriate. The following is a broad summary of the two types:

- The general agreement does not necessarily change boundaries, but allows for projecting where the boundary will be located in the future. It is less formal than the Cooperative Boundary Agreement and likely is a better fit for what was intended for this situation. However, the maximum term for the general agreement is 10 years, but it may be renewable.
- The Cooperative Boundary Agreement specifically refers to boundary changes that shall occur as a result of the agreement and requires creation of an extensive cooperative plan between the parties to the agreement, and requires a 10 year planning period. The Cooperative Boundary Agreement may be for up to a 30 year term.

Attached to this memo are information sheets from the Department of Administration that summarize the two plan types.

In the meantime, the current MOU as amended still has a September 1, 2016 deadline. I have discussed this with the Village's attorney and we have agreed that in order to provide adequate time to complete the process for either the general or Cooperative Plan agreement, the deadline should be moved to September 1, 2019¹. The attached second amendment would accomplish moving the deadline as well as substituting the Village for the Town as the party to the agreement.

An appropriate motion would be for the Committee to recommend Council approve the Second Amendment to the Boundary Memorandum of Understanding that would extend the deadline for completing the statutory boundary agreement to September 1, 2019.

¹ Statutory timeline set out in Wis. Stat. §66.0307 would require at least 11 months (330 days) after a draft agreement is prepared.

Distinguishing Between Wisconsin Boundary Agreement Statutes

	<u>s. 66.0225, Stats</u>	<u>s. 66.0301, Stats</u>	<u>s. 66.0307, Stats</u>
Common name	stipulations and orders	general agreements	cooperative boundary agreements
Statute expressly authorizes Boundary changes	yes	yes	yes
Typically used to	settle annexation lawsuits	contract for joint municipal services	resolve boundary, land use, and service issues
Statute ever tested by judicial review	no	no	no
Eligible for tax revenue sharing under <u>s. 66.0305, Stats.</u>	yes	yes	yes
Eligible for tax increment financing using <u>s. 66.1105, Stats.</u>	no	no	yes
Agreement subject to state agency review	no	no	yes
Agreement binding on the parties	yes	yes	yes
Annexation permitted during agreement development	yes	yes	no
Statutory standards for planning and development issues	no	no	yes comprehensive plan
Coordination with state agencies, and neighboring communities	no	no	yes
Public hearings required	no	yes	yes
Referendum process	yes binding	yes binding	yes non-binding
Who votes	affected electors	affected electors	all electors
Limits	parcel(s) in litigation	10 years, renewable	no time limit, but must last at least 10 years

Time-Line Intergovernmental Cooperation (10-Year) Agreement Under Wis. Stat. 66.0301

- **PROPOSE AGREEMENT and GIVE 20 DAYS NOTICE of PUBLIC HEARINGS¹** by participating municipalities
 - Notice of Public Hearing by **Publication** (class 1 notice, under ch. 985), **and**
 - Notice by **Certified Mail** to each property owner in the municipality and in or near territory to be changed.
- **HOLD PUBLIC HEARING(S)²** (separate or joint)
- **ADOPT RESOLUTION APPROVING AGREEMENT³**
- **PUBLISH AGREEMENT adopted by Resolution⁴**
- **MAY FILE PETITION FOR REFERENDUM APPROVING AGREEMENT within 30 Days After Publishing⁵**
 - If No Petition/Referendum Agreement may take effect.
- **REFERENDUM VOTE APPROVES AGREEMENT, It May Then “Take Effect” (Otherwise Not)⁶**
- **ENACT ORDINANCE FOR BOUNDARY CHANGES IN AGREEMENT.⁷**
- **10 YEARS AFTER ENACTMENT “ALL PROVISIONS OF THE AGREEMENT EXPIRE, except that any boundary remains in effect until subsequently changed.”⁸**
 - Wis. Stat. 66.301(6)(b) This statutory language would seem to preclude an *automatic* renewal clause as contrary to state statute...
 - but renewability is listed as an attribute of General (10-year) Agreements in the WI Dept. of Admin. Chart “*Distinguishing Between WI Boundary Agreement Statutes*” .

