

## Collaboration Agreement

THIS COLLABORATION AGREEMENT DATED AND EFFECTIVE AS OF THIS \_\_\_\_ of \_\_\_\_\_, 20\_\_ ("Agreement"), by and between the County of Lancaster, Pennsylvania, a municipal corporation with its principal place of business at 150 North Queen Street, Lancaster, Pennsylvania, 17603 ("County"), the City of Lancaster, Pennsylvania, a municipal corporation with its principal place of business at 120 North Duke Street, Lancaster, Pennsylvania 17608 ("City"), the Redevelopment Authority of the City of Lancaster, a body politic and corporate with its principal place of business at 120 North Duke Street, Lancaster, Pennsylvania 17608 ("RACL"), the Lancaster City Revitalization and Improvement Zone Authority, a municipal authority with its principal place of business at 120 North Duke Street, Lancaster, Pennsylvania 17601 ("CRIZ Authority"), the Lancaster County Convention Center Authority, a body politic and corporate with its principal place of business at 25 South Queen Street, Lancaster, Pennsylvania 17603 ("LCCCA"), the Pennsylvania Dutch Convention & Visitors Bureau, a recognized tourist promotion agency with its principal place of business at 501 Greenfield Road, Lancaster, Pennsylvania 17601 ("PDCVB"), and Penn Square Partners, a Pennsylvania limited partnership with its principal place of business at 1853 William Penn Way, Lancaster, Pennsylvania 17605-0008 ("PSP").

### RECITALS

**WHEREAS**, the City, pursuant to Ordinance No. 5, enacted on September 14, 1999, and the County, pursuant to Ordinance No. 44, enacted on September 15, 1999, jointly authorized the creation of an Authority under provisions of the Act of Assembly approved December 27, 1994, P.L. 1375, as amended and supplemented, known as the "Third Class County Convention Center Authority Act", which permits the creation of an Authority for the purpose of, among other things, maintaining, managing, operating, furnishing, fixturing, equipping, repairing, and owning a convention center to promote and attract business, industry, commerce and tourism within the County; and

**WHEREAS**, the County, pursuant to 16 P.S. §2399.23, enacted Ordinance 45 on September 15, 1999, which provided for the imposition and collection of a hotel room rental tax ("HRRT") from each operator of a hotel within the County for the purpose of promoting, attracting, stimulating, development and expanding business, industry, commerce and tourism in the area; and

**WHEREAS**, under the terms of Ordinance 45, the proceeds of the HRRT were to be divided between the LCCCA and the PDCVB, with eighty (80%) percent directed to the LCCCA and twenty (20%) percent directed to the PDCVB, unless an event of default occurs and continues with respect to any bonds, note or other indebtedness of the LCCCA incurred to finance the construction of the Convention Center, in which case one hundred (100%) of the proceeds of the HRRT are to be directed to the LCCCA; and

**WHEREAS**, the LCCCA undertook a project (the "Project"), consisting of, among other things, the following: (1) funding the design, acquisition, construction, furnishing and equipping of a multi-purpose convention center facility and related and ancillary facilities (the "Convention Center Unit"); (2) funding necessary reserves for the Project; (3) the establishment of necessary

reserves and other funds; and (4) funding the costs and expenses of issuance of the bonds issued to finance the Project; and

**WHEREAS**, to finance the costs of the Project, the LCCCA issued its Hotel Room Rental Tax Revenue Bonds, Series of 2003 in the aggregate principal amount of \$40,000,000 (the "Original 2003 Bonds") and its Hotel Room Rental Tax Revenue Bonds, Series of 2007 in the aggregate principal amount of \$23,920,000 (the "Original 2007 Bonds"); and

**WHEREAS**, the Original 2003 Bonds were issued pursuant to the terms of a Trust Indenture dated as of December 15, 2003, as amended and supplemented by a First Supplemental Trust Indenture dated as of March 15, 2007, as further amended and supplemented (the "Original 2003 Indenture"), between the LCCCA and Manufacturers and Traders Trust Company, as trustee (the "Trustee"); and

**WHEREAS**, the Original 2007 Bonds were issued pursuant to the terms of a Trust Indenture dated as of March 15, 2007, as amended and supplemented (the "Original 2007 Indenture"), between the LCCCA and the Trustee; and

**WHEREAS**, on October 29, 2003, the County enacted Ordinance 73, pursuant to which the County authorized the execution of a Guaranty Agreement dated as of December 15, 2003 among the County, the LCCCA and the Trustee with regard to a portion of the Original 2003 Bonds, pursuant to which the County has guaranteed a portion of the LCCCA's obligations to replenish the Debt Service Reserve Fund required by the Original 2003 Bonds in the event the funds on deposit therein fall below the minimum level required by the Indenture, up to a maximum of \$1,506,960.00 in any fiscal year and an overall maximum of approximately \$20,000,000.00; and

**WHEREAS**, on August 25, 2011, the LCCCA authorized the amendment and restatement of the Original 2003 Bonds as the Amended and Restated Hotel Room Rental Tax Revenue Bonds, Series of 2003 (as so amended and restated, the "2003 Bonds"), which added a new interest rate and included other necessary amendments in connection therewith, issued pursuant to the Original 2003 Indenture, amended and supplemented by an Amended and Restated Trust Indenture (as so amended and restated, the "2003 Indenture") and purchased by Wells Fargo Bank, National Association (the "Bank") pursuant to the terms of a Continuing Covenants Agreement between the Authority and the Bank (the "2003 Continuing Covenants Agreement"); and

