

Resolution No. RS2010- 1412

A resolution approving the execution and delivery of an Intergovernmental Project Agreement (Convention Center Hotel Project) by and between The Metropolitan Government of Nashville and Davidson County, Tennessee and The Convention Center Authority of The Metropolitan Government of Nashville and Davidson County, Tennessee

WHEREAS, the Metropolitan County Council of the Metropolitan Government (the "Metropolitan Council") has determined that the construction of a new downtown convention center and related facilities (the "Convention Center") on property located within the Capitol Mall Redevelopment District will encourage and foster economic development and prosperity for the Metropolitan Government; and

WHEREAS, pursuant to Chapter 89, Title 7 of the Tennessee Code Annotated (the "Act"), the Metropolitan Council has created The Convention Center Authority of The Metropolitan Government of Nashville and Davidson County, Tennessee (the "Authority") for the purpose of exercising all powers granted to a convention center authority by the Act, including, without limitation, the financing, constructing and operating of the Convention Center; and

WHEREAS, pursuant to the Act, the Metropolitan Council is authorized to aid or otherwise provide assistance to the Authority, for such term or terms and upon such conditions as may be determined by resolution of the Metropolitan Council, by granting, contributing or pledging revenues of the Metropolitan Government to or for the benefit of the Authority; and

WHEREAS, the Metropolitan Council has previously entered into an Intergovernmental Project Agreement with the Authority dated as of February 1, 2010, to facilitate the Authority's financing of the acquisition and construction of the Convention Center (the "Convention Center Intergovernmental Project Agreement"); and

WHEREAS, the Convention Center Intergovernmental Project Agreement provided that the Metropolitan Government was making available to the Authority the following revenues to facilitate the Authority's financing of the acquisition and construction of the Convention Center and the issuance by the Authority of up to \$250,000,000 of its Tourism Tax Revenue Bonds, Series 2010A (the "Series 2010A Bonds") and up to \$450,000,000 of the Authority's Subordinate Tourism Tax Revenue Bonds, Series 2010B (the "Series 2010B Bonds"):

- (1) 3% of the 6% Hotel/Motel Tax authorized by Section 7-4-102 of the Tennessee Code Annotated and Section 5.12.020 of the Metropolitan Code, less that portion of such tax required to be deposited to the Metropolitan Government General Fund pursuant to Section 7-4-102(b)(3) and Section 7-4-110(f) of the Tennessee Code Annotated (the "Hotel/Motel Tax Revenues"); and
- (2) \$2.00 of the \$2.50 Hotel Room Occupancy Tax authorized by Section 7-4-202 of the Tennessee Code Annotated and Section 5.12.120 of the Metropolitan Code (the "Room Occupancy Tax Revenues"); and

- (3) The entire \$2.00 Contracted Vehicle Tax authorized by Section 7-4-203 of the Tennessee Code Annotated and Section 5.16.130 of the Metropolitan Code (the "Airport Ground Transportation Tax Revenues"); and
- (4) The entire 1% Rental Vehicle Surcharge Tax authorized by Section 67-4-1908 of the Tennessee Code Annotated and Section 5.32.190 of the Metropolitan Code (the "Rental Car Tax Revenues"); and
- (5) the allocation of state and local sales and use taxes relating to sales made in the tourism development zone in the area projected to be affected by the development of the Convention Center as approved the State Building Commission on November 12, 2009, all in accordance with Section 7-88-101 *et seq.* of the Tennessee Code Annotated (the "TDZ Revenues"); and
- (6) an amount equal to the state and local tax revenue derived under Title 67, Chapter 6 of the Tennessee Code Annotated from the sale of admission, parking, food, drink and any other things or services subject to tax under such chapter, if such sales occur on the premises of the Convention Center or on the premises of one or two convention center hotels approved by the State Department of Finance and Administration in accordance with Title 67, Chapter 6 of the Tennessee Code Annotated (the "MCCA Redirect Revenues").

