

Kelly Axt

From: Julie Livingston <jlivingston@gdcrlaw.com>
Sent: Tuesday, May 16, 2023 3:35 PM
To: Pam Conner
Cc: Kelly Axt; Richard Calhoun; Jeffrey Gaba
Subject: RE: POWDER SPRINGS - funding and operating agreements
Attachments: Galleria OperatingandFundingAgrmtSignaturepages.pdf

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Pam:

Yes, here you go!

Please be aware of the following Galleria Authority Funding and Operating Agreement terms:

- The City is obligated to collect the 8% hotel/motel tax;
- the City is pledging to pay the Authority monthly 62.5% of its H/T Tax collected by City and 100% of H/T Tax in newly annexed areas to the Authority;
- the Authority may issue additional bonds without the City's consent and pledge City H/T Tax for payment without the City's consent as long as bonds mature on or before October 1, 2053;
- the City is obligated for 30 years to provide the H/T Tax Payments to the Authority;
- if H/T payments by all cities exceed amount needed for bond payments, the Authority may put excess funds in Reserve fund or Renewal & Expansion Fund;
- the Authority will pay City monthly H/T Tax collection fee; and
- If funds are available after payment of bonds and operating accounts (including reserves), then the Authority will repay the City monthly 40% of its H/T payments to the Authority.

Julie K. Livingston | Senior Counsel



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From: Pam Conner <PCONNER@CityOfPowderSprings.org>
Sent: Tuesday, May 16, 2023 12:25 PM
To: Julie Livingston <jlivingston@gdcrlaw.com>

Cc: Kelly Axt <kaxt@CityOfPowderSprings.org>
Subject: FW: POWDER SPRINGS - funding and operating agreements

Julie

Can we get your signature on this so we can get the Mayor's this week and back to Rob?

Thanks,

Pam

From: Rob Turner <RTurner@CobbGalleria.com>
Sent: Tuesday, May 16, 2023 11:51 AM
To: Pam Conner <PCONNER@CityOfPowderSprings.org>
Cc: Michele Swann <MSwann@CobbGalleria.com>
Subject: POWDER SPRINGS - funding and operating agreements

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Good morning Pam,
I hope your week is off to a great start. I am putting together the agenda for next week's Authority Board meeting. We will be including a Resolution for the Powder Springs Funding and Operating agreements for our Board to approve. Will the signature pages be available for pickup this week?

Thank you Pam.

Rob

Rob Turner
Director of Finance
Cobb-Marietta Coliseum and Exhibit Hall Authority
Two Galleria Parkway
Atlanta, GA 30339
(770) 955-8000 | (770) 989-5012 (direct)

4.28.23 Draft

AMENDED AND RESTATED GALLERIA CONVENTION FUNDING AGREEMENT

between

COBB-MARIETTA COLISEUM AND EXHIBIT HALL AUTHORITY

and

CITY OF POWDER SPRINGS, GEORGIA

DATED AS OF [•] 1, 2023

[Original Convention Funding Agreement dated as of December 1, 1991
and Amended as of October 1, 1996]

Reso 23-070

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AMENDED AND RESTATED GALLERIA CONVENTION FUNDING AGREEMENT

THIS AMENDED AND RESTATED GALLERIA CONVENTION FUNDING AGREEMENT (this “**Agreement**”) is dated as of [•] 1, 2023 by and between the **COBB-MARIETTA COLISEUM AND EXHIBIT HALL AUTHORITY** (the “**Authority**”), a body corporate and politic created and existing under the laws of the State of Georgia (the “**State**”), and **CITY OF POWDER SPRINGS, GEORGIA** (the “**City**”), a municipal corporation created under the laws of the State, and amends and restates in its entirety that certain Convention Funding Agreement, dated as of December 1, 1991, as amended by the Amendment No. One to Convention Funding Agreement, dated as of October 1, 1996, between the Authority and the City.

WHEREAS, the Authority has heretofore been created pursuant to the Cobb-Marietta Coliseum and Exhibit Hall Authority Act (Georgia Laws 1980 p. 4091 et seq., as amended, the “**Authority Act**”), and the Authority is now existing and operating and its members have been duly appointed and entered into their duties;

WHEREAS, the Authority was created for the general purpose of “. . . developing and promoting for the public good in this state the cultural growth, public welfare, education and recreation of the people of this state, including the erection and construction of a building or buildings which shall be public buildings to be used for amusement purposes or educational purposes or a combination of the two, and for fairs, expositions, or exhibitions in connection therewith, and the purchase of lands, easements, rights and lands and franchises for construction of such facility or facilities and for use in connection therewith . . .”;

WHEREAS, pursuant to the authority granted in the Authority Act, the Authority is empowered to undertake, without limitation, “. . . the acquisition, construction, equipping, maintenance and operation of multi-use coliseum and civic center type facilities to be used for athletic contests, games, meetings, trade fairs, expositions, political conventions, agricultural events, theatrical and musical performances, conventions and other public entertainments, which facilities if acquired or constructed after May 8, 2018 must be managed and operated directly by the Authority for its own use, and the usual facilities related thereto, including, without limitation, refreshment stands and restaurants, and facilities for the purveying of foods, beverages, publications, souvenirs, novelties, and goods of all kinds, whether operated or purveyed directly or indirectly through concessions, licenses, leases or otherwise, parking facilities or parking areas in connection therewith, recreational centers and areas including, but not limited to, gymnasium and athletic facilities and related buildings, and the usual and convenient facilities appertaining to such undertakings and the extension and improvements of such facilities, acquiring the necessary property therefor, both real and personal and the lease, sale and licensing of any part or all of such facilities, including real and personal property, to any persons, firms or corporations whether public or private so as to assure the efficient and proper development, maintenance, and operation of such facilities and areas, deemed by the Authority to be necessary, convenient, or desirable . . .”;

WHEREAS, the City is a municipal corporation organized and existing under the laws of the State;

WHEREAS, Article IX, Section II, Paragraph III of the State Constitution authorizes the expenditure of public funds by counties and municipal corporations for parks, recreational areas, programs and facilities;

WHEREAS, Article IX, Section III, Paragraph I of the State Constitution (the “**Intergovernmental Contracts Clause**”) authorizes intergovernmental contracts between any “. . . county, municipality, school district or political subdivision of the state . . . with each other or any other public agency, public corporation, or public authority for joint services, for the provision of services or for joint or separate use of facilities or equipment. . .”;

WHEREAS, pursuant to the Authority Act, the Intergovernmental Contracts Clause of the State Constitution and other applicable provisions of State law, the Authority and the City entered into the Original Funding Agreement as an intergovernmental contract for the provision of services and facilities in connection with the Galleria Project (defined below);

WHEREAS, in connection with this Agreement, the Authority and the City also are entering into that certain Amended and Restated Galleria Operating Agreement, dated as of [•] 1, 2023 (the “**Operating Agreement**”), amending and restating in its entirety the Prior Funding Agreement;

