



City of Appleton

100 North Appleton Street
Appleton, WI 54911-4799
www.appleton.org

Meeting Agenda - Final-revised Finance Committee

Wednesday, April 11, 2018

6:00 PM

Council Chambers, 6th Floor

Special

1. Call meeting to order
2. Roll call of membership

5. Action Items

[18-0508](#) Request for approval of Amended and Restated Municipal Room Tax Ordinance

Attachments: [Exhibition Center - Amended Restated Municipal Room Tax Ordinance .pdf](#)

[18-0509](#) Request for approval of Fox Cities Room Tax Fiscal Agency Agreement

Attachments: [Appleton RDA 2018 Exhibition Center - Fox Cities Room Tax Fiscal Agency Agr](#)

7. Adjournment

Notice is hereby given that a quorum of the Common Council may be present during this meeting, although no Council action will be taken.

Reasonable Accommodations for Persons with Disabilities will be made upon Request and if Feasible.

For questions on this agenda, please contact Tony Saucerman at (920) 832-6440.

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

April 18, 2018

Ordinance No. 40-18

**Amended and Restated Ordinance Imposing a Room Tax
on the Privilege of Furnishing, at Retail, Except Sales for Resale,
Rooms or Lodging to Transients**

WHEREAS, the City of Appleton (the “**City**”) is a duly organized and existing city created under the provisions of the laws of the State of Wisconsin; and

WHEREAS, Section 66.0615 of the Wisconsin Statutes authorizes the governing body of a municipality to adopt an ordinance imposing a tax (the “**Room Tax**”) on the privilege of furnishing, at retail, except sales for resale, rooms or lodging to transients by hotelkeepers, motel operators, lodging marketplaces, owners of short-term rentals, and other persons furnishing accommodations that are available to the public; and

WHEREAS, the geographic area encompassing the City of Appleton, Wisconsin, the City of Kaukauna, Wisconsin, , the City of Neenah, Wisconsin, the Village of Kimberly, Wisconsin, , the Village of Little Chute, Wisconsin, the Town of Grand Chute, Wisconsin, the Town of Neenah, Wisconsin, the Village of Fox Crossing, Wisconsin, the City of Menasha, Wisconsin, and the Village of Sherwood, Wisconsin (including any additional municipality in the same geographic area that may become a party to the Room Tax Commission Agreement described herein, collectively, 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 Section 66.0615 of the Wisconsin Statutes (the “**Room Tax Act**”), which single destination is referred to as the “**Fox Cities Tourism Zone**”; and

WHEREAS, on December 2, 2015 this Common Council previously enacted a room tax ordinance (the “**Prior Ordinance**”) imposing a 10% Room Tax comprising:

- (i) a 3% Room Tax collected for the support of the Fox Cities Convention & Visitors Bureau, Inc., a Wisconsin non-stock, nonprofit corporation, a 5% portion of which could be retained by the City for the purposes of the Municipal Room Tax (as defined below) (the “**CVB Room Tax**”);
- (ii) a 2% Room Tax collected for the payment of debt service on bonds issued by the Redevelopment Authority of the City of Appleton, Wisconsin, to partially fund construction of the Fox Cities Performing Arts Center (the “**PAC Bonds**”) and, upon payment in full of the PAC Bonds, to be reallocated for the purposes of the Tourism Facilities Room Tax (as defined below) (the “**PAC Room Tax**”);

- (iii) a 3% Room Tax collected for the direct or indirect payment of the costs of construction of the Fox Cities Exhibition Center or debt service on bonds issued to finance or refinance the Fox Cities 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 City (the “**Municipal Room Tax**”); and
- (v) a 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**”); and

WHEREAS, subsequent to the adoption of the Prior Ordinance, certain facts and assumptions contemplated and described in the Prior Ordinance have changed, including that the PAC Bonds have been paid in full and the PAC Room Tax has been reallocated to the purposes of the Tourism Facilities Room Tax, the Room Tax Act has been amended, and the Town of Menasha, Wisconsin, a municipality within the Fox Cities Tourism Zone, has been incorporated as the Village of Fox Crossing, Wisconsin; and

WHEREAS, the City desires (i) to clarify the allocation of the 10% Room Tax imposed in the Prior Ordinance by removing reference to the PAC Room Tax and reflecting that the Tourism Facilities Room Tax percentage is now 3%, (ii) to make conforming changes to the CVB Room Tax and Municipal Room Tax percentages to reflect the actual percentages each of the recipients are currently receiving, and (iii) to enter into a fiscal agency agreement pursuant to which all Room Tax would be paid to a fiscal agent and be allocated by the fiscal agent to the recipients of the Room Tax for the specific Room Tax purposes set forth in this Ordinance; and