**WHEREAS**, on August 25, 2011, the LCCCA also authorized the amendment and restatement of the Original 2007 Bonds as the Amended and Restated Hotel Room Rental Tax Revenue Bonds, Series of 2007 (as so amended and restated, the "2007 Bonds" and, together with the 2003 Bonds and any bonds issued to refinance the 2003 Bonds and/or the 2007 Bonds, the "Bonds"), which added a new interest rate and included other necessary amendments in connection therewith, issued pursuant to the Original 2007 Indenture, as amended and supplemented by an Amended and Restated Trust Indenture (as so amended and restated, the "2007 Indenture" and, together with the 2003 Indenture, the "Indentures") and purchased by the Bank pursuant to the terms of a Continuing Covenants Agreement between the Authority and the Bank (the "2007 Continuing Covenants Agreement" and, together with the 2003 Continuing Covenants Agreement, the "Continuing Covenants Agreements"); and

**WHEREAS**, the Bonds, the Indentures, the Continuing Covenants Agreements and all other documents, agreements and instruments executed in connection therewith are collectively referred to herein as the "LCCCA Bond Documents"; and

**WHEREAS**, the interest rate modes then in effect pursuant to the Continuing Covenants Agreements of the Bonds were effective until March 1, 2013, which date has been extended by the parties until April 1, 2014; and

**WHEREAS**, as part of the terms and conditions of the LCCCA Bond Documents, the LCCCA was required to complete a study of its operations and sales in anticipation of the negotiation of amended financing terms offered by the Bank; and

**WHEREAS**, the LCCCA complied with this condition by hiring Convention, Sports & Leisure ("CS&L"), which issued its report in May 2012 recommending changes to operations, contracts, marketing efforts, and the like to ensure the continued future viability of the Project; and

**WHEREAS**, the LCCCA, with the benefit of the CS&L report and support from certain community stakeholders, began negotiating with the Bank beginning in August 2012 on the refinancing of the Bonds; and

**WHEREAS**, in the meantime, between April 1, 2012 and January 1, 2013, and again from April 1, 2013 through the present, all HRRT revenues were diverted to the LCCCA in accordance with Ordinance 45 during those periods; and

**WHEREAS**, based on current projected revenues and expenses, including the interest accruing on the Bonds, it is currently not projected that the HRRT revenues will revert to the 80/20 distribution ratio to the LCCCA and PDCVB for the foreseeable future; and

**WHEREAS**, despite their negotiations the LCCCA and the Bank were unable to reach agreement on financing terms before March 1, 2013, and therefore agreed to extend the current financing terms until the current expiration of April 1, 2014, pursuant to four separate extensions; and

**WHEREAS**, on May 19, 2014, the Bank presented a Term Sheet to the LCCCA that details the terms and conditions for the continued holding of all of the issued and outstanding Bonds (the "Term Sheet") for a period of five (5) years from the date of closing, a copy of which is attached hereto as Exhibit "A"; and

**WHEREAS**, the LCCCA desires to accept the terms and conditions of the Term Sheet and authorize and take any and all actions required thereunder, so that the Bank will agree to continue to own the Bonds for an additional five (5) year period; and

**WHEREAS**, the parties hereto acknowledge and agree that the long-term financial stability of the Convention Center to be provided by a five (5) year financing commitment is important to the marketability of the Convention Center and, in turn, the promotion and attraction of business, industry, commerce and tourism within the County; and

**WHEREAS**, the parties hereto acknowledge that the promotion and attraction of business, industry, commerce and tourism within the County is essential to their respective missions and businesses, and therefore the acceptance of the Term Sheet by the LCCCA is desirable and valuable to each of them individually as entities; and

**WHEREAS**, LCCCA and PSP are parties to various agreements related to the operation of the Convention Center, the Condominium Association and the Marriott Hotel ("Facilities") including without limitation the Declaration of Condominium of the Penn Square Hotel and Convention Center (the "Condominium Declaration") and those other documents, agreements and instruments collectively defined as "Recognition Agreements" in that certain Subordination, Non-Disturbance, Attornment and Recognition Agreement between the Bank, as successor to Wachovia Bank and PSP dated March 29, 2007 (the "SNDA") which contain inter alia certain reserve funding requirements, quality standards governing the operation, and maintenance and repair obligations of the Facilities and other obligations (such term "Recognition Agreements" having the same meaning herein as set forth in the SNDA); and

**WHEREAS**, all terms used but not defined herein shall have the meanings ascribed thereto in the Recognition Agreement.

**NOW, THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which is mutually acknowledged, and with the intent to be legally bound hereby, the parties hereto covenant and agree that:

#### **TERMS AND CONDITIONS**

##### **1. Contributions of the LCCCA**

###### **1.1 Marketing**

1.1.1 LCCCA agrees to make payments to the Convention Center Unit's operator for the purpose of targeting marketing activities to attract Priority 1 and Priority 2 events at the Convention Center, as more fully set forth in Section 6 below. The funding amount shall be Thirty-Five Thousand Dollars (\$35,000.00) for 2014, and thereafter Eighty Five Thousand Dollars (\$85,000.00) per year through 2020. The payments shall be funded from the LCCCA's Agency Account.