¹ Wis.Stat. 66.0301 (6)(c)(1)

² Wis.Stat. 66.0301 (6)(c)(1)

³ Wis.Stat. 66.0301 (6)(c)(1)

⁴ Wis.Stat. 66.0301 (6)(c)(1)

⁵ Wis.Stat. 66.0301 (6)(c)(2)

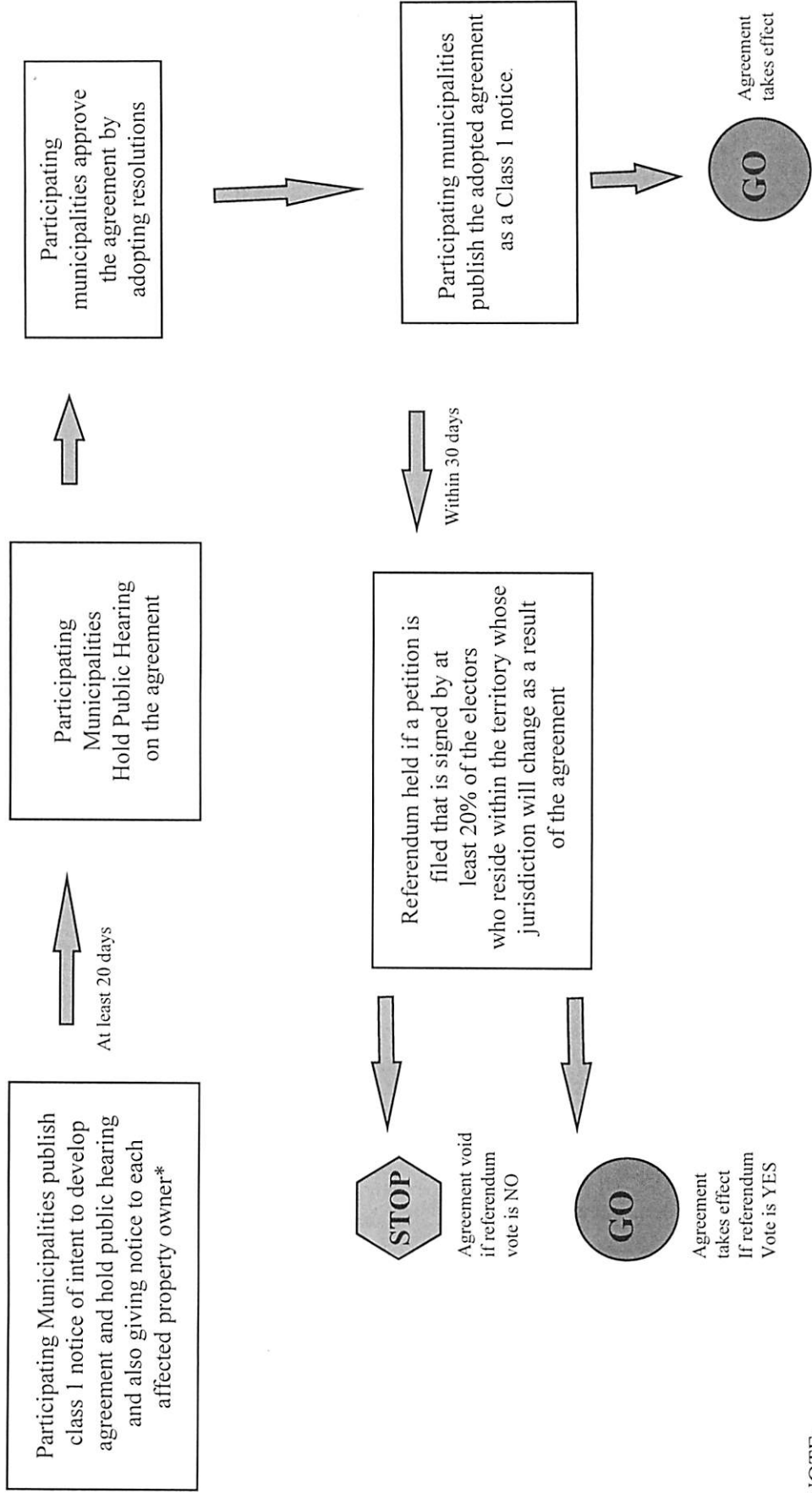
⁶ Wis.Stat. 66.0301 (6)(c)(2)

⁷ Wis.Stat. 66.0301 (6)(e)

⁸ Wis.Stat. 66.0301 (6)(b)

General Boundary Agreement Process

Section 66.0301 Wis. Stats.