WHEREAS, the City acknowledges that the Room Tax Act includes certain conditions on the imposition of Room Taxes, including a consideration of the populations of counties in which the Municipalities are located; and

WHEREAS, the Municipalities are located within Outagamie, Calumet, and/or Winnebago Counties, each of which has a population of less than 380,000 and none of which is located adjacent to a county with a population of more than 380,000; and

WHEREAS, the City has entered into an Amended and Restated Room Tax Commission and Tourism Zone Agreement with the other Municipalities, which created the Fox Cities Room Tax Commission in order to coordinate tourism promotion and tourism development within the Fox Cities Tourism Zone using the proceeds of Room Taxes; and

WHEREAS, by the adoption of this Ordinance, the City repeals and restates the Prior Ordinance to continue the imposition of the Room Tax uniformly with the room taxes imposed by the other Municipalities located within the Fox Cities Tourism Zone pursuant to the requirements of the Room Tax Act; and

WHEREAS, this Common Council finds that the best interests of the City are served by the adoption of this Ordinance;

NOW, THEREFORE, the Common Council of the City of Appleton, Wisconsin do ordain as follows:

1. **Recitals.** The above recitals are incorporated by reference herein and made a part hereof.
2. **Amendment and Restatement of Code Section.** [Chapter __, Section ____] Chapter 18. Article III, Division 2 of the Municipal Code of the City of Appleton is hereby repealed and created in its entirety to read as follows:

DIVISION 2. HOTEL AND MOTEL ROOM TAX

- (A) **Definitions.** In addition to the terms defined in this Section, the terms used in this Ordinance shall have the definitions, if any, set forth in the Room Tax Act (as defined below).

- (1) **“CVB”** shall mean the Fox Cities Convention & Visitors Bureau, Inc., a Wisconsin nonstock corporation, and its successors.
- (2) **“Exhibition Center Bonds”** shall mean the Redevelopment Authority of the City of Appleton, Wisconsin Taxable Lease Revenue Bonds, Series 2018 (Fox Cities Exhibition Center Project), issued to finance or refinance the construction and related costs of the Fox Cities Exhibition Center, and any additional bonds issued to refinance said bonds.
- (3) **“Fiscal Agent”** shall mean a financial institution acting in the capacity as an agent on behalf of the City for the receipt and allocation of the Room Taxes in accordance with this Ordinance.
- (4) **“Fiscal Agency Agreement”** shall mean an agreement entered into by and among the Municipalities, the Room Tax Commission, and the Fiscal Agent that sets forth the duties of the Fiscal Agent with respect to the Room Taxes as described in this Ordinance.
- (5) **“Fox Cities Tourism Zone”** shall mean that geographic area encompassing the City of Appleton, Wisconsin; the City of Kaukauna, Wisconsin; the City of Neenah, Wisconsin; the Village of Kimberly, Wisconsin; the Village of Little Chute, Wisconsin; the Town of Grand Chute, Wisconsin; the Town of Neenah, Wisconsin; the Village of Fox Crossing, Wisconsin; the City of Menasha, Wisconsin, the Village of Sherwood, Wisconsin, and that may in the future include any municipality that hereafter becomes a party to the Room Tax Commission Agreement.
- (6) **“Operators”** shall mean hotelkeepers, motel operators, lodging marketplaces, owners of short-term rentals, and other persons furnishing accommodations that are available to the public, which are located in the City and are obligated to pay Room Taxes under this Ordinance.
- (7) **“Pledge Agreement”** shall mean any pledge agreement entered into by the Municipalities and the Room Tax Commission, pursuant to which a portion

of the Room Tax is pledged to pay a particular project or purpose in furtherance of the purposes of the Room Tax set forth in this Ordinance, which includes the Exhibition Center Bonds and any Tourism Facilities Bonds.

