



CITY OF BLOOMINGTON COMMON COUNCIL

NOTICE AND AGENDA
WORK SESSION
FRIDAY | 12:00 PM
05 APRIL 2024

*McCloskey Conference Room (#135), Showers Building, 401 N. Morton Street
The public may also access the meeting at the following link:*

<https://bloomington.zoom.us/j/88698557907?pwd=I01tuvocSK9rKkOcdhsg8QoWLV5s5q.1>

- I. **CALL TO ORDER**
- II. **TOPICS FOR DISCUSSION***
 - History of Local Food and Beverage Tax
 - Current balance in city food and beverage tax fund and funding status/plans for 2024
 - i. City of Bloomington Food and Beverage Funds Plan for 2024
 - ii. Appropriation in 2024 budget, anticipated requests for additional use of funds
 - iii. Other uses of funds?
 - Discussion of next steps for Convention Center Expansion Project
- III. **OTHER BUSINESS**
- IV. **ADJOURNMENT**

IC 6-9-41 Chapter 41. Monroe County Food and Beverage Tax

6-9-41-0.3	Finding of conditions unique to City of Bloomington and Monroe County
6-9-41-1	Application of chapter
6-9-41-2	Definitions
6-9-41-3	"City"
6-9-41-4	"County"
6-9-41-5	Ordinance imposing tax
6-9-41-6	Taxable transactions; exemption
6-9-41-7	Rate of tax
6-9-41-8	Collection of tax; returns
6-9-41-9	Payment of tax to county treasurer
6-9-41-10	State distribution to county treasurer
6-9-41-11	County food and beverage tax receipts fund
6-9-41-12	Bloomington food and beverage tax receipts fund
6-9-41-13	Allocation of food and beverage taxes between county and city
6-9-41-14	County food and beverage tax receipts fund; requirement to develop a written plan for use of funds; requirement to spend money in the fund in accordance with written plan
6-9-41-15	City food and beverage tax receipts fund; requirement to develop a written plan for use of funds; requirement to spend money in the fund in accordance with written plan
6-9-41-15.5	Failure to spend money from the fund as required; ordinance voided; prohibited from adopting a new ordinance; distribution of unexpended money
6-9-41-16	Advisory commission
6-9-41-17	Expiration of tax

IC 6-9-41-0.3 Finding of conditions unique to City of Bloomington and Monroe County

Sec. 0.3. A large percentage of the land in the city of Bloomington and in Monroe County is not taxable because the land is owned by the state or the federal government, which puts the city and the county at a disadvantage in their ability to fund projects. These special circumstances require the legislation of P.L.176-2009 particular to the city and county. *As added by P.L.220-2011, SEC.168.*

IC 6-9-41-1 Application of chapter

Sec. 1. This chapter applies to Monroe County. *As added by P.L.176-2009, SEC.21.*

IC 6-9-41-2 Definitions

Sec. 2. Except as provided in sections 3, 4, and 9(b) of this chapter, the definitions in IC 6-9-12-1 and IC 36-1-2 apply throughout this chapter. *As added by P.L.176-2009, SEC.21.*

IC 6-9-41-3 "City"

Sec. 3. As used in this chapter, "city" means the city of Bloomington. *As added by P.L.176-2009, SEC.21.*

IC 6-9-41-4 "County"

Sec. 4. As used in this chapter, "county" means Monroe County. *As added by P.L.176-2009, SEC.21.*

IC 6-9-41-5 Ordinance imposing tax

Sec. 5. (a) Subject to section 15.5 of this chapter, the fiscal body of the county may adopt an ordinance to impose an excise tax, known as the county food and beverage tax, on those transactions described in section 6 of this chapter. The effective date of an ordinance adopted

under this subsection must be after December 31, 2009.

(b) If the fiscal body adopts an ordinance under subsection (a), the fiscal body shall immediately send a certified copy of the ordinance to the commissioner of the department of state revenue.

(c) If the fiscal body adopts an ordinance under subsection (a), the county food and beverage tax applies to transactions that occur after the last day of the month that succeeds the month in which the ordinance is adopted. However, if an ordinance is adopted before December 1, 2009, and the ordinance takes effect January 1, 2010, the tax applies to transactions after December 31, 2009.

As added by P.L.176-2009, SEC.21. Amended by P.L.236-2023, SEC.104.

IC 6-9-41-6 Taxable transactions; exemption

Sec. 6. (a) Except as provided in subsection (c), a tax imposed under section 5 of this chapter applies to any transaction in which food or beverage is furnished, prepared, or served:

- (1) for consumption at a location, or on equipment, provided by a retail merchant;
- (2) in the county in which the tax is imposed; and
- (3) by a retail merchant for consideration.

(b) Transactions described in subsection (a)(1) include transactions in which food or beverage is:

- (1) served by a retail merchant off the merchant's premises;
- (2) food sold in a heated state or heated by a retail merchant;
- (3) two (2) or more food ingredients mixed or combined by a retail merchant for sale as a single item (other than food that is only cut, repackaged, or pasteurized by the seller, and eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the federal Food and Drug Administration in chapter 3, subpart 3-401.11 of its Food Code so as to prevent food borne illnesses); or
- (4) food sold with eating utensils provided by a retail merchant, including plates, knives, forks, spoons, glasses, cups, napkins, or straws (for purposes of this subdivision, a plate does not include a container or packaging used to transport the food).

(c) The county food and beverage tax does not apply to the furnishing, preparing, or serving of any food or beverage in a transaction that is exempt, or to the extent exempt, from the state gross retail tax imposed by IC 6-2.5.

As added by P.L.176-2009, SEC.21.

IC 6-9-41-7 Rate of tax

Sec. 7. The county food and beverage tax imposed on a food or beverage transaction described in section 6 of this chapter equals one percent (1%) of the gross retail income received by the merchant from the transaction. For purposes of this chapter, the gross retail income received by the retail merchant from the transaction does not include the amount of tax imposed on the transaction under IC 6-2.5.

As added by P.L.176-2009, SEC.21.

IC 6-9-41-8 Collection of tax; returns

Sec. 8. If an ordinance is not adopted under section 9 of this chapter, the tax that may be imposed under section 5 of this chapter shall be imposed, paid, and collected in the same manner that the state gross retail tax is imposed, paid, and collected under IC 6-2.5. However, the return to be filed for the payment of the tax under this chapter may be made separately or may be combined with the return filed for the payment of the state gross retail tax, as prescribed by the department of state revenue.

As added by P.L.176-2009, SEC.21.

IC 6-9-41-9 Payment of tax to county treasurer

Sec. 9. (a) The county fiscal body may adopt an ordinance to require that the tax imposed under section 5 of this chapter be reported on forms approved by the county treasurer and that the tax be paid monthly to the county treasurer. If an ordinance is adopted under this subsection, the tax shall be paid to the county treasurer not more than twenty (20) days after the end of the month in which the tax is collected. If an ordinance is not adopted under this subsection, the tax shall be imposed, paid, and collected in exactly the same manner as the state gross retail tax is imposed, paid, and collected under IC 6-2.5.

(b) If an ordinance is adopted under this section, all of the provisions of IC 6-2.5 relating to rights, duties, liabilities, procedures, penalties, definitions, exemptions, and administration apply to the imposition and administration of the tax imposed under section 5 of this chapter, except to the extent those provisions are in conflict or inconsistent with the specific provisions of this chapter or the requirements of the county treasurer.

(c) For purposes of this chapter, the terms "person" and "gross retail income" have the same meaning in this section as set forth in IC 6-2.5, except that "person" does not include state supported educational institutions. If the tax is paid to the department of state revenue, the returns to be filed for the payment of the tax under this section may be either a separate return or may be combined with the return filed for the payment of the state gross retail tax as the department of state revenue may by rule determine.

As added by P.L.176-2009, SEC.21.

IC 6-9-41-10 State distribution to county treasurer

Sec. 10. If an ordinance is not adopted under section 9 of this chapter, the amounts received from the county food and beverage tax imposed under section 5 of this chapter shall be paid monthly by the treasurer of state to the county treasurer upon warrants issued by the auditor of state.

As added by P.L.176-2009, SEC.21.

IC 6-9-41-11 County food and beverage tax receipts fund

Sec. 11. (a) If an ordinance is adopted under section 5 of this chapter, the county treasurer shall establish a food and beverage tax receipts fund.

(b) The county treasurer shall deposit in the fund county food and beverage tax revenue that the county treasurer receives.

(c) Any money earned from the investment of money in the fund becomes part of the fund.

(d) Money in the fund at the end of the county fiscal year does not revert to the county general fund.

As added by P.L.176-2009, SEC.21.

IC 6-9-41-12 Bloomington food and beverage tax receipts fund

Sec. 12. (a) If an ordinance is adopted under section 5 of this chapter, the fiscal officer of the city shall establish a food and beverage tax receipts fund.

(b) The fiscal officer shall deposit in the fund county food and beverage tax revenue that the fiscal officer receives.

(c) Any money earned from the investment of money in the fund becomes part of the fund.

(d) Money in the fund at the end of the city fiscal year does not revert to the city general fund.

As added by P.L.176-2009, SEC.21.

