

COOPERATIVE AGREEMENT

AMONG

THE FRANKLIN COUNTY CONVENTION FACILITIES AUTHORITY,

COUNTY OF FRANKLIN, OHIO

AND

CITY OF COLUMBUS, OHIO

DATED AS OF:

JANUARY 1, 2010

## INDEX

(This Index is not a part of the Agreement  
but rather is for convenience of reference only.)

[Text to Follow]

THIS COOPERATIVE AGREEMENT (this "Agreement"), made and entered into as of the Effective Date as defined herein, by and among (i) THE FRANKLIN COUNTY CONVENTION FACILITIES AUTHORITY (the "Authority"), a body corporate and politic, duly organized and validly existing under the laws of the State of Ohio (the "State"), (ii) the COUNTY OF FRANKLIN, OHIO (the "County"), a county and political subdivision of the State, duly organized and validly existing under the laws of the State, and (iii) the CITY OF COLUMBUS, OHIO (the "City", and together with the Authority and the County, the "Parties", and each a "Party"), a municipal corporation and political subdivision of the State, duly organized and validly existing under its Charter and the laws of the State, under the circumstances described herein (all words and terms used herein with initial capital letters being used as defined in Article I of this Agreement):

WHEREAS, the Parties have heretofore entered into the Memorandum of Understanding, setting forth certain understandings and undertakings relating to the acquisition, construction, installation and equipping of the Project; and

WHEREAS, the Project is necessary in order to provide an adequate number of convention-quality hotel rooms and convention space to attract more and larger conventions to the Authority's existing convention facilities and other hotels in the City and the County, resulting in substantial public and economic benefits to the Parties and their respective citizens, and therefore, the leasing and subleasing of the Project pursuant to the County Lease and the CFA Sub-Lease, respectively, the entering into this Agreement, and the issuance of the Bonds, will be in the best interests of the Parties; and

WHEREAS, the Parties desire to make such agreements as are necessary and appropriate to proceed with the implementation of the authorizations and agreements contained in the Memorandum of Understanding relating to the Project, the issuance of the Bonds and the respective contributions to be made by the Parties toward the financing of the Project, and accordingly the Parties have determined to enter into this Agreement on the terms as hereinafter set out;

NOW THEREFORE, in consideration of the premises and the mutual representations and agreements hereinafter contained, the Parties agree as follows.

## ARTICLE I

### DEFINITIONS

Section 1.1. Use of Defined Terms. When used in this Agreement, the following words shall have the indicated meanings. Such definitions shall be equally applicable to both the singular and plural forms of any of the words and terms defined therein.

Section 1.2. Definitions. As used herein:

“Act” means Chapter 351 of the Ohio Revised Code.

“Additional Bonds” means any Bonds issued on a parity with the Improvement Bonds as "Additional Bonds" upon the terms and conditions set forth in the Indenture.

“Agreement” means this Cooperative Agreement as amended and supplemented from time to time in accordance with its terms.

“Authority” means The Franklin County Convention Facilities Authority.

“BABs Payments Fund” means the fund by that name created by the Indenture.

“Bond Documents” means, collectively and individually, the Indenture and any other agreements, including Credit Support Instruments, entered into by the Authority to authorize or secure any series of Bonds.

“Bond Legislation” means (a) with respect to the Improvement Bonds, Resolution No. 2009-26 adopted by the Governing Body of the Authority on October 6, 2009, (b) with respect to Additional Bonds, such Resolution No. 2009-26 to the extent applicable and the other resolution providing for the issuing of such Additional Bonds, and (c) with respect to Additional Bonds when other Additional Bonds are outstanding, such Resolution No. 2009-26 and the resolutions providing for the issuance of the Additional Bonds, to the extent applicable, each as the same may from time to time be lawfully amended, modified or supplemented.

“Bond Payment Date” means, as to the Improvement Bonds, June 1 and December 1 of each year, commencing June 1, 2010, and as to any Additional Bonds, any dates defined as such in the Bond Legislation authorizing such Bonds.

“Bond Payment Fund” means the fund by that name created by the Indenture.

“Bond Service Charges” means, for any period or payable at any time, the principal of and interest and any premium due on the Bonds for that period or payable at that time, whether due at maturity or upon redemption, and includes any payments required by the Authority to satisfy any of its obligations to a Credit Support Provider in connection with any Credit Support Instrument.

“Bond Year” means the twelve-month period from each December 1 to the next succeeding November 30, commencing December 1, 2010.

“Bonds” means, collectively and individually, the Improvement Bonds and any Additional Bonds.

“Build America Bonds” means any Improvement Bonds designated by the Authority at the time of their initial issuance to be "Build America Bonds" which are "qualified bonds" (direct payment to issuer), as permitted by the American Recovery and Reinvestment Act of 2009 and the Code, particularly Sections 54AA and 6431 of the Code.

“Business Day” means any day other than a day on which the Trustee or any Paying Agent, as defined in the Indenture, is required, or authorized or not prohibited, by law (including executive orders) to close and is closed.

“CFA Bond Fund” means the "Hotel Project Bond Fund" created by the Indenture and referred to in Section 5.1 hereof.

“CFA Bond Fund Residual” means any moneys remaining in the CFA Bond Fund after making the transfers required by paragraphs FIRST through FOURTH, inclusive, of Section 5.4 hereof, as of the date in question.

“CFA Contribution” means the payments of Operation and Maintenance Fund Residuals and the CFA Ground Lease Rents to the Rental Reserve Fund pursuant to Sections 2.10 and 2.11 hereof for the period in question.

“CFA Excise Tax” means the "Taxes" as defined in the Prior Indenture for the period in question.

“CFA Ground Lease Rents” means moneys received as rent by the Authority as lessor pursuant to the following leases for properties in Columbus, Ohio, as previously or hereafter amended, except for amounts paid as reimbursements of or reserves against taxes, assessments, insurance, maintenance and other costs of ownership:

(a) That certain Lease Agreement dated December 23, 1978 between the City and The Greater Columbus Convention Center for Community Urban Redevelopment, then known as the Battelle Commons Company for Community Urban Redevelopment, as lessors, and Columbus Hotel Community Urban Redevelopment Corporation, as lessee, recorded in Lease Volume 225, Page 231, Recorder's Office, Franklin County, Ohio, the Authority having succeeded to the rights of the lessor thereunder pursuant to a certain Master Lease Agreement dated as of November 27, 1996 between the City, as lessor, and the Authority, as lessee, recorded in Official Record 33707A01, Recorder's Office, Franklin County, Ohio, a Convention Facility Transfer Agreement dated as of December 18, 1996 among the City, The Greater Columbus Convention Center for Community Urban Redevelopment and the Authority, and a certain Lease Termination Agreement and Amendment of Financial Agreement dated effective as of December 31, 1996 between the City and The Greater Columbus Convention Center for Community Urban Redevelopment, recorded in Official Record 33907J13, Recorder's Office, Franklin County, Ohio, pertaining to the Hyatt Regency Hotel, 350 North High Street, Columbus, Ohio;

(b) That certain Lease Agreement dated as of February 20, 2001, originally between Authority as lessor and Drury Inns, Inc., a Missouri corporation, (as previously or hereafter amended, the "Lease"), a memorandum of which was recorded in the Recorder's Office, Franklin County, Ohio as Instrument No. 200102220036066, pertaining to the Drury Inn hotel on Nationwide Boulevard near Third Street in Columbus, Ohio, and

(c) That certain Ground Lease dated as of December 17, 1998 between Authority as lessor and Capitol South Community Urban Redevelopment Corporation as lessee, a memorandum of which was recorded as Instrument No. 199902030028297 Recorder's Office, Franklin County, Ohio, pertaining to the Hyatt Regency Hotel, 350 North High Street, Columbus, Ohio.

"CFA Hotel Project Funds" means the Rental Reserve Fund, the CFA Bond Fund and the Ground Lease Rents Fund.