- (8) “**Quarterly Payment Date**” shall mean each January 31, April 30, July 31, and October 31, each of which is the last day of the month next succeeding the end of a calendar quarter.
- (9) “**Room Tax**” shall mean a tax on the privilege of furnishing, at retail, except sales for resale, rooms or lodging to transients by the Operators, pursuant to the Room Tax Act.
- (10) “**Room Tax Act**” shall mean Section 66.0615 of the Wisconsin Statutes, as amended from time to time.
- (11) “**Room Tax Commission**” shall mean the Fox Cities Room Tax Commission created by the Municipalities within the Fox Cities Tourism Zone pursuant to the Room Tax Commission Agreement in order to coordinate tourism promotion and tourism development within the Fox Cities Tourism Zone.
- (12) “**Room Tax Commission Agreement**” shall mean the Amended and Restated Room Tax Commission Agreement, dated as of November 24, 2015 entered into by and among the Municipalities and the Room Tax Commission, as amended from time to time.
- (13) “**Tourism Facilities Bonds**” shall mean any one or more series of bonds issued to finance or refinance the construction and related costs of projects undertaken by or on behalf of the Municipalities in furtherance of the Tourism Facilities Room Tax, and any additional bonds issued to refinance said bonds.

(B) **Imposition of Room Tax.** Pursuant to the Room Tax Act, there is hereby imposed a 10% Room Tax on the privilege of furnishing, at retail, except sales for resale, rooms or lodging to transients, by the Operators. Operators shall remit all Room Taxes to (i) the City’s Director of Finance or (ii) to a Fiscal Agent on behalf of the City pursuant to a Fiscal Agency Agreement in accordance with the requirements of this Ordinance and the Room Tax Act. Such 10% Room Tax shall be allocated as follows:

- (1) A 2.85% Room Tax shall be imposed and allocated toward the support of the CVB, to be used for the promotion of the Fox Cities Tourism Zone as a tourism destination (the “**CVB Room Tax**”).
- (2) A 3% Room Tax shall be imposed (subject to sunset as provided in subsection [(C)] hereof) and allocated toward payment of debt service on the Exhibition Center Bonds in accordance with a Pledge Agreement (the “**Exhibition Center Room Tax**”).

- (3) A 3% Room Tax shall be imposed and allocated toward the 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, motel, or other lodging establishment within the Fox Cities Tourism Zone (the “**Tourism Facilities Room Tax**”).
- (4) A 1.15% Room Tax shall be imposed and retained by the City to be used for general tourism support and development in the Fox Cities Tourism Zone in accordance with the requirements of the Room Tax Act (the “**Municipal Room Tax**”).

The City or its Fiscal Agent shall forward the Room Taxes it has received, to be used as described above, to the following parties: (i) the CVB Room Tax to the CVB, (ii) the Exhibition Center Room Tax as required under the related Pledge Agreement, (iii) the Municipal Room Tax to the City, and (iv) the Tourism Facilities Room Tax to the Room Tax Commission or its designees on its behalf (including the CVB), or as otherwise required under a Pledge Agreement.

- (C) **Expiration of Exhibition Center Room Tax.** The Exhibition Center Room Tax shall sunset and expire upon payment in full of all outstanding Exhibition Center Bonds and any related outstanding fees or expenses therefor, at which time 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. Notwithstanding the foregoing, Operators may not discontinue collection of the Exhibition Center Room Tax until the City provides notice that the Exhibition Center Room Tax has been terminated by operation of this Ordinance. After all outstanding Exhibition Center Bonds are paid in full, any excess Exhibition Center Room Tax revenues collected that are not needed to pay the Exhibition Center Bonds or any related outstanding fees or expenses shall be forwarded to the CVB and reallocated to the purposes of the Tourism Facilities Room Tax.
- (D) **Priority of Payment.** In the event any Operator fails to remit the entire Room Tax amounts due on any Quarterly Payment Date under this Ordinance, the City directs that the amounts actually received by the City (or its Fiscal Agent) shall be applied in the following priority order:
 - (1) *first*, to the CVB Room Tax until paid in full;
 - (2) *second*, to the Exhibition Center Room Tax, if any, until paid in full;
 - (3) *third*, to the Tourism Facilities Room Tax until paid in full; and
 - (4) *fourth*, to the Municipal Room Tax.
- (E) **Tourism Entity.** The CVB shall 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 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 Room Tax Commission and the CVB. The CVB may also

hold and administer the Tourism Facilities Room Tax on behalf of the Room Tax Commission in furtherance of the purpose of the Tourism Facilities Room Tax, except when a related Pledge Agreement is in effect.