WHEREAS, O.C.G.A. 36-82-60 et seq. (the “**Revenue Bond Law**”) and in particular O.C.G.A. § 36-82-61(4)(e) authorizes the issuance of revenue bonds by governmental bodies for “. . . buildings to be constructed and used for the housing of exhibits for fairs and educational purposes; buildings to be used for the housing of livestock, horses, cattle, swine, poultry and agricultural exhibits for exhibition purposes; the erection and construction of buildings to be used for amusement or educational purposes or a combination of the two; and such buildings to be used for fairs, expositions, or exhibitions in connection therewith . . .”;

WHEREAS, the City is authorized to levy and collect within its boundaries an excise tax upon the furnishing for value of public accommodations (the “**Hotel/Motel Tax**”) pursuant to O.C.G.A. § 48-13-51, as amended (the “**Hotel/Motel Tax Law**”), including in particular, without limitation, O.C.G.A. § 48-13-51(a)(5.1), which Hotel/Motel Tax on the Effective Date hereof is at the rate of eight percent (8%) of the amount of the lodging charges actually collected;

WHEREAS, on December 17, 1991, the Authority issued \$48,200,000 original aggregate principal amount of its Revenue Bonds, Series 1991 (the “**Series 1991 Bonds**”) pursuant to the Senior Lien Indenture (as defined hereinafter) in order to finance the acquisition and construction of that certain multi-use civic center, exhibit hall and meeting facilities known as “Cobb Galleria Centre” (together with any improvements, expansions, additions and replacements of such Cobb Galleria Centre, the “**Galleria Project**”) as a public facility to be owned and operated by the Authority, all for the benefit of the residents of Cobb County, Georgia (the “**County**”);

WHEREAS, in order to secure payment of the Series 1991 Bonds and any additional bonds issued under the Senior Lien Indenture, the Authority pledged all revenues derived under the Original Funding Agreement to the payment of principal of and interest on the Senior Lien Bonds, including, without limitation, the City’s payments of 62.5% of its Hotel/Motel Tax revenues (the “**Hotel/Motel Tax Payments**”);

WHEREAS, in connection with the Original Funding Agreement and the issuance of the Series 1991 Bonds issued to finance the acquisition and construction of the Galleria Project, the Authority and the City entered into the Operating Agreement, dated as of December 1, 1991, between the Authority and the City (the “**Original Operating Agreement**”), with respect to the original Galleria Project;

WHEREAS, on May 18, 1993, the Authority issued \$47,965,000 original aggregate principal amount of its Revenue Refunding Bonds, Series 1993 (the “**Series 1993 Bonds**”) in order to refund a portion of the Series 1991 Bonds;

WHEREAS, the City and the Authority entered into the Amendment No. One to Convention Funding Agreement, dated as of October 1, 1996, between the Authority and the City, amending the Original Funding Agreement, and the Amendment No. One to Operating Agreement, dated as of October 1, 1996, between the Authority and the City, amending the Original Operating Agreement (the Original Operating Agreement, as so amended, the “**Prior Operating Agreement**”), and on October 15, 1996, the

Authority issued \$22,300,000 original aggregate principal amount of its Junior Lien Revenue Bonds, Series 1996A (the “**1996 Junior Lien Bonds**”), in order to finance certain additions to the Galleria Project;

WHEREAS, on October 19, 1999, the Authority issued \$23,950,000 original aggregate principal amount of its Revenue Bonds, Series 1999 (the “**Series 1999 Bonds**”) in order to finance the construction of an expansion of the Galleria Project;

WHEREAS, on March 15, 2005, the Authority issued \$15,375,000 original aggregate principal amount of its Revenue Refunding Bonds, Series 2005 (the “**Series 2005 Bonds**”) in order to refund a portion of the outstanding Series 1999 Bonds;

WHEREAS, on December 3, 2009, the Authority issued \$14,335,000 original aggregate principal amount of its Junior Lien Revenue Refunding Bonds, Series 2009 (the “**Series 2009 Junior Lien Bonds**”) in order to refund all of the Authority’s then outstanding 1996 Junior Lien Bonds;

WHEREAS, the Authority’s outstanding \$12,720,000 aggregate principal amount of Series 1993 Senior Lien Bonds and its outstanding \$6,175,000 aggregate principal amount of Series 2005 Senior Lien Bonds, which together total \$18,895,000 (collectively, the “**Existing Senior Lien Bonds**”), are the Authority’s only outstanding bonds having a senior lien on the Hotel/Motel Tax Payments, and have a final maturity date of October 1, 2026;

WHEREAS, the Authority’s outstanding \$4,265,000 aggregate principal amount of Series 2009 Junior Lien Bonds are the Authority’s only outstanding Junior Lien Bonds under this Agreement (the “**Existing Junior Lien Bonds**”), and after July 1, 2023, the Existing Junior Lien Bonds will be outstanding in the aggregate principal amount of \$3,260,000 with a final maturity date of July 1, 2026;

WHEREAS, pursuant to its terms, the Prior Funding Agreement will expire on October 2, 2028, or if on such date all Bonds secured thereby have not been paid in full, then on the date all Bonds secured thereby have been paid in full, but in no event in excess of fifty years after December 1, 1991;

WHEREAS, pursuant to House Bill 658 of the 2017-2018 General Session of the State General Assembly (“**HB 658**”), which became effective as of July 1, 2018, the expiration of the period of time during which the Hotel/Motel Tax may be levied and collected in the City was extended from not later than December 31, 2028 to not later than December 31, 2053;

WHEREAS, pursuant to Senate Bill 489 of the 2017-2018 General Session of the State General Assembly (“**SB 489**”), which became effective as of May 8, 2018, the Authority Act was amended to limit the types of facilities to be financed by the Authority’s revenue bonds after May 8, 2018 to those facilities that are operated and managed directly by the Authority for its own use;

WHEREAS, the Authority desires to issue additional bonds in the future to be secured in whole or in part by the pledge of Hotel/Motel Tax revenues pursuant to this Agreement;

WHEREAS, the Senior Lien Indenture and the Junior Lien Indenture each require the consent of the respective Trustee to an amendment of the Prior Funding Agreement and each allow the respective Trustee to consent to any amendment, change or modification, among other purposes, as may be required in connection with additional bonds in accordance with the terms thereof or in connection with any other change therein that does not prejudice the interests of the Trustee or the bondholders;

WHEREAS, the Senior Lien Trustee and the Junior Lien Trustee each have consented to this Agreement;

NOW, THEREFORE, the Authority and the City have agreed to enter this Agreement in order to amend and restate the Prior Funding Agreement in its entirety and have agreed to contemporaneously enter into the Amended and Restated Galleria Operating Agreement (the “**Operating Agreement**”) in order to amend and restate the Prior Operating Agreement in its entirety.