IC 6-9-41-13 Allocation of food and beverage taxes between county and city

Sec. 13. (a) Each month, the county auditor shall distribute the county food and beverage tax revenue received by the county treasurer between the city and the county according to the location where the county food and beverage tax was collected. If the county food and beverage tax was collected in the city, the city must receive the revenue. If the county food

and beverage tax was collected in the part of the county that is outside the city, the county must receive the revenue.

(b) Distribution of county food and beverage tax revenue to the city must be on warrants issued by the county auditor.

As added by P.L.176-2009, SEC.21.

IC 6-9-41-14 County food and beverage tax receipts fund; requirement to develop a written plan for use of funds; requirement to spend money in the fund in accordance with written plan

Sec. 14. (a) The county's share of county food and beverage tax revenue deposited in the county food and beverage tax receipts fund may be used only to finance, refinance, construct, operate, or maintain a convention center, a conference center, or related tourism or economic development projects.

(b) The county must develop a written plan before December 1 of each year that includes the:

- (1) proposed use of funds under subsection (a) for the upcoming calendar year;
- (2) detailed use of funds under subsection (a) in the current and prior calendar years; and
- (3) fund balance as of January 1 of the current calendar year.

The written plan described in this subsection must be submitted to the state board of accounts and be made available on the department's computer gateway within thirty (30) days of submission.

(c) The county must spend the money in the county food and beverage tax receipts fund in accordance with the written plan required by subsection (b). If no funds have been expended from the county food and beverage tax receipts fund in accordance with the written plan required by subsection (b) before July 1, 2025, then section 15.5 of this chapter applies.

As added by P.L.176-2009, SEC.21. Amended by P.L.236-2023, SEC.105.

IC 6-9-41-15 City food and beverage tax receipts fund; requirement to develop a written plan for use of funds; requirement to spend money in the fund in accordance with written plan

Sec. 15. (a) Money deposited in the city food and beverage tax receipts fund may be used only to finance, refinance, construct, operate, or maintain a convention center, a conference center, or related tourism or economic development projects.

(b) The city must develop a written plan before December 1 of each year that includes the:

- (1) proposed use of funds under subsection (a) for the upcoming calendar year;
- (2) detailed use of funds under subsection (a) in the current and prior calendar years; and
- (3) fund balance as of January 1 of the current calendar year.

The written plan described in this subsection must be submitted to the state board of accounts and be made available on the department's computer gateway within thirty (30) days of submission.

(c) The city must spend the money in the city food and beverage tax receipts fund in accordance with the written plan required by subsection (b). If no funds have been expended from the city food and beverage tax receipts fund in accordance with the written plan required by subsection (b) before July 1, 2025, then section 15.5 of this chapter applies.

As added by P.L.176-2009, SEC.21. Amended by P.L.236-2023, SEC.106.

IC 6-9-41-15.5 Failure to spend money from the fund as required; ordinance voided; prohibited from adopting a new ordinance; distribution of unexpended money

Sec. 15.5. (a) This section applies only if the county and city do not spend money from the county or city food and beverage tax receipts fund as required by sections 14(c) and 15(c)

of this chapter.

(b) The ordinance adopted under section 5 of this chapter to impose the food and beverage tax is void and food and beverage tax revenue may not be collected after June 30, 2025. The county may not adopt a new ordinance under section 5 of this chapter after June 30, 2025.

(c) The following apply to the distribution of the unexpended money in the county food and beverage tax receipts fund and city food and beverage tax receipts fund:

(1) The:

(A) county treasurer shall certify to the county auditor the balance in the county food and beverage tax receipts fund; and

(B) city fiscal officer shall certify to the county auditor the balance in the city food and beverage tax receipts fund.

(2) After the county auditor receives the certified fund balances under subdivision (1), the county auditor shall distribute, before October 1, 2025, the money in each fund according to the ratio that the maximum permissible ad valorem property tax levy under IC 6-1.1-18.5 for property taxes first due and payable in 2025 for each taxing unit in the county bears to the sum of all maximum permissible ad valorem property tax levies under IC 6-1.1-18.5 for property tax first due and payable in 2025 in the county.

As added by P.L.236-2023, SEC.107.

IC 6-9-41-16 Advisory commission

Sec. 16. (a) In order to coordinate and assist efforts of the county and city fiscal bodies regarding the utilization of food and beverage tax receipts, an advisory commission shall be established and composed of the following individuals:

(1) Three (3) members who are owners of retail facilities that sell food or beverages subject to the county food and beverage tax imposed under this chapter appointed by the city and county executive.

(2) The president of the county executive.

(3) A member of the county fiscal body appointed by the members of the county fiscal body.

(4) The city executive.

(5) A member of the city legislative body appointed by the members of the city legislative body.

(b) The county and city legislative bodies must request the advisory commission's recommendations concerning the expenditure of any food and beverage tax funds collected under this chapter.

As added by P.L.176-2009, SEC.21. Amended by P.L.236-2023, SEC.108.

IC 6-9-41-17 Expiration of tax

Sec. 17. (a) Except as otherwise provided in sections 14, 15, and 15.5 of this chapter, the tax authorized under this chapter expires on the later of:

(1) January 1, 2045; or

(2) the date on which all bonds or lease agreements outstanding on May 7, 2023, for which a pledge of tax revenue is made under this chapter are completely paid.

(b) Not later than December 31, 2023, the fiscal officer of the county and the fiscal officer of the city shall provide to the state board of accounts:

(1) a list of each bond or lease agreement outstanding on May 7, 2023, for which a pledge of tax revenue is made under this chapter; and

(2) the date on which each bond or lease agreement identified in subdivision (1) will be completely paid.

The information received under this subsection shall be published on the department of local government finance's interactive and searchable website containing local government information (the Indiana gateway for governmental units).

As added by P.L.236-2023, SEC.109.

RESOLUTION 17-38

SUPPORTING PASSAGE OF A FOOD AND BEVERAGE TAX TO FUND EXPANSION OF THE MONROE COUNTY CONVENTION CENTER

WHEREAS, the Monroe County Convention Center (“Convention Center”) was built in 1923 for the Graham Motor Sales company and converted to a Convention Center in 1991; and

WHEREAS, the Convention Center is the second most sought-after destination for groups seeking to hold events of significant size in Indiana, surpassed only by the Indianapolis Convention Center; and

WHEREAS, people attending events at the Convention Center also patronize restaurants and shops in Bloomington, and the resulting combined impact on the local economy over the past twenty-five (25) years is estimated at approximately \$256 million dollars; 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, including approximately forty (40) groups in 2016 alone that could not be accommodated; and

WHEREAS, Monroe County (“County”) and the City of Bloomington (“City”) agree that an expanded Convention Center would provide civic benefits such as more meeting space and a greater variety of events, as well as significantly enhance the local economy through additional visitors to the area and increased employment opportunities; and

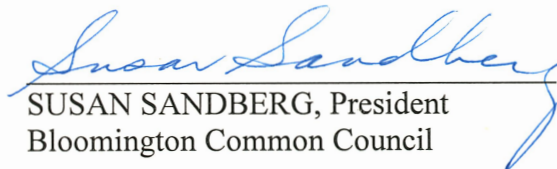
WHEREAS, the County and City agree that any project to expand the Convention Center requires their collaboration, and they have together taken initial steps towards realizing a project to expand the Convention Center (the “Project”), including issuing a Request for Proposals (“RFP”) to potential hotel and convention center developers and reviewing responses prior to approving a development partner; and

WHEREAS, a significant remaining step is securing funding for the Project, and the Common Council wishes to express its support for securing such funding via certain County excise tax revenues provided for under I.C. 6-9-41 (“Food and Beverage Tax”);

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

SECTION I. The City of Bloomington strongly supports the passage of a county Food and Beverage Tax under the authority granted to the Monroe County Council pursuant to I.C. 6-9-41; the City urges the County Commissioners and County Councilmembers to pass such a tax; and, the City pledges its cooperation, as needed, in the administration and use of the tax proceeds to fund the expansion of the Monroe County Convention Center.

PASSED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this 18th day of October, 2017.


SUSAN SANDBERG, 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 19th day of October, 2017.

Nicole Bolden
NICOLE BOLDEN, Clerk
City of Bloomington

SIGNED and APPROVED by me upon this 19th day of October, 2017.

John Hamilton
JOHN HAMILTON, Mayor
City of Bloomington

SYNOPSIS

This resolution expresses the City of Bloomington's support for Monroe County to pass a local food and beverage tax to fund the expansion of the Monroe County Convention Center. Because of its limited size, the Convention Center has been unable to accommodate many requests from groups wishing to hold events there over the past several years. Expanding the size of the Convention Center and its adjacent hotel will significantly enhance the economic and civic benefits of the Convention Center for the citizens of Monroe County and the City of Bloomington.

Distributed to: Mayor, Clerk, Council Administrator, Legal, Controller

LETTER OF INTENT

Between

CITY OF BLOOMINGTON

And

MONROE COUNTY GOVERNMENT

LETTER OF INTENT

THIS LETTER OF INTENT (“LOI”) is entered into by and between the City of Bloomington (“City”), and Monroe County Government, by its Board of Commissioners (“County”).