- (F) **Collection and Administration of Room Tax; Operator Reports.** This Ordinance shall be administered by the City's Clerk. The Room Tax imposed by this Ordinance shall be payable on each Quarterly Payment Date to the City (or to a Fiscal Agent on behalf of the City pursuant to a Fiscal Agency Agreement). A report shall be filed by each Operator with the City's Director of Finance (or with a Fiscal Agent) on or before each Quarterly Payment Date. Such report shall show the gross room receipts of the preceding calendar quarter from such retail furnishing of rooms or lodging, the amount of Room Tax imposed for such period, and such other information as the City deems necessary. Every Operator required to file such quarterly report shall, with its first report, elect to file an annual report based on either the calendar year or its fiscal year. Such annual report shall be filed within 90 days after the close of each such calendar or fiscal year. The annual report shall summarize the quarterly reports, shall reconcile and adjust for errors in the quarterly reports, and shall contain certain such additional information as the City requires. Such annual reports shall be signed by a representative of the Operator or its duly authorized agent, but need not be verified by oath. The City may, for good cause, extend the due date for filing any report, but in no event shall such extension be longer than one month after the due date.
- (G) **Operator Permit Required.** Every Operator is required under this Ordinance to file with the City's Clerk an application for a permit for each place of business that is required to pay Room Tax hereunder. Every application for a permit shall be submitted to the City's Clerk using a form prescribed by the City and shall set forth the name under which the Operator transacts or intends to transact business, the location of its place of business, and such other information as the City requires. The application shall be signed by the owner of the Operator if a sole proprietor and, if not a sole proprietor, by an authorized representative of such Operator. Together with the permit application, each Operator shall pay the City an initial fee of \$20.00 for each permit. A permit issued hereunder is non-transferable.
- (H) **Penalty for Violations.** In addition to the Schedule of Forfeiture described in subsection [(J)] hereof, any Operator in violation of the terms of this Ordinance by failing to obtain a permit shall be subject to a penalty not to exceed \$200.00 for each violation. Each room or unit separately rented or offered for rent, and each day of such rental or offer for rental of such unit shall be a separate violation. In addition, injunctive relief is hereby authorized to discontinue any violation of this Ordinance. Any Operator deemed to have violated any of the provisions of this Ordinance shall be obligated to pay the costs of prosecution, in addition to actual attorney fees expended in the course of said enforcement. The City may revoke or suspend any permit issued hereunder for failure to comply with the provisions hereof.
- (I) **Liability for Room Tax on Sale or Transfer of Business.** If any Operator sells or transfers all or substantially all of its interest in its hotel, motel or other lodging

accommodation, its successors or assigns shall withhold sufficient amounts from the purchase price to pay any amount of Room Tax liability due through the sale or transfer date until the Operator produces a receipt from the City's Treasurer that its liability has been paid in full or a certificate stating that no Room Tax amount is due. If a successor Operator fails to withhold such amount from the purchase price as required, such successor Operator shall become liable for payment of the Room Tax amount it is required to withhold.

- (J) **Schedule of Forfeiture.** In addition to paying the Room Taxes due hereunder, any Operator that has failed to pay any Room Tax when due shall be required to pay a forfeiture in an amount equal to 25% of the Room Tax due from the Operator to the City for the previous year and unpaid, or \$5,000, whichever is less, for failure to pay the Room Tax due hereunder.
 - (K) **Confidentiality of Information.** To the extent permitted under the law, the information provided to the City under Section 66.0615 (2) of the Wisconsin Statutes shall remain confidential; *provided, however*, that the City or any employee thereof may use such information in the discharge of duties imposed by law or of the duties of their office or by order of a court. Persons violating the provisions of this subsection may be required to forfeit not less than \$100 nor more than \$500.
 - (L) **Enforcement.** The City shall enforce this Ordinance in accordance with the Room Tax Act.
- 3. **Publication of Ordinance.** This Ordinance shall be published within 15 days after its passage, either in its entirety or in the form of a notice containing the information required under Section 62.11(4)(c)2. of the Wisconsin Statutes, in the official newspaper of the City as a class 1 notice under Chapter 985 of the Wisconsin Statutes.
 - 4. **Fiscal Agency Agreement.** The Mayor and the Clerk of the City are hereby authorized to enter into a Fiscal Agency Agreement with the other Municipalities, the Room Tax Commission, and a Fiscal Agent for the purposes of the receipt of the Room Tax from the Operators and the application thereof in accordance with this Ordinance and any Pledge Agreement. The Mayor and the Clerk are hereby authorized and directed for and in the name of the City to execute and deliver the Fiscal Agency Agreement, in substantially the form provided to this meeting, with such insertions of corrections thereto as shall be approved by the above officers consistent with the terms of this Ordinance, the execution thereof to constitute conclusive evidence of the approval of any such insertions or corrections.
 - 5. **Conflicting Ordinances Superseded; Severability.** This Ordinance continues, amends, and restates the Prior Ordinance. All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are repealed to the extent of such conflict. The invalidity of any section or provision of this Ordinance hereby adopted and approved shall not invalidate other sections or provisions hereof.