"CFA Project Excise Tax Proceeds" means an amount equal to the CFA Excise Tax derived from the Project for the period in question.

"CFA Rent" has the meaning assigned to it in the CFA Sub-Lease.

"CFA Rent Payment Date" means the 10th day of the month immediately preceding each Bond Payment Date, commencing [First CFA Rent Payment Date], 2012.

"CFA Sub-Lease" means the Sub Lease Agreement by and between the County, as sublessor, and the Authority, as sublessee, of even date with the County Lease, pursuant to which the County has subleased the Project to the Authority, as the same may be amended and supplemented from time to time in accordance with its terms.

"City" means the City of Columbus, Ohio.

"City Contribution" means, collectively, the City Excise Tax Contribution and the City Parking Meter Contribution for the period in question.

"City Excise Tax" means, collectively, (i) the excise tax of two and one-tenth percent (2.1%) and (ii) the excise tax of three percent (3%), both levied by the City on transactions by which lodging is or is to be furnished to transient guests by hotels in the City pursuant to Chapter 371 of the City Code, as amended by Ordinance No. \_\_\_\_\_-09, and includes the proceeds of any similar excise tax on lodging levied by the City pursuant to any successor to such Chapter or Ordinance.

"City Excise Tax Contribution" means the payments by the City of the City Excise Tax to the CFA Bond Fund pursuant to Section 3.4(a) hereof.

"City Incremental Parking Meter Receipts" means the amount of City Parking Meter Charges resulting from increases in the City's parking meter charges after 2009.

"City Parking Meter Charges" means charges imposed pursuant to Chapter 2155 of the City Code.

“City Parking Meter Contribution” means in any fiscal year, the payment of any City Incremental Parking Meter Receipts paid from the City Parking Meter Contribution Fund to the Authority pursuant to Section 3.4(b) hereof.

“City Parking Meter Contribution Fund” means the City Parking Meter Contribution Fund of the City heretofore created by the Governing Body of the City for the purpose of holding City Incremental Parking Meter Receipts pending their application pursuant to this Agreement.

“City Project Excise Tax Proceeds” means an amount equal to the City Excise Tax derived from the Project for the period in question, minus any application of such City Excise Tax required by Section 3.06 of the Prior Lease.

“Closing Date” means the date of original issue and delivery of the Improvement Bonds against payment therefor and execution and delivery of the Bond Documents.

“Code” means the Internal Revenue Code of 1986, as amended. Any reference to the Code shall include any applicable temporary, proposed or final Treasury Regulations.

“Continuing Disclosure Agreement” shall have the meaning assigned to it in the Indenture.

“Costs of the Project” or “Project Costs” means any costs as defined in Section 351.01 of the Act, relating to the Project.

“County” means the County of Franklin, Ohio.

“County Contribution” means the County Rent payments for the period in question.

“County Lease” means the Lease Agreement by and between the Authority, as lessor, and the County, as lessee, dated January 1, 2010, pursuant to which the Authority has leased the Project to the County, as the same may be amended and supplemented from time to time in accordance with its terms.

“County Rent” has the meaning assigned to it in the County Lease.

“County Rent Payment Fund” has the meaning assigned to it in the County Lease.

“Credit Support Instrument” means an insurance policy, letter of credit, line of credit, guaranty, surety bond, bond purchase agreement or other credit enhancement, support or liquidity device permitted by the Act and provided pursuant to an agreement with any Credit Support Provider to enhance the security or liquidity of any Bonds or series or part of any series of Bonds or to provide, in whole or part, a Reserve Requirement, as defined in the Indenture.

“Credit Support Provider” means any financial institution or institutions, including but not limited to any bank or insurance company, providing any Credit Support Instrument in connection with one or more series of Bonds then outstanding.

“Effective Date” means the Closing Date.

“FF&E” means furniture, fixtures and equipment constituting capital assets relating to the Project determined in accordance with GAAP.

“Financing Plan” means the Project Financing Plan attached hereto as Exhibit C, setting forth the estimated sources of funds for the Project.

“GAAP” means those principles of accounting applicable to the Authority's accounting for the Project as set forth in pronouncements of either the Financial Accounting Standards Board (FASB) and its predecessors or pronouncements of the American Institute of Certified Public Accountants or the Governmental Accounting Standards Board (GASB), or such principles of accounting which have other substantial authoritative support and are applicable to the Project as of the date of application, as such principles are from time to time supplemented or amended.

“Governing Body” means, in the case of the Authority, its board of directors, in the case of the County, its board of county commissioners, and in the case of the City, its city council.

“Ground Lease Rents Fund” means the "Hotel Project Ground Lease Rents Fund" created by the Indenture and referred to in Section 5.1 hereof.

“Ground Lease Rents Fund Requirement” means as of any date, the sum of all CFA Ground Lease Rents received during the immediately preceding calendar year.

“Improvement Bonds” means the Improvement Bonds as defined and described in the Indenture.

“Indenture” means the Trust Agreement dated as of January 1, 2010 between the Authority and the Trustee authorizing and securing the Bonds.

“Memorandum of Understanding” means the Memorandum of Understanding dated \_\_\_\_\_, 2009 among the Authority, the City and the Governing Body of the County.

“Net Operating Income” means the excess of Operating Revenues over Operating Expenses during the period in question.

“Notice Address” means:

as to the Authority:                                 The Franklin County Convention Facilities Authority  
400 North High Street  
Columbus, Ohio 43215-2096  
Attn: Executive Director  
Telephone: (614) 827-2800  
Facsimile: (614) 827-2806

as to the City:                                        The City of Columbus, Ohio  
City Hall  
90 West Broad Street  
Columbus, Ohio 43215  
Attn: Director of the Department of Finance and  
Management  
Telephone: (614) 645-8200  
Facsimile: (614) 645-7139



with a copy to: City Attorney  
City of Columbus, Ohio  
City Hall  
90 West Broad Street, Room 200  
Columbus, Ohio 43215  
Telephone: (614) 645-6902  
Facsimile: (614) 6645-6949

with a copy to: City Auditor  
City of Columbus, Ohio  
City Hall  
90 West Broad Street  
Columbus, Ohio 43215  
Telephone: (614) 645-7616  
Facsimile: (614) 6645-8444

as to the County: County of Franklin, Ohio  
373 South High Street, 26th Floor  
Columbus, Ohio 43215-6314  
Attn: County Administrator  
Telephone: (614) 462-3324  
Facsimile: (614) 462-5940

with a copy to: County Auditor  
County of Franklin, Ohio  
373 South High Street, 21st Floor  
Columbus, Ohio 43215-6310  
Telephone: (614) 462-3200  
Facsimile: (614) \_\_\_\_ - \_\_\_\_\_

with a copy to: Prosecuting Attorney  
County of Franklin, Ohio  
373 South High Street, 14th Floor  
Columbus, Ohio 43215-6310  
Telephone: (614) 462-3322  
Facsimile: (614) 462-6103

or such additional or different address, notice of which is given under Section 5.2 hereof.

“Operating Expenses” means all expenses incurred in the operation and maintenance of the Project, including, but not limited to, administrative and general operating expenses, sales and marketing expenses, franchise fees, management fees, insurance premiums, taxes, utility costs and routine repair and maintenance expenses, payroll and personnel costs, and other expenses paid or budgeted to be paid in connection with the operation and maintenance of the Project (determined on a cash basis), including payments into operational reserves for liabilities and FF&E replacement reserves, but excluding (i) debt service requirements (including Bond Service Charges), (ii) any loss or expense resulting from or related to any extraordinary and nonrecurring items, and (iii) any losses or expenses

related to the sale of assets, the proceeds of which sale are not included in Operating Revenues, all as determined in accordance with GAAP.