WHEREAS, the Monroe County Convention Center (“Convention Center”) was built in 1923 for the Graham Motor Sales company and converted to a Convention Center in 1991; and

WHEREAS, the Convention Center is the second most sought after destination for groups seeking to hold events of significant size in Indiana, surpassed only by the Indianapolis Convention Center; and

WHEREAS, people attending events at the Convention Center also patronize restaurants and shops in the City of Bloomington, and the resulting combined impact on the local economy over the past twenty-five (25) years is estimated at approximately \$256 million dollars; 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, including approximately forty (40) groups in 2016 alone that could not be accommodated; and

WHEREAS, the County and the City agree that an expanded Convention Center would provide civic benefits such as more meeting space and a greater variety of events, as well as significantly enhance the local economy through additional visitors to the area and increased employment opportunities; and

WHEREAS, the County and City agree that a project to expand the Convention Center requires their collaboration, and that a project is unlikely to move forward without the availability of certain county excise tax revenues provided for under Indiana Code § 6-9-41-0.3, *et seq.* (“Food and Beverage Tax”); and

NOW THEREFORE, THE PARTIES AGREE AS FOLLOWS:

Section 1. Project

The City and County agree to collaborate on a project to expand the Convention Center (“Project”) for the benefit of the County, the City, their collective residents and the surrounding region.

Section 2. Adoption of Ordinance

The County agrees to pursue all means available for funding the construction of an expanded convention center in Monroe County, including adoption of an ordinance for a Food and Beverage Tax.

Section 3. City Use of Food and Beverage Tax Revenue

In the event the County adopts an ordinance approving a Food and Beverage Tax, the City hereby pledges that, subject to Section 5 below and I.C. § 6-9-41-16, the monthly tax revenue distributed under I.C. § 6-9-41-13 (“Tax Allocation”) to the City shall be used in accordance with I.C. § 6-9-41-15 for the following purposes:

- Construction and/or renovation of a convention center
- Financing or refinancing of a convention center
- Operation of a convention center
- Maintenance of a convention center

Section 4. County Use of Food and Beverage Tax Revenue

In the event the County adopts an ordinance approving a Food and Beverage Tax, the County and City agree that, subject to I.C. § 6-9-41-16, the County may use one hundred percent (100%) of the Tax Allocation to the County in accordance with I.C. § 6-9-41-14 for related tourism or economic development projects.

Section 5. Other Uses of Food and Beverage Tax Revenue

The County and City agree that the City may use up to 7.5% of its Tax Allocation for related tourism or economic development projects that support the convention center expansion project, as permitted under I.C. § 6-9-41-15. The balance of the City allocation will be used solely to support items stated in Section 3. At such time as the construction aspect of the Project is completed and all costs of the construction aspect of the Project have been paid, the first priority of the funding will be to supplement the Inn Keepers tax for the necessary expenses, as determined by the Advisory Commission, for operation and maintenance of the Project. Any Tax Allocation in excess of that may be used for related tourism or economic development projects as allowed under I.C. § 6-9-41-12 and appropriately authorized under I.C. § 6-9-41-16.

Section 6. Advisory Commission

In the event the County passes a Food and Beverage Tax, as required under I.C. §6-9-41-16, the parties shall set up an Advisory Commission composed of the members specified in the statute to “assist efforts of the county and city fiscal bodies regarding the utilization of food and beverage tax receipts.” The City executive shall select _____ of the three members identified in I.C. § 6-9-41-16(a)(1), and the County executive shall select _____ of the three members identified in I.C. § 6-9-41-16(a)(1).

Section 7. Definitive Agreement

The parties have executed this LOI to signify their joint commitment to pursuing and funding the Project, and hereby agree to enter into a definitive agreement that encompasses remaining aspects of the Project and other issues related to the Convention Center at a later date.

Section 8. Notices

Notice given by either party to the other under this LOI shall be in writing and delivered at the addresses provided below:

CITY

City of Bloomington Legal Department
401 North Morton, Suite 220
Bloomington, Indiana 47404
(812) 349-3426 (phone)
(812) 349-3441 (fax)

COUNTY

Monroe County Attorney’s Office
Courthouse, Room 220
Bloomington, Indiana 47404
(812) 349-2525 (phone)
(812) 349-2982 (fax)

Section 9. Authority of Parties

Each party warrants that it is authorized to enter in this LOI, that the person signing on its behalf is duly authorized to execute the LOI, and that no other signatures are necessary.

Section 10. Counterparts

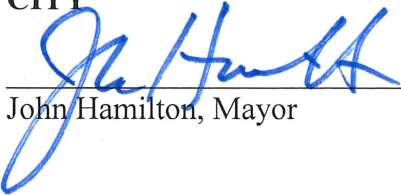
The parties may execute this LOI in counterparts, each of which is deemed an original and all of which constitute only one original.

Section 11. Binding Nature

This LOI does not purport to be or constitute a binding agreement between the City and County, but is merely an expression of the future intent of the parties, which is subject to satisfaction of the conditions set forth herein. This LOI is not intended to impose any obligation whatsoever on either of the parties, and the parties may not reasonably rely on any promises inconsistent with this paragraph.

IN WITNESS WHEREOF, the parties hereto have caused this LOI to be executed for and on their behalf the day and year first hereinafter written.

CITY



John Hamilton, Mayor

Attest:



Nicole Bolden, Clerk

Date: 10/19/17

COUNTY

Julie Thomas, President
Board of Commissioners

Amanda Barge, Vice President

Patrick Stoffers, Commissioner

Attest:

Cathy Smith, Auditor

Date: _____

ORDINANCE 2017-51
An Ordinance Adopting a Food and Beverage Tax in Monroe County

SECTION 1. ESTABLISHMENT OF TAX; APPLICATION OF TAX

- (a) Pursuant to the authority granted to the Monroe County Council by the General Assembly of the State, under IC 6-9-41 et.seq., and expressly referencing IC 6-9-41-5(a), there is hereby established a county food and beverage tax to be imposed upon any transaction in which food or beverage is furnished, prepared or served:
 - (1) for consumption at a location, or on equipment provided by a retail merchant;
 - (2) within Monroe County; and
 - (3) by a retail merchant for consideration.

- (b) The transactions described in subsection A of this section include transactions in which food or beverage is:
 - (1) served by a retail merchant off the merchant's premises;
 - (2) food sold in a heated state or heated by a retail merchant;
 - (3) two (2) or more food ingredients mixed or combined by a retail merchant for sale as a single item (other than food that is only cut, repackaged, or pasteurized by the seller, and eggs, fish, meat, poultry and foods containing these raw animal foods requiring cooking by the consumer as recommended by the federal Food and Drug Administration in chapter 3, subpart 3-401.11 of its Food Code so as to prevent food borne illnesses); or
 - (4) food sold with eating utensils provided by a retail merchant, including plates, knives, forks, spoons, glasses, cups, napkins, or straws (for purposes of this subdivision, a plate does not include a container or packaging used to transport the food).

- (c) The county food and beverage tax does not apply to the furnishing, preparing or serving of any food or beverage in a transaction that is exempt, or to the extent exempt, from the state gross retail tax imposed by IC 6-2.5.

- (d) **APPLICATION OF TAX.** The tax imposed by this ordinance applies to transactions that occur after the last day of the month that succeeds the month in which the ordinance codified in this chapter is adopted.

SECTION 2. RATE OF TAX

The county food and beverage tax imposed on a food or beverage transaction described in Section 1 above equals one percent (1%) of the gross retail income received by the merchant from the transaction. For the purposes of this ordinance the gross retail income received by the retail merchant from the transaction does not include the amount of tax imposed on the transaction under IC 6-2.5.

SECTION 3. COLLECTION OF TAX; DISTRIBUTION BY THE STATE

- (a) Pursuant to IC 6-9-41-8, the tax imposed by this ordinance shall be imposed, paid and collected in the same manner that the state gross retail tax is imposed, paid, and collected under IC 6-2.5. However, the return to be filed for the payment of the tax under this chapter may be made separately or may be combined with the return filed for the payment of the state gross retail tax, as prescribed by the department of state revenue.
- (b) Pursuant to IC 6-9-41-10, the amounts received from the county food and beverage tax imposed under this ordinance shall be paid monthly by the Treasurer of the State to the County Treasurer upon warrants issued by the Auditor of the State.

SECTION 4. ESTABLISHMENT OF NON-REVERTING FUND TO HOLD FOOD AND BEVERAGE TAX RECEIPTS

- (a) Monroe County Fund
 - (1) The County Treasurer shall establish a Food and Beverage Tax Receipts Fund, which shall be a non-reverting fund (the "Tax Receipts Fund").
 - (2) The County Treasurer shall deposit in the Tax Receipts Fund the revenues allocated to the county pursuant to Section 5(a)(1) below.
 - (3) Any money earned from the investment of money in the Tax Receipts Fund becomes part of the Tax Receipts Fund.
 - (4) Money in the Fund at the end of the county fiscal year does not revert to the county general fund.
 - (5) Following establishment of the Tax Receipts Fund, the Monroe County Auditor shall inform the Controller of the City of Bloomington that the Tax Receipts Fund has been established, and request to be informed at such time as the City of Bloomington performs its duty under IC 6-9-41-12 to establish a similar fund for the City of Bloomington.
- (b) City of Bloomington Food and Beverage Fund (Pursuant to IC 6-9-41-12). Following the establishment of the Monroe County Food and Beverage Tax Receipts Fund, the County Auditor shall inform the City Controller that said action has been completed, and request that the City Controller provide notice to the County Auditor when the City of Bloomington Food and Beverage Fund has been established, pursuant to IC 6-9-41-12.
- (c) Monroe County Food and Beverage Fund. Following the establishment of the Tax Receipts Fund, the County Auditor shall establish the Monroe County Food and Beverage Fund, a non-reverting fund for revenue deriving from tax receipts collected in part of the county that is outside the city.