6. **Effective Date.** This Ordinance shall take effect on the date that is the later of (i) May 1, 2018 or (ii) the day after the date of publication of this Ordinance as described in Section 3 hereof.

* * * * *

Adopted: April 18, 2018

Approved: April 18, 2018

Publication Date: April 23, 2018

Timothy M. Hanna, Mayor

Kami Lynch, City 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 “**City**”), and as such I have in my possession, or have access to, the complete corporate records of said City and of its Common Council (the “**Governing Body**”) and that attached hereto is a true, correct, and complete copy of the ordinance (the “**Ordinance**”) entitled:

Amended and Restated Ordinance Imposing a Room Tax on the Privilege of Furnishing, at Retail, Except Sales for Resale, Rooms or Lodging to Transients

I do hereby further certify as follows:

1. **Meeting Date.** On April ____, 2018, a meeting of the Governing Body was held commencing at ____ p.m.
2. **Posting.** On April ____, 2018 (and not less than 24 hours prior to the meeting), I posted, or caused to be posted, at the City’s offices in Appleton, Wisconsin a notice setting forth the date, time, location, and subject matter (including specific reference to the Ordinance) of said meeting.
3. **Notification of Media.** On April ____, 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 Ordinance) of said meeting to those news media who have filed a written request for such notice and to the official newspaper of the City.
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 _____ (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 Ordinance. A proper quorum of the Governing Body was present for the consideration of the Ordinance, and each member of the Governing Body had received a copy of the Ordinance. All rules of the Governing Body that interfered with the consideration of the Ordinance, if any, were suspended by a two-thirds vote of the Governing Body. The Ordinance 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 Ordinance.** The Ordinance 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 Ordinance was passed, and I recorded the Ordinance.

8. **Publication of Ordinance.** I have caused the Ordinance, or a notice thereof, to be published as specified in the Ordinance.

9. **Approval of Presiding Officer.** The Ordinance was approved by the Presiding Officer on April _____, 2018, and I have recorded the approval. The approval is evidenced by the signature of the Presiding Officer on the copy of the Ordinance to which this certificate is attached.

IN WITNESS WHEREOF, I have signed my name and affixed the seal of the City, if any, hereto on April _____, 2018.

Clerk

[SEAL]

FOX CITIES ROOM TAX FISCAL AGENCY AGREEMENT

THIS FOX CITIES ROOM TAX FISCAL AGENCY AGREEMENT is made and entered into as of [May 1], 2018 (this “**Agreement**”), 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 (together with any other municipality that may become a party hereto, the “**Municipalities**”), the Fox Cities Area Room Tax Commission, a Wisconsin intergovernmental commission (the “**Commission**”), and Associated Trust Company, National Association, a national bank organized under the laws of the United States of America (the “**Fiscal Agent**”).

RECITALS:

1. The governing body of each Municipality has adopted a room tax ordinance (the “**Ordinance**”) 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 defined below), pursuant to Section 66.0615 of the Wisconsin Statutes, as amended (the “**Room Tax Act**”).

2. The Municipalities and the Commission have entered into an 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 [May 1], 2018 (as further amended from time to time, the “**Room Tax Commission Agreement**”), pursuant to which, among other things, the Commission was created and the Municipalities agreed that the geographic area encompassing the Municipalities is a single destination as perceived by the traveling public, and is therefore a “zone,” as that term is used in the Room Tax Act, referred to as the “**Fox Cities Tourism Zone**”.

3. The Commission and the Fox Cities Convention & Visitors Bureau, Inc., a Wisconsin nonstock, nonprofit corporation (the “**CVB**”), have entered into an Amended and Restated Tourism Entity Agreement, dated as of [May 1], 2018 (the “**Tourism Entity Agreement**”), pursuant to which the CVB, in its capacity as a “tourism entity” as defined in the Room Tax Act, will provide the Commission with staff, support services, and assistance in

developing and implementing programs to promote the Fox Cities Tourism Zone to visitors, including the administration and application of the portion of the Room Tax remitted to the CVB on behalf of the Commission by the Municipalities or the Fiscal Agent.

