



City of Bloomington Common Council

Legislative Packet – Addendum

Posted on Wednesday, 15 November 2023

Wednesday, 15 November 2023

Regular Session at 6:30 pm

**MONROE COUNTY AND CITY OF BLOOMINGTON, INDIANA
INTERLOCAL COOPERATION AGREEMENT
FOR
THE OPERATION OF THE BLOOMINGTON/MONROE COUNTY CAPITAL
IMPROVEMENT BOARD AND THE
CONVENTION AND VISITORS COMMISSION**

This Interlocal Cooperation Agreement, entered into on this ___ day of _____, 2023, by and between Monroe County, Indiana (“County”), the City of Bloomington, Indiana. (“City”).

WITNESSETH:

WHEREAS, Indiana Code 36-1-7, *et seq.*, allows local government entities to make the most efficient use of their powers by enabling them to contract with other governmental entities for the provision of services to the public; and

WHEREAS, the County and the City each possesses the power and authority to engage in activities that promote tourism and recreation, and to construct and operate improvements to further those ends; and

WHEREAS, Bloomington/Monroe County is a highly sought-after destination for groups seeking to hold events of significant size in Indiana; and

WHEREAS, people attending events at the Monroe Convention Center (“Convention Center”) also patronize restaurants and shops in the County and City, which has benefited the local economy by hundreds of millions of dollars since the existing Convention Center began operating; and

WHEREAS, the Convention 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 parties agree that an expanded Convention Center (“Expanded Convention Center”) would provide civic benefits as well as significantly enhance the local economy through additional visitors to the area and increased employment opportunities; and

WHEREAS, the parties acknowledge that building and activating an Expanded Convention Center and any related amenities such as a hotel and/or parking garage (collectively, the “Project”) requires their collaboration and that a Capital Improvement Board (“CIB”) is an appropriate vehicle for achieving that collaboration; and

WHEREAS, the parties agree that the Project and ongoing operations of an Expanded Convention Center will be funded through a combination of assets to be transferred or pledged by each party to the CIB, including but not limited to real property controlled by the parties, as well as certain tax revenues provided for under Indiana Code § 6-9-41-0.3, *et seq.* (“Food and Beverage Tax”), and under Indiana Code §6-9-4-1 *et seq.* (“Innkeepers Tax”); and

WHEREAS, the County is authorized under Indiana Code §36-10-8-4 to determine who may appoint members to the CIB, and the County is also authorized to make appointments to the Convention & Visitors Commission (“CVC”), which oversees expenditures of the Innkeepers Tax revenues; and

WHEREAS, the parties agree that their success of the Project requires an effective distribution of responsibility for funding and managing the Project and the future management and operation of the Expanded Convention Center and related amenities;

NOW, THEREFORE, in consideration of the mutual terms, covenants and conditions set forth herein, the County and the City hereby agree as follows:

ARTICLE I
PURPOSE AND DURATION OF AGREEMENT

Section 1. Purpose: The purpose of this Agreement is to set forth and define the respective duties, obligations, rights and responsibilities of the parties with regard to the Project and their interactions with the CIB and the CVC, as these entities together will control (except as provided below) the Expanded Convention Center’s assets and funding streams.

The Project goals are threefold, 1) to expand the convention and tourism industries in downtown Bloomington, Monroe County, and the region; 2) to provide accommodations to local not for profits and civic organizations; and 3) to accentuate the Community goals of sustainable and environmentally progressive action.

Section 2. Duration: This Agreement shall be in full force and effect as of the date of its execution and shall remain in full force and effect for the duration of the longest term of any of the bonds issued to finance the Project, and thereafter until either party provides written notice of termination at least six (6) months in advance. The terms of this Agreement may not be changed except by mutual agreement of the parties. In the event state statutes governing the CIB and CVC are amended so as to substantively affect the balance of authority among the parties under either the terms of this Agreement or any of the other governing documents for the CIB or CVC, the County and City agree to renegotiate the terms of this Agreement in the interest of maintaining the balance of authority between the parties, including finding other means of restoring the balance. The County and City also agree that regardless of the duration of this specific Agreement, their explicitly shared and publicly declared intent is to continue collaboration in perpetuity to oversee and direct the affairs of the Convention Center for the betterment of the entire community and region, as future office holders determine.