1.1.2 The LCCCA agrees to approve, in accordance with prior practices, an annual marketing budget and shall make payments to the Convention Center Unit's operator, currently Interstate Hotels and Resorts, of Ninety Seven Thousand Dollars (\$97,000.00) for marketing the convention center for the years 2014 through 2020. The marketing activities will include, but not be limited to, (i) advertising, (ii) media events, (iii) e-commerce, (iv) collateral materials, (v) trade shows, (vi) promotions, (vii) dues and subscriptions, and (viii) scheduling software for sales automations associated with the adjacent hotel.

1.1.3 Payments under Sections 1.1.1 and 1.1.2 shall be made directly to the Convention Center Unit's operator, in equal quarterly installments, and are due January 1, April 1, July 1 and October 1 of each calendar year, for that year's marketing campaign.

1.1.4 The LCCCA agrees to approve an annual marketing budget and transfer the available funds and disburse the following minimum annual expenses for marketing Priority 1 & Priority 2 events in accordance with the activities outlined in Section 1.1.5.1.

2014	\$132,000.00
2015	\$145,000.00
2016	\$194,000.00
2017	\$243,000.00
2018	\$292,000.00
2019	\$308,000.00
2020	\$326,000.00

1.1.5 Payments by LCCCA for the funding schedule in 1.1.4 shall be made directly to the Convention Center Unit's operator, and are due in equal quarterly installments on January 1, April 1, July 1 and October 1 of each calendar year, for that year's marketing campaign.

1.1.5.1 A minimum of eighty percent of the annual budget will be allocated to sales (exclusive of the Convention Sales expense described in Section 1.1.7) and marketing activities including but not limited to the cost associated with the following: (1) hiring and maintaining appropriate sales and marketing staff (which will include the hiring of additional staff but exclude existing Convention Sales expenses described in Section 1.1.7); (2) attending tradeshows, including but not limited to travel, marketing events, promotion, booth rental, etc.; (3) sales blitzes for FAM events and targeted markets; (4) lead generation activities including, but not limited to, e-commerce, e-blast, advertising and other media cost; (5) general operating expenses; and (6) other expenses targeted for the marketing of Priority 1 & Priority 2 events at the Convention Center Unit. Payments for the preceding expenses shall be made directly to the Convention Center Unit's operator in equal quarterly installments, and are due on each January 1, April 1, July 1 and October 1 for that year's marketing campaign.

1.1.5.2 The remaining percentage, up to a maximum of twenty percent, will be allocated to provide incentives ("Marketing Incentive Funds") to secure commitments for Priority 1 and Priority 2 events, including but not limited to the cost associated with (1) transportation, (2) room and equipment rental, (3) advertising,

(4) security and other public municipality support, and (5) other incentives required to secure Priority 1 & Priority 2 events at the Convention Center Unit. Payments of Marketing Incentive Funds will be made directly to the Convention Center Unit's operator upon demand, but in no event later than December 31 of the calendar year.

1.1.5.3 In the event Marketing Incentive Funds are provided by the LCCCA in accordance with this Section and are deposited into a set-aside fund with the Convention Center Unit's operator application to a Priority 1 or Priority 2 event to occur in the future but which subsequently is cancelled, those Marketing Incentive Funds shall be reinvested into the marketing incentives budget for the year in which the cancellation occurred, and any excess Marketing Incentive Funds over that year's minimum requirement shall be applied as a credit toward the LCCCA's required marketing incentive budget for the following calendar year.

1.1.6 LCCCA's obligations hereunder shall continue for a seven (7) year period.

1.1.7 The annual marketing budget provided in this Section 1.1 is exclusive of the costs allocated by the Convention Center Unit's operator for the sales at the Convention Center Unit ("Convention Sales"). Such Convention Sales expenses include, but are not limited to, payroll of the Convention Center Unit's operator's staff allocated to the Convention Center Unit including but not limited to payroll, benefits, payroll taxes, incentives, sick time, vacation and holiday pay properly allocable to all Convention Center events in accordance with the cost allocation provisions set forth in the IHR Guidelines identified in the Second Amendment to the JDA (defined herein). The LCCCA shall at all times continue to budget for and fund the appropriate level of Convention Sales expenses to ensure the Convention Sales function is appropriately carried out by the Convention Center Unit's operator.

## 1.2 Furniture, Fixtures and Equipment

1.2.1 LCCCA hereby adopts and accepts the following FF&E and Capital Reserve funding schedule as applicable to the LCCCA for the years provided, the monies for which shall be deposited into an FF&E and Capital Reserve Account owned and maintained by the LCCCA:

1.2.1.1	2012	\$ 200,000
1.2.1.2	2013	\$ 300,000
1.2.1.3	2014	\$ 400,000
1.2.1.4	2015	\$ 700,000
1.2.1.5	2016	\$ 700,000

- 1.2.1.6 2017 \$ 800,000
- 1.2.1.7 2018 \$ 900,000
- 1.2.1.8 2019 \$ 900,000
- 1.2.1.9 2020 \$ 900,000

1.2.2 Funding by the LCCCA pursuant to the FF&E and Capital Reserve funding schedule adopted herein shall occur as follows:

1.2.2.1 In 2014 and 2015, funding payments shall be made in equal installments on July 1, August 1, September 1, October 1, November 1 and December 1 of each calendar year, unless the LCCCA is in receipt of any disbursements from the CRIZ (defined herein), in which case the remaining annual payments will be due within fifteen (15) days of receipt of any disbursement from the CRIZ. The LCCCA shall be required to disburse funds from the FF&E and Capital Reserve Account solely for the repair, replacement and renovation of FF&E and capital improvements to maintain the Quality Standards in the existing Convention Center Unit and Common Elements of the Condominium.