NOTE:

- 'Affected' property owners means those whose property is currently located in either municipality and in, or immediately adjacent to, the territory whose jurisdiction will change.

General Boundary Agreement Factsheet

General boundary agreements are authorized under s. 66.0301, Wis.Stats., which is a statutory section that broadly enables local governments to cooperate on a wide range of intergovernmental issues and activities, including municipal boundaries.

Prior to 2007, communities developed general boundary agreements under the implied authority of the statute. However, in 2007 the legislature amended s. 66.0301 Wis. Stats. to expressly authorize the development of boundary agreements. The amendment also established a required process for communities to follow.

Process Requirements

- 1) Both participating communities hold a public hearing on the boundary agreement, or they may instead hold one joint public hearing;
- 2) The two participating communities publish a newspaper notice announcing their intention to develop a boundary agreement under s. 66.0301 Wis. Stats. and to hold a public hearing;
- 3) All affected property owners must also receive notice sent by certified mail.
- 4) The newspaper notice and certified letter to property owners must be given at least 20 days prior to the public hearing;
- 5) Both participating communities pass resolutions approving of the agreement, and
- 6) The approved boundary agreement is fully published in the newspaper.

TIP: Prior Agreements Grandfathered

Dozens of communities across Wisconsin have general boundary agreements that were developed prior the legislature's 2007 amendment and many of these agreements are still in effect today. These agreements did not comply with the new procedural requirements such as notice, a public hearing, publication, referendum, and filing. However, s. 66.0301(6)(h) Wis. Stats. exempts these prior agreements from the new requirements.

TIP: Maximum Time Limit of 10 Years

General boundary agreements under s. 66.0301 Wis. Stats. have a maximum term of 10 years, except that any boundary changes made may remain in effect permanently. Communities desiring longer-term boundary agreements may develop Cooperative Boundary Plans under s. 66.0307 Wis. Stats.

Additionally, a referendum vote may also occur if residents who are affected by the boundary agreement request one. Specifically, 20% or more of the affected residents must sign a petition requesting a referendum vote and their petition must be filed within 30 days after publication of the approved boundary agreement appears in the local newspaper. The referendum vote is binding, so if residents approve of the agreement, it may take effect. However, if residents do not approve of the agreement, it may not take effect.

Benefits to General Boundary Agreements:

Cooperative – while annexation tends to pit neighboring communities against one another, boundary agreements provide a chance to focus on shared values, points of agreement, and solutions that can benefit everyone.

Proactive – while annexation puts area communities in a reactive mode, boundary agreements enable communities to proactively guide their future.

Flexibility – communities can craft their own solutions, having discretion over the issues to be resolved, the territory involved, and whether municipal boundaries will change or not change over time.

Certainty – communities can take charge of their future, which benefits landowners, developers, businesses, and other community stakeholders.

Save money \$\$\$ – boundary agreements save money by avoiding costly litigation. Also, agreements can identify service sharing opportunities and avoid costly duplication of services and capital facilities.

Enforceable – general boundary agreements are a written contract that is recognized by state statute.