ARTICLE II
CIB AND CVC BOARD/COMMISSION MEMBERSHIP

Section 1. CIB Membership:

- A. Per County Ordinance 2023-24, the CIB shall be composed of seven (7) members, consistent with IC 36-10-8-4. The units of government which shall make appointments to the CIB are Monroe County and the City of Bloomington. Specifically, Monroe County (“County”) shall appoint three (3) members and the City of Bloomington (“City”) shall appoint three (3) members. Those six (6) members appointed shall appoint the seventh appointment by a vote of at least four (4) members. The Mayor shall appoint two members to the CIB; the appointments must not be from the same political party. The City Council shall appoint one member to the CIB. The County Commissioners shall appoint two members to the CIB; the appointments must not be from the same political party. The County Council shall appoint one member to the CIB. To create staggered appointments, the first round of appointments made by the Mayor and the County Commissioners will expire at 12:01 am on January 15, 2024. All other and subsequent appointments will be two-year appointments to the CIB.
- B. No members of the CIB may be elected officials of or employees of either the County or the City, Visit Bloomington, the Convention Center Management Company or of the following entities affiliated with or related to the County or City: the Bloomington Housing Authority, the City of Bloomington Utilities, and Bloomington Public Transportation Corporation (“Bloomington Transit”). This restriction does not apply to board members of any County or City convention center building corporation or City of Bloomington Capital Improvements, Inc.
- C. No member of the CIB may also serve simultaneously on the CVC or Food & Beverage Tax Advisory Commission (FABTAC).
- D. Except as provided above, all terms of office shall begin on January 15th, consistent with State law. A member whose term expires may be reappointed to serve another term. If a vacancy occurs, a person shall be appointed by the original appointing authority in the same manner as the original appointment to serve for the remainder of the term.

Section 2. CVC Membership:

- A. The CVC shall be composed of five (5) members, as required by IC 6-9-4-2.
- B. No members of the CVC may be elected officials of or employees of either the County or the City, or of the following entities affiliated with or related to the County or the City: the Bloomington Housing Authority, the City of Bloomington Utilities, and Bloomington Public Transportation Corporation (“Bloomington Transit”). This restriction does not apply to board members of any County or City convention center building corporation or City of Bloomington Capital Improvements, Inc..

- C. The Commissioners shall appoint two members to one-year terms, with the restrictions found in the IC 6-9-4-2.
- D. The County Council shall appoint three members to two-year terms. Two appointees shall meet the statutory restrictions found in the second sentence of IC 6-9-4-2(b) -- i.e., shall be the owners or general managers of hotels or motels in the county with at least 40 beds - - and shall be made after giving good faith consideration to a list of at least three recommendations made by the City Council. The third appointee, who is not subject to statutory restrictions (“the unrestricted appointment”), shall be made by the County Council from a list of four recommendations made by the City Council.

City Council recommendations for appointments must be made in writing to the County Council before November 1. The County Council shall make the appointments before January 1. If the County Council has not received the City Council’s recommendations by October 15, the County Council shall send a written reminder to the City Council Administrator/Attorney.

If the County Council has not received the City Council’s list of four recommendations for the unrestricted appointment before November 1, the County Council shall make the unrestricted appointment at their discretion.

- E. All terms of office shall begin on January 1 and end on December 31, consistent with State law. A member whose term expires may be reappointed to serve another term. If a vacancy occurs, a person shall be appointed by the original appointing authority in the same manner as the original appointment to serve for the remainder of the term.
- F. No member of the CVC may also serve simultaneously on the CIB or FABTAC.

ARTICLE III
ASSETS, FUNDING AND OPERATIONAL RESPONSIBILITIES

Section 1. Real Property Assets:

- A. The parties agree that the work previously conducted regarding location, scope and design of the Convention Center expansion retains relevance. Accordingly, they expect the CIB to incorporate that work, updated as appropriate with additional data and input from City and County leadership and the public, into the CIB’s selection of a site for the Expanded Convention Center and sites for related amenities (e.g., hotel(s), parking garage), corresponding designs for the same, and partner selection for architectural and design services and hotelier(s).

