

**COMMON COUNCIL  
OF THE  
CITY OF APPLETON, WISCONSIN**

**February 21, 2018**

**Resolution No. N/A**

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**Resolution Authorizing the Execution and Delivery of Documents  
relating to the Fox Cities Exhibition Center Project**

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WHEREAS, the City of Appleton, 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.

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Adopted: February 21, 2018

Approved: February \_\_\_\_, 2018

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Mayor

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Clerk

## CERTIFICATIONS BY CLERK

I, Kami Lynch, hereby certify that I am the duly qualified and acting Clerk of the City of Appleton, Wisconsin (the “**Municipality**”), and as such I have in my possession, or have access to, the complete corporate records of said Municipality and of its Common Council (the “**Governing Body**”) and that attached hereto is a true, correct, and complete copy of the resolution (the “**Resolution**”) entitled:

### **Resolution Authorizing the Execution and Delivery of Documents relating to the Fox Cities Exhibition Center Project**

I do hereby further certify as follows:

1. **Meeting Date.** On February 21, 2018, a meeting of the Governing Body was held commencing at \_\_\_\_\_ p.m.
2. **Posting.** On February \_\_\_\_, 2018 (and not less than 24 hours prior to the meeting), I posted or caused to be posted at the Municipality’s offices in Appleton, Wisconsin a notice setting forth the date, time, location, and subject matter (including specific reference to the Resolution) of said meeting.
3. **Notification of Media.** On February \_\_\_\_, 2018 (and not less than 24 hours prior to the meeting), I communicated or caused to be communicated, the date, time, location, and subject matter (including specific reference to the Resolution) of said meeting to those news media who have filed a written request for such notice and to the official newspaper of the Municipality.
4. **Open Meeting Law Compliance.** Said meeting was a regular meeting of the Governing Body that was held in open session in compliance with Subchapter V of Chapter 19 of the Wisconsin Statutes and any other applicable local rules and state statutes.
5. **Members Present.** Said meeting was duly called to order by the Mayor (the “**Presiding Officer**”), who chaired the meeting. Upon roll call, I noted and recorded that there were \_\_\_\_\_ members of the Governing Body present at the meeting, such number being a quorum of the Governing Body.
6. **Consideration of and Roll Call Vote on Resolution.** Various matters and business were taken up during the course of the meeting without intervention of any closed session. One of the matters taken up was the Resolution. A proper quorum of the Governing Body was present for the consideration of the Resolution, and each member of the Governing Body had received a copy of the Resolution. All rules of the Governing Body that interfered with the consideration of the Resolution, if any, were suspended by a two-thirds vote of the Governing Body. The Resolution was then introduced, moved, and seconded, and after due consideration, upon roll call, \_\_\_\_\_ of the Governing Body members voted Aye, \_\_\_\_\_ voted Nay, and \_\_\_\_\_ Abstained.

7. **Adoption of Resolution.** The Resolution was supported by the affirmative vote of a majority of a quorum of the members of the Governing Body in attendance. The Presiding Officer then declared that the Resolution was adopted, and I recorded the Resolution.

8. **Approval of Presiding Officer.** The Resolution was approved by the Presiding Officer on February \_\_\_\_\_, 2018, and I have recorded the approval. The approval is evidenced by the signature of the Presiding Officer on the copy of the Resolution to which this certificate is attached.

IN WITNESS WHEREOF, I have signed my name and affixed the seal of the Municipality, if any, hereto on February \_\_\_\_\_, 2018.

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Clerk

[SEAL]