“Operating Revenues” means all revenues and income of any nature derived directly or indirectly from the Project or from the use or operation thereof, including gross rooms sales, gross food and beverage sales, telephone, facsimile and/or internet services, in-room video and valet service receipts, gross receipts from the operation of newsstand, gift shop, business center or other stores, and the proceeds of business interruption, use, occupancy or similar insurance, as determined on an accrual basis and in accordance with GAAP. The calculation of Operating Revenues excludes the following: (i) any gratuities or service charges added to a customer's bill and distributed as compensation to the Project's employees except for charges for services that are added to a customer's bill or banquet contract at either a fixed amount or percentage of the sale; (ii) any credits or refunds made to customers, guests or patrons; (iii) any sums and credits received for lost or damaged merchandise; (iv) any sales taxes, excise taxes, gross receipt taxes, admission taxes, entertainment taxes, tourist taxes or charges; (v) any proceeds from the sale or other disposition of the Project, FF&E, or other capital assets; (vi) any interest paid with respect to the deposit or investment of CFA Hotel Project Funds; (vii) any fire and extended coverage insurance proceeds; (viii) any condemnation awards; and (ix) any proceeds of financing or refinancing of the Project.

“Operation and Maintenance Fund” means the fund by that name created by the Prior Indenture.

“Operation and Maintenance Fund Residuals” means amounts on deposit from time to time in the Operation and Maintenance Fund.

“outstanding Bonds” or “Bonds outstanding” or “outstanding” as applied to Bonds shall have the meanings assigned in the Indenture.

“Permitted Investments” means with respect to the Party in question, any investment which at the time is a lawful investment for that Party, including investments with the Trustee and its affiliates.

“Person” or words importing persons means firms, associations, partnerships (including, without limitation, general, limited and limited liability partnerships), joint ventures, societies, estates, trusts, corporations, limited liability companies, public or governmental bodies, other legal entities and natural persons.

“Prior Indenture” means the Trust Agreement dated as of June 1, 1990 between the Authority and The Bank of New York Mellon Trust Company, N.A. (successor in interest to J.P. Morgan Trust Company, National Association, successor in interest to Bank One, Columbus, NA), as trustee, authorizing and securing the Authority's Tax and Lease Revenue Anticipation Bonds, as amended and supplemented from time to time.

“Prior Lease” means the Lease Agreement by and between the Authority, as lessor, and the City and the County, as lessees, dated as of June 1, 1990, pursuant to which the Authority has leased certain of its convention facilities other than the Project to the City and the County as joint tenants, as amended and supplemented to date in accordance with its terms.

“Prior Sub-Lease” means the Sub-Lease Agreement by and between the Authority, as lessee, and the City and the County, as lessors, dated as of June 1, 1990, pursuant to which the City and the County

as joint lessors, have subleased certain of the Authority's convention facilities other than the Project to the Authority, as sublessee, as amended and supplemented to date in accordance with its terms.

“Project” means the hotel project described in Exhibit B hereto to be located in the City and the County on the Project Site, and constituting a “facility” as defined in Section 351.01(D) of the Act, including all parking facilities, walkways, and other auxiliary facilities, real and personal property (including the Project Site), property rights, easements, and interests necessary and appropriate for the efficient operation of such facility, as the same may from time to time be modified, improved or expanded.

“Project Site” means the real estate and interests in real estate constituting the site of and part of the Project, as described in Exhibit A hereto, together with any additions thereto and less any removals therefrom, and all easements appurtenant thereto.

“Rental Reserve Fund” means the "Hotel Project Rental Reserve Fund" created by the Indenture and referred to in Section 5. 1 hereof.

“Rental Reserve Fund Funding Date” means November 15 of each year, commencing November 15, 20\_\_.

“Rental Reserve Fund Requirement” means the amount of \$8,000,000.

“State” means the State of Ohio.

“Subject to annual appropriation” means, with respect to any obligation of the County under this Agreement, that the performance of that obligation is subject to the annual appropriation by the Governing Body of the County of sufficient funds to perform that obligation and to the certification by the County's Auditor that those funds are available for that purpose pursuant to applicable law.

“Taxable Bonds” means any Bonds other than Tax-Exempt Bonds.

“Tax-Exempt Bonds” means Bonds the interest on which is intended by the Authority at the time of initial issuance to be exempt from federal income taxation under the Code, such intent to be conclusively evidenced by both a determination to that effect contained in or authorized by the Bond Legislation for such Bonds, and an opinion of the Authority's designated nationally recognized bond counsel to that effect.

“Termination Date” means the date on which the Authority has (i) paid or provided for payment of all Bond Service Charges pursuant to the Bond Documents, (ii) satisfied all of its obligations arising from any Credit Support Instrument, whether such agreements relate directly to the Bonds or to the revenues pledged to the Bonds, and (iii) made aggregate payments of CFA Rent and least equal to the aggregate of all payments of County Rent made by the County.

“Trustee” means the trust company or bank serving as trustee under the Indenture.

Section 1.3. Interpretation. Any reference herein to the Authority, the County or the City or to any governing authority, member or officer thereof includes entities, members or officers succeeding to their respective functions, duties or responsibilities pursuant to or by operation of law or lawfully performing their functions.

Any reference to a section or provision of the Constitution of the State, or to a section, provision or chapter of the Ohio Revised Code, or to the City’s municipal code, or to any statute of the United States of America, includes that section, provision or chapter as amended, modified, revised, supplemented or superseded from time to time; provided, that no amendment, modification, revision, supplement or superseding section, provision or chapter shall be applicable solely by reason of this provision, if it constitutes in any way an impairment of the rights or obligations of the Authority, the County or the City under this Agreement.

Unless the context indicates otherwise, words importing the singular number include the plural number, and vice versa; the terms “hereof”, “hereby”, “herein”, “hereto”, “hereunder” and similar terms refer to this Agreement; and the term “hereafter” means after, and the term “heretofore” means before the Effective Date. Words of any gender include the correlative words of the other genders, unless the sense indicates otherwise.

Section 1.4. Captions and Headings. The captions and headings in this Agreement are solely for convenience of reference and in no way define, limit or describe the scope or intent of any Articles, Sections, subsections, paragraphs, subparagraphs or clauses hereof.

(End of Article I)

## ARTICLE II

### AUTHORITY REPRESENTATIONS AND COVENANTS

Section 2.1. Representations of Authority. The Authority hereby makes the representations contained in the preamble hereto, and further represents that: (a) it is duly organized and validly existing under the laws of the State, and particularly, the Act; (b) it has duly accomplished all conditions necessary to be accomplished by it before the execution and delivery of this Agreement; (c) it is not in violation of or in conflict with any provisions of the laws of the State which would impair its ability to carry out its obligations contained in this Agreement; (d) it is empowered to enter into the transactions contemplated by this Agreement; and (e) it has duly authorized the execution, delivery and performance of this Agreement.

Section 2.2. Agreement to Lease Project to County. The Authority agrees to lease the Project to the County pursuant to Section 4.2 hereof and the County Lease and to observe and satisfactorily and punctually perform all its agreements and obligations provided for by the County Lease. The Authority hereby makes and restates the representations and covenants on its part contained in the County Lease.

Section 2.3. Agreement to Sublease Project from County. The Authority agrees to sublease the County's interest in the Project from the County pursuant to Section 4.3 hereof and the CFA Sub-Lease and to observe and satisfactorily and punctually perform all its agreements and obligations provided for by the CFA Sub-Lease. The Authority hereby makes and restates the representations and covenants on its part contained in the CFA Sub-Lease.

Section 2.4. Agreement to Levy CFA Excise Tax. In each fiscal year, the Governing Body of the Authority shall levy the CFA Excise Tax and appropriate Operation and Maintenance Fund

Residuals therefrom equal to the CFA Project Excise Tax Proceeds for the purposes set forth in this Agreement. The CFA Excise Tax shall remain in effect at rates at least equal to the rates in effect on the Effective Date, until the Termination Date. The Authority hereby covenants not to take any action to repeal or reduce the CFA Excise Tax or its application to the Project while Bonds remain outstanding, unless provision is made for an adequate substitute therefor that is satisfactory to the City and, so long as the County Lease is then in effect, the County, or the City and, so long as the County Lease is then in effect, the County both consent in writing to such repeal or reduction. The Authority further covenants to exercise its best efforts including without limitation all commercially reasonable efforts, to timely collect and enforce, or cause to be timely collected and enforced, payment of the CFA Excise Tax when due. The Parties agree that the Authority's present practice of engaging the City as its collection agent for the CFA Excise Tax satisfies the requirement of the preceding sentence.