- B. The CIB shall request from the parties such transfer of ownership of property assets as are needed in its judgment successfully to complete the Project, including property needed directly for such structures or needed to help finance them, and on such terms as needed. The Parties shall in good faith review and negotiate regarding such requests. The Parties agree that the County properties located south of W. 3rd Street and east of South College Avenue shall not become available for use prior to the conclusion of the 2024 election cycle.

Section 2. Project Construction Funding and Management:

- A. The City shall be solely responsible for approving any debt issued to finance the design and construction of the Expanded Convention Center. For this purpose, the City intends to use a non-CIB third-party building corporation (“City Building Corporation”) to issue debt on behalf of the City. Such City Building Corporation shall own the Expanded Convention Center and lease it to the City, and the City Building Corporation and the City shall contract with the CIB to manage the design and construction of the Expanded Convention Center, consistent with and subject to Indiana public construction laws and the terms of the debt financing and budgets for design and construction approved by the City Council. These same provisions shall apply in the event that any debt used to finance amenities such as a parking garage or hotel is issued on behalf of the City rather than the CIB or County.
- B. The bond proceeds and any other designated funds provided by the City to be used in connection with the Project shall not be included in any annual budget presented by the CIB to the County Council or otherwise require approval for their use from County authorities.
- C. As soon as reasonably practicable following completion of construction, the City shall enter into a contract with the CIB for post-construction operation and management of the Expanded Convention Center.
- D. Once debt service is completed, the City Building Corporation shall transfer ownership of the Expanded Convention Center, and the real property(ies) on which it is located, and any other structures that are financed with debt approved and issued on behalf of the City and the real property(ies) on which they are located, first to the City as lessee, in accordance with the terms of the debt financing arrangements and such terms as have been agreed between the entity(ies) that transferred real property to the City Building Corporation on terms agreed under Section 1(B) above. Subject to Indiana property disposition laws and federal tax laws relating to tax-exempt debt issued by the City Building Corporation, the City shall then transfer ownership to the CIB.

Section 3. Convention Center Operation and Management:

The Parties understand and agree to the following regarding the operation and management of the existing and expanded Convention Center and any related amenities:

- A. The existing County contract with the CVC for facility management of the current Convention Center will be assigned to the CIB as soon as practicable following completion of the design and construction period, but not before, to ensure that the ongoing operations of the current Convention Center are sustained smoothly and to allow the CIB to focus fully on the design and construction of the Project.
- B. The CVC shall promote the existing and Expanded Convention Center and related tourism and convention opportunities.
- C. The CVC shall provide the City and County Councils with updates concerning revenue projections of the Innkeepers' tax prior to July 1 of each year.
- D. The CIB shall be responsible for selecting and overseeing partnerships with any hotelier partners.
- E. The CIB shall have the authority to name the Expanded Convention Center, subject to Article IV Section 1 below.

Section 4: CIB and CVC Funding:

- A. CIB Funding:
 - a. The parties agree that during the Project design and construction period and before implementation of the contract described in Article III Section 2C above, the CIB shall have authority to determine its budget solely with the City Council, including City food and beverage funds or any other City-designated funds needed to cover the hiring/retention during the design and construction phase of relevant support staff (e.g., an Executive Director/Project Manager, financial and legal support, administrative support).
 - b. The parties anticipate that the CIB shall be funded solely with City funds through the completion of the Project design and construction period. However, to the extent that the CIB does seek appropriations from the County during the Project design and construction phase, the County agrees not to use its approval authorities over CIB annual budgets or otherwise to override, change, or interfere with (i) CIB budgets and expenditures that are agreed to by the City Council during and covering the Project design and construction period, or (ii) Project design and construction decisions that rest with the CIB and are to be funded through debt approved by the City Council or other City Council appropriations.
 - c. The parties agree that following the Project design and construction period and implementation of the contract described in Article III Section 2C above, the CIB shall work with both the City and County Councils in developing its annual budget to reach agreement among the parties prior to presenting the budget for official approval. The parties shall coordinate with the CIB so that it will present its budget to the City Council for review and approval prior to the County Council Budget Session, and will present its budget to the County Council during a County Council Budget Session. In the event the County Council does not agree

with the budget approved by the City Council, the two Councils shall work to come to agreement on a budget that both Councils can approve. If the Councils cannot agree on a budget by December 1st, the budget for the then-current year shall be the budget for the succeeding year.

