

Dated as of [August 1], 2018

PLEDGE AND SECURITY AGREEMENT

Relating to the:

FOX CITIES SPORTS FACILITY

PLEDGE AND SECURITY AGREEMENT

THIS PLEDGE AND SECURITY AGREEMENT, dated as of [August 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 VILLAGE OF FOX CROSSING, WISCONSIN, a Wisconsin municipal corporation and political subdivision (“**Fox Crossing**”), the TOWN OF GRAND CHUTE, WISCONSIN, a Wisconsin political subdivision (“**Grand Chute**”), the CITY OF KAUKAUNA, WISCONSIN, a Wisconsin municipal corporation and political subdivision (“**Kaukauna**”), 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 CITY OF MENASHA, WISCONSIN, a Wisconsin municipal corporation and political subdivision (“**Menasha**”), the CITY OF NEENAH, WISCONSIN, a Wisconsin municipal corporation and political subdivision (“**City of Neenah**”), the TOWN OF NEENAH, WISCONSIN, a Wisconsin political subdivision (“**Town of Neenah**”), and the VILLAGE OF SHERWOOD, WISCONSIN, a Wisconsin municipal corporation and political subdivision (“**Sherwood**”, and collectively with Appleton, Fox Crossing, Grand Chute, Kaukauna, Kimberly, Little Chute, Menasha, City of Neenah, and Town of Neenah, 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, the governing body of each of the Municipalities has adopted a room tax ordinance (the “**Ordinances**”) that levied a room tax on the privilege of furnishing, at retail, except sales for resale, rooms or lodging to transients (the “**Room Tax**”) in the amount of 10% by hotelkeepers, motel operators, lodging marketplaces, owners of short-term rentals, and other persons furnishing accommodations that are available to the public (the “**Operators**”) within the Fox Cities Tourism Zone (as described below), pursuant to Section 66.0615 of the Wisconsin Statutes, as amended (the “**Room Tax Act**”), a portion of which Room Tax is a 3% Room Tax (the “**Tourism Facilities Room Tax**”); and

WHEREAS, the Municipalities, the Room Tax Commission, the Fox Cities Convention & Visitors Bureau, Inc. (the “**CVB**”), and the Community Development Authority of the Town of Grand Chute, Wisconsin (the “**Authority**”), are parties to a Cooperation Agreement for the Fox Cities Sports Facility, dated as of [August 1], 2018 (the “**Cooperation Agreement**”); and

WHEREAS, under the terms of the Cooperation Agreement:

- (a) Grand Chute will convey to the Authority the property on which the Fox Cities Sports Facility (the “**Sports Facility**”) will be constructed; and

- (b) to assist in the financing of the Sports Facility, the Authority will issue its \$_____ Taxable Lease Revenue Bonds, Series 2018 (Fox Cities Sports Facility Project) (the “**Series 2018 Bonds**”) the proceeds of which will be used to pay the costs of the construction and equipping of the Sports Facility; and
- (c) the Municipalities, the Room Tax Commission, and the CVB will agree to the use of the Tourism Facilities Room Tax for the purposes of paying, either directly or indirectly, the costs of the construction and equipping of the Sports Facility, 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 refundings (collectively, the “**Bonds**”), and such other reasonable and 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, and reimbursement of payments made by Grand Chute 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 Tourism Facilities Room Tax**”); and
- (d) the Municipalities and the Room Tax Commission agree to pledge the Tourism Facilities Room Tax to the Trustee for the Purposes of the Tourism Facilities Room Tax; and
- (e) all parties to the Cooperation Agreement acknowledge that the Sports Facility is an amateur sports facility located within the Fox Cities Tourism Zone reasonably likely to generate paid overnight stays at more than one hotel, motel, or other lodging establishment within the Fox Cities Tourism Zone as described in the Ordinances 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 Municipalities, the Room Tax Commission, and Associated Trust Company, National Association, in its capacity as fiscal agent (the “**Fiscal Agent**”), are parties to a Fox Cities Room Tax Fiscal Agency Agreement, dated as of May 1, 2018 (the “**Fiscal Agency Agreement**”), pursuant to which the Municipalities have directed the Operators within their respective jurisdictions to forward all Room Taxes to the Fiscal Agent to be allocated by the Fiscal Agent to the respective purposes therefor under the Ordinances, including the allocation of the Tourism Facilities Room Tax to the Trustee for the Purposes of the Tourism Facilities Room Tax; 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 Tourism Facilities Room Tax 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 Tourism Facilities Room Taxes, subject to any limitations imposed thereon by the Room Tax Act, for the Purposes of the Tourism Facilities Room Tax. The Tourism Facilities Room Tax shall not be used for any purpose other than the Purposes of the Tourism Facilities Room Tax 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 [August 1], 2018, from the Authority to the Trustee (the “**Bond Indenture**”), pursuant to which the Series 2018 Bonds are issued and pursuant to which additional Bonds may be issued to refund (i) the Series 2018 Bonds or (ii) any other Bonds.