WHEREAS, the Hotel/Motel Tax Revenues, the Room Occupancy Tax Revenues, the Airport Ground Transportation Tax Revenues, the Rental Car Tax Revenues, the TDZ Revenues and the MCCA Redirect Revenues are herein referred to collectively as the "Tourism Tax Revenues"; and

WHEREAS, the Convention Center Intergovernmental Project Agreement further provided that to enhance the marketability of the Series 2010B Bonds and thereby reduce the interest costs thereon, the Metropolitan Government would make certain Non-Tax Revenues (as defined and described hereinbelow) available to the Authority for the payment of debt service on the Series 2010B Bonds in the event the Tourism Tax Revenues and other funds are insufficient therefor; and

WHEREAS, in order to further implement the public purposes enumerated in the Act, the Authority desires to create certain economic and public benefits for the Metropolitan Government and to enhance the Convention Center by facilitating the development of a premier headquarters hotel and related facilities (the "Hotel") by Omni Nashville, LLC, a Delaware limited liability company ("Omni") on two tracts of land consisting of approximately 3.327 acres located adjacent to the Convention Center (the "Hotel Site") for the purposes, among others, of (i) attracting additional convention and tradeshow business which require large quantities of hotel room bookings and stays; (ii) generating increased tourism; (iii) enhancing the financial coverage for the Series 2010A Bonds and the Series 2010B Bonds; (iv) increasing the MCCA Redirect Revenues pledged to the Authority pursuant to the Convention Center Intergovernmental Project Agreement; (v) providing increased employment opportunities for citizens of Davidson County and the Nashville Metropolitan Statistical Area; and (vi) providing

increased opportunities for small, minority-owned, women-owned business enterprises and local businesses; and

WHEREAS, in order to further implement the public purposes enumerated in the Act and in furtherance thereof to induce Omni to design, construct, finance and operate the headquarters hotel and related facilities on the Hotel Site, the Authority has approved a Development and Funding Agreement with Omni, dated October 7, 2010 (the "Development and Funding Agreement") which provides that Omni will receive certain tax abatements and financial incentives, including tax increment loan proceeds and annual payments for a period of twenty (20) years payable from the Tourism Tax Revenues received by the Authority pursuant to the Convention Center Intergovernmental Project Agreement (each an "Annual Payment"), to be further secured by a pledge of certain Non-Tax Revenues (as defined and described hereinbelow) pursuant to this Agreement; and

WHEREAS, in order to further implement the public purposes enumerated in the Act and in furtherance thereof to establish an obligation by Omni to hold certain blocks of rooms in the Hotel available in connection with certain city-wide events that will utilize space within the Convention Center, the Authority has approved a Room Block Agreement with Omni, dated October 7, 2010 (the "Room Block Agreement"); and

WHEREAS, the Metropolitan Council now desires to facilitate the development of the Hotel by Omni to be constructed and operated in accordance with the terms of the Development and Funding Agreement and the Room Block Agreement; and

WHEREAS, a form of the Intergovernmental Project Agreement (Convention Center Hotel Project) by and between the Metropolitan Government and the Authority has been presented to the Metropolitan Council and is attached hereto as Exhibit A (the "Intergovernmental Agreement").

WHEREAS, the Metropolitan Council has determined it is in the public interest to approve the Intergovernmental Agreement between the Metropolitan Government and the Authority to accomplish the forgoing.

NOW, THEREFORE, BE IT RESOLVED BY THE METROPOLITAN COUNCIL OF THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY:

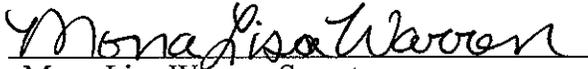
SECTION 1. The Metropolitan Council pledges the Tourism Tax Revenues and Non-Tax Revenues to the Authority for the purposes and in accordance with the terms and conditions set forth in the Intergovernmental Agreement.

SECTION 2. The form, terms and provisions of the Intergovernmental Project Agreement (Convention Center Hotel Project) attached hereto as Exhibit A (the "Intergovernmental Agreement") are hereby approved and the Metropolitan Mayor (the "Metropolitan Mayor") is hereby authorized, empowered and directed to execute and deliver the Intergovernmental Agreement in the name of and on behalf of the Metropolitan Government in the form now before this meeting. From and after the execution and delivery of the Intergovernmental Agreement, the officers of the Metropolitan Government or any of them, are hereby authorized, empowered and

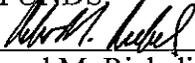
directed to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of the Intergovernmental Agreement as executed.

SECTION 3. This Resolution shall take effect from and after its adoption, the welfare of The Metropolitan Government of Nashville and Davidson County requiring it.