SECTION 5. ALLOCATION OF FOOD AND BEVERAGE TAXES BETWEEN MONROE COUNTY AND CITY OF BLOOMINGTON

- (a) Each month, the County Auditor shall distribute the county food and beverage tax revenue received by the County Treasurer between the City of Bloomington and the County according to the location where the county food and beverage tax was collected. If the Food and Beverage tax was collected in the City of Bloomington, the City must

receive the revenue. If the Food and Beverage tax was collected in the part of the county that is outside the city, the County must receive the revenue.

- (b) Distribution of the food and beverage tax revenue to the City of Bloomington must be on warrants issued by the County Auditor.

SECTION 6. COUNTY FOOD AND BEVERAGE TAX RECEIPTS FUND; USE OF FUND

The County's share of county food and beverage tax revenue deposited in the county Food and Beverage Tax Receipts Fund may be used only to finance, refinance, construct, operate, or maintain a convention center, a conference center, or related tourism or economic development projects.

SECTION 7. CITY OF BLOOMINGTON FOOD AND BEVERAGE TAX RECEIPTS FUND; USE OF FUND

Money deposited in the City of Bloomington Food and Beverage Tax Receipts Fund may be used only to finance, refinance, construct, operate, or maintain a convention center, a conference center, or related tourism or economic development projects.

SECTION 8. ADVISORY COMMISSION

- (a) In order to coordinate and assist efforts of the County and City of Bloomington fiscal bodies regarding the utilization of food and beverage tax receipts, an advisory commission shall be established and be composed of the following individuals:
 - (1) Three (3) members shall be owners of retail facilities that sell food or beverages subject to the county food and beverage tax imposed under this ordinance appointed jointly by the City and County executive.
 - (2) The president of the county executive.
 - (3) A member of the county fiscal body appointed by the members of the county fiscal body.
 - (4) The city executive.
 - (5) A member of the city legislative body appointed by the members of the city legislative body.
- (b) The County and City legislative bodies must request the advisory commission's recommendations concerning the expenditure of any food and beverage tax funds collected under this ordinance. The County or City legislative body may not adopt any ordinance or resolution requiring the expenditure of food and beverage tax collected under this ordinance without the approval, in writing, of a majority of the members of the advisory commission.

SECTION 9. ANNUAL REPORTING

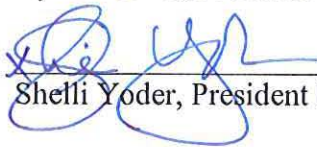
The Advisory Committee is to make a formal annual report to the County Council in February of all projects on which the Food and Beverage Tax has been spent or is planned to be spent.

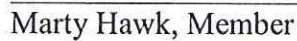
Presented to the Monroe County Council of Indiana, read in full and adopted this **12th day of December, 2017.**


COUNTY COUNCIL OF MONROE COUNTY, INDIANA

Aye

X 
Ryan Cobine, President

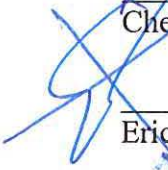
X 
Shelli Yoder, President Pro Tempore


Marty Hawk, Member


Lee Jones, Member

X 
Geoff McKim, Member

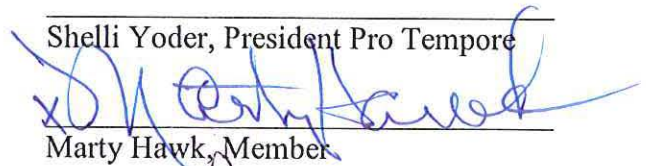
X 
Cheryl Munson, Member

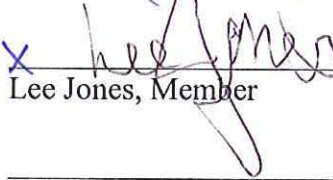

Eric Spoonmore, Member

Nay

Ryan Cobine, President

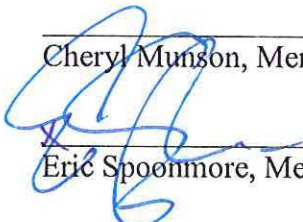
Shelli Yoder, President Pro Tempore

X 
Marty Hawk, Member


X 
Lee Jones, Member

Geoff McKim, Member

Cheryl Munson, Member

X 
Eric Spoonmore, Member

Attest:


Catherine Smith
Monroe County Auditor

ORDINANCE 2024-14
ORDINANCE AMENDING FOOD AND BEVERAGE TAX IN MONROE COUNTY

WHEREAS, on December 12, 2017, the Monroe County Council, pursuant to the authority of Indiana Code §6-3-41 et seq. adopted ordinance 2017-51, “An Ordinance Adopting a Food and Beverage Tax in Monroe County; and,

WHEREAS, during the 2023 State Legislative session code sections impacting the Food and Beverage Tax were added or changed; and

WHEREAS, the Monroe County Council recognizes the importance of amending the 2017 Ordinance establishing the Food and Beverage Tax to incorporate recently codified changes to the Food and Beverage statutes. Accordingly, the Monroe County Council wishes to readopt the Food and Beverage Tax in Monroe County, as previously established by Ordinance 2017-51, and incorporates the 2023 legislative changes.

NOW, THEREFORE, BE IT ORDAINED by the Monroe County Council of Monroe County that the following amendments:

SECTION 1. ESTABLISHMENT OF TAX; APPLICATION OF TAX

- a) Pursuant to the authority granted to the Monroe County Council by the General Assembly of the State, under IC 6-9-41 et seq., and expressly referencing IC 6-9-41-5(a), there is hereby established a county food and beverage tax to be imposed upon any transaction in which food or beverage is furnished, prepared, or served:
 - 1. for consumption at a location, or on equipment provided by a retail merchant;
 - 2. within Monroe County; and
 - 3. by a retail merchant for consideration.

- b) The transactions described in subsection A of this section include transactions in which food or beverage is:
 - 1. served by a retail merchant off the merchant’s premises;
 - 2. food sold in a heated state or heated by a retail merchant;
 - 3. two (2) or more food ingredients mixed or combined by a retail merchant for sale as a single item (other than food that is only cut, repackaged, or pasteurized by the seller, and eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the federal Food and Drug Administration in chapter 3, subpart 3-401.11 of its Food Code so as to prevent food borne illnesses); or food sold with eating utensils provided by a
 - 4. retail merchant, including plates, knives, forks, spoons, glasses, cups, napkins, or straws (for purposes of this subdivision, a plate does not include a container or packaging used to transport the food).

- c) The county food and beverage tax does not apply to the furnishing, preparing, or serving of any food or beverage in a transaction that is exempt, or to the extent exempt, from the state gross retail tax imposed by IC 6-2.5.

- d) **APPLICATION OF TAX.** The tax imposed by this ordinance applies to transactions that occur after the last day of the month that succeeds the month in which the ordinance codified in this chapter is adopted.

SECTION 2. RATE OF TAX

The county food and beverage tax imposed on a food or beverage transaction described in Section 1 above equals one percent (1%) of the gross retail income received by the merchant from the transaction. For the purposes of this ordinance the gross retail income received by the retail merchant from the transaction does not include the amount of tax imposed on the transaction under IC 6-2.

SECTION 3. COLLECTION OF TAX; DISTRIBUTION BY THE STATE

- a) Pursuant to IC 6-9-41-8, the tax imposed by this ordinance shall be imposed, paid, and collected in the same manner that the state gross retail tax is imposed, paid, and collected under IC 6-2.5. However, the return to be filed for the payment of the tax under this chapter may be made separately or may be combined with the return filed for the payment of the state gross retail tax, as prescribed by the department of state revenue.
- b) Pursuant to IC 6-9-41-10, the amounts received from the county food and beverage tax imposed under this ordinance shall be paid monthly by the Treasurer of the State to the County Treasurer upon warrants issued by the Auditor of the State.

SECTION 4. ESTABLISHMENT OF NON-REVERTING FUND TO HOLD FOOD AND BEVERAGE TAX RECEIPTS

- a) Monroe County Fund
 1. The County Treasurer shall establish a Food and Beverage Tax Receipts Fund, which shall be a non-reverting fund (the "Tax Receipts Fund").
 2. The County Treasurer shall deposit in the Tax Receipts Fund the revenues allocated to the county pursuant to Section 5(a)(1) below.
 3. Any money earned from the investment of money in the Tax Receipts Fund becomes part of the Tax Receipts Fund.
 4. Money in the Fund at the end of the county fiscal year does not revert to the county general fund.
 5. Following establishment of the Tax Receipts Fund, the Monroe County Auditor shall inform the Controller of the City of Bloomington that the Tax Receipts Fund has been established, and request to be informed at such time as the City of Bloomington performs its duty under IC 6-9-41-12 to establish a similar fund for the City of Bloomington.
- b) City of Bloomington Food and Beverage Fund (Pursuant to IC 6-9-41-12). Following the establishment of the Monroe County Food and Beverage Tax Receipts Fund, the County Auditor shall inform the City Controller that said action has been completed, and request that the City Controller provide notice to the County Auditor when the City of Bloomington Food and Beverage Fund has been established, pursuant to IC 6-9-41-12.
- c) Monroe County Food and Beverage Fund, following the establishment of the Tax Receipts Fund, the County Auditor shall establish the Monroe County Food and Beverage Fund, a non-reverting fund for revenue deriving from tax receipts collected in part of the county that is outside the city.