ARTICLE II

DEPOSIT OF TOURISM FACILITIES 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 Tourism Facilities Room Taxes hereunder, all Tourism Facilities Room Taxes remitted to the Trustee by the Fiscal Agent pursuant to the Fiscal Agency Agreement shall be applied to the Purposes of the Tourism Facilities Room Tax as specified in the Bond Indenture. The Fiscal Agent has been directed under the Fiscal Agency Agreement to transfer the Tourism Facilities Room Taxes it has received from the Operators to the Trustee on each February 15, May 15, August 15, and November 15 (each a “**Quarterly Transfer Date**”). The Trustee shall deposit the Tourism Facilities Room Taxes received on each Quarterly Transfer Date to the Revenue Fund created under the Bond Indenture.

Section 2.02 Direction to Operators; Enforcement of Payment by Municipalities.

(a) Each of the Municipalities agrees to direct all Operators within its jurisdiction to deposit all Tourism Facilities Room Taxes with either (i) the Fiscal Agent pursuant to the Fiscal Agency Agreement, or (ii) the Trustee pursuant to the terms of this Agreement and the instructions of the Trustee. Each

Municipality agrees to forward, or cause the Fiscal Agent to forward, to the Trustee, no less frequently than the Quarterly Transfer Dates, any payments of Tourism Facilities 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 Tourism Facilities Room Taxes made by a Municipality or an Operator directly to the Room Tax Commission or to the CVB on behalf of the Room Tax Commission. The Municipality may request a Room Tax Deposit Notice from the Fiscal Agent as described in the Fiscal Agency Agreement to accompany such payments.

(b) If an Operator has not paid Tourism Facilities 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 (each as defined in the Fiscal Agency Agreement) has been received from the Fiscal Agent, commence collection and enforcement action against such Operator; *provided that* said Monthly Report shows Tourism Facilities 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 Tourism Facilities Room Tax with any applicable/corresponding forfeiture or interest charge for late payment as described in the Ordinances. 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 Tourism Facilities Room Taxes have been collected from the Operator. Upon such collection, the Municipalities shall, within 20 business days, deposit with the Fiscal Agent for allocation to the Trustee the collected Tourism Facilities Room Taxes, subject to the priority of payment described in the Fiscal Agency Agreement, and any applicable/corresponding forfeiture or interest charge; which shall be allocated pro rata to the collected Room Tax and its purposes described in the Fiscal Agency Agreement, including the Tourism Facilities Room Tax. All costs of collection and enforcement actions relating to any such Tourism Facilities Room Tax 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 Tourism Facilities Room Tax paid by the Operators but not deposited with the Trustee be immediately deposited with the Trustee in accordance with this Article II.

Section 2.03 Failure of Operator Not a Default of Municipality.

A failure of an Operator to timely pay Tourism Facilities Room Taxes shall not constitute a default of a Municipality hereunder provided that the Municipality, in accordance with Section 2.02 above, promptly undertakes and pursues all reasonable collection actions until

the delinquent Tourism Facilities Room Taxes are collected and deposited with the Fiscal Agent or the Trustee.

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 Tourism Facilities Room Taxes, and that it has not performed any acts or executed any other instruments which might prevent the Trustee from receiving any Tourism Facilities 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 Tourism Facilities 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 Tourism Facilities 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, which actions shall include, if necessary, commencing suit or other action to recover delinquent room taxes;
- (d) that it will not repeal any or all of the Tourism Facilities Room Tax or amend the Commission Agreement in any manner that affects the Trustee's right to receive the Tourism Facilities Room Tax;
- (e) that it will not amend the Fiscal Agency Agreement in any manner that adversely affects the Trustee's right to receive the Tourism Facilities Room Tax; and
- (f) that it will not terminate the Fiscal Agency Agreement while any of the Bonds remain outstanding.

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 A, 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: Secretary
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 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
Telephone: (920) 832-6440

Email: tony.saucerman@appleton.org

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.

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.

CITY OF KAUKAUNA, WISCONSIN

By: _____
Its: Mayor

And: _____
Its: Clerk

ADDRESS:

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

Email: skenny@kaukauna.org

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.

CITY OF MENASHA, WISCONSIN

By: _____
Its: Mayor

And: _____
Its: Clerk

ADDRESS:

City of Menasha
Attention: Administrative Services Director
100 Main Street, Suite 200
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.

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.

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 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 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 _____

EXHIBIT A

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 [August 1], 2018 (the “**Agreement**”), for the Fox Cities Sports Facility 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: _____