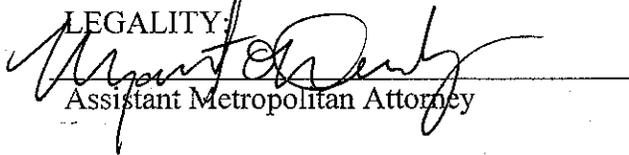
RECOMMENDED:


Mona Lisa Warren, Secretary
The Convention Center Authority of The
Metropolitan Government of Nashville and
Davidson County

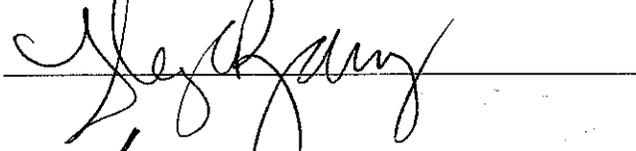
APPROVED AS TO AVAILABILITY
OF FUNDS:


Richard M. Riebeling
Finance Director

APPROVED AS TO FORM AND
LEGALITY:


Assistant Metropolitan Attorney

INTRODUCED BY:





Members of Council

**INTERGOVERNMENTAL PROJECT AGREEMENT
(CONVENTION CENTER HOTEL PROJECT)**

This Agreement is made and entered into as of the 19th day of October, 2010, by and between The Metropolitan Government of Nashville and Davidson County (the "Metropolitan Government") and The Convention Center Authority of The Metropolitan Government of Nashville and Davidson County (the "Authority").

WITNESSETH:

WHEREAS, the Metropolitan County Council of the Metropolitan Government (the "Metropolitan Council") has determined that the construction of a new downtown convention center and related facilities (the "Convention Center") on property located within the Capitol Mall Redevelopment District will encourage and foster economic development and prosperity for the Metropolitan Government; and

WHEREAS, pursuant to Chapter 89, Title 7 of the Tennessee Code Annotated (the "Act"), the Metropolitan Council has created the Authority for the purpose of exercising all powers granted to a convention center authority by the Act, including, without limitation, the financing, constructing and operating of the Convention Center; and

WHEREAS, pursuant to the Act, the Metropolitan Council is authorized to aid or otherwise provide assistance to the Authority, for such term or terms and upon such conditions as may be determined by resolution of the Metropolitan Council, by granting, contributing or pledging revenues of the Metropolitan Government to or for the benefit of the Authority; and

WHEREAS, the Metropolitan Council has previously entered into an Intergovernmental Project Agreement with the Authority dated as of February 1, 2010, to facilitate the Authority's financing of the acquisition and construction of the Convention Center (the "Convention Center Intergovernmental Project Agreement"); and

WHEREAS, the Convention Center Intergovernmental Project Agreement provided that the Metropolitan Government was making available to the Authority the following revenues to facilitate the Authority's financing of the acquisition and construction of the Convention Center and the issuance by the Authority of up to \$250,000,000 of its Tourism Tax Revenue Bonds, Series 2010A (the "Series 2010A Bonds") and up to \$450,000,000 of the Authority's Subordinate Tourism Tax Revenue Bonds, Series 2010B (the "Series 2010B Bonds"):

- (1) 3% of the 6% Hotel/Motel Tax authorized by Section 7-4-102 of the Tennessee Code Annotated and Section 5.12.020 of the Metropolitan Code, less that portion of such tax required to be deposited to the Metropolitan Government General Fund pursuant to Section 7-4-102(b)(3) and Section 7-4-110(f) of the Tennessee Code Annotated (the "Hotel/Motel Tax Revenues"); and
- (2) \$2.00 of the \$2.50 Hotel Room Occupancy Tax authorized by Section 7-4-202 of the Tennessee Code Annotated and Section 5.12.120 of the Metropolitan Code (the "Room Occupancy Tax Revenues"); and

- (3) The entire \$2.00 Contracted Vehicle Tax authorized by Section 7-4-203 of the Tennessee Code Annotated and Section 5.16.130 of the Metropolitan Code (the "Airport Ground Transportation Tax Revenues"); and
- (4) The entire 1% Rental Vehicle Surcharge Tax authorized by Section 67-4-1908 of the Tennessee Code Annotated and Section 5.32.190 of the Metropolitan Code (the "Rental Car Tax Revenues"); and
- (5) the allocation of state and local sales and use taxes relating to sales made in the tourism development zone in the area projected to be affected by the development of the Convention Center as approved the State Building Commission on November 12, 2009, all in accordance with Section 7-88-101 *et seq.* of the Tennessee Code Annotated (the "TDZ Revenues"); and
- (6) an amount equal to the state and local tax revenue derived under Title 67, Chapter 6 of the Tennessee Code Annotated from the sale of admission, parking, food, drink and any other things or services subject to tax under such chapter, if such sales occur on the premises of the Convention Center or on the premises of one or two convention center hotels approved by the State Department of Finance and Administration in accordance with Title 67, Chapter 6 of the Tennessee Code Annotated (the "MCCA Redirect Revenues").