Section 2.5. Agreement to Issue Improvement Bonds and To Secure Bonds with Bond Documents. The Authority agrees to use its best efforts to carry out such steps as are necessary and appropriate in order to enable the Authority to issue, sell and deliver the Improvement Bonds as Tax-Exempt Bonds or Build America Bonds, or a combination thereof, and to apply other legally available moneys of the Authority in such amounts as shall be required to finance the acquisition, construction and equipping of the Project, which amounts as currently estimated are set forth in the Financing Plan. On the Closing Date, the Improvement Bond proceeds shall be deposited and applied pursuant to the Bond Legislation. Any Additional Bonds shall be issued and proceeds of any Additional Bonds shall be applied pursuant to the related supplement to the Indenture.

Pursuant to the Bond Documents and as described in the Bond Legislation, the Authority shall pledge or assign certain trust funds to the payment of Bond Service Charges, which trust funds (and pending collection) the revenues to be deposited therein have been reasonably determined by the Authority to be sufficient to pay when due all Bond Service Charges and provide any required deposits to reserves for the payment of principal of and interest on Bonds, pursuant to and in accordance with the Bond Documents, and in accordance with the requirements of this Agreement. The Bond Documents shall contain such other provisions as are necessary and appropriate to secure the Bonds and to provide for payment of Project Costs. The Authority hereby makes and restates the representations and covenants on its part contained in the Bond Documents.

Section 2.6. Agreement to Create and Maintain CFA Hotel Project Funds. The Authority agrees that it will create and maintain the CFA Hotel Project Funds as provided in the Bond Legislation and Article V hereof.

Section 2.7. Agreement to Construct Project. The Authority agrees that it will provide for the acquisition, purchase, construction, furnishing and equipping of the Project, with all reasonable speed and dispatch in accordance with all applicable laws and regulations, by utilizing proceeds of the Improvement Bonds and any Additional Bonds and up to \$15 million of other moneys of the Authority to be applied as described in Section 2.12 hereof. In no event shall the City or the County be responsible for paying any Costs of the Project. The Project as described herein shall not be changed, altered or amended in any way which would cause the Project to be other than as described herein without the written consent of the City and the County.

The Authority shall not be deemed to be in default under this Section if the acquisition, purchase, construction, furnishing or equipping of the Project shall be delayed by its or others' inability to secure

needed labor or materials, or by inclement weather which delays completion of the Project, or by strikes, labor disputes, lockouts, work stoppages or like labor troubles which delay the same, or by acts of God, or by regulations or restrictions imposed by any governmental agency or authority, or by fire or other similar catastrophe, or other similar delay beyond the control of the Authority, its agents or contractors, or any of them, or in the event of the inability of the Authority to issue Bonds to finance costs of the Project. The Authority shall acquire such title to or interest in the Project or any portion thereof, including the Project Site, as the Authority deems necessary

The Authority shall not be required to incur or pay any cost or expense of performing its obligations under this Section in excess of the amounts available from (i) the proceeds of Bonds issued for such purpose, and (ii) appropriations by the Governing Body of the Authority to pay costs of the Project as described above.

Nothing herein shall prohibit the Authority and the County, in their sole discretion, from determining not to undertake the Project and terminate the County Lease as provided in Section 4.01 of the County Lease.

Section 2.8. Agreement Regarding Use of City and County Moneys. The Authority agrees that it will hold in trust and apply all moneys received by the Authority from the City or the County as provided in Articles III, IV and V hereof.

Section 2.9. Maintenance of Existence. The Authority will do all things in its power in order to maintain its existence or assure the assumption of its obligations under this Agreement by any successor public body.

Section 2.10. Agreement to Make Payments into CFA Bond Fund. The Authority agrees to make the following payments, or cause the following payments to be made, into the CFA Bond Fund and application pursuant to Article V hereof, on the dates and in the amounts indicated:

- (a) upon receipt, and in any case, not less than monthly, all Net Operating Income received by the Authority since the immediately preceding such payment or, in the case of the first such payment, from the Effective Date;
- (b) upon receipt, and in any case, not less than monthly, (i) so long as the Prior Indenture is in effect, an amount of Operation and Maintenance Fund Residuals equal to the lesser of (a) such amount of Operation and Maintenance Fund Residuals, or (b) an amount equal to the CFA Project Excise Tax Proceeds, received since the immediately preceding such payment or, in the case of the first such payment, from the Effective Date, and (ii) thereafter, the amount of CFA Project Excise Tax Proceeds received since the immediately preceding such payment;
- (c) upon receipt, any City Excise Tax Contribution received pursuant to Section 3.4(a) hereof;
- (d) upon receipt, any amounts transferred from the Rental Reserve Fund pursuant to Section 5.5 hereof;

- (e) upon receipt, any amounts transferred from the Ground Lease Rents Fund after replenishing the Rental Reserve Fund pursuant to Section 5.6 hereof; and
- (f) upon receipt, any amounts transferred from the BABs Payments Fund pursuant to the Indenture.

Section 2.11. Agreements Regarding Ground Lease Rents. So long as the County Lease is then in effect, the Authority agrees that it shall pay all CFA Ground Lease Rents into the Ground Lease Rents Fund until the balance therein is at least equal to the Ground Lease Rents Fund Requirement at which time, the Authority may discontinue such deposits and instead deposit further CFA Ground Lease Rents into any other fund of the Authority and use the same for any purpose for which funds of the Authority may be lawfully expended. If at any time thereafter the County Lease is in effect and the balance in the Ground Lease Rents Fund be less than the Ground Lease Rents Fund Requirement, the Authority shall resume paying all CFA Ground Lease Rents into the Ground Lease Rents Fund until the balance in the Ground Lease Rents Fund is again at least equal to the Ground Lease Rents Fund Requirement.

The Authority agrees that while any Bonds remain outstanding, the Authority will not reduce the rates of the Ground Lease Rents below the rates in effect on the effective date of this Agreement without the consent of the County.

Section 2.12. Agreement to Make Payments into Rental Reserve Fund and Other Payments. On or before January 1, 2012, the Authority shall transfer the sum of \$8,000,000 from its legally available funds, other than proceeds of the Improvement Bonds, to the Rental Reserve Fund. The Authority agrees that on each Rental Reserve Fund Funding Date, so long as the County Lease is then in effect, the Authority shall transfer from the Ground Lease Rents Fund into the Rental Reserve Fund for application pursuant to Article V hereof, an amount equal to the lesser of (i) an amount which, when added to the then balance in the Rental Reserve Fund, will cause the balance in the Rental Reserve Fund to be at least equal to the Rental Reserve Fund Requirement, or (ii) the then balance in the Ground Lease Rents Fund. In addition, so long as the County Lease is then in effect, the Authority shall deposit any City Parking Meter Contribution received pursuant to Section 3.4(b) hereof, into the Rental Reserve Fund upon receipt.

In addition, the Authority shall pay the following amounts related to the Project from its legally available funds, other than proceeds of the Improvement Bonds, on or before the dates indicated:

- (a) after all proceeds of the Improvement Bonds deposited in the Construction Fund to pay Project Costs and investment proceeds thereof have been exhausted, the Authority shall deposit into the Construction Fund, as and when required for the timely construction of the Project, the amounts required for that purpose, presently estimated at \$1 million in the aggregate;
- (b) throughout the pre-opening period, beginning approximately 24 months before opening, the Authority shall spend an amount presently totaling an estimated at \$4.5 million shall be used to pay pre-opening marketing expenses; and
- (c) approximately 3 months before opening, the Authority shall deposit an amount presently estimated at \$1.5 million in [name of working capital account] to provide working capital for the operation of the Project.