1.2.2.2 Funding for the years 2016 through 2020 shall occur on the earlier of (a) equal quarterly installments due January 1, April 1, July 1 and October 1 for each calendar year, or (b) within fifteen (15) days of receipt of any disbursement from the CRIZ, if a CRIZ is in place in accordance with this Agreement.

1.2.3 The LCCCA shall be required to disburse funds from the FF&E and Capital Reserve Account solely for the repair, replacement and renovation of FF&E and capital improvements to maintain the Quality Standards in the existing Convention Center Unit and Common Elements of the Condominium.

1.2.4 The LCCCA and PSP acknowledge that the FF&E and Capital Reserve funding schedule set forth in this Section 1.2 do not amend or modify the previously agreed upon Quality Standards as obligations required by the JDA (as defined below), the Condominium Declaration and other Recognition Agreements. The FF&E and Capital Reserve funding amounts specified in this Section 1.2 represent the minimum amounts that shall be funded by the LCCCA into a FF&E and Capital Reserve Account, and the LCCCA shall deposit additional funds and disburse the same from the FF&E and Capital Reserve Account to maintain the Quality Standards (as required by the Recognition Agreements) in the Convention Center Unit and Common Elements of the Condominium, even if additional funding is required in order to comply with such Quality Standards.

- 1.2.5 PSP shall instruct the Hotel operator to certify on or before December 31 of each year as of PSP's adherence to Marriott's requirements for FF&E and Capital Reserve for such year.
- 1.2.6 The provisions of this Section shall operate to stipulate the minimum funding obligation of the LCCCA under the Declaration of Condominium and the Joint Development Agreement as to the FFE & Capital Reserve funding schedule. PSP acknowledges and represents that it has complied, and will continue to comply with its obligations to fund its portion of the FF&E and Capital Reserve applicable to the Hotel Unit in accordance with the Franchise Agreement with Marriott Hotels and Resorts.

## **2. Contribution of the PDCVB**

- 2.1 The PDCVB agrees to execute and deliver an irrevocable letter directing the Lancaster County Treasurer to direct one hundred (100%) percent of the HRRT revenues to the LCCCA for a minimum period of five (5) years, effective with disbursements in July 1, 2014 and ending with disbursements in June 30, 2019. Commencing with disbursements occurring in July 2019, the terms of Lancaster County Ordinance 45 shall again govern the distribution of HRRT revenues. If for any reason during this period the PDCVB receives a check for payment of HRRT revenues from any entity other than as provided in Section 2.2, the PDCVB agrees to endorse said check over and deliver same to the LCCCA within two (2) business days.
- 2.2 The parties agree that, if, as of December 31, 2016, 2017 and/or 2018 (i) the funds and/or cash equivalents on deposit under the Indentures exceed Five Million Seven Hundred and Fifty Thousand Dollars (\$5,750,000.00) after payment of all obligations of the LCCCA then due and owing (including, but not limited to, those as set forth more fully in this Agreement and all LCCCA Bond Documents) and (ii) the LCCCA certifies in writing that it is not in breach of this Agreement or any LCCCA Bond Document, then the LCCCA shall notify the Trustee to remit payment of the lesser of (i) any funds in excess of \$5,750,000.00 to the PDCVB and (ii) an amount not to exceed the equivalent of twenty (20%) percent of the HRRT revenues for that year.
- 2.2.1 By way of example only, if HRRT revenues for 2016 are \$5,000,000.00, twenty (20%) percent would equal \$1,000,000.00. If the LCCCA reserve fund as of December 31, 2016, were \$6,250,000.00, and the LCCCA has met its financial obligations including but not limited to funding the operating expenses for the Convention Center Unit, including the required FF&E and Capital Reserve Account and annual marketing expenses and certified to its continuing compliance with this Agreement and each LCCCA Bond Document, the LCCCA would notify the Trustee to remit payment in the amount of \$500,000.00 to the PDCVB.



- 2.2.2 Any payment made pursuant to this Section by the LCCCA/Trustee shall be made no later than January 15 immediately following the test date.
- 2.3 The PDCVB expressly acknowledges and concedes that, in the absence of the LCCCA's acceptance of the Term Sheet from the Bank, which includes a requirement that the PDCVB consent to this diversion of HRRT revenues, the terms and conditions of the LCCCA Bond Documents would likely result in the diversion of One Hundred Percent (100%) of those revenues for the indefinite future, and therefore this Agreement provides access to future revenues to which they may not otherwise be entitled.