IN CONSIDERATION OF Ten Dollars in hand paid, the respective covenants, representations and agreements hereinafter contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by each party hereto, the Authority and the City agree as follows, including, without limitation, that the foregoing premises and Whereas paragraphs shall be, and are hereby declared to be, substantive provisions of this Agreement:

ARTICLE I

DEFINITIONS

In addition to the words and terms defined elsewhere in this Amended and Restated Galleria Convention Funding Agreement, the following words and terms as used in this Agreement shall have the following meanings unless the context or use indicates another or different meaning or intent, and such definitions shall be equally applicable to both the singular and plural forms of the words and terms herein defined:

“**Additional Senior Lien Bonds**” means Senior Lien Bonds or any other form of senior lien financing or refinancing or refunding payable from or secured by, in whole or in part, directly or indirectly, any Hotel/Motel Tax Payments or funds derived directly or indirectly from Hotel/Motel Tax Payments or funds derived directly or indirectly from Hotel/Motel Tax Payments or in connection with Hotel/Motel Tax Payments payable under or in connection with this Agreement (including, without limitation, any such financing pursuant to a financing plan not involving bonds per se), issued or entered into by the Authority after the Effective Date.

“**Authority**” means the Cobb-Marietta Coliseum and Exhibit Hall Authority, its successors and assigns.

“**Authority Act**” means Georgia Laws 1980, p. 4091 et seq., as amended.

“**Authority Bond Documents**” means, collectively, this Agreement, the Indentures and all other Bond Financing Documents to which the Authority is or will be a party or is or will be bound or subject, and all amendments or supplements to any such document.

“**Bond Financing Documents**” means, collectively, this Agreement, the Indentures and any other document evidencing, governing or securing repayment of Bonds or necessary or appropriate in connection with the issuance and sale of Additional Senior Lien Bonds, including, but not limited to, disclosure documents, validation documents and any bond insurance policy.

“**Bondholder**” and “**bondholder**” means the registered owner of any outstanding Bonds.

“**Bonds**” means, collectively, the Senior Lien Bonds outstanding on the applicable date and the Junior Lien Bonds outstanding on the applicable date (if any).

“**City**” and “**Cities**” means, each respectively and all collectively, (i) the cities of Acworth, Austell, Kennesaw, Marietta, Powder Springs and Smyrna and (ii) each other city located in the County that enters into a City Funding Agreement, unless otherwise expressly provided herein.

“City Funding Agreement” means, each respectively and all collectively, this Agreement and the convention funding agreements by and between the Authority and each of the Cities of Acworth, Austell, Kennesaw, Marietta and Smyrna, together with each similar convention funding agreement between the Authority and a city located in the County entered into after the Effective Date, as the same may be supplemented or amended from time to time.

“County Funding Agreement” means the Amended and Restated Galleria Convention Funding Agreement, dated as of [•] 1, 2023, between the Authority and Cobb County, Georgia, as the same may be supplemented or amended from time to time.

“Debt Service Reserve Account” means the Debt Service Reserve Account within the Sinking Fund established under the Senior Lien Indenture and held and administered by the Senior Lien Trustee in accordance with the Senior Lien Indenture or any comparable debt service reserve fund under any successor to the Senior Lien Indenture pursuant to which Additional Senior Lien Bonds are issued after the Effective Date.

“Effective Date” means the date on which this Agreement is executed and delivered.

“Existing Bonds” means collectively the Existing Senior Lien Bonds and the Existing Junior Lien Bonds.

“Existing Junior Lien Bonds” or **“Junior Lien Bonds”** means all bonds issued under the Junior Lien Indenture prior to the Effective Date and outstanding on the Effective Date, which consist of the Series 2009 Junior Lien Bonds outstanding on the Effective Date in the aggregate principal amount of \$4,265,000, which (a) will be outstanding in the aggregate principal amount of \$3,260,000 after July 1, 2023.

“Existing Senior Lien Bonds” means all bonds issued under the Senior Lien Indenture prior to the Effective Date and outstanding on the Effective Date, which consist of the Series 1993 Senior Lien Bonds outstanding on the Effective Date in the aggregate principal amount of \$12,720,000 and the Series 2005 Senior Lien Bonds outstanding on the Effective Date in the aggregate principal amount of \$6,175,000, which together total \$18,895,000 on the Effective Date, which are the Authority’s only outstanding Senior Lien Bonds on the Effective Date, the final maturity date of which is October 1, 2026.

“Fiscal Year” means the fiscal year for the Authority ending September 30 of each year or such fiscal year as may be changed by appropriate proceedings of the Authority.

“Galleria Project” means the multipurpose convention, exhibit hall and meeting facilities commonly referred to as the Cobb Galleria Centre, any associated parking areas or improvements thereto and all other facilities and improvements determined by the Authority to be necessary or convenient in connection with the Cobb Galleria Centre, which may include, without limitation, related lands, air space, buildings, structures, fixtures, equipment and personalty appurtenant or convenient to such facilities (any and all of the aforesaid are referred to herein as “facilities” as a broadly construed all-inclusive term), any improvements of, additions to or expansions of such facilities as they currently exist.

“Hotel/Motel Tax” means an excise tax levied and collected by the City upon the furnishing of public accommodations pursuant the Hotel/Motel Tax Law, which excise tax on the Effective Date hereof is levied by the City at the rate of eight percent (8%) of the amount of the lodging charges actually collected.

“Hotel/Motel Tax Law” means O.C.G.A. Title 48, Chapter 13, Article 3 *et seq.*, as amended, including in particular, without limitation, O.C.G.A. § 48-13-51(a)(5.1), authorizing the governing authority of each county within the State of Georgia, within the territorial limits of the special district

(created under O.C.G.A. Section 48-13-51) and each municipality in the State of Georgia located within the special district, to levy and collect an excise tax upon the furnishing of public accommodations at the applicable rate or rates specified therein.

“Hotel/Motel Tax Payments” means the City’s payments of Hotel/Motel Tax required pursuant to Section 4.4(a) hereof with respect to the Existing Bonds and the Additional Senior Lien Bonds prior to the Transition Date or required pursuant to Section 4.4(b) hereof with respect to the Additional Senior Lien Bonds on and after the Transition Date.

“Indenture” or “Indentures” means, each respectively and collectively, the Senior Lien Indenture and (so long as the Existing Junior Lien Bonds remain outstanding) the Junior Lien Indenture.

“Junior Lien Indenture” means the Trust Indenture dated as of October 1, 2009, by and between the Authority and U.S. Bank Trust Company, National Association, as trustee, pursuant to which the Series 2009 Junior Lien Bonds were issued as the same may be amended or supplemented.

“Junior Lien Trustee” means U.S. Bank Trust Company, National Association, successor to First Union National Bank of Georgia, as trustee, or any successor trustee appointed pursuant to the terms of the Junior Lien Indenture.

“O.C.G.A.” means the Official Code of Georgia Annotated, as amended.

“Operating Agreement” means the Amended and Restated Galleria Operating Agreement, dated as of [•] 1, 2022, by and between the Authority and the City, as the same may be supplemented or amended from time to time.

“Original Funding Agreement” means the Convention Funding Agreement, dated as of December 1, 1991, between the Authority and the City, with respect to the original Galleria Project.

“Original Operating Agreement” means the Operating Agreement, dated as of December 1, 1991, between the Authority and the City, with respect to the original Galleria Project.

“Prior Funding Agreement” means the Original Funding Agreement, as amended by the Amendment No. One to Convention Funding Agreement, dated as of October 1, 1996, between the Authority and the City, with respect to the Project and the issuance of the Series 1996A Junior Lien Bonds.