- d. The parties agree that in the event the CIB determines a bond or other financing is recommended for activities other than Expanded Convention Center design and construction, the CIB shall make that recommendation to the City and/or County Council, depending on the proposed source(s) of financing. If the relevant Council(s), by resolution, approve the recommendation, then the statutory process for issuing the debt may proceed. No such bond or other financing may be issued for CIB purposes without first going through this process.

B. CVC Funding:

- a. The parties agree that during the Project design and construction period, the CVC shall develop and present its annual budget to the County Council. The County Council shall ensure that such budget reflects the continued use of Innkeepers Tax revenue to properly and sufficiently fund the operation and management of the existing Convention Center.
- b. Following the Project design and construction period and implementation of the contract described in Article III Section 2C above, the City and County shall work with the CVC in developing its annual budget to reach agreement among the parties prior to the CVC presenting its budget for official approval. The parties shall ensure through this process that the CVC uses Innkeeper's Tax to properly and sufficiently fund the ongoing operation and maintenance of the Expanded Convention Center, with at least the same proportion or dollar amount, whichever is greater, of Innkeepers Tax revenue going to support the expanded Convention Center as the CVC and County Council have approved for existing Convention Center support in recent years. The parties shall coordinate with the CVC so that the CVC shall present its proposed budget to the City Council for review and approval prior to the County Council Budget Session, and then present the budget to the County Council during a County Council Budget Session. In the event the County Council does not agree with the budget approved by the City Council, the two Councils shall work to come to agreement on a budget that both Councils can approve. If the Councils cannot agree on a budget by December 1st , the budget for the then-current year shall be the budget for the succeeding year.

ARTICLE IV
MISCELLANEOUS PROVISIONS

Section 1. Convention Center Name: The CIB shall determine a process for selecting a name for the Expanded Convention Center, except that any sale of overall naming rights to the Expanded Convention Center by the CIB shall require prior approval by both the County Board of Commissioners and the Mayor of the City of Bloomington.

Section 2. Local Government Approvals: The parties shall cooperate on the review and approval of any documents necessary to secure timely regulatory approvals for the Project site plan, design, and construction.

Section 3. Amendment of this Agreement: The parties may mutually agree to amend this Agreement to correct errors, clarify the understanding of the parties, or to otherwise fulfill the intent of the parties where the initial signed version is deemed inadequate for that purpose. The CIB and CVC may recommend changes to this Agreement for review by the parties.

Section 4. Effective Date: This Agreement will be effective when approved, in the same manner as approval of all Interlocal Agreements, except that the State Attorney General shall not be asked to approve this contract.

Section 5. General Intention as to Convention Center Use: The parties intend that the Expanded Convention Center shall also serve as a Civic Center for the use of community residents and non-profit organizations, consistent with the financial and operational needs of the Expanded Convention Center.

Section 6. Sustainability: The parties hereby express their desire and intention that the Project will incorporate sustainability into its design and future operations, and the CIB is directed to continually pursue sustainability as a primary goal, so far as financially and operationally feasible and practicable.

Section 8. Savings Clause: In the event any Article, Section or Portion of this Interlocal Agreement should be held invalid and unenforceable by any court of competent jurisdiction, such decision shall apply only to the specific Article, Section or Portion thereof specifically specified in the court's decision.

WHEREFORE, the parties hereto have executed this Agreement as of the date first set forth above.

COUNTY OF MONROE, INDIANA
BOARD OF COMMISSIONERS

CITY OF BLOOMINGTON

Penny Githens, President

John Hamilton, Mayor

Julie Thomas, Vice President

Lee Jones, Member

ATTEST: (Dated: _____)

Auditor, Monroe County, Indiana

CITY OF BLOOMINGTON COMMON COUNCIL

_____, President

ATTEST:

Nicole Bolden, Clerk
City of Bloomington

MONROE COUNTY COUNCIL

_____, President

ATTEST:

_____, Auditor
Monroe County