TIP: Beyond Cooperating with Boundaries

Communities have used the authority granted by s. 66.0301 Wis. Stats. to also cooperate with such things as:

- | | |
|--|---|
| ✓ Snowplowing | ✓ Road repair & maintenance |
| ✓ Fire & police protection | ✓ Libraries |
| ✓ Sharing specialized equipment | ✓ Sharing clerks, assessors, and other municipal staff |
| ✓ Joint purchasing of equipment & supplies | ✓ Joint operation of parks, cemeteries, community centers, etc. |



TIME LINE FOR PROCESS OF COOPERATIVE¹ BOUNDARY CHANGE PLAN

- PARTICIPATING MUNICIPALITIES ADOPT RESOLUTIONS and GIVE NOTICE of RESOLUTIONS
 - WITHIN 5 DAYS OF ADOPTING RESOLUTION, GIVE NOTICE² of each Resolution to:
 - WI Dept. Of Administration
 - DNR
 - Dept. Of Agriculture, Trade & Consumer Protection
 - Dept. Of Transportation
 - The Clerks of any municipality, school district, technical college district, sewerage district or sanitary district within 5 miles of participating municipality.
 - County Clerk(s)
 - Any county zoning agency or regional planning commission whose jurisdiction includes a participating municipality.

- AT LEAST 60 DAYS (or more) AFTER ADOPTING RESOLUTION: HOLD PUBLIC HEARING³
 - Notice of Joint hearing on proposed plan given by class 3 notice under Ch. 985.
 - Public Hearing must be at least 60 days BEFORE submitting Plan to Dept. of Admin.
 - Accept Public Comments (at hearing &) for 20 Days AFTER hearing.⁴

- WITHING 60 TO 180 DAYS AFTER HEARING (not more, not less): SUBMIT PLAN TO DEPT. OF ADMIN.⁵

- WITHIN 90 DAYS OF SUBMISSION OF PLAN: DEPT OF ADMIN GIVES APPROVAL OR DENIAL⁶
 - Within 10 days of submission of plan anyone may request public hearing before the Dept. of Admin⁷

¹ Time-Line based on presumption of no formal opposition to plan, so no opposition process timing included here.

² WI Stat. 66.0307 (4)(a)

³ WI Stat. 66.307 (4)(b)

⁴ WI Stat. 66.307(4)(c)

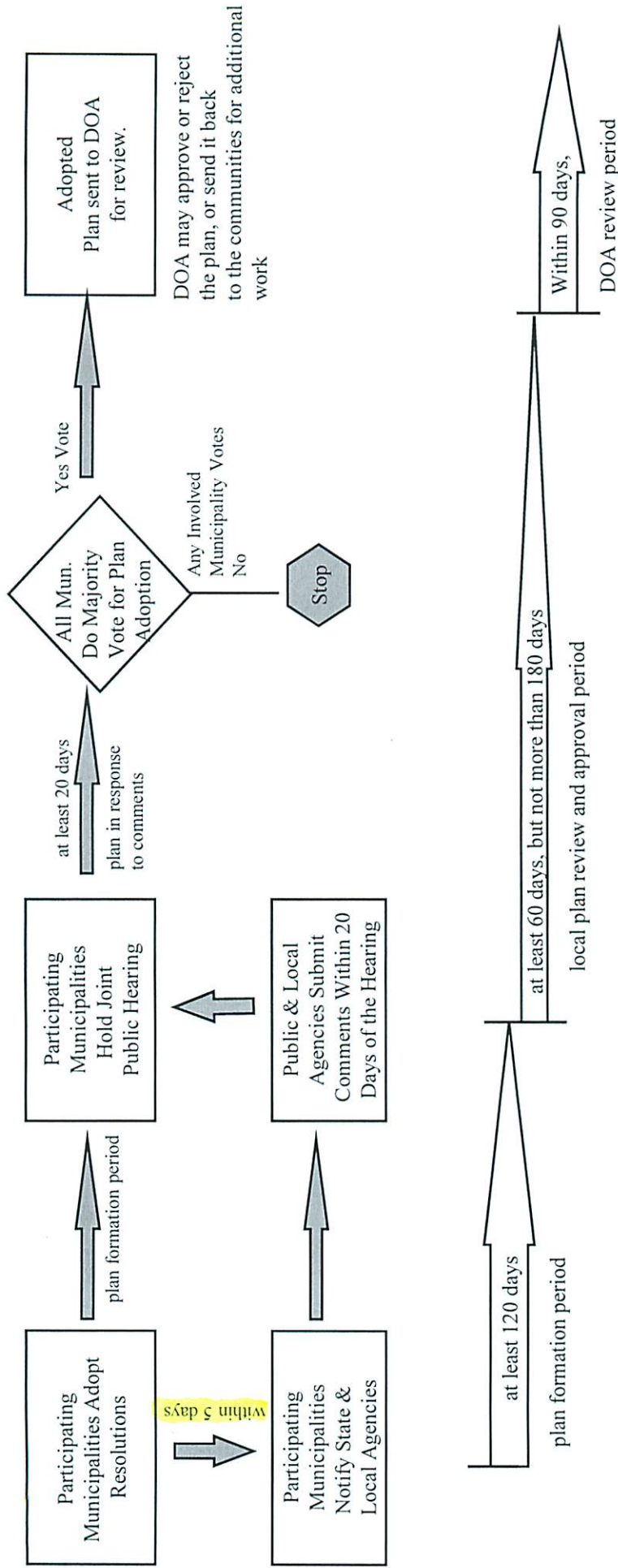
⁵ WI Stat. 66.307(4)(f)

