

**MONROE COUNTY(Gold language) AND CITY OF BLOOMINGTON (Blue language),
INDIANA
INTERLOCAL COOPERATION AGREEMENT
FOR
THE OPERATION OF THE MONROE COUNTY CAPITAL IMPROVEMENT BOARD
AND THE
CONVENTION AND VISITORS COMMISSION**

This Interlocal Cooperation Agreement, entered into on this ___ day of _____, 2020, by and between the Monroe County Board of Commissioners (“Commissioners”), the Monroe County Council (“County Council”), (the Commissioners and County Council hereinafter, collectively the “County”) the Mayor of the City of Bloomington, Indiana (“Mayor”) and the Bloomington Common Council (“City Council”) (the Mayor and Council hereinafter collectively the “City”).

WITNESSETH:

WHEREAS, Indiana Code 36-1-7, *et seq.*, allows local government entities to make the most efficient use of their powers by enabling them to contract with other governmental entities for the provision of services to the public; and

WHEREAS, the County and the City each possesses the power and authority to engage in activities that promote tourism and recreation, and to construct and operate improvements to further those ends; and

WHEREAS, Bloomington/Monroe County is the second most sought after destination for groups seeking to hold events of significant size in Indiana, surpassed only by the Indianapolis Convention Center; and

WHEREAS, people attending events at the Monroe Convention Center (“Convention Center”) also patronize restaurants and shops in the County and City, and the resulting combined direct impact on the local economy over the past twenty-five (25) years is estimated at approximately \$256 million; and

WHEREAS, the Convention Center was upgraded and remodeled, but not enlarged, in 2012, and its current size has limited its ability to accommodate many groups desiring to hold events in Bloomington; and

WHEREAS, the County and the City agree that an expanded Convention Center would provide civic benefits as well as significantly enhance the local economy through additional visitors to the area and increased employment opportunities; and

WHEREAS, the County and City agree that a project to expand the Convention Center will include the following capital components: renovation of the current Convention Center building, expanded exhibition and banquet hall space (at an estimated 60,000 square feet), a full service hotel, and connectors between the components (the “Project”), including a parking garage which will be financed, constructed, and owned by the City and dedicated to service the Project; and

WHEREAS, the City and County acknowledge that the Project requires their collaboration in a true and equal partnership, and that a Capital Improvement Board (“CIB”) is the best vehicle for achieving that partnership; and

WHEREAS, the County intends to establish a CIB by ordinance as soon as this Agreement is executed for the purpose of managing the Project and, once construction is completed, operate the expanded Convention Center; and

WHEREAS, the County and City agree that the Project and ongoing operations of an expanded Convention Center will be funded through a combination of assets to be transferred or pledged by each party to the CIB, including but not limited to real property contributed by both parties, as well as certain tax revenues provided for under Indiana Code § 6-9-41-0.3, *et seq.* (“Food and Beverage Tax”), and under Indiana Code §6-9-4-1 *et seq.* (“Innkeepers Tax”); and

WHEREAS, the County is authorized under Indiana Code §36-10-8-4 to determine who may appoint members to the CIB, and the County is also authorized to make appointments to the Convention Visitors Commission (“CVC”), which oversees expenditures of the Innkeepers Tax revenues; and

WHEREAS, the parties agree that their respective contributions of assets to the Project dictates that the parties have an equal voice in the course of the Project and the future management and operation of the Convention Center under the authority of the CIB and the CVC;

NOW, THEREFORE, in consideration of the mutual terms, covenants and conditions set forth herein, the County and the City hereby agree as follows:

ARTICLE I **PURPOSE AND DURATION OF AGREEMENT**

Section 1. Purpose: The purpose of this Agreement is to set forth and define the respective duties, obligations, rights and responsibilities of the County and the City with regard to the CIB and the CVC. In order to afford the County and the City input into the ongoing operations of the Convention Center commensurate with their contribution of equivalent assets to the Project and Convention Center operations, this Agreement encompasses both the CIB and the CVC, as these entities together will control the Convention Center’s assets and funding streams.

The Project goals are threefold, 1) to expand the tourism industry in **downtown Bloomington, Monroe County, and the region**; 2) to provide accommodations, to local not for profits and civic

organizations; and 3) to accentuate the Community goals of sustainable and environmentally-progressive action.