4. The 10% Room Tax imposed by each Ordinance and as described in the Room Tax Commission Agreement comprises (i) a 2.85% Room Tax collected for the support of the CVB (the “**CVB Room Tax**”), (ii) a 3% Room Tax collected for the direct or indirect payment of the costs of construction of the Fox Cities Exhibition Center or debt service on bonds issued to finance or refinance the Fox Cities Exhibition Center (the “**Exhibition Center Room Tax**”), (iii) a 1.15% Room Tax collected for general purposes, including, but not limited to tourism support and development in the Municipality (the “**Municipal Room Tax**”), and (iv) a 3% 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 (the “**Tourism Facilities Room Tax**”).

5. Pursuant to an Indenture of Trust, dated as of May 1, 2018 (as amended and supplemented, the “**Exhibition Center Indenture**”), by and between the Redevelopment Authority of the City of Appleton, Wisconsin (the “**ARA**”) and the Fiscal Agent, in its capacity as trustee (together with its successors in such capacity, the “**Exhibition Center Bond Trustee**”), the ARA has issued its \$_____ Taxable Lease Revenue Bonds, Series 2018 (Fox Cities Exhibition Center Project) (together with any additional bonds as described therein, the “**Exhibition Center Bonds**”), debt service on which to be paid from the Exhibition Center Room Tax.

6. The Municipalities, the Commission, and the Exhibition Center Bond Trustee have entered into a Pledge and Security Agreement, dated as of May 1, 2018 (the “**Exhibition Center Pledge and Security Agreement**”), pursuant to which the Exhibition Center Bond Trustee is directed to apply the Exhibition Center Room Tax to the payment of the Exhibition Center Bonds in accordance with the Exhibition Center Indenture.

7. Under the Room Tax Commission Agreement, the Municipalities are directed (i) to require each Operator within its jurisdiction to pay the 10% Room Tax imposed by such Municipality pursuant to its Ordinance, and (ii) to cause the Room Tax revenues to be applied for the purposes set forth herein.

8. 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 to a 7% Room Tax.

9. The Municipalities and the Commission contemplate that all or portions of the Tourism Facilities Room Tax will be dedicated from time to time to pay for specific projects (each a “**Tourism Facilities Project**”) and/or to pay debt service on bonds to finance or refinance one or more Tourism Facilities Projects (the “**Tourism Facilities Bonds**”) issued under a related indenture (a “**Tourism Facilities Indenture**”), in furtherance of the purposes of the Tourism Facilities Room Tax.

10. In connection with issuance of Tourism Facilities Bonds, one or more pledge agreements may be entered into with a trustee under a Tourism Facilities Bond Indenture (the “**Tourism Facilities Bond Trustee**”), pursuant to which the Tourism Facilities Bond Trustee would apply all or portions of the Tourism Facilities Room Tax to the payment of debt service and other costs relating to the Tourism Facilities Bonds (each a “**Tourism Facilities Pledge Agreement**”).

11. In accordance with the Ordinances and the Room Tax Commission Agreement, upon payment in full of any Tourism Facilities Bonds, the Tourism Facilities Room Tax will continue and will be remitted to the CVB on behalf of the Commission.

12. To facilitate the application the Room Tax to the purposes set forth in the Ordinances and pursuant to the Room Tax Commission Agreement, the Exhibition Center Pledge and Security Agreement, and any Tourism Facilities Pledge Agreement, the Municipalities and the Commission now desire that all the Room Tax be forwarded by the Operators to the Fiscal Agent.

13. Pursuant to the Ordinances, the Municipalities have instructed, or will instruct, the Operators to forward all Room Tax payments directly to the Fiscal Agent quarterly for receipt no later than each January 31, April 30, July 31, and October 31 (each a “**Quarterly Payment Date**”) in accordance with the Ordinances and the Room Tax Commission Agreement.

AGREEMENT

The Municipalities, the Commission, and the Fiscal Agent hereby agree as follows:

Section 1 Appointment.

The Municipalities and the Commission hereby appoint the Fiscal Agent as their fiscal agent to accept and hold the Room Tax payments remitted to it by the Operators, and apply the Room Tax revenues as described in this Agreement. The Fiscal Agent hereby accepts such appointment.