SECTION 5. ALLOCATION OF FOOD AND BEVERAGE TAXES BETWEEN MONROE COUNTY AND CITY OF BLOOMINGTON

- a) Each month, the County Auditor shall distribute the county food and beverage tax revenue received by the County Treasurer between the City of Bloomington and the County according to the location where the county food and beverage tax was collected. If the Food and Beverage tax was collected in the City of

Bloomington, the City must receive the revenue. If the Food and Beverage tax was collected in the part of the county that is outside the city, the County must receive the revenue.

- b) Distribution of the food and beverage tax revenue to the City of Bloomington must be on warrants issued by the County Auditor.

SECTION 6: COUNTY FOOD AND BEVERAGE TAX RECEIPTS FUND; USE OF FUND

- a) The County's share of county food and beverage tax revenue deposited in the county food and beverage tax receipts fund may only be used to finance, refinance, construct, operate, or maintain a convention center, a conference center, or related tourism or economic development projects.
- b) The County must develop a written plan before December 1st of each year that includes the:
 - 1. Proposed use of the funds for the upcoming year;
 - 2. Detailed use of funds in the current and prior calendar years; and
 - 3. Fund balance as of January 1 of the current calendar year.
- c) The written plan must be submitted to State Board of Accounts and be made available on the department's computer gateway within thirty (30) days of submission.
- d) The County must spend the money in the county food and beverage tax receipts fund in accordance with the written plan described above. If no funds have been expended from the county food and beverage tax receipts fund in accordance with the written plan before July 1, 2025, then Indiana Code §6-9-41-15.5 applies.
- e) Indiana Code §6-9-41-15.5 is applicable only if the county and the city do not spend from the county and city food and beverage tax receipts fund as required by Indiana Code sections §6-9-41-14(c) and §6-9-41-15(c). When §6-9-41-15.5 applies, the ordinance adopted under Indiana code §6-9-41-5 to impose the food and beverage tax is void and food and beverage tax revenue may not be collected after June 30, 2025. The county may not adopt a new ordinance under section 5 of this chapter after June 30, 2025.
- f) The following apply to the distribution of unexpended money in the county food and beverage and tax receipts fund and city food and beverage tax receipts fund:
 - 1. The county treasurer shall certify to the county auditor the balance in the county food and beverage tax receipts fund; and
 - 2. The city fiscal officer shall certify to the county auditor the balance in the city food and beverage tax receipts fund.
- g) After the county auditor receives the certified fund balances from the county treasurer and city fiscal officer, the county auditor shall distribute before October 1, 2025, the money in each fund accordingly to the ratio that the maximum permissible ad valorem property tax levy under Indiana Code §6-1.1-18.5 for property taxes first due and payable in 2025 for each taxing unit in the county bears to the sum of all maximum permissible ad valorem property tax levies under Indiana Code §6-1.1-18.5 for property tax first due and payable in 2025 in the county.

SECTION 7: CITY OF BLOOMINGTON FOOD AND BEVERAGE TAX RECEIPTS FUND: USE OF FUND.

- a) Money deposited in the city food and beverage tax receipts fund may be used only to finance, refinance, construct, operate, or maintain a convention center, a conference center, or related tourism or economic development projects.
- b) The city must spend the money in the county food and beverage tax receipts fund in accordance with the written plan described above. If no funds have been expended from the county food and beverage tax receipts fund in accordance with the written plan before July 1, 2025, then Indiana Code §6-9-41-15.5 applies.

SECTION 8: ADVISORY COMMISSION

- a) In order to coordinate and assist efforts of the County and City of Bloomington fiscal bodies regarding the utilization of food and beverage tax receipts, an advisory commission shall be established and be composed of the following individuals:
 - 1. Three (3) members shall be owners of retail facilities that sell food or beverages subject to the county food and beverage tax imposed under this ordinance appointed jointly by the City and County executive.
 - 2. The president of the county executive.
 - 3. A member of the county fiscal body appointed by the members of the county fiscal body.
 - 4. The city executive.
 - 5. A member of the city legislative body appointed by the members of the city legislative body.
- b) The County and City legislative bodies must request the advisory commission's recommendations concerning the expenditure of any food and beverage tax funds collected under this ordinance.

SECTION 9: ADVISORY COMMISSION REPORTS

- a) The Advisory Commission shall receive a copy of the annual report filed with the State Board of Accounts by the Auditor no later than March 31st of each year.
- b) The Advisory Commission shall prepare a summary of the previous year's annual report for presentation to Council at its first meeting in May. This summary is recommended to include illustrative graphics summarizing the data contained within the annual report as well as any historical data the Commission elects to include to provide a better understanding of the use of the funds for the public and for transparency.
- c) The Advisory Commission shall make an annual recommendations report outlining the Commission's recommendations to both the County and the City no later than October 31 of each year. The annual recommendations report should provide for projects the Advisory Committee recommends for consideration and for inclusion in the following year's plan which is to be filed in accordance with Section 6 and 7 of this Ordinance by the respective governing bodies.
- d) The annual report shall be filed with the County Commissioners' Office and County Council Office for consideration by the County and the Mayor's Office and City Council's Office for consideration by the City.

SECTION 10: ANNUAL FOOD AND BEVERAGE TAX REPORT

- a) In accordance with Indiana Code §6-1.1-30-19, the Auditor’s Office shall, on behalf of the local unit that imposes the Monroe County Food and Beverage Tax, provide a report to the State Board of Accounts, in the format identified by the State Board of Accounts, before March of every year. The City shall be responsible for providing the Auditor’s Office the necessary information by February 1st of each year. The annual food and beverage tax report shall include:
 1. Each local government entity, or instrumentality of a local governmental entity that received a distribution; and
 2. Every expenditure of funds by each local government entity described above;
 3. from amounts received from the food and beverage tax imposed by the local unit during the previous year.
 4. The report must include for each check, expenditure, distribution, or payment
 - i. The date and amount of the check, expenditure, distribution, or payment
 - ii. The payee or recipient
 - iii. The specific purpose, including whether the check, expenditure, distribution, or payment was for an employee salary or a capital project and
 - iv. If applicable a description of the project for which the check, expenditure, distribution, or payment was made.
- b) Every expenditure of funds by the local unit:
 1. Each local government entity, or instrumentality of a local governmental entity that received a distribution; and
 2. Every expenditure of funds by each local government entity described above;
 3. from amounts received from the food and beverage tax imposed by the local unit during the previous year.
 4. The report must include for each check, expenditure, distribution, or payment
 - i. The date and amount of the check, expenditure, distribution, or payment
 - ii. The payee or recipient
 - iii. The specific purpose, including whether the check, expenditure, distribution, or payment was for an employee salary or a capital project and
 - iv. If applicable a description of the project for which the check, expenditure, distribution, or payment was made.
- c) A copy of the annual report provided to the State Board of Accounts shall also be provided to the Advisory Committee by the Auditor no later than March 31st of each year.

Presented to the Monroe County Council of Indiana, read in full and adopted this **12th** day of **March, 2024**.

(Remainder of page intentionally left blank.)

MONROE COUNTY COUNCIL

Aye Nay Abstain Not Present _____
Trent Deckard, President

Aye Nay Abstain Not Present _____
Jennifer Crossley, President Pro Tempore

Aye Nay Abstain Not Present _____
Marty Hawk, Councilor

Aye Nay Abstain Not Present _____
Peter Iversen, Councilor

Aye Nay Abstain Not Present _____
Geoff McKim, Councilor

Aye Nay Abstain Not Present _____
Cheryl Munson, Councilor

Aye Nay Abstain Not Present _____
L. Kate Wiltz, Councilor

ATTEST:

Brianna Gregory, Auditor
Monroe County, Indiana

Date

Memorandum of Understanding

Between

CITY OF BLOOMINGTON

And

MONROE COUNTY GOVERNMENT

MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING (“MOU”) is entered into by and between the City of Bloomington (“City”), and Monroe County Government, by its Board of Commissioners (“County”).

WHEREAS, the Monroe County Convention/Civic Center (“Center”) building was built in 1923 for the Graham Motor Sales company and converted to a Convention/Civic Center in 1991; and

WHEREAS, the Convention/Civic Center is the second most sought after destination for groups seeking to hold events of significant size in Indiana, surpassed only by the Indiana Convention Center; and

WHEREAS, people attending events at the Convention/Civic Center also patronize restaurants and shops in the City of Bloomington, and the resulting combined impact on the local economy over the past twenty-five (25) years is estimated at approximately \$256 million; and

WHEREAS, the Convention/Civic 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, including approximately forty (40) groups in 2016 alone that could not be accommodated; and

WHEREAS, the County and the City agree that an expanded Convention/Civic Center would provide civic benefits such as more meeting space and a greater variety of events, as well as significantly enhance the local economy through additional visitors to the area and increased employment opportunities; and

WHEREAS, the County and City agree that a project to expand the Convention/Civic Center requires their collaboration, and that a project is unlikely to move forward without the availability 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 is being collected since February 1, 2018; and

WHEREAS, the City and County agree that selection of an Architect to oversee the Convention/Civic Center Expansion Project is the next step to an expanded Convention/Civic Center.