WHEREAS, the Hotel/Motel Tax Revenues, the Room Occupancy Tax Revenues, the Airport Ground Transportation Tax Revenues, the Rental Car Tax Revenues, the TDZ Revenues and the MCCA Redirect Revenues are herein referred to collectively as the "Tourism Tax Revenues"; and

WHEREAS, the Convention Center Intergovernmental Project Agreement further provided that to enhance the marketability of the Series 2010B Bonds and thereby reduce the interest costs thereon, the Metropolitan Government would make certain Non-Tax Revenues (as defined and described hereinbelow) available to the Authority for the payment of debt service on the Series 2010B Bonds in the event the Tourism Tax Revenues and other funds are insufficient therefor; and

WHEREAS, in order to further implement the public purposes enumerated in the Act, the Authority desires to create certain economic and public benefits for the Metropolitan Government and to enhance the Convention Center by facilitating the development of a premier headquarters hotel and related facilities (the "Hotel") by Omni Nashville, LLC, a Delaware limited liability company ("Omni") on two tracts of land consisting of approximately 3.327 acres located adjacent to the Convention Center (the "Hotel Site") for the purposes, among others, of (i) attracting additional convention and tradeshow business which require large quantities of hotel room bookings and stays; (ii) generating increased tourism; (iii) enhancing the financial coverage for the Series 2010A Bonds and the Series 2010B Bonds; (iv) increasing the MCCA Redirect Revenues pledged to the Authority pursuant to the Convention Center Intergovernmental Project Agreement; (v) providing increased employment opportunities for citizens of Davidson County and the Nashville Metropolitan Statistical Area; and (vi) providing

increased opportunities for small, minority-owned, women-owned business enterprises and local businesses; and

WHEREAS, in order to further implement the public purposes enumerated in the Act and in furtherance thereof to induce Omni to design, construct, finance and operate the headquarters hotel and related facilities on the Hotel Site, the Authority has entered into a Development and Funding Agreement with Omni, dated October ___, 2010 (the "Development and Funding Agreement") which provides that Omni will receive certain tax abatements and financial incentives, including tax increment loan proceeds and annual payments for a period of twenty (20) years payable from the Tourism Tax Revenues received by the Authority pursuant to the Convention Center Intergovernmental Project Agreement (each an "Annual Payment"), to be further secured by a pledge of certain Non-Tax Revenues (as defined and described hereinbelow) pursuant to this Agreement; and

WHEREAS, in order to further implement the public purposes enumerated in the Act and in furtherance thereof to establish an obligation by Omni to hold certain blocks of rooms in the Hotel available in connection with certain city-wide events that will utilize space within the Convention Center, the Authority has entered into a Room Block Agreement with Omni, dated October ___, 2010 (the "Room Block Agreement"); and

WHEREAS, the Metropolitan Council now desires to facilitate the development of the Hotel by Omni to be constructed and operated in accordance with the terms of the Development and Funding Agreement and the Room Block Agreement; and

WHEREAS, it is deemed necessary and desirable by the Metropolitan Council and the Board of Directors of the Authority that the parties enter into an agreement addressing the pledging of certain Non-Tax Revenues (as defined and described hereinbelow) and for the purpose of establishing the other agreements and rights of the parties hereunder.

NOW, THEREFORE, for and in consideration of the premises and the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of all of which is hereby acknowledged, the parties agree as follows:

1. Duties of the Metropolitan Government. The Metropolitan Government covenants and agrees as follows:

(a) The Convention Center Intergovernmental Project Agreement provides that the Authority will deposit the Tourism Tax Revenues received from the Metropolitan Government to the Revenue Fund established in the Series 2010A Indenture as defined in the Convention Center Intergovernmental Project Agreement, and such Tourism Tax Revenues will be used to pay debt service on the Series 2010A Bonds and to maintain a debt service reserve fund for the Series 2010A Bonds, all in accordance with the Series 2010A Indenture. The Convention Center Intergovernmental Project Agreement further provides that following application of such Tourism Tax Revenues as provided in the Series 2010A Indenture, the Authority will transfer the remaining Tourism Tax Revenues to the Revenue Fund established in the Series 2010B Indenture as defined in the Convention Center Intergovernmental Project Agreement (the "Series 2010B Revenue Fund"). The Convention Center Intergovernmental