Section 2 Creation of Accounts.

The Fiscal Agent shall establish a separate account for each Municipality that imposes the Room Tax, to be designated with the name of the Municipality and the label “**Room Tax Account**”. The Fiscal Agent shall deposit all Room Tax payments received from the Operators located within a Municipality into such Municipality’s Room Tax Account.

Section 3 Allocation of Room Tax.

The Fiscal Agent shall allocate the Room Tax held in each Room Tax Account quarterly on each February 15, May 15, August 15, and November 15, as follows:

- (a) the CVB Room Tax shall be remitted to the CVB;

(b) the Exhibition Center Room Tax shall be remitted to the Exhibition Center Bond Trustee as described in the Exhibition Center Pledge and Security Agreement; *provided, however,* that following payment in full of the Exhibition Center Bonds any Exhibition Center Room Tax then held or thereafter received by the Fiscal Agent shall be remitted to the CVB, on behalf of the Commission, and applied to the purposes of the Tourism Facilities Room Tax in accordance with the Ordinances;

(c) the Tourism Facilities Room Tax shall (i) at any time that a Tourism Facilities Pledge Agreement is in effect, be remitted to the Tourism Facilities Bond Trustee or as otherwise described in the Tourism Facilities Pledge Agreement, and (ii) at all other times, be remitted to the CVB on behalf of the Commission; and

(d) the Municipal Room Tax shall be remitted to the applicable Municipality.

Section 4 Priority of Payment.

In the event any Operator fails to remit the entire Room Tax amounts due on any Quarterly Payment Date under this Agreement, the Fiscal Agent shall apply the amounts actually received by such Operator in the following priority order:

- (a) *first*, to the CVB Room Tax until paid in full;
- (b) *second*, to the Exhibition Center Room Tax until paid in full;
- (c) *third*, to the Tourism Facilities Room Tax until paid in full; and
- (d) *fourth*, to the Municipal Room Tax.

Section 5 Investment Responsibility.

[The Fiscal Agent shall not be under any obligation to invest the Room Tax held in each Room Tax Account.]

Section 6 Statements and Reports.

The Fiscal Agent 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 Commission and to each Municipality, that includes a list of the then current Operators that submit Room Taxes and the amount of Room Taxes received from each Operator, and identifies the Operators that have not paid Room Taxes then due (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, the Room Tax Commission, and the CVB that includes all financial transactions relating to the Municipality in its Room Tax Account as of the end of the calendar quarter (the “**Quarterly Statement**”), and (iii) not later than the 15th day of the month following each Quarterly Payment Date, send a list to the Commission, with a copy to the related Municipality, of the Operators in each Municipality that have not paid Room Taxes as of such due date (the “**Delinquency Report**”).

The Fiscal Agent shall report, no later than March 15 of each year, to each Municipality from which it received Room Tax revenues, to the Commission, and to the CVB, a detailed accounting of the receipts and remittances of Room Tax revenues by the Fiscal Agent during such calendar year to assist the Municipalities in their required reporting to the Wisconsin Department of Revenue under the Room Tax Act.

Section 7 Fees.

The Issuer agrees to pay the Fiscal Agent fees for its services hereunder in the amounts set forth on the attached Exhibit A. *{How will this be paid and by who? }*

Section 8 Miscellaneous.

(a) Additional Parties to this Agreement. Any municipal government that hereafter becomes an additional member of the Commission (an “**Additional Municipality**”) pursuant to the Room Tax Commission Agreement shall, as a condition of such membership under the Room Tax 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 Fiscal Agent 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 Fiscal Agent to the other then-current parties to this Agreement. Acceptance by the Fiscal Agent 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.

(b) Instructions to Operators. Each Municipality shall instruct all Operators within its jurisdiction to forward all Room Tax payments directly to the Fiscal Agent quarterly for receipt no later than each Quarterly Payment Date in accordance with this Agreement.

(c) Resignation; Successor Fiscal Agent. The Fiscal Agent may resign on any date by giving not less than 60 days prior written notice to the Commission and the Municipalities. Upon receiving such notice of resignation, the Commission shall promptly appoint a successor fiscal agent by an instrument in writing executed by order of its governing body. If no successor fiscal agent shall have been so appointed and have accepted appointment within 60 days after the date of such notice of resignation, then the resigning fiscal agent may petition any court of competent jurisdiction for the appointment of a successor fiscal agent. Such court may thereupon, after such notice, if any, as it may deem proper and prescribes, appoint a successor fiscal agent. The resignation of a fiscal agent shall take effect only upon appointment of a successor fiscal agent and such successor fiscal agent’s acceptance of such appointment.