### **3. Contribution of PSP**

- 3.1 Conditions Precedent to Performance by PSP
- 3.1.1 By execution of this Agreement, PSP shall not be deemed to have waived any rights or remedies available to it under the Recognition Agreements. Rather, PSP is voluntarily assisting the LCCCA with the refinancing of the Bonds under terms and conditions more favorable to the LCCCA.
- 3.1.2 PSP's obligations under this Agreement are expressly conditioned at all times upon receipt upon demand of written evidence satisfactory to PSP in its reasonable judgment that: (A) all parties hereto are in full compliance with their respective obligations under this Agreement, all LCCCA Bond Documents, and Recognition Agreements and the Quality Standards; and (B) the respective guaranties of the City and the County provided in Sections 4.3 and 5 have been validated and approved by the Secretary of the Pennsylvania Department of Community and Economic Development and remain in full force and effect. All forbearances, waivers and consents provided by PSP hereunder are dependent upon the continuing accuracy of all of the foregoing conditions at all times.
- 3.2 Marketing
- 3.2.1 PSP shall continue to contribute, in accordance with its prior practices, annual payments to the Convention Center Unit's operator for the purposes of targeting sales and marketing activities to attract Priority 1, Priority 2 and other events at the Convention Center, as more fully set forth below. The annual funding amount shall be One Hundred Thousand Dollars (\$100,000.00). Commencing in 2021, the LCCCA shall have sole responsibility to fund activities targeted at attracting Priority 1 and Priority 2 events.
- 3.2.1.1 Annual payments are to be made directly to the Convention Center Unit's operator, and are due in equal quarterly installments on January 1, April 1, July 1, and October 1 of each calendar year, for that year's marketing campaign.

3.2.1.2 PSP's obligations under this Section 3.2 to fund marketing expenses shall continue for a period of seven (7) years ending December 31, 2020.

### 3.3 Debt Forgiveness

3.3.1 The LCCCA and PSP, along with the Redevelopment Authority of the City of Lancaster, entered into a Joint Development Agreement dated January 31, 2006, as amended on March 28, 2007 and May 27, 2010 (as amended, the "JDA"), under which LCCCA agreed at Section 2.1.7(d) to make payments to PSP totaling Seven Hundred Thousand Dollars (\$700,000.00) in fourteen (14) annual payments in the amount of Fifty Thousand Dollars (\$50,000.00) each commencing March 31, 2015, in repayment of certain project costs associated with the construction of the Convention Center.

3.3.2 PSP agrees to forbear from enforcing the payment of this Seven Hundred Thousand Dollars (\$700,000.00) debt by the LCCCA so long as no party other than PSP fails to remain in full compliance with the terms of this Agreement. Upon any failure by a party other than PSP to perform in all respects its obligations under this Agreement, PSP shall have the right to declare immediately due and payable all past due annual installments upon demand by PSP and the LCCCA shall then resume making annual payments to PSP of \$50,000 per year until all fourteen (14) required annual payments have been paid in full.

### 3.4 Concessions

3.4.1 PSP and LCCCA entered into a Food and Beverage Concession Agreement dated December 20, 2001, as amended on March 28, 2007 and May 27, 2010 (as so amended, the "F&B Agreement"), under which PSP granted to the LCCCA the right to provide Concession Services at the Convention Center. "Concession Services" are defined therein as the sale of food and beverages on a cash and credit card basis over the counter without table service or advance order anywhere in the Facilities. PSP retains the right to revoke its consent to this provision upon thirty (30) days advance notice to the LCCCA, however, PSP agrees to forbear from exercising its right to revoke its consent to allow LCCCA to provide Concession Services, as defined in the F&B Agreement, at the Convention Center for a period ending upon the earlier of (i) seven (7) years following the effective date of this Agreement or (ii) the failure by LCCCA to perform its obligations contained in this Agreement and under any Recognition Agreement or LCCCA Bond Document.

### 3.5 Furniture, Fixtures and Equipment Schedule

- 3.5.1 The LCCCA and PSP, along with the Redevelopment Authority of the City of Lancaster, entered into the JDA and the Condominium Declaration, pursuant to which each party was required to establish and fund a reserve account for the purpose of covering the costs of replacements and renewals to, or refurbishment of, the fixtures, furniture, furnishings and equipment (FF&E), as well as non-routine repairs, alterations, maintenance and refurbishment of portions of the facility constituting capital expenses under generally accepted accounting principles. PSP hereby stipulates that it will consider acceptable the FF&E and Capital Reserve funding schedule set forth in Section 1.2.1 which, if satisfied, will constitute the minimum amount to be deposited by the LCCCA for the years provided for purposes of meeting the FF&E requirements generally set forth in the Condominium Declaration and the JDA, the monies for which shall be deposited into the FF&E and Capital Reserve Account owned and maintained by the LCCCA, as more fully provided in Section 1.2 above.
- 3.5.2 The provisions of this Section shall operate to stipulate the minimum funding obligation for the LCCCA, into an FF&E and Capital Reserve Account owned and maintained by the LCCCA, under the Condominium Declaration and the JDA as to the funding schedule set forth in Section 1.2 in its entirety.

#### **4. Contribution of the City**

##### **4.1 Marketing Consortium**

- 4.1.1 The Redevelopment Authority of the City of Lancaster agrees to make annual payments to the Convention Center Unit's operator for the purpose of targeting sales and marketing activities to attract Priority 1 and Priority 2 events at the Convention Center, as more fully set forth in Section 6 below. The annual funding amount shall be One Hundred Thousand Dollars (\$100,000.00).
- 4.1.2 Quarterly payments, in equal amounts, are to be made directly to the Convention Center Unit's operator, and are due January 1, April 1, July 1, and October 1 of each calendar year, for that year's marketing campaign.
- 4.1.3 RACL's obligations hereunder shall be for a period of seven (7) years following the effective date of this Agreement.