“Prior Operating Agreement” means the Original Operating Agreement, as amended by the Amendment No. One to Operating Agreement, dated as of October 1, 1996, between the Authority and the City, with respect to the Project and the issuance of the Series 1996A Junior Lien Bonds.

“Project” or “Projects” means individually and collectively (i) the Galleria Project, (ii) any improvements of, additions to or expansions of the Galleria Project, and (iii) any other projects financed with the proceeds of Bonds.

“Project Fund” means the Cobb-Marietta Coliseum and Exhibit Hall Authority Project Fund created under and governed by the Senior Lien Indenture.

“Revenue Bond Law” means the Revenue Bond Law, Title 36, Chapter 82, Article 3 of the Official Code of Georgia Annotated, as amended, and as same may hereafter be amended from time to time.

“**Revenue Fund**” means the Cobb-Marietta Coliseum and Exhibit Hall Authority Revenue Fund created under and governed by the Senior Lien Indenture.

“**Senior Lien Bonds**” means, collectively, the Existing Senior Lien Bonds and any Additional Senior Lien Bonds, which are secured by a senior priority pledge of and lien on the Tax Payments

“**Senior Lien Indenture**” means the Trust Indenture dated as of November 1, 1991, by and between the Authority and U.S. Bank Trust Company, National Association, successor to U.S. Bank National Association, as trustee, and as successor to First Union National Bank of Georgia, as trustee, pursuant to which the Senior Lien Bonds have been issued, as supplemented and amended by the First Supplemental Indenture, dated as of April 1, 1993, the Second Supplemental Indenture, dated as of October 1, 1999, and the Third Supplemental Indenture, dated as of February 1, 2005, as the same may be further amended or supplemented or replaced by a successor document from time to time hereafter.

“**Senior Lien Trustee**” means U.S. Bank Trust Company, National Association, successor to U.S. Bank National Association and First Union National Bank of Georgia, each respectively, as trustee, or any successor trustee appointed pursuant to the terms of the Senior Lien Indenture.

“**Tax Payments**” means, collectively, the City’s Hotel/Motel Tax Payments required pursuant to Section 4.4(a) or 4.4(b) hereof, the payments of Hotel/Motel Tax by each other City required by its respective City Funding Agreement, and the payments of Hotel/Motel Tax funds and Liquor-by-the-Drink Tax funds by the County required by the County Funding Agreement.

“**Term**” means the term of this Amended and Restated Galleria Convention Funding Agreement set forth in Section 4.1 hereof.

“**Transition Date**” means the first date on which no Existing Senior Lien Bonds and no Existing Junior Lien Bonds hereof remain outstanding, which date as of the Effective Date is expected to be October 2, 2026.

“**Trustees**” means, collectively, the Senior Lien Trustee and, while the Existing Junior Lien Bonds remain outstanding, the Junior Lien Trustee.

ARTICLE II

REPRESENTATIONS

Section 2.1 **Representations by the Authority.** The Authority makes the following representations and agreements as the basis for the undertakings on its part herein contained:

(i) The Authority is a body corporate and politic created and existing under the laws of the State, including in particular the Authority Act and will do or cause to be done all things necessary to preserve and keep in full force and effect its status and existence; the Authority is permitted under the Intergovernmental Contracts Clause of the State Constitution to contract for any period not exceeding fifty years with the City for joint services, for the provision of services, or for the joint or separate use of facilities or equipment, provided such contracts deal with activities, services or facilities the contracting parties are authorized by law to undertake or provide;

(ii) The Authority has the power to enter into this Agreement and to perform all obligations contained herein, is authorized to enter into the transactions contemplated by this Agreement and to carry out its obligations hereunder, by proper action has duly authorized the execution, delivery and performance

of this Agreement, and no approval or other action by any governmental authority, agency, or other person is required in connection with the delivery and performance of this Agreement by it except as shall have been obtained prior to or as of the Effective Date hereof;

(iii) The Authority is empowered specifically (a) to borrow money and to issue its revenue bonds and to use the proceeds thereof for the purpose of paying all or part of the cost of any "project" as defined in the Authority Act as of the time of such issuance or for the purpose of refunding any such bonds of the Authority theretofore issued, and to otherwise carry out its purposes, and to pay all costs of the Authority incident to or necessary and appropriate to such purposes, (b) to make and execute contracts and other instruments necessary to exercise the powers of the Authority, including, without limitation, contracts with the City, and (c) to pledge or assign any properties, revenues, income, tolls, charges, or fees owned or received by the Authority;

(iv) The Authority is not subject to any bylaw or contractual or other limitation or provision of any nature whatsoever which in any way limits, restricts, or prevents it from entering into this Agreement and performing its obligations hereunder;

(v) The issuance and sale of the Bonds, the execution and delivery of this Agreement, the Indentures and all other Authority Bond Documents, and the performance of all covenants and agreements of the Authority contained in this Agreement and the other Authority Bond Documents and of all other acts and things required under the Constitution and laws of the State to make this Agreement and each other Authority Bond Document a valid and binding obligation of the Authority in accordance with its respective terms are authorized by law and have been or will be duly authorized by proceedings of the Authority adopted at public meetings thereof duly and lawfully called and held;

(vi) This Agreement, the Indentures and the other Authority Bond Documents have been or will be duly executed and delivered by the Authority and do or will constitute its legal, valid, and binding obligation enforceable in accordance with their respective terms, except as enforcement may be limited by the application of equitable principles and matters of public policy;

(vii) The authorization, execution, delivery, and performance by the Authority of this Agreement, the Indentures and the other Authority Bond Documents and compliance by the Authority with the respective provisions hereof and thereof do not and will not violate the Constitution or the laws of the State or constitute a breach of or a default under, any other law, court order, administrative regulation or legal decree, or any agreement or other instrument to which it is a party or by which it is bound or subject; and

(viii) There is no litigation or proceeding pending, or to the knowledge of the Authority threatened, against the Authority or against any person having a material adverse effect on the right of the Authority to execute this Agreement, the Indentures or the other Authority Bond Documents or the ability of the Authority to comply with any of its obligations under this Agreement, the Indentures or the other Authority Bond Documents.

Section 2.2 Representations and Agreements by the City. The City makes the following representations and agreements:

(i) The City is a municipal corporation of the State duly created and existing under the laws of the State; the City is permitted under the State Constitution's Intergovernmental Contracts Clause to contract for any period not exceeding fifty years with the Authority for joint services, for the provision of services, or for the joint or separate use of facilities or equipment, provided such contracts deal with activities, services or facilities the contracting parties are authorized by law to undertake or provide;

(ii) The City has the power and authority to enter into and execute and deliver this Agreement, and, by proper action of its governing body, has authorized the execution and delivery of this Agreement and the taking of any and all such actions as may be required on its part to carry out, give effect to, and consummate the transactions contemplated by this Agreement, and no approval or other action by any governmental authority, agency, or other person is required in connection with the delivery and performance of this Agreement by it except as shall have been obtained as of the Effective Date hereof;

(iii) This Agreement has been duly executed and delivered by the City and constitutes its legal, valid, and binding obligation enforceable in accordance with its terms, except as enforcement may be limited by the application of equitable principles and matters of public policy;

(iv) The authorization, execution, delivery, and performance by the City of this Agreement and compliance by the City with the provisions thereof do not violate the Constitution or the laws of the State relating to the City or constitute a breach of or a default under, any other law, court order, administrative regulation or legal decree, or any agreement or other instrument to which it is a party or by which it is bound;

(v) There is no litigation or proceeding pending, or to the knowledge of the City threatened, against the City or any other person having a material adverse effect on the right of the City to execute this Agreement or its ability to comply with any of its obligations under this Agreement; and

(vi) The City has, pursuant to resolutions and ordinances duly adopted by its governing body, authorized the levy and collection of the Hotel/Motel Tax, and the money derived from each such levy shall be used and applied as provided in this Agreement during the Term of this Agreement.