NOW THEREFORE, THE PARTIES AGREE AS FOLLOWS:

Section 1. Project

The City and County agree to collaborate on a Project to expand the Convention/Civic Center and provide for related supporting infrastructure (such as

parking, water/sewer, connectors, roadways, etc.) (the “Project”) for the benefit of the County, the City, their collective residents and the surrounding region.

Pursuant to Ordinance 2017-51 Section 5, Allocation of Food and Beverage Tax Between Monroe county and the City of Bloomington, both parties agree to distribute 90% of the revenue to the City of Bloomington and 10% of the revenue to the County until such time as the Monroe County Auditor is able to ascertain the location of the collection within the State distribution. Once the Auditor is able to distribute the money based upon collection locations, the County and the City of Bloomington, will correct the 90%-10% distributions as appropriate. Both parties recognize that the food and beverage tax distribution is based upon the point of collection, i.e. the restaurants, gas stations, etc., and not where the payor of the tax resides.

Section 2. City Use of Food and Beverage Tax Revenue

The County adopted an ordinance approving a Food and Beverage Tax, with City Council support via Resolution and the City hereby pledges that, subject to Section 5 below and I.C. § 6-9-41-16, the monthly tax revenue distributed under I.C. § 6-9-41-13 (“Tax Allocation”) to the City shall be used in accordance with I.C. § 6-9-41-15 for the following purposes:

- Construction and/or renovation of a convention/civic center, including all associated costs with the design.
- Financing or refinancing of a convention/civic center
- Operation of a convention/civic center
- Maintenance of a convention/civic center

Section 3. County Use of Food and Beverage Tax Revenue

The County adopted an ordinance approving a Food and Beverage Tax, and the County and City have pledged that, subject to I.C. § 6-9-41-16, the County may use one hundred percent (100%) of the Tax Allocation to the County in accordance with I.C. § 6-9-41-14 for related tourism or economic development projects

Bonds sold for construction of the Project facility may require contingent pledging of annual revenue from the full F&B revenues for appropriate debt-service coverage.

Section 4. Other Uses of Food and Beverage Tax Revenue

The County and City agree that the City may use up to 7.5% of its Tax Allocation for related tourism or economic development projects that support the civic center expansion project, as permitted under I.C. § 6-9-41-15. The balance of the City allocation will be used solely to support items stated in Section 3. At such time as the construction aspect of the Project is completed and all costs of the construction aspect of the Project have been paid, the first priority of the funding will be to supplement the Inn Keepers tax

for the necessary expenses, as determined by the Advisory Commission, for operation and maintenance of the Project. Any Tax Allocation in excess of that may be used for related tourism or economic development projects as allowed under I.C. § 6-9-41-12 and appropriately authorized under I.C. § 6-9-41-16.

Section 5. Food and Beverage Advisory Commission

As required under I.C. § 6-9-41-16, the parties shall set up an Advisory Commission composed of the members specified in the statute to “assist efforts of the county and city fiscal bodies regarding the utilization of food and beverage tax receipts.” The City executive shall select two (2) of the three members identified in I.C. § 6-9-41-16(a)(1), and the County executive shall select one (1) of the three members identified in I.C. § 6-9-41-16(a)(1).

Section 6 Convention and Civic Center Accountability Committee

The City and County shall set up a Convention and Civic Center Steering Committee for Accountability (or Steering Committee) with the following composition and authority:

A. Membership: The Steering Committee shall include nine (9) regular members appointed by both entities as follows:

- 1) City Council Member
- 2) County council member
- 3) Mayor
- 4) Commissioner
- 5) County Commissioners’ resident appointment
- 6) County Commissioners’ resident appointment
- 7) Mayor’s resident appointment
- 8) Mayor’s resident appointment
- 9) Resident appointment jointly agreed upon by the County Commissioners and Mayor.

Each Elected Commission and Council member appointment (1,2, and 4 above) shall be appointed by their respective bodies, and shall be subject to the guidelines, if any, imposed by the appointing body, including, but not limited to, the ability to appoint a proxy. However, any proxy must meet the same qualifications as the member.

The County shall designate one of its resident appointments and the City shall designate one of its resident appointments to serve as Co-Chairpersons of the Steering Committee.

All communications to architect, prior to the recommendation of the Architect selection to the contracting entity, shall be done at the direction of the Chairpersons.

The resident appointments serve at the pleasure of the appointing body.

B. Duties:

1. Review, recommend, and oversee the selection and work of the Architect for the Project.

In order to assure accountability to their constituents, the selection of the architect for the Convention/Civic Center must be approved by a majority vote of the four elected officials on the Steering Committee before the item may be considered by either entity.

This Section notwithstanding, nothing, including the Commission, shall override or circumvent the authority of statutory entities required to review and approve contracts, financing, petitions, applications, permits, or any other mandatory processes.

Section 7: City and County Responsibilities

The City will be responsible for the following:

1. Contracting and the payment for appropriate expenses for the Architect.
2. Providing list of stakeholders and other relevant entities that should provide input during design phase of the Project.

The County will be responsible for the following:

1. Provide list of stakeholders and other relevant entities that should provide input during design phase of the Project.
2. Providing Staff for the Steering Committee.

Both City and County agree to negotiate, in good faith, the future phases of the project including, but not limited to, the construction and operation phases.

Section 8. Definitive Agreement

The parties have executed this MOU to signify their joint commitment to pursuing and funding the Project in full collaboration on behalf of the entire community and region.

Section 9. Notices

Notice given by either party to the other under this MOU shall be in writing and delivered at the addresses provided below:

CITY

City of Bloomington Legal Department
401 North Morton, Suite 220
Bloomington, Indiana 47404
(812) 349-3426 (phone)
(812) 349-3441 (fax)

COUNTY

Monroe County Attorney's Office
Courthouse, Room 220
Bloomington, Indiana 47404
(812) 349-2525 (phone)
(812) 349-2982 (fax)

Section 10. Authority of Parties

Each party warrants that it is authorized to enter in this MOU, that the person signing on its behalf is duly authorized to execute the MOU, and that no other signatures are necessary.

Section 11. Counterparts

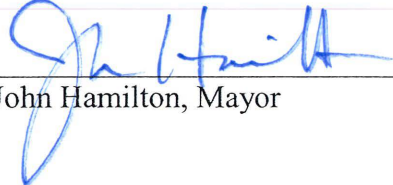
The parties may execute this MOU in counterparts, each of which is deemed an original and all of which constitute only one original.

Section 12. Other Considerations

City and County mutually agree that all news/press releases and other forms of communication about the Project will be jointly prepared and released.

IN WITNESS WHEREOF, the parties hereto have caused this MOU to be executed for and on their behalf the day and year first hereinafter written.

CITY



John Hamilton, Mayor

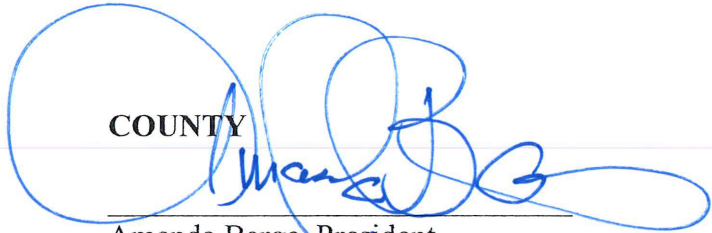
Attest:



Nicole Bolden, Clerk

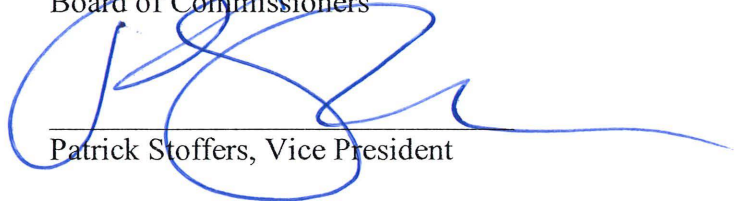
Date: 10/12/18

COUNTY



Amanda Barge, President
Board of Commissioners

Amanda Barge, President
Board of Commissioners

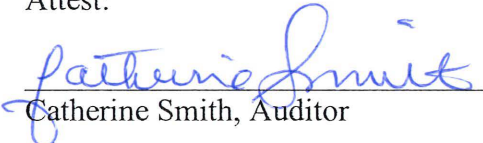


Patrick Stoffers, Vice President

Patrick Stoffers, Vice President

Julie Thomas, Commissioner

Attest:



Catherine Smith, Auditor

Date: Oct 10, 2018

City of Bloomington Food & Beverage Funds Plan for 2024

This submission constitutes the City of Bloomington's written plan required by Ind. Code 6-9-41-15(b), regarding the use of the City's portion of Food & Beverage tax revenue ("F&B funds") to "finance, refinance, construct, operate, or maintain a convention center, a conference center, or related tourism or economic development projects."

Background

On December 12, 2017, exercising authority granted to it by the Indiana General Assembly under Indiana Code 6-9-41 et seq., the Monroe County Council passed Ordinance 2017-51, An Ordinance Adopting a Food and Beverage Tax in Monroe County.