##### **4.2 Furniture, Fixtures and Equipment**

- 4.2.1 The City agrees to request the City Revitalization and Improvement Zone (CRIZ) Board to make annual payments to the LCCCA for purposes of funding a portion of the LCCCA's obligations under the JDA and the Condominium Declaration to provide for the replacement of furniture,

fixtures and equipment within the Convention Center, in the total amount of \$5,000,000.

4.2.2 Upon approval of the City's CRIZ application by the State Department of Community and Economic Development, the CRIZ annual obligations hereunder shall be as follows:

4.2.2.1 2014 \$ 500,000

4.2.2.2 2015 \$ 500,000

4.2.2.3 2016 \$ 700,000

4.2.2.4 2017 \$ 700,000

4.2.2.5 2018 \$ 800,000

4.2.2.6 2019 \$ 900,000

4.2.2.7 2020 \$ 900,000

4.2.3 Payments shall be made on at least an annual basis directly to the LCCCA to meet its obligations under Section 1.2.1, and are due no later than January 31 of each calendar year, with the exception of the 2014 and 2015 contributions, which are expected to be paid no later than December 31, 2015. Payments can be made more frequently, or on an advanced basis, at the discretion of the CRIZ Board.

4.2.4 In the event the CRIZ Authority does not secure the necessary funds by December 31, 2015, but secures the funds at a later date, the CRIZ Authority shall remain obligated on the full \$5,000,000 FF&E and Capital Reserve Account payments provided herein, less any amounts paid by the City to that date pursuant to the Deficiency Guaranty set forth in Section 4.3 below.

4.2.4.1. In such case, the CRIZ Authority shall be required to remit to the LCCCA all FF&E funds set forth for the years prior to the CRIZ Authority securing such funds as set forth in Section 4.2.2 above, plus the current year's funding amount, within fifteen (15) days of securing such. For example, if the CRIZ is granted by the Commonwealth in 2016, and the CRIZ Authority secures its initial funding in 2016, the CRIZ Authority shall be responsible for remitting a total of \$1,700,000 to the LCCCA within fifteen (15) days of securing such funds. All future funding shall occur as set forth in Section 4.2.2 and 4.2.3 above.

4.2.5 The unavailability of any funds provided to the LCCCA by the CRIZ Authority under this section 4.2 shall not be a condition precedent to, or provide relief from, the LCCCA's obligations to fund its FF&E and Capital Reserve amounts pursuant to Section 1.2.

#### 4.3 Deficiency Guaranty

- 4.3.1 The City agrees to provide a deficiency guaranty of funding towards the marketing and FF&E and Capital Reserve obligations of the LCCCA as set forth in section 1, supra, in an amount not to exceed Two Million Dollars (\$2,000,000) in total for the period of 2014 through 2020.
- 4.3.2 The deficiency guaranty shall only be required and applicable in the event that the City's City Reinvestment and Improvement Zone (CRIZ) fails to advance funding to the LCCCA in accordance herewith. Should the CRIZ fail to raise funds sufficient to meet its funding obligations to the LCCCA pursuant to the schedule provided herein, any payments made by the City pursuant to its deficiency guaranty shall operate to reduce the amount of FF&E otherwise due and owing as set forth in Section 4.2.2 above.
- 4.3.3 The City's deficiency guaranty is subject to and conditioned upon approval by City Council of the City of Lancaster, adoption by the City Council of any necessary ordinances, and if required, approval by the Pennsylvania Department of Community and Economic Development under and pursuant to the Pennsylvania Local Government Unit Debt Act.

## **5. Contribution of the County**

- 5.1 The County of Lancaster will provide a Guaranty of the timely payment of principal and interest due on the Bonds issued by the LCCCA to finance the Project, mandatory sinking fund redemptions and optional redemptions directed by the Authority (but not mandatory redemptions required by the Bank following the Mandatory Tender Date), to the extent permitted by the Local Government Unit Debt Act, to be expressed in a separate and specific Guaranty document.
  - 5.1.1 The County's Guaranty will be called upon only in the event that the proceeds available in the Authority in the Debt Service Reserve Fund (to be funded from the Hotel Tax Revenues monthly in the amount of 1/12 of the annual principal and interest) are insufficient to satisfy any principal, redemption and/or interest then due and owing on the Bonds. Any County payments made pursuant to this obligation may be reimbursed from Hotel Tax Revenues after the minimum fund balance requirements in the Indenture are satisfied, as is more fully described and set forth in the separate and specific Guaranty document and related documents.
  - 5.1.2 The County's willingness to enter into this Guaranty of the LCCCA Bond Documents is contingent upon, and directly related to, the offer and acceptance by Wells Fargo of an interest rate equal to the sum of (i) the Index (70% of LIBOR or 100% of SIFMA) and (ii) the Applicable Spread (initially 75 basis points, subject to the maintenance of certain ratings assigned to the long term, unenhanced general obligation debt).

5.1.3 The Hotel Room Rental Tax revenues shall provide the source of funding for the obligations of the County with regard to the Guaranty.

5.2 This guaranty will remain in effect for the life of the Bonds.

## **6. Marketing Consortium**

6.1 The City (also representing RACL), LCCCA, and PSP, by virtue of their contributions for the marketing of Priority 1 and Priority 2 events at the Convention Center made hereunder, and the County by virtue of its Full Suretyship Guaranty, agree to the creation of a Marketing Consortium which, between 2014 and 2020, shall set policy, provide direction, and advise the LCCCA as to oversight and approval of the marketing expenditures recommended by the Convention Center Unit's operator associated with the activities set forth in Sections 1.1.1, 1.1.4, 1.1.5, 3.2 and 4.1 in accordance with the Qualified Convention Center Management Agreement for the Lancaster County Convention Center dated January 23, 2002. The preceding expenditures will be targeted for the marketing, advertising, promotion and financial incentives necessary to secure Priority 1 and Priority 2 events held at the Convention Center Unit.