Section 2.13. Pledge; Obligations Unconditional. The Authority hereby pledges all Net Operating Income, Operation and Maintenance Fund Residuals and CFA Ground Lease Rents, and the moneys and investments in the CFA Hotel Project Funds for the purposes and to the extent set forth above. The Authority's obligations under this Article II shall be absolute and unconditional. The Authority shall appropriate and make the payments required by this Article II without abatement, diminution or deduction regardless of any cause or circumstances whatsoever, including but not limited to, any defense, setoff, recoupment or counterclaim that the Authority may have or assert against the County, the City, the Trustee or any other Person, or any damage to, destruction of or exercise of eminent domain with regard to the Project.

Section 2.14. Notification to City and County of Rental Reserve Fund Deficiency. If on any Rental Reserve Fund Funding Date, after making the transfer required by Section 2.12 hereof, the balance in the Rental Reserve Fund is less than the Rental Reserve Fund Requirement and the County Lease is then in effect, the Authority shall, not later than 4:00 o'clock p.m. on such Rental Reserve Fund Funding Date, give the City and the County written or facsimile, or telephonic (confirmed thereafter in writing), notice of such deficiency.

Section 2.15. Notification of Amounts of in CFA Hotel Project Funds. The Authority shall, not less than quarterly, notify the City and the County of the balances in the CFA Hotel Project Funds. The Authority agrees, that should the City's Auditor no longer serve as the Authority's collection agent for the CFA Excise Tax, the Authority will cause any replacement collection agent thereof to provide monthly reports to the Authority, the City and the County of the amount of Operation and Maintenance Fund Residuals equal to the CFA Project Excise Tax Proceeds collected for any month.

Section 2.16. Agreements With Respect to Project Insurance. In addition to the insurance requirements contained in the Indenture, so long as the County Lease is in effect, the Authority shall carry and maintain, or cause to be carried and maintained (a) casualty insurance with respect to the Project at not less than full replacement cost of the Project, and (b) business interruption insurance in an amount not less than \_\_\_\_\_ months of debt service on the outstanding Bonds. Evidence of such insurance shall be delivered not less than annually to the County's Administrator by the Authority while Bonds remain outstanding.

Section 2.17. Changes, Additions and Alterations to the Project. After the Project has been constructed, the Authority shall have the right to make any changes, additions, alterations or other capital improvements to the Project it deems necessary in its discretion, provided that while there are Bonds outstanding, no such change, addition or alteration shall change the nature of the Project as a full service convention hotel as described herein without the written consent of the City and, so long as the County Lease is then in effect, the County.

Section 2.18. Agreements of Authority Subject to Enforcement by Mandamus. All of the obligations under this Article II are established as duties specifically enjoined by law and resulting from an office, trust or station upon the Authority within the meaning of Ohio Revised Code Section 2731.01, providing for enforcement by writ of mandamus.

(End of Article II)



## ARTICLE III

### CITY REPRESENTATIONS AND COVENANTS

Section 3.1. Representations of City. The City hereby makes the representations contained in the preamble hereto, and further represents that: (a) it is duly organized and validly existing under its Charter and the laws of the State; (b) it has duly accomplished all conditions necessary to be accomplished by it before the execution and delivery of this Agreement; (c) it is not in violation of or in conflict with any provisions of the laws of the State which would impair its ability to carry out its obligations contained in this Agreement; (d) it is empowered to enter into the transactions contemplated by this Agreement; (e) it has duly authorized the execution, delivery and performance of this Agreement; and (f) it will do all things in its power in order to maintain its existence or assure the assumption of its obligations under this Agreement by any successor public body.

Section 3.2. Agreement to Levy City Excise Tax. In each fiscal year, the Governing Body of the City shall levy the City Excise Tax and appropriate an amount thereof equal to the City Project Excise Tax Proceeds for the purposes set forth in this Agreement. The City Excise Tax shall remain in effect at a combined rate of at least five and one-tenth percent (5.1%) until the Termination Date. The City hereby covenants not to take any action to repeal or reduce the City Excise Tax or its application to the Project while Bonds remain outstanding, unless provision is made for an adequate substitute therefor that is satisfactory to the Authority and the County, or both the Authority and the County consent in writing to such repeal or reduction. The City further covenants to exercise its best efforts, including without limitation all commercially reasonable efforts, to collect and enforce payment of the City Excise Tax when due.

Section 3.3. Agreement Regarding City Parking Meter Contribution. In each fiscal year, the Governing Body of the City shall levy the City Parking Meter Charges and appropriate City Incremental Parking Meter Receipts therefrom for the purposes set forth in this Agreement. The City agrees and covenants not later than January 1, 2011 to increase its City Parking Meter Charges from current levels in an amount it reasonably expects will produce an additional \$1,500,000 annually of City Incremental Parking Meter Receipts. The City hereby covenants not to take any action to repeal or reduce the City Parking Meter Charges or their application to the Project while Bonds remain outstanding, unless provision is made for an adequate substitute therefor that is satisfactory to the Authority and the County, or the Authority and the County consent to such repeal or reduction. The City further covenants to exercise its best efforts to collect and enforce payment of City Parking Meter Charges when due.

So long as the County has not failed to lawfully appropriate funds sufficient to pay County Rent, the City shall deposit all City Incremental Parking Meter Receipts collected by it into the City Parking Meter Contribution Fund upon receipt until the balance in the City Parking Meter Contribution Fund is at least \$1,400,000 provided that such balance must be met not later than January 1, 2012, at which time, the City may discontinue such deposits. So long as the County has not failed to lawfully appropriate funds sufficient to pay County Rent, if at any time the balance in the City Parking Meter Contribution Fund is less than \$1,400,000, the City shall resume depositing all City Incremental Parking Meter Receipts collected by it into the City Parking Meter Contribution Fund upon receipt until the balance therein is at least \$1,400,000. If at any time the balance in the City Park Meter Contribution Fund

exceeds \$1,400,000, the excess may be applied to any lawful City purpose as the Governing Body of the City may determine.

Pending their use to pay any City Parking Meter Contribution hereunder, moneys in the City Parking Meter Contribution Fund may be invested in any Permitted Investment in amounts maturing not later than the times when such amounts in the City Parking Meter Contribution Fund may be required to be transferred to the Authority for the purposes of such Fund, and any gain from the investment of such moneys shall be credited to such Fund, provided that if at any time the balance in the City Parking Meter Contribution Fund exceeds \$1,400,000, such investment gain may be applied to any lawful City purpose as the Governing Body of the City may determine.

Upon termination of this Agreement, or upon failure of the County to lawfully appropriate funds sufficient to pay County Rent, any balance in the City Parking Meter Contribution Fund shall be applied to any lawful City purpose as the Governing Body of the City may determine.

Section 3.4. Agreement to Make Payments. The City agrees to make the following payments, or cause the following payments to be made, to the Authority on the dates and in the amounts indicated:

- (a) monthly, within five Business Days of receipt, for deposit into the CFA Bond Fund and application pursuant to Article V hereof, an amount from the City Excise Tax equal to the City Project Excise Tax Proceeds received since the immediately preceding such payment or, in the case of the first such payment, from the Effective Date; and
- (b) not later than 10:00 a.m. of the second Business Day following receipt of a notice from the Authority pursuant to Section 2.14 hereof, from moneys in the City Parking Meter Contribution Fund, in immediately available funds, an amount equal to the lesser of (i) the amount which, when added to the then balance in the Rental Reserve Fund, will cause the balance in the Rental Reserve Fund to be at least equal to the Rental Reserve Fund Requirement, or (ii) the then balance in the City Parking Meter Contribution Fund.