Ordinance 2017-51 provides that a one percent (1%) tax will be imposed on gross revenue of establishments selling prepared foods and beverages in the county, and that the revenue will be divided between the City and County based on where the tax is collected. In accordance with Ind. Code 6-9-41-12, the City created a Food and Beverage Tax City Fund, Number 152, into which City F&B funds are deposited.

Ordinance 2017-51 also established the Food and Beverage Tax Advisory Commission (FABTAC), in accordance with Ind. Code 6-9-41-16, to "coordinate and assist efforts of the County and City of Bloomington fiscal bodies regarding the utilization of food and beverage tax receipts...."

In 2018, the City and County entered into a Memorandum of Understanding to collaborate on a convention center expansion and related supporting infrastructure. The MOU focused on the initial project stage of selecting an architect to propose a design for the expansion, set up a jointly appointed steering committee to do the same, and among other things, allocated the City responsibility for contracting and paying for architect expenses.

In 2019, the FABTAC recommended and the City of Bloomington Common Council approved F&B fund appropriations for Phase 1 architecture and design services for the convention center expansion, and related bond counsel and financial adviser services.

In 2019, the City entered into three agreements with Schmidt Associates, an Architectural and Engineering Services firm, and its lead subconsultant, Convergence Design. The first agreement, executed February 22, 2019, authorized Phase 1 services related to the convention center expansion. These services consisted of conceptual and design work and related analyses, market demand analysis, and extensive community engagement, and were completed in fall 2019.

The second agreement, executed December 20, 2019, provided for Schmidt and Convergence to perform Phase 2 architecture and engineering design services for the design, bidding, plan review, and construction of the convention center expansion, with work to begin after a Capital

Improvement Board (CIB) is established and, “by mutual agreement of the City and Monroe County, is adequately staffed and prepared to begin operations.”

The third agreement, also executed on December 20, 2019, provided for similar Phase 2 architecture and engineering design services for a parking garage to support the expanded convention center.

The project was paused during the COVID-19 pandemic, and with the support of the FABTAC and the Common Council, the City established a “Rapid Response Loan Fund” to provide loans and/or grants to support local food and beverage and tourism-related enterprises and cultural organizations that were suffering financial hardship due to the pandemic and state-ordered shutdowns. This Fund’s purpose was to sustain the continued survival of local businesses and organizations that support tourism in the City and that are crucial to the viability of the convention center expansion.

As the pandemic subsided, the City and County resumed efforts to move the project forward.

On July 5, 2023, the Monroe County Commissioners issued Ordinance 23-20 establishing a Capital Improvement Board (CIB) with members chosen by the County and the City, to manage the design and construction of an expanded convention center and to manage its operations upon completion of construction.

The City and County have negotiated an interlocal agreement that provides for collaborative support of this effort and for the CIB and the Convention and Visitors Commission (CVC), which manages the Monroe County Innkeeper’s Tax funds used to maintain and operate the existing (and later, expanded) convention center.

The Mayor and the Common Council approved and signed this agreement on November 17. The agreement now awaits approval and signature by the Monroe County Council and Monroe County Commissioners.

Fund balance as of January 1, 2023

The balance of the City’s F&B fund as of January 1, 2023, was \$13,096,639.44. Since January 1, 2023, the City has received an additional \$3,410,127.74 in F&B funds and earned \$9,951.86 in interest, for a current total (as of October 31, 2023) of \$3,420,079.60.

Prior and current year use of F&B funds

To date, the FABTAC has approved and the Common Council has appropriated the following “not to exceed” amounts of City F&B funds for the uses described below:

2019: \$350,000.00 for Phase 1 costs for architecture and engineering services related to convention center expansion

\$200,000.00 for Phase 1 costs for bond counsel and financial adviser services related to convention center expansion

\$6,250,000.00 for Phase 2 costs for architecture and engineering services related to convention center expansion and a parking garage supporting convention center expansion (the City applied this as an NTE of \$4,115,000.00 for the convention center expansion and an NTE of \$1,485,000.00 for the parking garage)

2020: \$2,000,000.00 for the City's Rapid Response Loan Fund

The City has made the following actual expenditures of F&B funds since the establishment of the Food and Beverage tax:

2018: None

2019: \$26,828.92 (Phase 1 bond counsel services provided by Barnes & Thornburg)
\$28,000.00 (Phase 1 financial adviser services provided by O.W. Krohn & Associates LLP)
\$8,500.00 (survey related to Phase 1 architecture and engineering services, provided by Precision Point, Inc.)
\$208,565.55 (Phase 1 architecture and engineering services, provided by Schmidt Associates)

\$271,894.47 – total 2019 F&B funds expenditure

2020: \$1,416,600.00 (Rapid Relief Loans)
\$475.68 (Phase 1 bond counsel services/legal advice provided by Barnes & Thornburg)

\$1,417,075.68 – total 2020 F&B funds expenditure

2021: \$122,500.00 (Rapid Relief Loans)

\$122,500.00 – total 2021 F&B funds expenditure

2022: None

As indicated above, the City applied a total of \$1,539,100.00 in F&B funds to Rapid Response loans during 2020-21. As of November 28, 2023, loan recipients have repaid the City \$736,672.44 of those F&B funds, or 48% of the total. The City continues to work with loan recipients on repayments.

Proposed 2024 use of F&B funds

The City included a \$250,000 appropriation of F&B in its 2024 budget to support Convention Center expansion activities. The Common Council approved the City's budget, with this reservation of F&B funds for such activities, on October 11, 2023.

In 2024, the City anticipates using these F&B funds for the following purposes, in coordination with the FABTAC and Common Council:

1. To pay the expenses associated with creating a nonprofit building corporation to issue debt in support of design and construction of the Convention Center expansion.
2. Under an appropriate agreement with the CIB, to pay the CIB's personnel and administrative expenses during the design and construction phase of the expansion project, including the hiring of counsel and a controller.

Additionally, if the CIB wishes to acquire certain real property owned by the City's Redevelopment Commission for the convention center expansion, then depending on negotiations between the CIB and the RDC, some portion of City F&B funds may be used to help the CIB acquire that property.

Finally, and under an appropriate agreement with the CIB, the City anticipates drawing on already-appropriated funds to pay for Phase 2 architecture and engineering services as the project moves ahead.

If you have questions or require further information, please contact Jeffrey Underwood, City Controller, at underwoj@bloomington.in.gov, or Beth Cate, Corporation Counsel, at beth.cate@bloomington.in.gov.

**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 21st day of February, 2024, 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 and 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 MEMBERSHIP

Section 1. APPOINTMENTS

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.

Section 2. RESTRICTIONS

No members of the CIB may be elected officials of or employees of either the County or the City, Visit Bloomington, Convention and Visitors Commission, Food & Beverage Tax Advisory Commission, 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.

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.

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, and if necessary, the City Building Corporation 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.

Section 9. Compliance with Monroe Couty Ordinance 2023-24. Nothing in this interlocal is meant to contradict or supplant Monroe County Ordinance 2023-24, which is attached to this Interlocal as Exhibit A.

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




Julie Thomas, President



Kerry Thomson, Mayor



Penny Githens, Vice President



Lee Jones, Member

ATTEST: (Dated: 2/21/2024)


Brianna Gregory, Auditor
Monroe County, Indiana

CITY OF BLOOMINGTON COMMON COUNCIL



Isabel Piedmont-Smith, President

ATTEST:




Nicole Bolden, Clerk
City of Bloomington

MONROE COUNTY COUNCIL



Trent Deckard, President

ATTEST:



Brianne Gregory, Auditor
Monroe County



Monroe County Board of Commissioners Agenda Request Form

Date to be heard Formal Work session Department

Title to appear on Agenda: Vendor #

Executive Summary:

This Interlocal agreement was approved by the County Council on February 13, 2024. It explains the interactions with the City and County as it relates to the Capital Improvement Board and Convention Center Expansion project.

Fund Name(s):	Fund Number(s):	Amount(s)
<input type="text" value="NA"/>	<input type="text" value="NA"/>	<input type="text" value="NA"/>

Presenter:

Speaker(s) for Zoom purposes:

Name(s)	Phone Number(s)
<input type="text"/>	<input type="text"/>

(the speaker phone numbers will be removed from the document prior to posting)

Attorney who reviewed:

ORDINANCE 2024-11

An Ordinance Approving the Interlocal Cooperation Agreement between the City of Bloomington and Monroe County, Indiana, regarding the Capital Improvement Board.

WHEREAS, the City of Bloomington, Indiana ("City") and the County of Monroe, Indiana ("County"), desire to enter interlocal agreement ("Agreement") which authorizes the purchase of vehicle pursuit intervention devices; and

WHEREAS, the form of the Agreement has been developed and is attached to this Ordinance as Exhibit A;

WHEREAS, the County, acting by and through its Board of Commissioners, hereby finds that the Agreement promotes the public interest and should be approved;

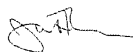
NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of Monroe County, Indiana, that the Exhibit A shall be, and hereby is, approved.

Approved this 21st day of February, 2024, by the Board of Commissioners of Monroe County.

MONROE COUNTY BOARD OF COMMISSIONERS

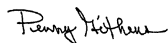
"AYES"

"NAYS"



Julie Thomas, President

Julie Thomas, President



Penny Githens, Vice President

Penny Githens, Vice President



Lee Jones, Commissioner

Lee Jones, Commissioner

ATTEST:

Brianna Gregory, Auditor

RESOLUTION 2024-07

A Resolution Approving the Interlocal Cooperation Agreement between the City of Bloomington and Monroe County, Indiana, in regards to Capital improvement Board.