6.1.1 Priority 1 events in the Lancaster County Convention Center are defined for these purposes as: multiple day, state, regional, and national conventions, tradeshow, corporate meetings and competitions that utilize the Convention Center Unit space and produce 500 or more peak night guestrooms and/or 1,500 total room night production (max 4 nights) with overflow rooms to Lancaster County that are above and beyond the rooms booked at the integrated Marriott hotel. This business must also generate room rental and/or other ancillary revenues for the convention center.

6.1.2 Priority 2 events in the Lancaster County Convention Center are defined for these purposes as: multiple day, state, regional, and national conventions, tradeshow, corporate meetings and competitions that utilize the Convention Center Unit space and produce 300 or more peak night guestrooms and/or 900 total room night production (max 4 nights) with overflow rooms to Lancaster County that are above and beyond the rooms booked at the integrated Marriott hotel. This business must also generate room rental and/or other ancillary revenues for the convention center.

6.2 The Marketing Consortium shall be made up of one (1) representative each from the City (also representing the Redevelopment Authority), LCCCA, PSP, and the County. These four members of the Marketing Consortium shall collectively and unanimously approve the appointment of a fifth member of the community to serve on the Consortium for a term of one year, subject to unanimous reappointment or replacement with a new fifth member unanimously appointed by the other four members.

- 6.3 Day-to-day responsibility for the planning, administration, management, and implementation of the marketing plan for Priority 1 and Priority 2 events is delegated to the Convention Center Unit's operator, currently Interstate Hotels & Resorts, Inc.
- 6.4 The Convention Center Unit's operator will report efforts, results, and future plans on a quarterly basis to the Marketing Consortium.
- 6.5 Annually, the Convention Center Unit's operator will present to County Commissioners, at one of their public meetings, a summary of the year's marketing campaign. The presentation to the County Commissioners is to include typical Convention Center marketing and sales metrics. The Convention Center Unit's operator will also provide a financial accounting of the marketing plan; including stakeholder contributions, sales expenses, sales revenue, and economic impact of the public Convention Center. Neither PSP nor Marriott shall be obligated to provide any information concerning the hotel at any time.

## **7. Default and Remedies**

- 7.1 If an event of default has occurred and is continuing with respect to any LCCCA Bond Documents, then notwithstanding any agreement, expressed or implied, between or among the Bank, the Trustee, the County and the LCCCA to waive, modify or suspend enforcement of any of the rights of the Bank or obligations of the LCCCA, the LCCCA shall immediately notify the Trustee and the parties hereto that a default has occurred and for the purpose of instructing the Trustee to direct the County Treasurer to remit 100% of the HRRT into the Convention Center Authority Trust Fund which will be used by the LCCCA to meet its obligations under the LCCCA Bond Documents.
- 7.2 An "Event of Default", for purposes of this Agreement, shall occur by any party hereunder if that party fails to comply with any provision or requirement contained or referenced in this Agreement or the Recognition Agreements (as amended); provided, no default shall occur hereunder unless written notice shall have been given to all parties to this Agreement and ten (10) days shall have elapsed after receipt of such notice without the cure thereof, provided, however, that if such default is not reasonably capable of being cured within such ten (10) day period and if the defaulting party shall have commenced to cure same, no default shall occur so long as such defaulting party continuously and diligently pursues the cure thereof to completion, but in no event to exceed sixty (60) days.
- 7.3 Upon the occurrence and continuation of an Event of Default under this Agreement, any or all of the non-defaulting parties shall have the right to bring an action for specific performance of this Agreement, all parties hereto agreeing that monetary damages are not sufficient to make the other parties whole for a default under this Agreement.

- 7.4 The parties hereto waive all rights to claim or assert consequential, special and punitive damages in connection with this Agreement.
- 7.5 In any proceeding arising under this Agreement, the prevailing party(ies) shall be entitled to recover the costs of the proceeding, as well as reasonable attorneys' fees and expenses before and at trial, on appeal, in bankruptcy and in post judgment collection, as such post judgment costs may be awarded by the court.

## **8. Miscellaneous**

- 8.1 The validity, performance and all matters relating to the interpretation and effect of this Agreement and any amendment thereto shall be governed by the laws of the Commonwealth of Pennsylvania, excluding its rules with respect to conflict of laws. The parties consent to the personal jurisdiction of the state court in Lancaster County, Commonwealth of Pennsylvania, and the federal court in the Eastern District of the Commonwealth of Pennsylvania, which courts shall constitute the exclusive forum for all court proceedings involving the enforcement of this Agreement and the resolution of all disputes related to the subject of this Agreement, whenever, wherever and however arising, whether at law, in equity or otherwise and whether the dispute involves an alleged breach of contract, violation of law or tort of any kind.
- 8.2 This Agreement shall not be assigned by any party without the prior written consent of the others.
- 8.3 Each party hereto represents and warrants to the other that (i) it has adequate power and authority to conduct its business as presently conducted or contemplated hereby to be conducted by it, to enter into this Agreement and to perform its obligations hereunder, and (ii) the individual executing this Contract has, is vested with, and possesses fully authority to bind the party on whose behalf he or she executes this Agreement. Further, the parties represent to each other that this Agreement has been duly authorized, executed and delivered by it and does not contravene any law, rule or regulation applicable to it.
- 8.4 All notices to be given by either party to the other shall be in writing and shall be effective upon receipt, and may be delivered or mailed by certified mail, return receipt requested, postage prepaid, or sent by a nationally recognized overnight carrier addressed as set forth below.