Section 2. Duration: This Agreement shall be in full force and effect as of the date of its execution and shall remain in full force and effect for the duration of the longest term of any of the bonds issued to finance the Project and until either party provides written notice of termination at least six (6) months in advance. The terms of this Agreement may not be changed for the life of such bond or bonds, except by mutual agreement of the parties. In the event state statutes governing the CIB and CVC are amended so as to substantively affect the balance of authority among the parties under either the terms of this Agreement or any of the other governing documents for the CIB or CVC, the County and City agree to renegotiate the terms of this Agreement in the interest of maintaining the balance of authority between the parties, **including finding other means of restoring the balance.**

ARTICLE II

CIB AND CVC BOARD/COMMISSION MEMBERSHIP

Section 1. CIB Membership:

- The CIB shall be composed of seven (7) members, as required by IC 36-10-8-4. The County shall appoint three (3) members and the City shall appoint three (3) members. The County and the City shall jointly approve on the seventh (7) member from a slate of candidates proposed by the six (6) CIB members appointed by the City and County.
- The statutory requirements related to political party affiliations of appointments to the CIB shall be fulfilled by agreement of the County and City. The initial appointments, and for as long as the County and the City officials making the appointments are, by majority, of the same political party, the County and City shall each be required to appoint one (1) member who is not affiliated with the majority political party, and the seventh member, who is jointly appointed, shall also not be affiliated with the majority political party, if necessary to comply with State Code sections 36-1-8-10 and 36-10-8-4.
- No members of the CIB may be elected officials of or employees of either the County or the City, or of the following entities affiliated with or related to the County or City: the Bloomington Housing Authority, the City of Bloomington Utilities, and Bloomington Public Transportation Corporation (“Bloomington Transit”).
- Two (2) members appointed by the County shall each serve an initial one (1) year term, and the other member shall serve a (2) year term. One (1) member appointed by the City shall serve an initial one (1) year term, and the other two members shall serve (2) year terms. The seventh (7) jointly-appointed member shall serve a two (2) year term.
- Subsequent terms of members shall be two (2) years. Members may be reappointed when their terms expire. All terms shall begin on January 15 and end on January 14 of the

following year.

- No member of the CIB may also serve simultaneously on the CVC or Food & Beverage Tax Advisory Commission (FBTAC).

Section 2. CVC Membership:

- The CVC shall be composed of five (5) members, as required by IC 6-9-4-2.
- No members of the CVC may be elected officials of or employees of either the County or the City, or of the following entities affiliated with or related to the County or the City the Bloomington Housing Authority, the City of Bloomington Utilities, Bloomington Public Transportation Corporation (“Bloomington Transit”).
- The Commissioners shall appoint two members to one-year terms, with the restrictions found in the IC 6-9-4-2.
- **The County Council shall appoint three members to two-year terms with the statutory restrictions found in IC 6-9-4-2. The County Council shall choose the unrestricted member. However, the County Council shall make the required owner or general manager of a hotel or motel having at least 40 beds located in the County appointments according to a panel of at least four recommendations made by the City. For terms subsequent to the initial terms, such recommendations must be made in writing to the County Council before expiration of the term. The County Council shall make the appointments at the next scheduled County Council meeting. If a panel of recommendations is not made before an appointment expires, the County Council shall notify the City that it has twenty-one (21) calendar days to make a recommendation or the Council may reappoint the existing member. If that existing member is unwilling to serve an additional term the County Council may appoint any eligible hotelier.**

OR

D. The County Council shall appoint three members to two year terms with the statutory restrictions. However, the County Council can only make two of those appointments according to recommendations made by the City. The appointment that is not required by statute to be a hotelier, shall initially be made by the County Council and shall thereafter alternate between appointment by the County Council and the City upon each expiration of a term. For terms subsequent to the initial terms of the two recommended City appointments, such recommendations must be made in writing to the County Council before expiration of the term. The County Council shall make the appointments at the next scheduled County Council meeting. If a recommendation is not made before an appointment expires, the County Council shall notify the City that it has twenty-one (21) calendar days to make a

recommendation or the Council may reappoint the existing member. If that existing member is unwilling to serve an additional term the County Council may appoint

any eligible hotelier.

- E. All terms of office shall begin on January 1 and end on December 31, consistent with State law. A member whose term expires may be reappointed to serve another term. If a vacancy occurs, a person shall be appointed by the original appointing authority in the same manner as the original appointment to serve for the remainder of the term.
- F. No member of the CVC may also serve simultaneously on the CIB and FBTAC.

ARTICLE III ASSETS, FUNDING AND OPERATIONAL RESPONSIBILITIES

Section 1. CIB Assets and Funding; CVC Funding:

- The County shall transfer ownership of and/or pledge assets related to the Convention Center to the CIB as soon as practicable **and feasible in light of the existing debt**, after the CIB is established. Such assets shall include, but not be limited to, the existing Convention Center building, the expanded Convention Center, real property that was purchased with Innkeepers' Tax revenues as identified on Exhibit A, and some portion of the County's proceeds from the Innkeepers Tax revenues, subject to the authority of the CVC to dedicate those proceeds to funding the Convention Center operations in accordance with paragraph H of this chapter.