ARTICLE III

ISSUANCE OF BONDS; CONSTRUCTION AND OPERATION OF PROJECTS

Section 3.1 Compliance with the Indentures and Other Authority Bond Documents. The Authority hereby represents that the proceeds from the sale of each issue of Bonds deposited into the Project Fund under the Senior Lien Indenture or the Junior Lien Indenture, as applicable, prior to the Effective Date were disbursed for the purposes and in accordance with the terms and conditions set forth therein and that the Authority has and will continue to comply with the terms of all of the Authority Bond Documents. In the event the Authority issues “new money” Additional Senior Lien Bonds after the Effective Date, the Authority shall deposit the applicable net proceeds derived from the sale of each such issue of Additional Senior Lien Bonds into a separate account of the Project Fund created under the Senior Lien Indenture and shall disburse such Bond proceeds in accordance with the terms and conditions set forth therein, and the Authority shall comply with the terms of all Authority Bond Documents entered into in connection with each such issue of Additional Senior Lien Bonds.

Section 3.2 Construction and Operation of the Project. The Authority hereby agrees during the Term hereof to design, construct, operate and maintain the Project for the purpose of developing and promoting for the public good, cultural growth, public welfare, education and recreation of the citizens of the County, including the erection and construction of the Project and the purchase of lands, easements, rights and lands, and franchises for the construction of the Project, all for the benefit of the citizens of Cobb County. The Authority hereby agrees to acquire, construct, operate and maintain the Project, and to operate and manage any Project undertaken after the Effective Date directly for its own use, for the benefit of the citizens of the County and in accordance with the provisions of this Agreement and the Operating Agreement.

Section 3.3 Additional Bonds Proposed after the Effective Date.

The City agrees that the Authority may issue Additional Senior Lien Bonds in accordance with the Senior Lien Indenture after the Effective Date without any further approval of the City and that such Additional Senior Lien Bonds shall be secured by the Tax Payments to the same extent and in the same manner as the Bonds outstanding on the Effective Date; provided, however, no such Additional Senior Lien Bonds may mature later than October 1, 2053.

Section 3.4 Validation of Bonds

The City hereby agrees to be a party defendant in connection with any validation proceeding conducted in connection with the issuance of such Additional Senior Lien Bonds proposed to be issued by the Authority after the Effective Date and agrees that it will execute, acknowledge and deliver any certificates, instruments, sworn answers and acknowledgments as may be reasonably required in connection with any such validation hearing.

ARTICLE IV

**EFFECTIVE DATE; TERM; IMPOSITION OF TAX; TAX
PAYMENT PROVISIONS; OBLIGATIONS ABSOLUTE AND UNCONDITIONAL**

Section 4.1 Effective Date and Term of Agreement. This Agreement shall be effective as of the Effective Date hereof. The Term of this Agreement shall commence on the Effective Date and shall expire and terminate on the first to occur of the following: (i) the first date on which no Existing Senior Lien Bonds and no Existing Junior Lien Bonds remain outstanding in the event no Additional Senior Lien Bonds have been issued in accordance with this Agreement and the Operating Agreement by September 30, 2026 or (ii) the first date on which no Additional Senior Lien Bonds remain outstanding, whether by full and final payment or by defeasance in accordance with the Senior Lien Indenture, which date shall be no later than the final maturity date of any Additional Senior Lien Bonds issued after the Effective Date hereof; provided, however, in no event shall the Term of this Agreement extend beyond October 1, 2053; and provided further, however, notwithstanding the foregoing, so long as any Bonds remain outstanding, the City shall not cease to levy the Hotel/Motel Tax in any matter that will impair the interest and rights of the holders of any Bonds.

Section 4.2 Imposition of Hotel/Motel Tax. Pursuant to the provisions of § 48-13-51(a)(5.1) of the Official Code of Georgia Annotated, as amended, the City has duly authorized the levy and collection of the Hotel/Motel Tax at the current rate of eight percent (8%) for the Term of this Agreement.

Section 4.3 No Impairment of Tax.

So long as any Existing Senior Lien Bonds, any Existing Junior Lien Bonds or any Additional Senior Lien Bonds issued in accordance with this Agreement remain outstanding, the City shall not cease to levy and collect, or reduce the rate of, the Hotel/Motel Tax in any manner that will impair the interest and rights of the owners of any Bonds then outstanding. Without limiting the generality of the foregoing, the City shall not impose, levy or collect any taxes within its corporate limits which would cause the thirteen percent (13%) limit contained in the Hotel/Motel Tax Law in O.C.G.A. § 48-13-51(a)(5.1)(C) to cause a reduction in the rate of the Hotel/Motel Tax. Additionally, in the event corporate limits of the City are hereafter expanded, the Hotel/Motel Tax attributable to such additional area included within the City shall be payable to the Authority on the same terms and conditions provided in Section 4.4 hereof, except that the amount payable due to the collection of the Hotel/Motel Tax within the additional areas included in the

City shall equal 100 percent of such collections. The agreements by the City contained in this Section 4.3 shall be for the benefit of the Authority and for the benefit of the owners of the Existing Senior Lien Bonds, the owners of the Existing Junior Lien Bonds and the owners of the Additional Senior Lien Bonds and shall constitute a contract with the owners of such Bonds.

Section 4.4 Hotel/Motel Tax Payments.

(a) Hotel/Motel Tax Payments with Respect to Outstanding Existing Bonds and Additional Senior Lien Bonds Prior to the Transition Date. Notwithstanding any provision of this Agreement or any Bond Financing Document to the contrary, commencing on the Effective Date and ending on the Transition Date, this Section 4.4(a) shall apply to the outstanding Existing Bonds and any Additional Senior Lien Bonds issued after the Effective Date, and this Section 4.4(a) shall be of no force and effect after the Transition Date.

(i) The City hereby covenants and agrees to pay to or for the account of the Authority by the 20th day of each calendar month until the principal of and interest on the Existing Senior Lien Bonds and the Existing Junior Lien Bonds shall have been paid in full or provision duly made therefor, a sum equal to sixty-two and one-half percent (62.5%) of the Hotel/Motel Tax collected by the City (or to the extent that the corporate limits of the City are expanded, then one hundred percent (100%) of the Hotel/Motel Tax collected by the City within the expanded area as provided in Section 4.3) since the next preceding payment under this Section 4.4(a).