⁶ WI Stat. 66.307(5)(a)

⁷ WI Stat. 66.307(5)(b)

Cooperative Boundary Plan Process

Section 66.0307 Wis. Stats.



NOTE:

To keep this flow chart simple, a number of procedures were not included that are nonetheless authorized by s. 66.0307 Wis. Stats. These include residents petitioning for an advisory referendum, residents petitioning for the plan to be adopted by a super-majority vote of the governing body, the possibility of a public hearing by DOA, and the possibility that DOA sends the plan back to the communities with comments on additional work that is needed for approval.

<http://doa.wi.gov/municipalboundaryreview/>

SECOND AMENDMENT
BOUNDARY MEMORANDUM OF UNDERSTANDING
CITY OF NEENAH
&
VILLAGE OF FOX CROSSING

This Second Amendment to the Boundary Memorandum of Understanding (“First Amendment”) entered into as of this ___ day of March, 2018 by and between the City of Neenah, a Wisconsin municipal corporation with offices at 211 Walnut Street, Neenah, WI 54956 (the “City”) and the Village of Fox Crossing, a Wisconsin municipal corporation with offices at 2000 Municipal Drive, Neenah, WI 54956 (the “Village”).

W I T N E S S E T H

WHEREAS, the City and Town of Menasha (“Town”) entered into a Boundary Memorandum of Understanding (the “Boundary MOU” or “MOU”) in September, 2015; and,

WHEREAS, the MOU expressed the City’s and Town’s desire to enter into a general boundary agreement under Wis. Stat. §66.0301(6) or a cooperative boundary agreement under Wis. Stat. §66.0307; and,

WHEREAS, the MOU anticipated that the steps to create a permanent boundary agreement would occur after the Village was incorporated and anticipated completion by March 1, 2016; and

WHEREAS, the Town and City did not complete that process and extended the deadline under the agreement to September 1, 2016 pursuant to the First Amendment to the Boundary Memorandum of Understanding dated March 1, 2016; and,

WHEREAS, a large portion of the Town, including that portion adjoining the City, successfully incorporated as the Village of Fox Crossing, with offices at 2000 Municipal Drive, Neenah, WI 54956 (the “Village”) in April, 2016, leaving no portion of the Town physically contiguous to the City, leaving the Town with no interest in the subject of this MOU; and,

WHEREAS, the Village subsequently annexed the remaining portion of the Town effective September 15, 2016 at which date the Town ceased to exist as a legal entity;

NOW THEREFORE, in consideration of the above recitals, which are contractual, and the mutual promises contained herein, the parties agree to the following terms and conditions.

1. Substitution of Parties. The Village of Fox Crossing is hereby substituted for the Town of Menasha as party to this Agreement.

2. Cooperative Boundary Agreement Deadline. Paragraph 4 of the MOU as amended is further amended by replacing “September 1, 2016.” with “September 1, 2019.”