WHEREAS, be it resolved that the Monroe County Commissioners passed, An Interlocal Cooperation Agreement between Monroe County, Indiana and City of Bloomington regarding the Building Code Authority("Interlocal"), and;

WHEREAS, the Ordinance approving the Interlocal agreement is as "Exhibit A" and,

WHEREAS, the Monroe County Council has reviewed and approves of the Interlocal.

BE IT THEREFORE RESOLVED, that the Monroe County Council approves the Interlocal Cooperation Agreement between Monroe County, Indiana and City of Bloomington regarding the Capital Improvement Board.

This Resolution was presented and approved to Monroe County Council on February 13, 2024.

MONROE COUNTY COUNCIL

[x] Aye [] Nay [] Abstain [] Not Present [Signature] Trent Deckard, President

[x] Aye [] Nay [] Abstain [] Not Present [Signature] Jennifer Crossley, President Pro Tempore

[x] Aye [] Nay [] Abstain [] Not Present [Signature] Marty Hawk, Councilor

[x] Aye [] Nay [] Abstain [] Not Present [Signature] Peter Iversen, Councilor

[x] Aye [] Nay [] Abstain [] Not Present [Signature] Geoff McKim, Councilor

[x] Aye [] Nay [] Abstain [] Not Present [Signature] Cheryl Munson, Councilor

[x] Aye [] Nay [] Abstain [] Not Present [Signature] L. Kate Wiltz, Councilor

ATTEST:

[Signature] Brianne Gregory, Auditor Monroe County, Indiana

2/13/2024 Date

ORDINANCE 2023-24

**AN ORDINANCE OF THE MONROE COUNTY BOARD OF COMMISSIONERS
CREATING A CAPITAL IMPROVEMENT BOARD TO DIRECT
CONVENTION CENTER SITE SELECTION, DESIGN, CONSTRUCTION, AND OPERATIONS**

WHEREAS, Monroe County Government established, maintained, and has operated the Monroe Convention Center (“Convention Center”) for more than thirty years, using Innkeeper’s Tax Funds provided for by Indiana Code 6-9-4 et seq. and appropriated by the Monroe County Council (“County Council”); and,

WHEREAS, the Monroe County Board of Commissioners (“Commissioners”) have purchased real property, funded through bonds and appropriations approved by the County Council, for the expansion of the Convention Center; and,

WHEREAS, the Indiana General Assembly enabled the County Council to enact a County Food and Beverage Tax in 2009, with the passage of P.L. 176-2009, SEC. 21; and,

WHEREAS, the County Council, relying upon assurances of collaboration and partnership issued by the City of Bloomington Common Council and Mayor of Bloomington, the County Council adopted Ordinance 2017-51, which authorized the Monroe County Food and Beverage Tax (“Tax”); and,

WHEREAS, local enabling Ordinance 2017-51 confirmed and affirmed the state-law provisions providing for a Food and Beverage Advisory Commission (“Commission”) to *“coordinate and assist efforts of the County and City of Bloomington fiscal bodies”* and requiring legislative action to seek and receive the Commission’s recommendations of all expenditures prior to the legislative approval of any expenditures of Tax proceeds; and,

WHEREAS, the Commissioners wish to follow state law procedures and those procedures which are required by Ordinance 2017-51, including reliance upon Commission to coordinate and assist the City and the County Council regarding the utilization of Tax receipts and requiring legislative oversight and action, which may not be contradicted or delegated under the guise of Indiana’s Home Rule authority; and,

WHEREAS, the Commissioners, County Council, City, and Mayor (“Elected Officials”) met on at least three occasions in 2019 in order to resolve issues regarding construction and future operation and management of the Convention Center; and,

WHEREAS, the discussions were delayed due to the COVID-19 pandemic; and,

WHEREAS, in 2022, the City of Bloomington expressed a wish to move forward with the project and expressed urgency due to the possibility of state legislation which would rescind the local Food and Beverage Tax; and,

WHEREAS, the City’s offer did not reflect the status of the negotiations from 2019 with the Commissioners; and,

WHEREAS, the Commissioners wish to move forward with the 2019 structure, which included a CIB, however, there is a concern that the City does not; and,

WHEREAS, a Capital Improvement Board (“CIB”), discussed by the Elected Officials and authorized pursuant to Indiana Code 36-10-8 et seq., is a natural option to direct Convention Center site selection, design, construction, and operations, as it is a governmental entity created for this very purpose, protected by the Tort Claims Act, and completely transparent and publicly accountable; and,

WHEREAS, the Commissioners do not support the creation of an independent 501c3 corporation, due to the lack of legally-required transparency, the lack of Tort Claim liability protection, and the inherent risks that are associated with the “flexibility” provided to a 501c3; and,

WHEREAS, the Commissioners wish to see the Convention Center expansion and its ongoing operations advance and be directed by a bipartisan, neutral CIB, which is composed of appointments made by the City and County, who are empowered under state law and Ordinance 2017-51; and,

WHEREAS, the Commissioners look forward to working with their City colleagues to expeditiously move forward making appointments to a CIB so that the Convention Center expansion may proceed, and the process no longer stalled.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF MONROE COUNTY, INDIANA.

Section 1. A Capital Improvement Board ("CIB") is hereby created, pursuant to Indiana Code 36-10-8 et seq. to manage and direct the affairs of the Monroe County Convention Center ("Convention Center") and its expansion.

Section 2. 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, such appointment must comply with IC 36-10-8-4 (b). 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 ending on January 15, 2024. All other and subsequent appointments will be two-year appointments to the CIB.

Section 3. The CIB shall have all authority permitted by law, however, the CIB shall not be allowed to employ or have appointed to the Board of Directors any Monroe County or City of Bloomington elected officials, employees, or board members who oversee any potential local governmental funding stream, such as Redevelopment funds, Innkeepers tax, or Food and Beverage Tax. It is the intent of the Commissioners, with this limiting provision, to avoid conflicts of interest and to ensure independent and fair decision-making by the CIB.

Section 4. The CIB shall select the site for the expansion of the Convention Center expansion components, including a site plan, select and contract with the operation and management organization(s), oversee process for hotelier partner selection, name the expanded center, hire/retain support staff, and the need for additional amenities including a parking garage.

Section 5. In accordance with Section 3 and 4, this ordinance is subject to both the City of Bloomington and the Monroe County Officials to perform statutory functions. The Commissioners vow to work with their colleagues at the City to transfer the necessary real property for the actual expansion, execute all agreements, and take any/all steps necessary in order to allow the CIB to fulfill the statutory duties contained in Indiana Code 36-10-8 et seq., including the financing, construction, equipping, operating, and maintaining of the capital improvements that are and will be a part of the Monroe County Convention Center. The building and parking lot currently utilized for County Election Operations will not be made available until the conclusion of the November General Election in 2024.

Section 6. This Ordinance takes effect upon passage by the Commissioners.

Approved this 5th day of July 2023, by the Board of Commissioners of Monroe County, Indiana.

MONROE COUNTY BOARD OF COMMISSIONERS

"AYES"

Penny Githens 7/6/2023

Penny Githens, President

Julie Thomas 7/6/2023

Julie Thomas, Vice President

Lee Jones 7/7/2023

Lee Jones, Member

"NAYS"

Penny Githens, President

Julie Thomas, Vice President

Lee Jones, Member

ATTEST:

Catherine Smith
Catherine Smith, Auditor

Monroe County Capital Improvement Board

2024 BUDGET MEMORANDUM

March 1, 2024

Revised March 14, 2024

To: Members of the City of Bloomington Common Council
From: John Whikehart, President
Eric Spoonmore, Treasurer
Jeffrey Underwood, Controller/Assistant Treasurer

Re: 2024 Budget

We would like to first thank you and Mayor Thomson for all your hard work and approval of the interlocal agreement. The completion of that agreement allows the Board to continue the process for the expansion of the convention center.

As the next step in that process, we are submitting our proposed 2024 budget for the Council's review and approval. This proposal aligns with the \$250,000 that the Council appropriated as a part of the City's overall 2024 budget. Once approved, this will allow the Board to provide for internal staff support, operating expenses and outside professional assistance related to next steps leading up to the design and construction of an expanded Convention Center.

Much of this request is contained in Category 3 – Services:

Professional Services-Internal includes services that would be provided by the Board's Attorney, Controller and other support as may be necessary.

Professional Services-External includes services such as Owner's Representative, Construction Manager, and other professional services including possible update, if necessary, of the market analysis.

"Other" includes services such as, but not limited to, design and maintenance of Website.

As we move forward in this process additional funds and an updated budget may be necessary for the Council's review, approval, and appropriation. We look forward to the opportunity to present this proposed budget and appreciate your deliberations of this request.

Monroe County Capital Improvement Board
2024

Category 1 - Personnel Services		0
Category 2 - Supplies		1,000
Category 3 - Services		249,000
	Professional Fees-Internal	130,000
	Professional Fees - External	50,000
	Architectural & Design Fees	50,000
	Insurance	15,000
	Other	4,000
Category 4 - Capital		<u>0</u>
Total		<u><u>250,000</u></u>