(ii) The Hotel/Motel Tax Payments to be made by the City pursuant to the provisions of this Section 4.4(a) shall be made by the City directly to the Senior Lien Trustee for the account of the Authority under the Senior Lien Indenture so long as any Existing Bonds are outstanding under the Senior Lien Indenture or the Junior Lien Indenture. Such payments shall be in lawful money of the United States of America, shall be forthwith deposited into the Revenue Fund created under the Senior Lien Indenture, shall be applied to the extent and in the manner provided in the Indentures, including, but not limited to, the payment of principal and interest on any Bonds and at least 50 percent of the total Hotel-Motel Tax collected at the rate of 8 percent shall be expended for the purposes specified in O.C.G.A. § 48-13-51(a)(5.1(B) including, but not limited to, the payment of principal and interest on any Bonds.

(iii) The Hotel/Motel Tax Payments to be made by the City under this Section 4.4(a) shall be pledged to the payment of principal and interest on the Senior Lien Bonds pursuant to the Senior Lien Indenture and, on a subordinate basis, to the payment of the principal and interest on the Junior Lien Bonds pursuant to the Junior Lien Indenture.

(iv) It is further expressly provided that the City or the Authority also may make additional payments from time to time from any lawfully available funds as determined by such party in its sole discretion to be necessary or desirable in connection with the Project.

(b) Hotel/Motel Tax Payments with Respect to Additional Senior Lien Bonds on and after the Transaction Date. Notwithstanding any provision of this Agreement or any Bond Financing Document to the contrary, this Section 4.4(b) shall apply on and after the Transition Date to all Additional Senior Lien Bonds issued after the Effective Date.

(i) The City hereby covenants to pay to the Senior Lien Trustee for the account of the Authority under the Senior Lien Indenture by the 20th day of each calendar month until the principal of and interest on the Additional Senior Lien Bonds issued after the Effective Date hereof shall have been paid in full or provision duly made therefor, a sum equal to sixty-two and one-half

percent (62.5%) of the Hotel/Motel Tax collected by the City (or to the extent that the corporate limits of the City are expanded, then one hundred percent (100%) of the Hotel/Motel Tax collected by the City within the expanded area as provided in Section 4.3) since the next preceding payment under this Section 4.4(b).

(ii) The Hotel/Motel Tax Payments to be made by the City pursuant to the provisions of this Section 4.4(b) shall be made by the City to the Senior Lien Trustee for the account of the Authority under the Senior Lien Indenture so long as any Additional Senior Lien Bonds are outstanding under the Senior Lien Indenture. Such payments shall be in lawful money of the United States of America, shall be forthwith deposited into the Revenue Fund under the Senior Lien Indenture and promptly each month (1) on a first priority basis the applicable monthly installment amount of principal and interest shall be applied or held by the Senior Lien Trustee for application when due to the payment of principal of and interest on the Additional Senior Lien Bonds pursuant to the Senior Lien Indenture and the applicable monthly installment amount to replenish any deficiency in the Debt Service Reserve Account below the Debt Service Reserve Fund Requirement under the Senior Lien Indenture and (2) any Hotel/Motel Tax Payments in excess of amounts needed for the aforesaid purposes of clause (1) shall be returned to the Authority promptly each month to be applied by the Authority strictly as provided in the Operating Agreement.

(iii) The Hotel/Motel Tax Payments to be made by the City under this Section shall be pledged on a first priority basis to the payment of principal of and interest on the Additional Senior Lien Bonds pursuant to the Senior Lien Indenture and to replenish any deficiency in the Debt Service Reserve Account below the Debt Service Reserve Fund Requirement under the Senior Lien Indenture.

(iv) It is further expressly provided that the City or the Authority also may make additional payments from time to time from any legally and contractually available funds as determined by such party to be necessary or desirable in connection with the applicable Additional Senior Lien Bonds or the applicable Project.

Section 4.5 Obligations of City Hereunder Absolute and Unconditional. The obligations of the City to make the payments required in Section 4.4 hereof and to perform and observe any and all of the other covenants and agreements on its part contained herein shall be absolute and unconditional irrespective of any defense or any rights of setoff, recoupment, or counterclaim it may otherwise have against the Authority. Until such time as the principal of and interest on the Bonds outstanding under the Indentures shall have been paid in full or provision for the payment thereof shall have been made in accordance with the applicable Indenture, the City (i) will not suspend, abate, reduce, abrogate, diminish, postpone, modify or discontinue the Hotel/Motel Tax Payments provided for herein, (ii) will perform and observe all of its obligations contained in this Agreement, and (iii) will not terminate the Term of this Agreement or its obligations hereunder for any contingency, act of God, event, or cause whatsoever, including, without limiting the generality of the foregoing, failure of the Authority's title in and to a Project or any part thereof, any acts or circumstances that may constitute failure of consideration, eviction or constructive eviction, destruction of or damage to a Project, the taking by eminent domain of title to or the use of all or any part of a Project, commercial frustration of purpose, any change in the tax or other laws of the United States of America or of the State or any political subdivision of either, any declaration or finding that any of the Bonds are unenforceable or invalid, the invalidity of any provision of this Agreement, or any failure of the Authority to perform and observe any agreement, whether express or implied, or any duty, liability or obligation arising out of or connected with this Agreement or the Indentures.

Nothing contained in this Section 4.5, however, shall be construed to release the Authority from the performance of any of the agreements on its part contained in this Agreement, in the Senior Lien

Indenture or in the Junior Lien Indenture; and if the Authority should fail to perform any such agreement, the City may institute such action against the Authority as the City may deem necessary to compel performance or recover its damages for nonperformance as long as such action shall not do violence to or adversely affect the agreements on the part of the City contained in this Agreement and to make the Hotel/Motel Tax Payments specified herein; *provided, however*, any liability of the Authority commencing on the Effective Date hereof shall be payable solely from rents, revenues and receipts arising from the Authority's interest in the Projects. The City may, however, at its own cost and expense and in its own name, prosecute or defend any action or proceeding or take any other action involving third persons which the City deems reasonably necessary in order to secure or protect its rights hereunder, and in such event the Authority hereby agrees to cooperate to the full extent required so long as the Authority's interests in a Project would not be adversely affected.

Section 4.6 Pledge of Hotel/Motel Tax.

(a) With respect to Existing Bonds outstanding on the Effective Date hereof, the City has pledged and hereby pledges the Hotel/Motel Tax Payments required by Section 4.4(a) hereof to the payment of principal of and interest on the Existing Senior Lien Bonds pursuant to the Senior Lien Indenture and to replenish any deficiency in the Debt Service Reserve Account below the Debt Service Reserve Fund Requirement under the Senior Lien Indenture for the benefit of the owners of the Existing Senior Lien Bonds on a first priority basis and to the payment of principal of and interest on the Existing Junior Lien Bonds pursuant to the Junior Lien Indenture for the benefit of the owners of the Existing Junior Lien Bonds on a subordinate basis. The Hotel/Motel Tax Payments so pledged shall immediately be subject to the lien of such pledge without physical delivery thereof and the lien of this pledge shall be a first or prior lien superior to any and all other claims, whether such claims arise in contract, tort or otherwise and shall be superior to any lien or pledge that may hereafter be created.