Section 3.5. Pledge of Moneys; Obligations Unconditional. The City hereby pledges all proceeds of the City Excise Tax and City Incremental Parking Meter Receipts, and all moneys and investments in the City Parking Meter Contribution Fund for the purposes and to the extent set forth above. The obligations of the City under this Article III shall be absolute and unconditional. The Governing Body of the City shall appropriate and make the payment required by this Article III without abatement, diminution or deduction regardless of any cause or circumstances whatsoever, including but not limited to, any defense, setoff, recoupment or counterclaim that the City may have or assert against the County, the Authority, the Trustee or any other Person, or any damage to, destruction of or exercise of eminent domain with regard to the Project.

Section 3.6. Notification of Amounts of City Incremental Parking Meter Receipts, City Project Excise Tax Proceeds and CFA Project Excise Tax Proceeds Collected, and Balance in City Parking Meter Contribution Fund. The City shall, not less than monthly, notify the Authority and the County of (a) the amount of City Incremental Parking Meter Receipts collected for the immediately preceding month, (b) the amount of the City Excise Tax comprising the City Project Excise Tax Proceeds collected for such month, (c) so long as the City's Auditor is serving as the Authority's

collection agent for the CFA Excise Tax, the amount of CFA Project Excise Tax Proceeds collected for such month, and (d) the then balance in the City Parking Meter Contribution Fund.

Section 3.7. Agreement Regarding Bond Legislation and Bond Documents. The City agrees to the application of the Net Operating Income, the investment earnings on the CFA Hotel Project Funds, the CFA Contribution, the City Contribution and the County Contribution pursuant to this Agreement and the Bond Documents and waives any conflicts between such applications and the Prior Lease and the Prior Sub-Lease. To the extent, if any, that compliance by the City is required by the terms of the Bond Documents, the City shall comply with its obligations set forth therein; provided, however, that no provision of the Bond Documents applicable to the City shall be amended or supplemented nor shall Additional Bonds be issued under the Bond Documents (except for the purpose of refunding outstanding Bonds) without the City's prior written consent.

Section 3.8. City Not To Adversely Affect Tax Status of Bonds. The City hereby covenants that it will not take any action, or fail to take any action with respect to the City Parking Meter Contribution Fund or any other similar funds of the City, if any such action or inaction would adversely affect the exclusion from gross income of the interest on the Tax-Exempt Bonds under Section 103(a) of the Code. Without limiting the generality of the foregoing, the City hereby covenants that:

(a) The City will not directly or indirectly use or permit the use of any moneys in the City Parking Meter Contribution Fund or any other similar funds of the City, or take or omit to take any action that would cause such Tax-Exempt Bonds to be "arbitrage bonds" within the meaning of Sections 103(b)(2) and 148 of the Code. To that end, the City will comply with all requirements of Sections 103(b)(2) and 148 of the Code to the extent applicable to any Tax-Exempt Bonds or Build America Bonds.

(b) The City shall, upon the written request of the Authority, transfer from the City Parking Meter Contribution Fund and any other similar funds of the City to the Trustee for deposit into the Rebate Fund such amounts as requested by the Authority as being required to be rebated to the United States pursuant to Section 148(f) of the Code with respect to the investment of moneys in the City Parking Meter Contribution Fund and any other funds of the City. This covenant shall survive payment in full or defeasance of any Tax-Exempt Bonds or Build America Bonds.

Any Improvement Bonds designated as Build America Bonds shall be Taxable Bonds; however, any Build America Bonds, shall be treated as Tax-Exempt Bonds for purposes of this Section. In addition, the City covenants that it will not take any action, or fail to take any action, if any such action or inaction would adversely affect the status of any Improvement Bonds issued as Build America Bonds as "qualified bonds" (direct payment to issuer) "Build America Bonds" under Sections 54AA(g) and 6431 of the Code.

Notwithstanding any provision of this Section, if the City shall provide to the Authority an opinion of nationally recognized bond counsel to the effect that any action required under this Section is no longer required, or to the effect that some further action is required, to maintain the exclusion from gross income of the interest on any Tax-Exempt Bonds pursuant to Section 103(a) of the Code or the status of any Improvement Bonds issued as Build America Bonds as "qualified bonds" utilizing the

"direct payment to issuer option" under Sections 54AA(g) and 6431 of the Code, the City and the Authority may rely conclusively on such opinion in complying with the provisions hereof.

Section 3.09. Agreements of City Subject to Enforcement by Mandamus. All of the obligations under this Article III are established as duties specifically enjoined by law and resulting from an office, trust or station upon the City within the meaning of Ohio Revised Code Section 2731.01, providing for enforcement by writ of mandamus.

(End of Article III)

## ARTICLE IV

### COUNTY REPRESENTATIONS AND COVENANTS

Section 4.1. Representations of County. The County hereby makes the representations contained in the preamble hereto, and further represents that: (a) it is duly organized and validly existing under the laws of the State; (b) it has duly accomplished all conditions necessary to be accomplished by it before the execution and delivery of this Agreement; (c) it is not in violation of or in conflict with any provisions of the laws of the State which would impair its ability to carry out its obligations contained in this Agreement; (d) it is empowered to enter into the transactions contemplated by this Agreement; (e) it has duly authorized the execution, delivery and performance of this Agreement; and (f) it will do all things in its power in order to maintain its existence or assure the assumption of its obligations under this Agreement by any successor public body.

Section 4.2. Agreement to Lease Project from Authority. The County agrees to lease the Project from the Authority pursuant to Section 2.2 hereof and the County Lease. Subject to annual appropriation of sufficient funds for the purpose, the County agrees to satisfactorily and punctually perform all its agreements and obligations provided for by the County Lease, including its obligations to make payments of County Rent to the Trustee upon the terms specified in the County Lease. The County hereby makes and restates the representations and covenants on its part contained in the County Lease.

Section 4.3. Agreement to Sublease Project to Authority. The County agrees to sublease the County's interests in the Project to the Authority pursuant to Section 2.3 hereof and the CFA Sub-Lease and to satisfactorily and punctually perform all its agreements and obligations provided for by the CFA Sub-Lease. The County hereby makes and restates the representations and covenants on its part contained in the CFA Sub-Lease.

Section 4.4 Agreement Regarding Bond Legislation and Bond Documents. The County agrees to the application of the Net Operating Income, the investment earnings on the CFA Hotel Project Funds, the CFA Contribution, the County Contribution and the City Contribution pursuant to this Agreement and the Bond Documents and waives any conflicts between such applications and the Prior Lease and the Prior Sub-Lease. To the extent, if any, that compliance by the County is required by the terms of the Bond Documents, the County shall comply with its obligations set forth therein; provided, however, that no provision of the Bond Documents applicable to the County shall be amended or

supplemented nor shall Additional Bonds be issued under the Bond Documents (except for the purpose of refunding outstanding Bonds) without the County's prior written consent.

Section 4.5. Agreement Regarding Continued Existence of Authority. The County acknowledges and ratifies the continued existence of the Authority as a body corporate and politic created by the County pursuant to Section 351.02 of the Act and agrees that so long as any Bonds remain outstanding, the County will not dissolve, or initiate proceedings to dissolve, the Authority pursuant to any provision of law, including without limitation, section 351.03(B) of the Act. The provisions of this Section shall survive termination of this Agreement so long as any amount is owed by the Authority to the City or the County under this Agreement.

Section 4.6. Agreement Regarding Continuing Disclosure. In order to enable the Authority to comply with the requirements of federal securities laws (including, without limitation, Rule 10b-5 and Rule 15c2-12 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended) and its obligations under the Continuing Disclosure Agreement, the County will enter into the Continuing Disclosure Agreement pursuant to which it shall agree to prepare and file with the Authority or, at the direction of the Authority, to file with the Municipal Securities Rulemaking Board, any one or more nationally recognized municipal securities information repositories or state information depository, any annual financial information, annual financial statements or material events disclosures that the Authority may reasonably determine it requires to achieve such compliance.

