

APPROPRIATION ORDINANCE 19-09

**TO SPECIALLY APPROPRIATE FROM THE FOOD AND BEVERAGE TAX FUND
EXPENDITURES RELATED TO THE CONVENTION CENTER EXPANSION AND
AUTHORIZE PERSONS DESIGNATED BY THE MAYOR TO RELAY COUNCIL REQUESTS
FOR RECOMMENDATIONS**

- WHEREAS, the Monroe County Convention Center (“Center”) building was built in 1923 for the Graham Motor Sales company and converted to a convention center in 1991; and
- WHEREAS, the Center was upgraded and remodeled, but not enlarged, in 2012, and its current size has limited its ability to accommodate many groups desiring to hold events in Bloomington; and
- WHEREAS, the County and City are collaborating on a project to expand the Center (the “Project”), and have agreed that the Project will be primarily funded through the use of certain county excise tax revenues provided for under Indiana Code § 6-9-41-0.3, et seq. (“Food and Beverage Tax”); and
- WHEREAS, the Food & Beverage Tax was passed by the County in 2017 and has been continually collected since February 1, 2018, with the proceeds for the City transferred by the County Auditor being deposited into the Food and Beverage Tax City Fund, Number 152 (the “Fund”), in accordance with Indiana Code § 6-9-41-12; and
- WHEREAS, the County and City entered into a Memorandum of Agreement dated October 12, 2018 regarding selection of an architect to oversee the Project, and the MOU allocated explicit responsibility to the City for “Contracting and the payment for appropriate expenses for the Architect;” and
- WHEREAS, the architect, bond counsel and financial adviser were chosen and have completed the first phase of the Project (“Phase I”), which involved conceptual and design work, a survey, appraisals and environmental work, legal and financial advice related to a bond issue, and such other related services as were identified during Phase I (“Phase I Costs”); and
- WHEREAS, Phase II of the Project is ready to begin and the City therefore desires to have funds appropriated from the Fund in a not-to-exceed amount to pay for the Phase II costs not included in the adopted budget; and
- WHEREAS, the City has estimated a not-to-exceed amount for this appropriation; and
- WHEREAS, according to Indiana Code § 6-9-41-16(b), the Bloomington Common Council, as legislative body of the City, “must request the advisory commission's recommendations concerning the expenditure of any food and beverage tax funds collected under this chapter... [and]... may not adopt any ordinance or resolution requiring the expenditure of food and beverage tax collected under this chapter without the approval, in writing, of a majority of the members of the advisory commission”; and
- WHEREAS, after having previously adopted motions to request recommendations on particular expenditures, on May 15, 2019, the Bloomington Common Council made a standing request of the Food and Beverage Tax Advisory Commission (Commission) to make recommendations on future expenditures as needs arise; and
- WHEREAS, these requests were relayed to the Commission on behalf of the Council by Mick Renneisen, Deputy Mayor; and
- WHEREAS, on January 22, 2019, the Commission established under Indiana Code § 6-9-41-16, met in public session and recommended the use of monies in the Fund for the Phase I Costs related to the Architect, and met in public session on April 23, 2019 and recommended the use of the Fund for the Phase I Costs related to the bond counsel and financial adviser; and on December 10, 2019 recommended the use of the Fund for Phase II Costs related to Architect’s design fees for the expanded center and a related parking garage; and

WHEREAS, pursuant to Indiana Code § 6-9-41-16(b), the majority of the members of the Commission approved the request for expenditures and a copy its written decision is attached to this legislation; and

WHEREAS, the Council urges that the facility be a net-zero energy and/or LEED Platinum facility;

NOW, THEREFORE, BE IT HEREBY ORDAINED BY THE COMMON COUNCIL OF THE CITY OF BLOOMINGTON, MONROE COUNTY, INDIANA, THAT:

SECTION I. For the expenses of said Municipal Corporation the following additional sums of money are hereby appropriated and ordered set apart from the fund herein named and for the purposes herein specified, subject to the laws governing the same:

AMOUNT REQUESTED

Food and Beverage Tax Fund

Classification 3 – Services and Charges:

Architect and related fees and expenses \$ 6,250,000.00

Grand Total


\$ 6,250,000.00

SECTION 2. By this ordinance, the Common Council as legislative body of the City, authorizes the Deputy Mayor or other designee of the Mayor to relay this standing request to the Food and Beverage Advisory Commission (Commission) and, under home rule powers and IC 36-1-4-16, ratifies action taken by the Deputy Mayor to relay these requests to the Commission in the past.

SECTION 3. The City is pursuing this appropriation ordinance now in order to encumber funds before the end of the year. However, the City will not execute contracts, other than the necessary contract to encumber funds, nor spend dollars from the Food and Beverage tax proceeds appropriated under this ordinance for expenditures related to the Convention Center Expansion Project ("Project") unless and until the City and County: 1) have established a Governing Entity (whether a Capital improvement Board or other entity) to own and manage the Project, and have negotiated and executed an Interlocal Agreement that sets forth the rights, obligations and commitments of the parties regarding the establishment and operation of the Governing Entity, or 2) mutually agree in writing on such expenditures. Once a Governing Entity has been established and an Interlocal Agreement is signed, expenditures thereafter will be the responsibility of the Governing Entity and any existing contracts related to the Project shall be promptly assigned to such entity subject to its acceptance and approval. Any agreement required to encumber the funds appropriated hereunder shall be subject to this condition and shall contain an explicit provision referencing this ordinance and condition.