Project Agreement further provides that moneys in the Series 2010B Revenue Fund, including any remaining Tourism Tax Revenues and Convention Center operating revenues, will be used first to pay Convention Center operating expenses, then to pay debt service on the Series 2010B Bonds; then to maintain a reserve fund for the Series 2010B Bonds; and then deposited to a surplus revenue fund (the "Surplus Revenue Fund"). The Convention Center Intergovernmental Project Agreement further provides that notwithstanding the foregoing, if at any time there are no obligations outstanding under the Series 2010A Indenture, then the Metropolitan Government will transfer Tourism Tax Revenues first to the Revenue Fund established under the Series 2010B Indenture for so long as there are obligations outstanding under the Series 2010B Indenture.

(b) The funds in the Surplus Revenue Fund shall be used by the Authority to the extent permitted by applicable law to fund the Annual Payment payable to Omni pursuant to the Development and Funding Agreement plus any interest payable by the Authority pursuant to Section 4.4 of the Development and Funding Agreement. If the available funds in the Surplus Revenue Fund are insufficient to fund the Annual Payment plus any interest payable by the Authority pursuant to Section 4.4 of the Development and Funding Agreement, the Metropolitan Government hereby pledges and agrees to transfer to the Authority for deposit into the Surplus Revenue Fund the Non-Tax Revenues at such times and in such amounts necessary to cure the deficiency.

(c) The Metropolitan Government's pledge of Non-Tax Revenues hereunder is subject and subordinate to the prior pledge of such Non-Tax Revenues in favor of The Sports Authority of the Metropolitan Government's (the "Sports Authority's") Taxable Public Improvement Revenue Bonds, Series 1998 (Arena Project) (the "1998 Sports Authority Bonds") and Public Improvement Revenue Bonds, Series 2004 (Stadium Project) (the "2004 Sports Authority Bonds") and the Authority's Series 2010B Bonds, and any bonds issued on a parity with the 1998 Sports Authority Bonds, the 2004 Sports Authority Bonds, or the Series 2010B Bonds.

(d) As used herein, the term "Non-Tax Revenues" shall mean all income and revenues of the Metropolitan Government which according to generally accepted accounting principles promulgated by the Governmental Accounting Standards Board and normal and customary accounting practices of the Metropolitan Government are deposited to and become assets of the General Services District General Fund of the Metropolitan Government, derived from any source other than income and revenues derived from the exercise by the Metropolitan Government of its powers to levy and collect taxes of any kind. The term "Non-Tax Revenues" does not include: ad-valorem property taxes; sales taxes; State-shared taxes; revenues of any agency or instrumentality of the Metropolitan Government; revenues which according to generally accepted accounting principles promulgated by the Governmental Accounting Standards Board and the normal and customary accounting practices of the Metropolitan Government, are deposited to and become assets of any proprietary fund or enterprise fund of the Metropolitan Government; payments made by the Department of Water and Sewerage Services of the Metropolitan Government in lieu of ad valorem taxes pursuant to Resolution No. R96-177 adopted by the Metropolitan County Council on February 29, 1996; lease payments payable to the Metropolitan Government from the stadium currently known as L.P. Field; parking revenues

from the parking lots surrounding L.P. Field; or ticket surcharge revenues collected by the Metropolitan Government or the Sports Authority from patrons of the Sports Authority's downtown arena currently known as the Bridgestone Arena.

(e) The Metropolitan Government authorizes the Authority to pledge its rights under this Agreement and to the Tourism Tax Revenues and the Non-Tax Revenues, as security for its obligation to make the Annual Payments pursuant to the Development and Funding Agreement plus any interest payable by the Authority pursuant to Section 4.4 of the Development and Funding Agreement.

(f) For so long as the Authority remains obligated to make any Annual Payments pursuant to the Development and Funding Agreement or pay any interest pursuant to Section 4.4 of the Development and Funding Agreement, the Metropolitan Government will transfer the Tourism Tax Revenues and the Non-Tax Revenues (to the extent required) to the Authority as described herein and will not repeal or amend the ordinances authorizing the collection of the Tourism Tax Revenues in such a manner as to reduce the amount of Tourism Tax Revenues payable to the Authority pursuant to the Convention Center Intergovernmental Project Agreement or this Agreement.