The Fiscal Agent may also be removed by the Commission and the Municipalities on any date upon not less than 60 days prior written notice. Such removal shall take effect upon the appointment of a successor fiscal agent and such successor fiscal agent’s acceptance of such appointment.

Any successor fiscal agent shall be qualified pursuant to Section 67.10 (2) of the Wisconsin Statutes, as amended.

Any successor fiscal agent shall execute, acknowledge, and deliver to the Commission and the Municipalities and to its predecessor fiscal agent an instrument accepting such appointment hereunder, and thereupon the resignation of the predecessor fiscal agent shall become effective, and such successor fiscal agent, without any further act, deed or conveyance, shall become vested with all the rights, powers, trusts, duties, and obligations of its predecessor, with like effect as if originally named as fiscal agent herein; but nevertheless, on written request of the Commission or any Municipality, or on the request of the successor, the fiscal agent ceasing to act shall execute and deliver an instrument transferring to such successor fiscal agent, all the rights, powers, and trusts of the fiscal agent so ceasing to act. Upon the request of any such successor fiscal agent, the Commission shall execute any and all instruments in writing for more fully and certainly vesting in and confirming to such successor fiscal agent all such rights, powers, and duties. Any predecessor fiscal agent shall pay over to its successor fiscal agent all funds in the Room Tax Accounts.

(d) Modification of Agreement. This Agreement shall not be modified except by an express written agreement executed by the parties hereto.

(e) Execution in Counterparts. This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

(f) No Recourse. No recourse shall be had for any claim based on this Agreement against the Commission or the Municipalities, any director, officer, employee, or agent, past, present and future, of the Commission or any Municipality, or of any successor body, under any constitutional provision, statute or rule of law, or by the enforcement of any assessment or penalty, or by any legal or equitable proceeding or otherwise.

(g) Indemnification of Fiscal Agent. The Commission and the Municipalities each agree to hold the Fiscal Agent harmless and to indemnify the Fiscal Agent from and against any loss, liability, claim, demand, or expense (including reasonable attorney's fees and expenses), arising out of or in connection with the performance of its obligations in accordance with the provisions of this Agreement, except for negligent acts or omissions or willful misconduct of the Fiscal Agent. The foregoing indemnities in this paragraph shall survive the resignation of the Fiscal Agent or the termination of this Agreement.

(h) Notices. Any notice, request, certificate, communication, or other paper to be given pursuant to this Agreement, shall be sufficiently given, and shall be deemed given, when hand delivered or sent by first class, electronic, or certified mail, or overnight delivery with proper address as indicated in each party's address indicated beneath the signature(s) of such party to this Agreement. Any party to this Agreement may designate to the Fiscal Agent any further or different addresses to which subsequent notices, requests, certificates, communications, or other papers shall be sent.

(i) Governing Law. The laws of the State of Wisconsin shall govern this Agreement.

[Signature Pages Follow]

IN WITNESS WHEREOF, the parties have caused this Fox Cities Room Tax Fiscal Agency 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 Fiscal Agent**

By: _____
Its _____

And: _____
Its _____

IN WITNESS WHEREOF, the parties have executed this Fox Cities Room Tax Fiscal Agency 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 Fox Cities Room Tax Fiscal Agency 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: clerk-treasurer@kaukauna.org

IN WITNESS WHEREOF, the parties have executed this Fox Cities Room Tax Fiscal Agency 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 Fox Cities Room Tax Fiscal Agency 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 Fox Cities Room Tax Fiscal Agency 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 Fox Cities Room Tax Fiscal Agency 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 Fox Cities Room Tax Fiscal Agency 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 Fox Cities Room Tax Fiscal Agency 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 Fox Cities Room Tax Fiscal Agency 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 Fox Cities Room Tax Fiscal Agency 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

FISCAL AGENT FEE SCHEDULE

[Attached]

EXHIBIT B

JOINDER AGREEMENT TO

FOX CITIES ROOM TAX FISCAL AGENCY AGREEMENT

The undersigned municipality hereby agrees that it shall be an Additional Municipality as defined in the Fox Cities Room Tax Fiscal Agency Agreement, dated as of [May 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 fiscal agent, 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: _____