Section 4.7. Agreements of County Subject to Enforcement by Mandamus. All of the obligations under this Article IV are established as duties specifically enjoined by law and resulting from an office, trust or station upon the County within the meaning of Ohio Revised Code Section 2731.01, providing for enforcement by writ of mandamus.

(End of Article IV)

## ARTICLE V

### CFA HOTEL PROJECT FUNDS

Section 5.1. Creation of CFA Hotel Project Funds. Pursuant to the Bond Legislation, the following special funds have been created and ordered maintained in the custody of the Authority: the Hotel Project Bond Fund (the "CFA Bond Fund"), the Hotel Project Rental Reserve Fund (the "Rental Reserve Fund"), and the Hotel Project Ground Lease Rents Fund (the "Ground Lease Rents Fund"), which shall be trust funds applicable only for the purposes described below. Moneys in the CFA Hotel Project Funds shall be applied, held and invested by the Authority only as and to the extent authorized hereby and in a manner consistent with this Agreement.

Section 5.2. Recordkeeping. The Authority shall make and maintain a record of each deposit into and disbursement from each CFA Hotel Project Fund and shall make all such records shall be open to inspection by the officers and employees of the City and the County during the Authority's regular business hours.

Section 5.3. Investment. Moneys in any CFA Hotel Project Fund may be invested in Permitted Investments in amounts maturing not later than the times when such amounts in such CFA

Hotel Project Fund are required for the purposes of such Fund. Investments of moneys in any CFA Hotel Project Fund shall be valued at cost. Any investment of moneys in any CFA Hotel Project Fund shall constitute a part of that Fund and all proceeds of sale, and gain or loss, from such investment in each CFA Hotel Project Fund shall be credited when received as follows:

- (i) investment earnings on the CFA Bond Fund shall be credited to such Fund;
- (ii) investment earnings on the Rental Reserve Fund shall be credited to such Fund; provided that if the balance in such Fund is then equal to or greater than the Rental Reserve Fund Requirement, such investment earnings shall be credited to the CFA Bond Fund; and
- (iii) investment earnings on the Ground Lease Rents Fund shall be credited to such Fund.

For investment purposes only, moneys in any CFA Hotel Project Fund may be commingled with moneys in any other CFA Hotel Project Fund or other moneys of the Authority; provided that separate records are maintained for each CFA Hotel Project Fund, the investments made therefrom, and the interest earnings credited thereto.

Section 5.4. Application of Moneys in CFA Bond Fund. Notwithstanding any other ordinance, resolution or action to the contrary, all moneys received by or on behalf of the Authority from and after the date of delivery of the Improvement Bonds pursuant to Sections 2.10 and 3.4(a) hereof shall be deposited into the CFA Bond Fund upon receipt. So long as any Bonds are outstanding, the moneys in the CFA Bond Fund shall be, and hereby are, appropriated for the purposes set forth herein, and the Governing Body of the Authority shall take whatever action is required to make, affirm or ratify such appropriation. Only the following payments shall be made out of the CFA Bond Fund and in the following order, but only to the extent moneys in the CFA Bond Fund are sufficient for the purpose:

FIRST, by not later than 2:00 o'clock p.m. on each CFA Rent Payment Date, the Authority shall pay to the Trustee in immediately available funds, the amount required by Section 3.01 of the CFA Sub-Lease;

SECOND, on each November 15 that the County Lease is in effect, commencing November 15, 2012, the CFA shall transfer an amount equal to the lesser of (i) an amount which, when added to the then balance in the Rental Reserve Fund, will cause the balance in the Rental Reserve Fund to be at least equal to the Rental Reserve Fund Requirement, or (ii) the then balance in the CFA Bond Fund;

THIRD, on each November 15, commencing November 15, 2012, the CFA shall transfer to the City and the County as reimbursement for funds advanced, for deposit into an appropriate fund of the City and the County, respectively, (a) in the case of the City, an amount equal to any City Parking Meter Contributions, and (b) in the case of the County, an amount equal to the difference between (i) the amount of County Rent paid by the County pursuant to the County Lease, and (ii) the amount of CFA Rent paid by the Authority pursuant to the CFA Sub-Lease, in each case only to the extent the City or the County has not been previously reimbursed; provided that if there are then insufficient funds in the CFA Bond Fund to fully reimburse the City and the County, the City and the County shall be reimbursed to the extent of the moneys available in the CFA Bond Fund pro rata on the basis of the respective unreimbursed advances of the City and County;

FOURTH; on each November 15, commencing November 15, 2012, the CFA shall transfer (i) to the Ground Lease Rents Fund, if the balance therein is less than the Ground Lease Rents Fund Requirement, an amount equal to the lesser of (a) an amount which, when added to the then balance in the Ground Lease Rents Fund, will cause the balance in the Ground Lease Rents Fund to equal the Ground Lease Rents Fund Requirement, or (b) the then balance in the CFA Bond Fund, or (ii) otherwise, to such account as the Authority may determine, as reimbursement for funds advanced, an amount equal to amounts transferred from the Ground Lease Rents Fund to the Rental Reserve Fund pursuant to Section 2.12 hereof and not previously reimbursed;.

Any CFA Bond Fund Residual shall be retained in the CFA Bond Fund provided that on any November 15, commencing November 15, 2015, if the amounts paid into the CFA Bond Fund (other than transfers from the Rental Reserve Fund) in each of the three immediately preceding Bond Years exceeds 1.2 times the maximum amount of Bond Service Charges payable in any future Bond Year, the Authority may transfer any CFA Bond Fund Residual to any other fund of the Authority and used for any purpose for which funds of the Authority may be lawfully expended, including without limitation, the retirement, redemption or purchase of outstanding Bonds by transfer to the Bond Payment Fund, the payment of CFA Rent pursuant to the CFA Sub-Lease, and the payment of expenses of the Authority incurred to acquire, construct, furnish, equip, operate and maintain the Project.

If on any CFA Rent Payment Date, the amount in the CFA Bond Fund is insufficient to pay the amount required by paragraph FIRST above, the Authority shall immediately transfer, first, from the Rental Reserve Fund, and second, from the Ground Lease Rents Fund, in each case to the extent of the moneys and investments then in such Fund, the amount of such deficiency.

Notwithstanding anything contained in this Section to the contrary, a failure by the Authority to pay when due any payment required to be made under paragraphs FIRST through FOURTH, inclusive, above, or the immediately preceding paragraph, resulting from a deficiency in the CFA Bond Fund, the Rental Reserve Fund or the Ground Lease Rents Fund, shall not constitute a default under this Agreement.

Upon termination of this Agreement, any balance in the CFA Bond Fund shall be applied by the Authority for any purpose for which funds of the Authority may be lawfully expended.

Section 5.5. Application of Moneys in Rental Reserve Fund. Moneys in the Rental Reserve Fund shall, to the extent necessary from time to time, be used solely to pay any shortfall on any CFA Rent Payment Date in the amounts in the CFA Bond Fund needed to pay the amounts required by paragraph FIRST of Section 5.4 hereof, by transfer to the CFA Bond Fund and application pursuant to such Section and this Article. Any balance in the Rental Reserve Fund from time to time in excess of the Rental Reserve Fund Requirement, shall be transferred to the CFA Bond Fund for deposit as required by Section 2.10 hereof and application pursuant to such Section and this Article. Upon termination of this Agreement, any balance in the Rental Reserve Fund shall be applied first, as described in paragraph THIRD of Section 5.4 above, and second, by the Authority for any purpose for which funds of the Authority may be lawfully expended.