To City:  
City of Lancaster  
Attn: Mayor  
120 North Duke Street  
Lancaster, Pennsylvania 17608

To County:  
County of Lancaster  
Attn: Chief Clerk  
150 N. Queen St.  
Lancaster, Pennsylvania 17603

With a copy to:  
City of Lancaster

With a copy to :  
County of Lancaster



Attn: Solicitor  
120 North Duke Street  
Lancaster, Pennsylvania 17608

Attn : Solicitor  
150 N. Queen St., Suite 714  
Lancaster, Pennsylvania 17603

To LCCCA :

Lancaster County Convention Center Authority  
Attn: Executive Director  
25 South Queen Street  
Lancaster, Pennsylvania 17603

To PDCVB:

Pennsylvania Dutch Convention & Visitors Bureau  
Attn: President  
501 Greenfield Road  
Lancaster, Pennsylvania 17601

To PSP :

Penn Square Partners, LP  
Attention: Chief Operating Officer  
P.O. Box 10008  
1853 William Penn Way  
Lancaster, Pennsylvania 17605-0008

With a copy to :

High Company LLC  
Attn: General Counsel & Treasurer  
P.O. Box 10008  
1853 William Penn Way  
Lancaster, PA 17605-0008

To Redevelopment Authority:

Lancaster Redevelopment Authority  
120 North Duke Street  
Lancaster, PA 17608

To CRIZ Authority:

Lancaster City Revitalization and Improvement Zone Authority  
120 North Duke Street  
Lancaster, PA 17608

or such other addresses as either party may designate by written notice to the other by the method above.

- 8.5 This Agreement shall not be amended, modified, changed, waived, discharged, terminated or assigned without the prior written consent of the party or parties against whom the enforcement of said alteration is sought.
- 8.6 No action or failure to act by the parties shall constitute a waiver of a right or duty afforded them under the Agreement, nor shall such action or failure to act constitute approval of or acquiescence in a breach hereunder, except as may be specifically agreed in writing.

- 8.7 If in any judicial proceedings a court shall refuse to enforce any provision of this Agreement, then such unenforceable provision shall be deemed eliminated from this Agreement for the purpose of such proceedings, to the extent necessary to permit the remaining provisions to be enforced, unless the provision(s) invalidated relate to the payment of money, in which event this Agreement will be terminated unless the parties agree to an amendment which is the economic equivalent of the provision(s) invalidated. To the full extent, however, that the provisions of any applicable law may be waived, they are hereby waived to the end that this Agreement be deemed to be valid and binding agreement enforceable in accordance with its terms, and in the event that any provision hereof shall be found to be invalid or unenforceable, such provision shall be construed by limiting it so as to be valid and enforceable to the maximum extent consistent with and possible under applicable law.
- 8.8 Nothing in this Agreement is intended nor shall it be construed or interpreted to waive or modify the immunities and limitations on liability provided for by law in Pennsylvania Statutes section 76.28, including but not limited to the Pennsylvania Political Subdivision Tort Claims Act 42-PA C.S.A. Section 8541 et seq.
- 8.9 This Agreement shall be effective as to each party only upon proper execution and delivery by each party hereto. This Agreement may be executed in multiple counterparts, each of which shall be treated as an original, but all of which shall together constitute one and the same instrument.
- 8.10 All of the recitals set forth at the outset of this Agreement are incorporated into, and form a material part of, this Agreement.
- 8.12 Any intention to create a joint venture or partnership between or among the parties is hereby expressly disclaimed.
- 8.13 The City and County shall be added as an additional insured on the liability insurance policy applicable to the Condo Association. Any and all expenses associated with adding the City and the County shall be paid 100% by the LCCCA.

**IN WITNESS WHEREOF**, the duly authorized representatives of the parties have set their hand on the date first written above.

LCCCA:

BY: \_\_\_\_\_

WITNESS:

\_\_\_\_\_

PDCVB:

BY: \_\_\_\_\_

WITNESS:

\_\_\_\_\_

PSP:

BY: \_\_\_\_\_

WITNESS:

\_\_\_\_\_

CITY OF LANCASTER:

BY: \_\_\_\_\_

WITNESS:

\_\_\_\_\_

REDEVELOPMENT AUTHORITY OF THE CITY OF LANCASTER:

BY: \_\_\_\_\_

WITNESS:

\_\_\_\_\_

LANCASTER CITY REVITALIZATION AND IMPROVEMENT ZONE AUTHORITY:

BY: \_\_\_\_\_

WITNESS:

\_\_\_\_\_

LANCASTER COUNTY BOARD OF COMMISSIONERS:

\_\_\_\_\_(SEAL)  
Scott Martin

WITNESS:

\_\_\_\_\_(SEAL)  
Dennis Stuckey

\_\_\_\_\_

\_\_\_\_\_(SEAL)  
Craig Lehman