3. All other provisions of the Boundary MOU, except as modified herein, shall remain in full force and effect as if set forth at length herein.

4. All capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Boundary MOU.

5. This Amendment is binding upon and inures to the benefit of the parties hereto and their respective successors and assigns, subject to any restrictions on assignment set forth in the Boundary MOU.

IN WITNESS WHEREOF, the parties have executed this Amendment as of the date first above written.

CITY OF NEENAH

VILLAGE OF FOX CROSSING

By: _____
Mayor

By: _____
Village President

Attest: _____
City Clerk

Attest: _____
Village Clerk



Department of Community Development
 211 Walnut St., P.O. Box 426, Neenah, WI 54957-0426
 Phone: 920-886-6125 Fax: 920-886-6129
 website/e-mail: www.ci.neenah.wi.us

MEMORANDUM

TO: Chairman Pollnow and members of the Finance and Personnel Committee
FROM: Carol Kasimor, Assistant Planner
DATE: February 23, 2018
SUBJ: **Reprogramming of Community Development Block Grant funds**

Over the past several months we have been discussing use of CDBG funds for various neighborhood improvement and redevelopment projects that will improve neighborhoods, remove blight conditions, and create jobs and/or housing available to low and moderate income households. Each year’s new grant funds as well as repaid funds (business and housing assistance) are now required to be utilized according to HUD’s new policy on expenditure rate. To accomplish the new projects, funds will have to be reprogrammed from one eligible activity to another. When there is a proposed substantial change in funding, the public is notified and there is a public comment period. We have reprogrammed funds from one activity to another in the past when new opportunities have arisen, and the process may be undertaken at any time during the year.

We propose that funds be reprogrammed from the following projects to undertake other eligible activities.

<u>Current Program</u>	<u>Amount</u>	<u>Proposed Re-Allocation</u>	<u>Activities</u>
Small Business Loan	\$225,000	Property Acquisition /Redevelopment	Housing/Economic Development/Blight Elimination
Planning	\$55,000	Neighborhood Improvements	Parks and Neighborhoods

We have been successful in being repaid Small Business Loan funds while these projects typically take longer to assemble. We have the ability to add new CDBG dollars each year for this purpose if the fund is depleted, and there may be other assistance available for these projects. In addition, Façade Improvement funds in the amount of \$58,800 continue to be available for commercial projects. There is a cap on planning and administrative activities depending on the grant allocation amount and repayments, so funds that remain have to be reprogrammed. Each year we program new grant funds for these planning and administrative activities.

Appropriate action at this time is to recommend Council approve Resolution 2018 – 11, approving amendments to the 2017 Community Development Block Grant program.



RESOLUTION NO. 2018 - 11

A RESOLUTION OF THE CITY OF NEENAH APPROVING A SUBSTANTIAL AMENDMENT TO THE 2017 COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

WHEREAS, the City of Neenah is a Community Development Block Grant formula grantee and evaluates community needs, conditions and resources to be addressed by the grant, and

WHEREAS, the City of Neenah approved the 2017 Community Development Block Grant program by Resolution 2017-20 adopted August 2, 2017, and

WHEREAS, additional projects benefiting low and moderate income areas, persons and households through blight elimination, neighborhood improvements, housing development and job creation are proposed to further give maximum feasible priority to low and moderate income persons and community development, and

WHEREAS, the funding sources for these identified projects include repurposed 2017 program funds as well as funds from prior years; and

WHEREAS, the reprogramming of these funds is considered a substantial amendment and citizen participation requirements have been followed;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Common Council of the City of Neenah that the 2017 Community Development Block Grant Annual Plan including the amended programming of Community Development Block Grant funds is hereby approved. The amended program will fund the following projects:

Project	Amount	Source
Property Acquisition and Redevelopment Activities	\$225,000	Small Business/Microenterprise
Neighborhood Improvements	\$55,000	Planning and Administration

Recommended:

CITY OF NEENAH, WISCONSIN

Moved: _____

Dean R. Kaufert, Mayor

Passed: _____

Patricia A. Sturn, City Clerk