Section 5.6. Application of Moneys in Ground Lease Rents Fund. Moneys in the Ground Lease Rents Fund shall be applied first, on each Rental Reserve Funding Date as required by Section

2.12 to replenish the Rental Reserve Fund, and second, to the extent necessary from time to time, be used to pay any shortfall on any CFA Rent Payment Date in the amounts in the CFA Bond Fund needed to pay the amounts required by paragraph FIRST of Section 5.4 hereof after application of any moneys in the Rental Reserve Fund as required by Section 5.5 hereof, by the transfer to the CFA Bond Fund and application pursuant to such Section 5.4 and this Article. Any balance in the Ground Lease Rents Fund from time to time in excess of the then Ground Lease Rents Fund Requirement, and any balance in the Ground Lease Rents Fund upon termination of this Agreement, may be used for any purpose for which funds of the Authority may be lawfully expended.

(End of Article V)

## ARTICLE VI

### MISCELLANEOUS

Section 6.1 Term of Agreement. This Agreement shall be and remain in full force and effect from the Effective Date to the Termination Date.

Section 6.2 Notices. Unless otherwise specified, all notices, certificates, requests or other communications hereunder shall be in writing and shall be deemed to be sufficiently given when mailed by registered or certified mail, postage prepaid, and addressed to the appropriate Notice Address. A duplicate copy of each notice, certificate, request or other communication given hereunder to any Party shall also be given to the other Parties. Any of the Parties, by notice given hereunder, may designate any further or different addresses to which subsequent notices, certificates, requests or other communications shall be sent.

Section 6.3. Binding Effect. This Agreement shall inure to the benefit of and shall be binding in accordance with its terms upon the Parties and their respective permitted successors and assigns provided that this Agreement may not be assigned by any Party without the consent of the other Parties. This Agreement may be enforced only by the Parties, their assignees, if any, and others who may, by law, stand in their respective places.

Section 6.4. Ownership of Project after Term of Agreements. It is the intention of the Parties that after the term of this Agreement, the County Lease and the CFA Sub-Lease have expired, the ownership of the Project shall vest in the Authority. The Parties shall execute all documents necessary to accomplish said vesting.

Section 6.5. Relationship to Memorandum of Understanding. This Agreement supersedes the Memorandum of Understanding in all respects.

Section 6.6 Limited Obligations of Parties. Amounts payable by the Parties shall be payable solely from the respective sources specified herein and in the County Lease and the amounts deposited in the CFA Hotel Project Funds, the City Parking Meter Contribution Fund and the County Rent Payment Fund. Anything in the Agreement, the Bond Legislation, the Bond Documents, the County Lease, the CFA Sub-Lease or the Bonds notwithstanding, neither this Agreement, the Bond Legislation, the Bond Documents, the County Lease, the CFA Sub-Lease nor the Bonds constitute a debt, or a pledge of the faith, credit or taxing power of the Authority (other than with respect to the CFA Excise Tax), the



City (other than with respect to the City Excise Tax and the City Parking Meter Charges), the County, the State or any political subdivision thereof, and neither any Party, the Trustee, nor the owners or holders of the Bonds shall have any right to have any charges, excises or taxes levied by the Governing Body of the Authority (other than with respect to the CFA Excise Tax and the CFA Ground Lease Rents), the City (other than with respect to the City Excise Tax and the City Parking Meter Charges), or the County, the General Assembly of the State, or the taxing authority of any other political subdivision of the State, for the payment of CFA Rent, County Rent or the amounts payable hereunder. Nothing herein shall be deemed to prohibit the any Party from lawfully using, of its own volition, any of its general resources for the fulfillment of any of the terms and conditions of this Agreement.

Section 6.7. Effective Date. This Agreement shall become effective and binding on the Effective Date.

Section 6.8. Amendments and Supplements. This Agreement may be amended only by written agreement of the Authority, the County and the City duly authorized by their respective governing bodies.

Section 6.9. Execution Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be regarded as an original and all of which shall constitute but one and the same instrument.

Section 6.10. Severability. If any provision of this Agreement, or any covenant, obligation or agreement contained herein is determined by a court to be invalid or unenforceable, that determination shall not affect any other provision, covenant, obligation or agreement, each of which shall be construed and enforced as if the invalid or unenforceable portion were not contained herein. That invalidity or unenforceability shall not affect any valid and enforceable application thereof, and each such provision, covenant, obligation or agreement shall be deemed to be effective, operative, made, entered into or taken in the manner and to the full extent permitted by law.

Section 6.11. No Third Party Beneficiary. The provisions of this Agreement are for the exclusive benefit of the Parties and not for the benefit of any third person, nor shall this Agreement be deemed to have conferred any rights, express or implied, upon any third person unless otherwise expressly provided for herein.

Section 6.12. Governing Law. This Agreement shall be deemed to be a contract made under the laws of the State and for all purposes shall be governed by and construed in accordance with the laws of the State.

(End of Article VI)

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed in their respective names on the dates written below.

THE FRANKLIN COUNTY  
CONVENTION FACILITIES  
AUTHORITY, the "Authority"

CITY OF COLUMBUS, OHIO, the "City"

By: \_\_\_\_\_  
Executive Director

By \_\_\_\_\_

By: \_\_\_\_\_  
Treasurer

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Approved as to form:

\_\_\_\_\_  
City Attorney  
City of Columbus, Ohio

COUNTY OF FRANKLIN, OHIO, the  
"County"

By: \_\_\_\_\_  
County Commissioner

By: \_\_\_\_\_  
County Commissioner

By: \_\_\_\_\_  
County Commissioner

Date: \_\_\_\_\_

Approved as to form:

\_\_\_\_\_  
Prosecuting Attorney  
County of Franklin, Ohio

**FISCAL OFFICER’S CERTIFICATE FOR CITY**

The undersigned, City Auditor of the City of Columbus, Ohio, as fiscal officer of such City, hereby certifies that \$\_\_\_\_\_ to meet the obligations of such City during the fiscal year 2010 under foregoing Cooperative Agreement has been lawfully appropriated by the city council of such City pursuant to the approval of Ordinance No. \_\_\_\_\_ and is in the treasury of such City or in the process of collection to the credit of [Fund #, Fund Name], free from any previous encumbrances. This Certificate is given in compliance with Ohio Revised Code Sections 5705.41 and 5705.44.

CITY OF COLUMBUS, OHIO

Dated: \_\_\_\_\_, 2010

\_\_\_\_\_  
Name: Hugh J. Dorrian  
Title: City Auditor

**FISCAL OFFICER’S CERTIFICATE FOR COUNTY**

The undersigned, County Auditor of the County of Franklin, Ohio, as fiscal officer of such County, hereby certifies that \$\_\_\_\_\_ to meet the obligations of such County during the fiscal year 2010 under foregoing Cooperative Agreement has been lawfully appropriated by the board of county commissioners of such County pursuant to the approval of Commissioners' Resolution #\_\_\_\_\_ -09 and is in the treasury of such County or in the process of collection to the credit of [Fund #, Fund Name], free from any previous encumbrances. This Certificate is given in compliance with Ohio Revised Code Sections 5705.41 and 5705.44.

COUNTY OF FRANKLIN, OHIO

Dated: \_\_\_\_\_, 2010

\_\_\_\_\_  
Name: Clarence E. Mingo, II  
Title: County Auditor

**EXHIBIT A**

**PROJECT SITE**

The following real property shall constitute the site of, and part of, the Project:

[Text to Follow]

## **EXHIBIT B**

### **PROJECT DESCRIPTION**

The Project consists of the Project Site and the construction, installation, furnishing and equipping of a full-service convention center hotel thereon comprising

- (i) an estimated 500 guest rooms but not less than 450, and
- (ii) convention meeting space, restaurants and support facilities, designed for self-contained conventions and as meeting space complementary to and used in connection with the operation of other convention facilities of the Authority,

to be designed and constructed consistent with the brand standards for full-service convention hotels maintained by major national hotel companies such as Hilton Hotels Corporation, including all buildings, improvements, structures, facilities, FF&E, exterior signage, common areas, parking, pool and other areas, and all easements, appurtenances, entry and exit rights benefiting the Project.

**EXHIBIT C**

**FINANCING PLAN**

**[Text to Follow]**