(g) For so long as the Authority remains obligated to make any Annual Payments pursuant to the Development and Funding Agreement or pay any interest pursuant to Section 4.4 of the Development and Funding Agreement, the Metropolitan Government will not issue or incur, or permit to be issued or incurred, any indebtedness payable from or secured by a pledge of or lien on any of the Non-Tax Revenues ("Additional Secured Indebtedness"), nor will it pledge any of the Non-Tax Revenues or create a lien on or security interest in any of the Non-Tax Revenues to secure the indebtedness or obligation of the Metropolitan Government, the Authority, or any other entity, unless all the following conditions are met, in which case such Additional Secured Indebtedness may be issued on subordinate basis with respect to any Annual Payment:

(A) the Authority and the Metropolitan Government shall be in substantial compliance with all of the covenants, agreements and terms of the Development and Funding Agreement and this Agreement; and

(B) following the issuance of such Additional Secured Indebtedness or the creation of such lien, pledge or security interest, the total amount of Non-Tax Revenues collected by the Metropolitan Government during the most recently concluded fiscal year of the Metropolitan Government equals or exceeds two and one-half (2½) times the maximum amount of any debt service payable on the 1998 Sports Authority Bonds, the 2004 Sports Authority Bonds, or the Series 2010B Bonds, any Annual Payment payable during any calendar year with respect to Development and Funding Agreement and any Additional Secured Indebtedness.

Notwithstanding the foregoing, the limitations in this Section 1(g) shall not apply to any obligations issued on a parity with the 1998 Sports Authority Bonds, the 2004 Sports Authority Bonds, or the Series 2010B Bonds (the "Parity Obligations"); so long as such Parity Obligations meet the requirements for the issuance of parity obligations under their respective indentures,

and, with the exception of refunding Parity Obligations that reduce debt service or completion bonds issued pursuant to Section 3.02(d) of the Series 2010B Indenture, following the issuance of such Parity Obligations the total amount of Non-Tax Revenues collected by the Metropolitan Government during the most recently concluded fiscal year of the Metropolitan Government equals or exceeds two and one-half (2½) times the maximum amount of any debt service payable on the 1998 Sports Authority Bonds, the 2004 Sports Authority Bonds, or the Series 2010B Bonds, any Annual Payment payable during any calendar year with respect to Development and Funding Agreement, any Additional Secured Indebtedness and the Parity Obligations.

(h) The Metropolitan Government agrees not to seek reimbursement from the Authority for any payments of the Non-Tax Revenues made by the Metropolitan Government for debt service on the Series 2010B Bonds unless the budget for the Convention Center for the period encompassing the next scheduled Annual Payment, plus any interest payable by the Authority pursuant to Section 4.4 of the Development and Funding Agreement, reflects that such reimbursement would not impair the ability of the Authority to make the next scheduled Annual Payment, plus any interest payable by the Authority pursuant to Section 4.4 of the Development and Funding Agreement, from amounts on deposit in the Surplus Fund.

2. Duties of the Authority. The Authority covenants and agrees as follows:

(a) The Authority will cause the construction of the Hotel to be undertaken and completed by Omni in accordance with the terms of the Development and Funding Agreement.

(b) The Authority will cause the Hotel to be operated by Omni in accordance with the terms of the Development and Funding Agreement and the Room Block Agreement.

(c) The Authority will deposit the Tourism Tax Revenues received from the Metropolitan Government to the Revenue Fund established in the Series 2010A Indenture for application as provided therein. The Authority will deposit any Tourism Tax Revenues remaining after application pursuant to the Series 2010A Indenture, together with Convention Center operating revenues to the Revenue Fund established in the Series 2010B Indenture for application as provided therein. The Authority will utilize moneys in the Series 2010B Revenue Fund, including any remaining Tourism Tax Revenues and Convention Center operating revenues, to first to pay Convention Center operating expenses, then to pay debt service on the Series 2010B Bonds; then to maintain a reserve fund for the Series 2010B Bonds; and then any remaining funds shall be deposited into the Surplus Revenue Fund.

