

**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](mailto: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](mailto: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](mailto: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](mailto: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](mailto: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](mailto: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](mailto: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: \_\_\_\_\_