- Any agreement between the County and the CIB related to commitment of Innkeepers Tax proceeds to the CIB will be reviewed in light of the current debt obligations of the County's Innkeepers tax fund. The CVC, **subject to paragraph H**, shall approve any such agreement.

- The City shall transfer ownership of and/or pledge assets related to the Convention Center to the CIB as soon as practicable after the CIB is established. Such assets shall include, but not be limited to, real property that will or may likely be used for the Project **as identified in Exhibit A**, and the City's proceeds from the Food and Beverage Tax revenues for so long as such proceeds are needed to finance bonds issued to fund the Project. These transfers and pledges shall be documented in an agreement with the CIB.

- Neither the City's garage to service the project nor the real property on which it is built will be transferred to the CIB.

- The City shall continue efforts to acquire the two parcels on the south west corner of Fourth Street and College Avenue. Once acquired these parcels will be transferred to the CIB. The City pledges that the parcels will be purchased with funds that will not affect the City's financial commitment to fund either the Parking Garage or any other portion of the project. Both parties understand that until these parcels are acquired the CIB should not **rely on them for part** of the project

F. The City shall commit its Food and Beverage Tax revenues, with any appropriate credit enhancement, to the CIB **to the extent required to adequately fund the debt service on the bonds covering the design and construction of the Project, renovation of the current Convention Center, and related soft costs up to the projected budget for the Project of forty four million dollars (\$44,000,000.) Such amount may be increased only after approval by the City Council.** No additional debt may be issued using the City's Food and Beverage Tax revenues until such revenues annually exceed two times the debt requirement, unless approved by the City Council **and the County Council.**

- **The City and County shall transfer all real property that will be used for the Convention Center as identified on Exhibit A to the CIB. Subject to existing and anticipated debt requirements, such transfers shall be in fee simple. Each party may place deed restrictions on real property it transfers regarding future property ownership in the event the land is not used for a Convention Center purpose. In the event that real property identified on Exhibit A is not used for Convention Center purposes within X number of years, the real property shall be deeded back to the transferring party by the CIB.**
- Any contracts between the County and the CIB, or the City and the CIB, shall require approval of all parties to this agreement, in the same manner as approval of this Interlocal agreement, except that the State Attorney General shall not be asked to approve this contract.
- The CVC shall work with both the City and County in developing its annual budget to reach agreement among the parties prior to presenting the budget for official approval. The CVC shall then present the budget for the Innkeepers tax to the City Council for review **?and approval?** prior to the County Council Budget Session. The CVC shall present the budget for the Innkeepers tax to the County Council during a County Council Budget Session. **In the event the County Council does not agree with the budget approved by the City Council, the two Councils shall work to come to agreement on**

a budget that both Councils can approve. If the Councils cannot agree on a budget, the budget for the then-current year shall be the budget for the succeeding year.

- The CIB shall work with both the City and County **Council** in developing its annual budget to reach agreement among the parties prior to presenting the budget for official approval. The CIB shall then present its budget to the City Council for review and approval prior to the County Council Budget Session. The CIB shall present its budget to the County Council during a County Council Budget Session. **In the event the County Council does not agree with the budget approved by the City Council, the two Councils shall work to come to agreement on a budget that both Councils can approve. If the Councils cannot agree on a budget, the budget for the then-current year shall be the budget for the succeeding year.**
- The fiscal bodies of the County and the City shall each approve any bond issues by the CIB, before any bonding request is made to the County Commissioners.

Section 3. CIB Operations:

- As initial matters, the parties agree as follows:
- The CIB shall be responsible for determining the location of the various components of the Project (including the expanded exhibition/banquet hall space, hotel, **hotel** parking garage, **additional city parking garage** and connectors) based on site design work already completed by the architects.
- The CIB shall be responsible for determining the selection process and ultimate choice of a hotelier to construct and operate a hotel to service the Convention Center.
- The County agrees to approve and appropriate \$50,000 in funding for set up expenses of the CIB, such as independent legal counsel and independent controller/accounting services.
- The City has legislated via appropriations ordinance 19-09 (in the not-to-exceed amount of \$5.9 million) and committed via a contract dated December 20, 2019 with Schmidt Associates, architects, entitled, “Letter of Agreement—Bloomington-Monroe County Convention/Civic Center Expansion Phase 2,” that such contract shall as soon as practicable be assigned to the CIB. The CIB shall be the contracting party with the architects for the Project design, and the CIB shall be the contracting party for any other construction or other services needed to complete the Project. Both the City and County agree to enter into any necessary contractual arrangements with the CIB for these purposes as soon as practical.
- The CIB may hire such staff and contract for such services as it needs to assist the members in operating the CIB and the Convention Center consistent with its budget

- The CIB may contract with an entity or entities to operate the Convention Center.
- No elected officials or employees of either the County or the City, or of the following entities affiliated with or related to the County or City, may be hired as employees of the CIB: the Bloomington Housing Authority, the City of Bloomington Utilities, and Bloomington Public Transportation Corporation (“Bloomington Transit”).
- Any agreements between the CIB and either the County or the City must include language indicating that any information or report required by such agreement shall be provided to both the City and County.