It is the City's understanding that this agreement shall not apply to expenditures related to the garage associated with the Project that will be built and owned by the City, or to already budgeted and appropriated expenses funded by the Innkeepers' Tax for the operation of the existing Convention Center.

PASSED AND ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this 11 day of December, 2019.




DAVE ROLLO, President
Bloomington Common Council

ATTEST:



NICOLE BOLDEN, Clerk
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this 12 day of December, 2019.


NICOLE BOLDEN, Clerk
City of Bloomington

SIGNED and APPROVED by me upon this 12th day of December, 2019.


JOHN HAMILTON, Mayor
City of Bloomington

SYNOPSIS

This ordinance appropriates funds from the Food and Beverage Tax Fund for expenditures related to the Convention Center expansion project, including expenditures for Phase II of the Project, which involves design work for the expansion of the Center and a Parking Garage, appraisals and environmental work related to the project, including a bond issue, and such other related services as may be identified. This ordinance also authorizes the Deputy Mayor or other designee of the Mayor to relay a request of the Council to the Food and Beverage Advisory Commission for written recommendation to expend funds.

Note: On December 11, 2019, the Council adopted two amendments before adopting this ordinance as amended. The Synopses of each amendment are set forth below:

Am 01

This amendment is sponsored by Cm. Volan and makes four changes to the legislation. First and foremost, it addresses the timing and effect of this appropriation in light of on-going discussions between officials in the City and County regarding the expansion of the Convention Center and the ownership and operation of the resulting facility. In that regard, the changes are intended to raise the level of comfort of the parties in this early stage of what will be a long term project and relationship. Second, it reflects the change in the date for the action of the Food and Beverage Advisory Commission (Commission). Third, it refers to the written decision rather than the written approval of the Commission to match the title of that document. And fourth, it changes the amount of the appropriation as requested by the Commission.

Am 02

This amendment is sponsored by Cm. Rollo and urges that the facility be a net-zero energy and/or LEED Platinum facility.

Distributed to Clerk, Controller, Council Attorney, Legal, Mayor, Monroe County Commissioners, and Monroe County Council



Food & Beverage Tax Advisory Commission

Steve Volan – Interim Chair

John Hamilton Julie Thomas Cheryl Munson
Susan Bright Lennie Busch Tony Suttle



FOOD AND BEVERAGE TAX ADVISORY COMMISSION DECISION Tuesday, December 10, 2019


The Monroe County Food and Beverage Tax Advisory Commission (“Commission”) received the attached request from the City of Bloomington, Indiana, which is incorporated herein. A meeting was held on the above-date and all members were present. After deliberations were held, the Commission, in a 5-2 vote, approved a recommendation in favor of the City of Bloomington’s request as presented.

I certify that the above is a true and accurate statement of the decision of the Commission, made on the above date and in a public meeting. Minutes of the Commission’s duly organized and public meeting shall be transcribed, which will evidence the action taken by the Commission. In addition to this written Decision, those minutes shall be maintained as the official record by the Monroe County Auditor, who is the Clerk for the Monroe County Council. The Monroe County Council enabled the Food and Beverage Tax and the Advisory Commission, pursuant to Ordinance 2017-51.



Steve Volan, Interim Chair

ATTEST:



Catherine Smith, Monroe County Auditor

FOOD & BEVERAGE TAX ADVISORY COMMISSION



AGENDA REQUEST FORM



DATE ITEM TO BE HEARD: 10-Dec-19

TYPE OF REQUEST: (Please note any requests for funds require prior approval from County Commissioners or City Council)

X Funds Report Discussion Other

DETAILED NARRATIVE:

The City of Bloomington Common Council seeks a recommendation from the F&B Tax Advisory Commission for the expenditure of funds from food and beverage taxes collected to pay for consulting/design services for the expansion of the convention and civic center and related parking garage. The architects, Convergence and Schmidt, have completed Phase I of the design, which included community engagement and site plan development. The next step will be to contract for Phase II--the design portion. The architects have advised that fees and expenses for design of such a project are typically between 5-10% of the estimated construction cost of the project. The estimated cost of the project is a total of \$59 million, which includes \$44 million for the expanded convention and civic center and \$15 million for the associated parking garage. The City Council therefore affirms its request for a recommendation for expenditure of 10% of the estimated construction cost of the project in the amount of \$5,900,000. In addition, the City requests a retroactive recommendation for expenditure of \$350,000 for Phase I costs. The F&B Tax Advisory Commission previously recommended approval to the Bloomington Common Council of \$4 million for architecture fees based on the estimated project cost at that time of \$30-40 million. The Common Council appropriated \$350,000 of that recommended amount and it was already expended for architectural fees for Phase I. The total request for recommendation for expenditure, therefore, is \$6,250,000. We have included with this request the signed resolution from the City Council asking for this recommendation from the Commission.

PERSON PRESENTING: Jeff Underwood/Philippa M. Guthrie at the request of th DEPARTMENT: City of Bloomington

ATTORNEY WHO REVIEWED REQUEST: Philippa M. Guthrie

SUBMITTED BY: Philippa M. Guthrie DATE: 12/6/2019



This section must be completed prior to being added to the agenda.

X City Council Approved Date Approved: 4-Dec-19

County Commissioner Approved Date Approved:

Forward approved request to the County Office at CouncilOffice@co.monroe.in.us.