(b) With respect to Additional Senior Lien Bonds issued after the Effective Date hereof in accordance with this Agreement, the City hereby pledges the Hotel/Motel Tax Payments required to be paid pursuant to Section 4.4(a) prior to the Transition Date and Section 4.4(b) hereof on and after the Transition Date to the payment of principal of and interest on the Additional Senior Lien Bonds pursuant to the Senior Lien Indenture and to replenish any deficiency in the Debt Service Reserve Account below the Debt Service Reserve Fund Requirement under the Senior Lien Indenture for the benefit of the owners of the applicable Additional Senior Lien Bonds issued after the Effective Date hereof. The Hotel/Motel Tax Payments so pledged shall immediately be subject to the lien of such pledge without physical delivery thereof and the lien of this pledge shall be a first or prior lien superior to any and all other claims, whether such claims arise in contract, tort or otherwise and shall be superior to any lien or pledge that may hereafter be created.

Section 4.7 Enforcement of Obligations. The obligation of the City to make Hotel/Motel Tax Payments under this Article may be enforced by (i) the Authority, (ii) the Senior Lien Trustee or (so long as the Existing Junior Lien Bonds remain outstanding) the Junior Lien Trustee under the respective Indenture or owners of any respective Bonds, in accordance with the applicable provisions of each respective Indenture and independently of the Authority or, (iii) such receiver or receivers as may be appointed pursuant to an applicable Indenture or applicable law. The covenants and agreements hereunder including specifically the obligation to make the Hotel/Motel Tax Payments shall be enforceable by specific performance; it being acknowledged and agreed by the Authority and the City that no other remedy at law is adequate to protect the interests of the parties hereto.

Section 4.8 Assignment of this Agreement. The City hereby consents to the assignment of the Authority's right, title, and interest in and to this Agreement to the Senior Lien Trustee pursuant to the Senior Lien Indenture to secure the Existing Bonds outstanding on the Effective Date hereof and Additional Senior Lien Bonds issued after the Effective Date hereof and hereby agrees that any notice to the Authority

required under this Agreement with respect to such Existing Bonds and Additional Senior Lien Bonds shall be given in addition to the Senior Lien Trustee at the address then applicable for the Senior Lien Trustee under the Senior Lien Indenture and that any consent of the Authority required under this Agreement with respect to such Existing Bonds and Additional Senior Lien Bonds shall not be deemed to have been given unless such consent is obtained in writing from the Senior Lien Trustee and the Authority. The Senior Lien Trustee shall have all rights and remedies herein accorded to the Authority with respect to Existing Bonds outstanding on the Effective Date hereof and Additional Senior Lien Bonds issued after the Effective Date hereof, and any reference herein to the Authority with respect to such Existing Bonds and Additional Senior Lien Bonds shall be deemed, with the necessary changes in detail, to include the Senior Lien Trustee. On a first priority basis the Senior Lien Trustee and the owners of the Senior Lien Existing Bonds outstanding on the Effective Date hereof and Additional Senior Lien Bonds issued after the Effective Date hereof are deemed to be and are third party beneficiaries of the representations, covenants and agreements of the City contained in this Agreement with respect to such Existing Senior Lien Bonds and Additional Senior Lien Bonds. On a subordinate basis for so long as the Junior Lien Existing Bonds remain outstanding, the Junior Lien Trustee and the owners of the Junior Lien Existing Bonds outstanding on the Effective Date hereof are deemed to be and are third party beneficiaries of the representations, covenants and agreements of the City contained in this Agreement with respect to such Existing Junior Lien Bonds.

Section 4.9 **No Set-Off.** No breach, default or failure by the Authority to comply with the provisions of this Agreement shall permit an abatement or reduction in or set-off against the Hotel/Motel Tax Payments due from the City. Nothing in this Agreement shall otherwise impair, diminish or affect any other right or remedy available to the City (i) as a result of the Authority's breach, default or failure under this Agreement, or (ii) to enforce the obligations of the Authority under this Agreement. No dispute or litigation between the Authority and the City with respect to this Agreement shall affect any party's duties to perform its obligations or its rights or remedies while such dispute or litigation is pending.

ARTICLE V

SPECIAL COVENANTS OF CITY AND AUTHORITY

The City and the Authority each hereby covenants and agrees with each other and for the benefit of the owners of the Bonds as follows:

Section 5.1 **Collection of Taxes.** The City hereby covenants and agrees that during the Term of this Agreement it shall levy and collect the Hotel/Motel Tax within its corporate limits at the rate authorized by the Hotel/Motel Tax Law at the time of such levy, provided such rate during the Term of this Agreement shall be at least eight percent (8%), and from the proceeds derived therefrom make the Hotel/Motel Tax Payments required pursuant to the applicable subsection of Section 4.4 hereof throughout the Term of this Agreement. This covenant shall be for the benefit of the owners of the Existing Bonds outstanding on the Effective Date hereof and Additional Senior Lien Bonds issued after the Effective Date in accordance with this Agreement and shall constitute a contract with the owners of such Existing Bonds and Additional Senior Lien Bonds and may be enforced by the Senior Lien Trustee with respect thereto.

Section 5.2 **Records Regarding Hotel/Motel Tax Payments.** The City shall provide to the Authority and the Senior Lien Trustee monthly a written statement on or before the date when the Hotel/Motel Tax Payments are due hereunder of the amount of each Tax Payment. Upon the prior written request of the Authority, the City shall make available for inspection during normal business hours the books and records of the City pertaining to the levy and collection of the Hotel/Motel Tax and related Hotel/Motel Tax Payments by the City.

Section 5.3 Further Assurances and Corrective Instrument. The City and the Authority, as applicable, each respectively, hereby covenants and agrees that it will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such further instruments, certificates and acknowledgments as may be reasonably requested under this Agreement, including, without limitation, to perfect the pledge of revenues payable hereunder securing payment of the principal of and interest on the Bonds and to replenish any deficiency in the Senior Lien Debt Service Reserve Account below the Senior Lien Debt Service Reserve Fund Requirement under the Senior Lien Indenture or for carrying out the intention of or facilitating the performance of this Agreement.

Section 5.4 Confirming Documents. In connection with the issuance of any Additional Senior Lien Bonds after the Effective Date, the City and the Authority, each respectively, hereby covenants and agrees, upon reasonable prior written request, to authorize, execute and deliver any reasonably requested certificates, letters or other documents in form and substance reasonably acceptable to the executing party confirming the agreed upon obligations and covenants of the applicable party under this Agreement in the event:

(i) such certificates, letters or other documents are reasonably required by, as applicable, any rating agency, bond purchaser or other appropriate party or a legal requirement as a condition of issuance of the Additional Senior Lien Bonds and are in form and substance acceptable to the City or the Authority, as applicable; and

(ii) the Authority shall pay the costs and expenses incurred by the City in connection with the authorization, execution and delivery of such certificates, letters or other documents, including, but not limited to, the reasonable fees and expenses of attorneys representing the City.