Section 4. CVC Operations:

- The CVC shall negotiate the terms of a contract with the CIB to fund all operating needs of the Convention Center. As provided in Article III, Section 3.C above, the CIB may, and is expected to, contract with another entity to provide operational and management services (“Management Contract”). The existing County contract for facility management of the current Convention Center will be assigned to the CIB as soon as practicable.
- The CVC may hire such staff and contract for such services as it needs in conducting the CVC’s business, consistent with its budget
- No elected officials or employees of either the County or the City, or of the following entities affiliated with or related to the County or City, may be hired as employees of the CVC: the Bloomington Housing Authority, the City of Bloomington Utilities, Bloomington Public Transportation Corporation (“Bloomington Transit”).

ARTICLE IV
MISCELLANEOUS PROVISIONS

Section 1. Convention Center Name: The County and City agree that there shall be no sale of naming rights to the **overall** Convention Center without approval by both the County and the City. The CIB shall determine a process for selecting a name for the newly expanded Convention Center. **Individual room naming rights are under the purview of the CIB.**

Section 2. Local Government Approvals: The City and County shall cooperate and approve any documents necessary to secure timely local government approvals for the Project site plan and design.

Section 3. Amendment of this Agreement: The parties may mutually agree to amend this Agreement to correct errors, clarify the understanding of the parties, or to otherwise fulfill the intent of the parties where the initial signed version is deemed inadequate for that purpose.

Section 4. Parking Garage for the Convention Center: The City and County agree that a parking garage of adequate size (approximately 550 spaces) is required for the success of the Project, and that the parking garage will be designed to complement the Project. **Such parking garage size was determined in reviewing the needs of the Expanded Convention Center only, the Hotel parking needs are not included in that estimate.** The City has demonstrated that it has adequate funding options to construct the parking garage. The City and, if necessary, Redevelopment Commission shall determine the best funding options for the parking garage, and the appropriate parties will execute all documents necessary for approval **and financing** of the parking garage. The design will be coordinated with the CIB. **and the City shall reimburse the CIB for any design costs related to the garage that were funded by the food and beverage tax. Garage should be operational on or before the completion of the expanded Convention Center. If not, the City, in collaboration with the CIB, shall provide alternative parking arrangements for the period prior to completion. All necessary funding shall be in place prior to the issuance of the bond referenced in Article III section 1 (D).**

Any connection to the convention center shall be managed and maintained by the CIB.

Section 5. Hotel for the Convention Center: The City and County understand that the CIB will be responsible for selecting the hotelier and hotel design, **including hotel parking**. However, if the hotel portion of the Project requires additional incentives such as tax abatement or transfer or other dedication of a real property interest to the hotelier, the City and County agree to collaborate in creating the incentive package. It is understood that the CIB will negotiate with the hotelier for operational items such as room blocks. The City and County agree to support the CIB's negotiation of such agreements.

Section 6. General Intention as to Convention Center Use. The parties intend that the Convention Center shall also serve as a Civic Center for the use of community residents and non-profit organizations, consistent with the financial and operational needs of the Convention Center.

Section 7. Sustainability. The parties hereby express their desire and intention that the Project will incorporate sustainability into its design and future operations, and the CIB is directed to continually pursue sustainability as a primary goal, so far as financially and operationally feasible and practicable.

Section 8. Savings Clause

In the event any Article, Section or Portion of this Interlocal should be held invalid and unenforceable by any court of competent jurisdiction, such decision shall apply only to the specific Article, Section or Portion thereof specifically specified in the court's decision.

WHEREFORE, the parties hereto have executed this Agreement as of the date first set forth above.

COUNTY OF MONROE, INDIANA
BOARD OF COMMISSIONERS

CITY OF BLOOMINGTON

Julie Thomas, President

John Hamilton, Mayor

Lee Jones, Vice President

Penny Githens, Member

ATTEST: (Dated: _____)

Auditor, Monroe County, Indiana

CITY OF BLOOMINGTON COMMON
COUNCIL

_____, President

ATTEST:

Nicole Bolden, Clerk
City of Bloomington

MONROE COUNTY COUNCIL

_____, President

ATTEST:

_____, Clerk
Monroe County