(d) After the Authority has made any payments from the Surplus Revenue Fund as required by the Series 2010B Indenture, with the exception of reimbursement to the Metropolitan Government for any payments of the Non-Tax Revenues made by the Metropolitan Government for debt service on the Series 2010B Bonds which shall be paid pursuant to Section 1(h), the Authority shall utilize the funds in the Surplus Revenue Fund to pay to Omni the Annual Payment pursuant to the Development and Funding Agreement on the date provided in on Exhibit G to the Development and Funding Agreement (the "Annual Payment Date"), plus any interest payable by the Authority pursuant to Section 4.4 of the Development and Funding Agreement. In the event the funds in the Surplus Revenue Fund are insufficient at the close of

business on the twentieth (20th) day prior to such Annual Payment Date to pay the Annual Payment coming due on such Annual Payment Date plus any interest payable by the Authority pursuant to Section 4.4 of the Development and Funding Agreement, the Authority shall immediately notify the Metropolitan Government of such event and the amount of such insufficiency that exists in the Surplus Revenue Fund. Upon being so notified by the Authority of the deficiency, the Metropolitan Government shall deposit with the Authority an amount of Non-Tax Revenues equal to such insufficiency no later than one (1) Business Day prior to such Annual Payment Date. The Authority shall establish a Non-Tax Revenues Account within the Surplus Revenue Fund. Immediately upon receipt of such funds from the Metropolitan Government, the Authority shall deposit such Non-Tax Revenues into the Non-Tax Revenues Account of the Surplus Revenue Fund and shall use such funds on the next Annual Payment Date, along with all other funds on deposit in the Surplus Revenue Fund, to pay the Annual Payment coming due on such Annual Payment Date plus any interest payable by the Authority pursuant to Section 4.4 of the Development and Funding Agreement. In the event other funds become available to the Authority to pay the Annual Payment on such Annual Payment Date plus any interest payable by the Authority pursuant to Section 4.4 of the Development and Funding Agreement and all or a portion of the funds in the Non-Tax Revenues Account in the Surplus Revenue Fund are not applied to the payment of the Annual Payment and any interest payable by the Authority pursuant to Section 4.4 of the Development and Funding Agreement, then, the Authority shall transfer such unused Non-Tax Revenues back to the Metropolitan Government not later than the Business Day next following the Annual Payment Date.

(e) The Authority will utilize any excess funds in the Surplus Revenue Fund, after the payment of the Annual Payment payable pursuant to the Development and Funding Agreement and any interest payable by the Authority pursuant to Section 4.4 of the Development and Funding Agreement, and after payment of any reimbursement of the Metropolitan Government for any payments of the Non-Tax Revenues made by the Metropolitan Government for debt service on the Series 2010B Bonds, to repay the Metropolitan Government for any amounts of Non-Tax Revenues used to pay any Annual Payment payable pursuant to the Development and Funding Agreement and any interest payable by the Authority pursuant to Section 4.4 of the Development and Funding Agreement; provided however no reimbursement of the Metropolitan Government shall be required unless the budget for the Convention Center for the period encompassing the next scheduled Annual Payment plus any interest payable by the Authority pursuant to Section 4.4 of the Development and Funding Agreement reflects that such reimbursement would not impair the ability of the Authority to make the next scheduled Annual Payment plus any interest payable by the Authority pursuant to Section 4.4 of the Development and Funding Agreement from amounts on deposit in the Surplus Fund.

3. Term.

(a) The duties and responsibilities of the parties hereunder shall commence as of the date hereof and shall continue until the Annual Payments payable pursuant to the Development and Funding Agreement and any interest payable by the Authority pursuant to Section 4.4 of the Development and Funding Agreement are paid in full.

(b) Notwithstanding anything to the contrary herein, termination of this Agreement shall not be permitted if such termination would impair in any way the ability or capacity of any of the parties hereto to fully and timely fulfill its obligations under any contract or agreement with any third party, including the holder or owner of any notes, bonds or other indebtedness described herein.

4. Default. Subject to Section 3(b) above, in the event any of the parties hereto shall fail to perform any of its obligations hereunder or shall become unable to perform by reason of bankruptcy, insolvency, receivership or other similar event, then the non-defaulting party, so long as said party is not itself in default hereunder, may seek specific performance, mandamus or other extraordinary relief to compel the defaulting party to perform hereunder.

5. Additional Hotel Financing and Room Block Agreements. For a period of seventy-eight (78) months from the Completion Date of the Hotel, the Authority and the Metropolitan Government agree that they will neither acquire, commence development of, issue debt for, provide other incentives in support of, or otherwise own another hotel in excess of four hundred (400) rooms and within a one (1) mile radius of the Convention Center. For purposes of this Agreement "Completion Date" shall have the meaning ascribed to that term in the Development and Funding Agreement. Notwithstanding the foregoing provisions, neither the Authority nor the Metropolitan Government (including its governmental agencies such as the Industrial Development Board and the Metropolitan Development and Housing Agency) shall be prohibited from providing property tax abatements or tax increment financing funded only with the property tax increment generated by the proposed development to another hotel at any time and within any distance from the Convention Center, or from entering into a room block commitment agreement for the Convention Center that is subordinate in all respects to the Hotel's room block commitment contained in the Room Block Agreement. In the event that either the Development and Funding Agreement or the Room Block Agreement are terminated prior to the expiration of seventy-eight (78) months from the Completion Date of the Hotel, then the limitations agreed to in this Section 5 by the Authority and the Metropolitan Government shall be of no further force and effect.

6. Establishment of Funds. The Authority and the Metropolitan Government agree to establish such other funds and accounts as shall be determined necessary and advisable by the Director of Finance and the Chairman of the Authority to account for and manage the revenues and receipts described herein and provide for the payment of the costs of operating, maintaining and repairing the Convention Center and paying the Annual Payments pursuant to the Development and Funding Agreement and any interest payable by the Authority pursuant to Section 4.4 of the Development and Funding Agreement.

7. Severability. If a court of competent jurisdiction or an arbitrator determines that any term of this Agreement is invalid or unenforceable to any extent under applicable law, the remainder of this Agreement (and the application of this Agreement to other circumstances) shall not be affected thereby, and each remaining term shall be valid and enforceable to the fullest extent permitted by law.

8. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Tennessee.

9. Entire Agreement. This Agreement contains the entire understanding among the parties with respect to the matters contained herein, and supersedes any prior understanding and agreements between them respecting the within subject matter. There are no representations, agreements, arrangements or understandings, oral or written, between or among the parties hereto relating to the subject matter of this Agreement which are not fully expressed herein. Notwithstanding the foregoing, to the extent this Agreement or any of the terms hereof shall conflict with the terms of any of the other documents or agreements referenced herein, the terms of said documents or agreements shall control.

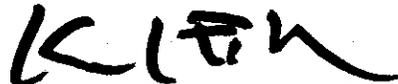
10. Headings. The paragraph headings are inserted only as a matter of convenience and for references and in no way define, limit or describe the scope or intent of this Agreement or in any way affect this Agreement.

11. Authorized Representatives. Any action required of or permitted to be taken pursuant to this Agreement by any of the parties hereto may be performed by an authorized representative of the respective party without further action by the governing body of such party.

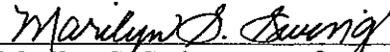
[Signatures on following pages]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers as of the day and year first above written.

THE METROPOLITAN GOVERNMENT OF
NASHVILLE AND DAVIDSON COUNTY

By: 
Karl Dean
Metropolitan Mayor

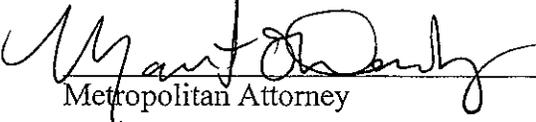
ATTEST:

By: 
Marilyn S. Swing *RS 2010-1412*
Metropolitan Clerk

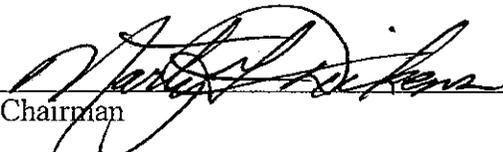
APPROVED AS TO AVAILABILITY OF FUNDS
BY:


Richard Riebeling
Director of Finance

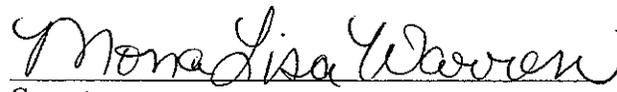
APPROVED AS TO FORM AND LEGALITY:


Metropolitan Attorney

THE CONVENTION CENTER AUTHORITY OF
THE METROPOLITAN GOVERNMENT OF
NASHVILLE AND DAVIDSON COUNTY

By: 
Chairman

ATTEST:

By: 
Secretary