Section 5.5 Reports to Department of Community Affairs.

The City shall annually file with the Department of Community Affairs a report specifying the rate of taxation and amounts collected and expended pursuant to the Hotel/Motel Tax Law and any other information which may be required by the Department of Community Affairs pursuant to the Hotel/Motel Tax Law.

ARTICLE VI

MISCELLANEOUS

Section 6.1 Termination of this Agreement.

The Term of this Agreement shall expire and terminate in accordance with Section 4.1(b) hereof.

Section 6.2 Independent Contractor. In performing this Agreement, the Authority is acting as an independent contractor. The City shall not have any power to control the means, methods or techniques by which the Authority undertakes the activities or projects contemplated by this Agreement, except as may be otherwise expressly provided in this Agreement.

Section 6.3 Financial Liability.

(a) The financial liability of the Authority for failure to perform any of its obligations under this Agreement after the Effective Date hereof shall be limited to the Authority's interests in the Projects and in the operating revenues of the Projects.

(b) The financial liability of the City for failure to perform any of its obligations under this Agreement shall be limited to the interest of the City in the Hotel/Motel Tax payable by the City under Section 4.4(a) or 4.4(b) of this Agreement.

Section 6.4 No Interest for City. By virtue of this Agreement, the City shall not have or hereafter acquire any legal or equitable interest of any nature in, under or to (i) any part of the property, real or personal, tangible or intangible, comprising or used in the Projects, (ii) the leases, licenses, contracts, accounts or other intangible rights or obligations acquired or incurred by the Authority in connection with the acquisition, construction, improvement, equipping or operation of the Projects, or (iii) the operating revenues of the Projects except as otherwise explicitly provided herein or in the Operating Agreement or as otherwise agreed in writing between the City and the Authority.

Section 6.5 No Third Party Beneficiaries. Nothing in this Agreement is intended or shall be deemed to confer any interest in this Agreement or benefit on persons not parties to this Agreement, except as provided in Section 4.3, Section 4.7 and Section 5.1 of this Agreement with respect to the Senior Lien Trustee, the Junior Lien Trustee and owners of the Bonds and as may be otherwise expressly provided in this Agreement. No obligation imposed on any party under this Agreement is imposed for the benefit or with the intent to permit enforcement by another, not a party to this Agreement, except as may be otherwise expressly provided in this Agreement with respect to the Senior Lien Trustee, the Junior Lien Trustee and owners of the Bonds.

Section 6.6 Entire Agreement; Amendments.

(a) This Agreement contains the entire agreement of the City and the Authority relating to the specific matters covered by this Agreement. No representation, promise or understanding has been made, and no collateral agreement, stipulation or undertaking exists, which will have any force and effect with respect to the specific matters covered by this Agreement except as set forth in this Agreement.

(b) No amendment, modification, supplement, release, discharge or waiver of the provisions of this Agreement shall be of any force, value or effect unless it is in writing and is duly executed on behalf of the Authority and the City and, if required by the Senior Lien Indenture, is accomplished in accordance with the Senior Lien Indenture with the prior written consent of the Senior Lien Trustee.

Section 6.7 Agreement to Pay Attorneys' Fees and Expenses.

(a) In the event the City is determined to have defaulted under any of the provisions of this Agreement and the Authority employs attorneys or incur other expenses for the enforcement of performance or observance of any obligation or agreement on the part of the City herein contained, the City agrees that it shall on demand therefor pay to the Authority the reasonable fees of such attorneys and such other reasonable expenses so incurred by the Authority.

(b) In the event the Authority is determined to have defaulted under any of the provisions of this Agreement and the City employs attorneys or incur other expenses for the enforcement of performance or observance of any obligation or agreement on the part of the Authority herein contained, the Authority agrees that it shall on demand therefor pay to the City the reasonable fees of such attorneys and such other reasonable expenses so incurred by the City.

Section 6.8 No Additional Waiver Implied by One Waiver. If any agreement contained in this Agreement should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

Section 6.9 Notices. All notices, certificates or other communications hereunder shall be in writing and shall be sufficiently given and shall be deemed given when delivered in person or when sent by registered courier or registered over-night delivery service or when mailed by registered or certified mail, return receipt requested, in each case with postage or other charges prepaid, to the parties hereto at the following addresses or such other address designated by such party in writing:

Authority: Cobb-Marietta Coliseum and Exhibit Hall Authority
Two Galleria Parkway
Atlanta, Georgia 30339
Attention: CEO/General Manager

City: City of Powder Springs
4426 Marietta Street
Powder Springs, Georgia 30127
Attention: Mayor

A copy of any notices, certificates or other communications given hereunder also shall be provided to the Senior Lien Trustee at the following address:

U.S. Bank Trust Company, National Association,
as Senior Lien Trustee
Global Corporate Trust
2 Concourse Parkway, Suite 800
Atlanta, Georgia 30328-5588
Attention: _____

Section 6.10 Binding Effect. This Agreement shall inure to the benefit of and shall be binding upon the Authority, the City and their respective successors and assigns.

Section 6.11 Severability. If any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 6.12 Execution 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.

Section 6.13 Captions. The captions and headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions of this Agreement.

Section 6.14 Law Governing this Agreement. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Georgia. Jurisdiction and venue over any claim or dispute arising under this Agreement shall lie exclusively in the Superior Court of Cobb County, Georgia.

Section 6.15 Prior Funding Agreements. Any and all prior agreements, leases, operating contracts, management contracts, or any other agreements or parts thereof in effect on or after the date of the Original Funding Agreement between the Authority and the City with respect to the Hotel/Motel Tax and the Project be and the same are hereby repealed and terminated and same shall be of no force and effect upon the execution, delivery and effectiveness of this Agreement.

[SIGNATURE PAGES TO FOLLOW]

IN WITNESS WHEREOF, the Authority and the City have caused this Amended and Restated Galleria Convention Funding Agreement to be executed by their duly authorized officers, and their respective seals to be hereunto affixed and attested by their duly authorized officers, all to be effective as of the Effective Date set forth hereinabove.

(AUTHORITY SEAL)

THE AUTHORITY:
COBB-MARIETTA COLISEUM AND EXHIBIT HALL AUTHORITY

Attest:

By: _____
Chairman

Secretary-Treasurer

THE CITY:
CITY OF POWDER SPRINGS, GEORGIA

(CITY SEAL)

Attest:

By: _____
Mayor

City Clerk

[** CONSENTS OF TRUSTEES TO BE OBTAINED PRIOR TO THE EXECUTION BY THE PARTIES**]

[**The undersigned Senior Lien Trustee hereby consents to this Amended and Restated Galleria Convention Funding Agreement **]

Approved as to form:

City Attorney

[**U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION, successor to U.S. Bank National Association and successor to First Union National Bank of Georgia, as Senior Lien Trustee**]

By: _____
Name:
Title:

[**The undersigned Junior Lien Trustee hereby consents to this Amended and Restated Galleria Convention Funding Agreement **]

[**U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION, successor to U.S. Bank National Association, as Junior Lien Trustee**]

By: _____
Name:
Title: