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06 JUN 13 AM 10:25
PROTHONOTARY'S OFFICE
LANCASTER, PA.

LANCASTER COUNTY CONVENTION CENTER AUTHORITY
8 North Queen Street
Suite 1102
Lancaster, PA 17603,

Plaintiff,

vs.

COUNTY OF LANCASTER
50 North Duke Street
Lancaster, PA 17602
and
BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF LANCASTER,
50 North Duke Street
Lancaster, PA 17602
and
MOLLY HENDERSON, Commissioner
50 North Duke Street
Lancaster, PA 17602
and

COURT OF COMMON PLEAS
OF LANCASTER COUNTY, PA

CI-06-05556

CIVIL ACTION - LAW

Action for Declaratory Judgment, Action in Mandamus and Complaint in Equity

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RICHARD SHELLENBERGER,
Commissioner
50 North Duke Street
Lancaster, PA 17602,

Defendants.

I. THE PARTIES

1. Plaintiff, Lancaster County Convention Center Authority (hereinafter "Plaintiff" or the "Authority") is a public body, politic and corporate, created and now existing and in operation under and pursuant to the Third Class County Convention Center Authority Act, 16 P.S. §§ 2399.51 et seq. (the "Convention Center Authority Act" or "CCAA"), as amending and supplementing the Act of December 27, 1994, P.L. 1375 (the "1994 Act"), and under and pursuant to Lancaster County Ordinance 44 of 1999, exercising the public powers of the Commonwealth of Pennsylvania as an instrumentality thereof.

2. Defendant, County of Lancaster (hereinafter the "County"), is a third-class county in the Commonwealth of Pennsylvania, with its principal place of business located at 50 North Duke Street, Lancaster, PA 17602.

3. Defendant, Board of County Commissioners of the County of Lancaster (hereinafter the "Board"), is a body politic and corporate in the Commonwealth of Pennsylvania, with its principal place of business located at 50 North Duke Street, Lancaster, PA 17602.

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4. Defendant, Molly Henderson, is sued in her official capacity as an elected member of the Board of County Commissioners of the County of Lancaster, and maintains her official office at 50 North Duke Street, Lancaster, PA 17602.

5. Defendant, Richard Shellenberger, is sued in his official capacity as an elected member of the Board of County Commissioners of the County of Lancaster, and maintains his official office at 50 North Duke Street, Lancaster, PA 17602.

II. JURISDICTION AND VENUE

6. This Action is brought under and in furtherance of certain pertinent provisions of the Convention Center Authority Act and of the Local Government Unit Debt Act, 53 Pa.C.S.A. §§ 8101, et seq. ("LGUDA") in connection with specific enforcement of that certain Guaranty Agreement dated as of December 15, 2003, by and among Plaintiff, Defendant County and the Trustee, more specifically identified therein; a true and correct copy of the Guaranty Agreement is attached hereto and made a part hereof as Exhibit "A". Section 1.01 of the Guaranty Agreement defines the "Act" to be the 1994 Act "as amended and supplemented", i.e., the Convention Center Authority Act, as referenced above.

7. The Count I declaratory relief sought in this Action is brought under and pursuant to Pennsylvania Rule of Civil Procedure 1602; the Count II mandamus relief sought by Plaintiff is brought under and pursuant to Pa. R.C.P. Nos. 1095 and 1098; and the Count III equitable relief sought in the nature of preliminary and permanent injunctions is to afford Plaintiff full, complete and effective relief with respect to the

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Guaranty Agreement and the Authority's ongoing financing of the Convention Center Project more fully described below; and also, with respect to the Authority's source of ongoing revenues under and pursuant to County Ordinance 45 of 1999 providing the Authority funding through the Hotel Room Revenue Tax also described more fully below.

8. Venue is proper herein, as follows:

(a) With respect to the Count I claim for declaratory relief: Pa. R. C. P. Nos. 1006 and 2103; and

(b) With respect to the Count II claim for mandamus: Pa. R. C. P. No. 1092.

(c) With respect to the Count III claim for equitable relief: Pa. R. C. P. Nos. 1006 and 2103;

III. AUTHORITY'S REASONS FOR THIS LITIGATION ON AN EXPEDITED BASIS

9. The Authority brings this present Action upon the factual averments and legal assertions set forth herein, seeking judicial review and relief for reasons described more fully below but, in sum, include:

a. the need to confirm the validity and enforceability of the County Guaranty Agreement (Exhibit "A") to allow the Authority to further advance the financing of the Project under and pursuant to the Trust Indenture (as defined hereinbelow) by overriding the chilling effect of recently adopted County Resolutions 36 and 37 of 2006, time being of the utmost essence;

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b. to overcome the Defendants' continuing pattern of opposition, interference and attempts to usurp the activities of the Authority in fulfilling its singular statutory mission so as to allow the Authority to advance the timely financing, construction and completion of a convention center in Downtown Lancaster, to the benefit of the City and County of Lancaster as determined and declared by the then-Commissioners in 1999 pursuant to County Ordinances 44 and 45 of 1999;

c. to provide an appropriately clear and unequivocal confirmation and affirmation to the parties interested in advancing the Project, including the financing- and bond-related industry, the construction-related industry, and the historic preservation, tourism and revitalization interested parties, that the Project will proceed without further interference or opposition from those with competitive and politically differing interests, including the Defendant Commissioners and competing hoteliers and others; and

d. to otherwise affirm and ratify the underlying contractual obligations and commitments pursuant to the statutory, regulatory and municipal laws and regulations applicable to the Authority and to the Project.

IV. BACKGROUND

A. General

1. Formation and Governance of the Plaintiff Authority

10. The Authority was formed jointly by the incorporating municipalities, the County of

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Lancaster and the City of Lancaster, under the 1994 Act pursuant to County Ordinance No. 44, enacted September 15, 1999, together with Ordinance No. 45, enacted September 15, 1999, for the purpose of, *inter alia*, developing, designing, constructing, managing, operating, financing, and owning a convention center in the City of Lancaster at the site of the Watt & Shand building (the "Project"); true and correct copies of Ordinances 44 and 45 are attached hereto and made a part hereof as Exhibits "B1" and "B2".

11. In accordance with the applicable provisions of the Convention Center Authority Act and County Ordinance 44 of 1999, the Authority is governed by a seven (7) member Board pursuant to the Authority's Articles of Incorporation and Bylaws, the Board was initially comprised of four (4) Board members appointed by the County and three (3) Board members appointed by the City of Lancaster; each initial Board member serving varying staggered terms of two, three or four years. Most significantly as relevant to this Action and one aspect of the equitable relief sought herein pursuant to Count III (ad damnum subparagraph (f)) the seventh Board member of the Authority (being one of the four (4) members initially appointed by the County) was and is designated to a four (4) year term. As of September 15, 2007, and for the next four years, the majority member appointing municipality will then revert back to the County, and so forth during the tenure of the Authority's Board pursuant to CCAA, County Ordinance 44, and Authority Bylaws Section 3.2(iii) . Thus, in effect and practice, the municipality under the CCAA and County

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Ordinance 44 which is responsible for appointing a majority of the Authority Board Members, is supposed to alternate every four (4) years. See paragraph 6 of County Ordinance 44 of 1999 (Exhibit "B1").

12. The current majority of the Authority Board constitutes appointees by the City of Lancaster, however, the shift in the majority representation of the Authority Board, subject to alternation to the Defendant County as of September 15, 2007, should be deferred until final completion of construction of the Convention Center. Plaintiff avers, upon information and belief, that the opposition, interference and disruption, by and through the Defendant Commissioners, to the current Authority Board and to the Project has, as a purpose, delay and deferral of advancement of the Project until the County can take control of the Authority through the alternating mechanism of the CCAA and County Ordinance 44 (paragraph 6) to then scuttle the Project; a result which would be directly in contravention of the legislative findings of the General Assembly under the Convention Center Authority Act, and of the initial Board appointing municipalities under County Ordinance 44.

2. Financing of the Authority and the Project

13. Ordinance No. 45 imposed a 3.9% "Lancaster County Hotel Room Rental Tax"("HRRT") pursuant to the CCAA to be collected from each operator of a hotel within the "Market Area" expressly defined by the County Board of Commissioners in 1999, in paragraph 6 thereof, as the "entire County of Lancaster, Pennsylvania", effective January 1, 2000.

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14. Thereafter the County enacted County Ordinance No. 46, imposing a 1.1% Hotel Room Excise Tax ("HRET") to be collected as long as the HRRT is "in effect", "being collected" and "being disbursed to and applied by" the Authority. Because the Convention Center Authority Act allows for the entire HRRT to be remitted to the Authority under circumstances of an "event of default...with respect to any bonds, notes, or other indebtedness of the Authority incurred to finance the construction of the Convention Center...", the same provision was included in County Ordinance 45 of 1999, paragraph C2. See Exhibit B2, County Ordinance 45, page 6. Further, the then-Board of Commissioners, determined that it was in the best interest of the public, the Authority, and the Tourism Promotion Agency, to "bundle" the taxes to be collected pursuant to County Ordinances 45 and 46. But see paragraph 21 e. below.

15. At inception, the funding of the Authority and the Project through the imposition, collection, and deposit of the HRRT, as specifically described within the CCAA was the subject of extensive and multiple litigation before this Court and appellate courts of this Commonwealth filed by local hoteliers, which litigation is commonly referred to as Bold I, Bold II, etc., in which the Authority prevailed in defending the constitutionally of the HRRT. The suit commonly referred to as Bold III was withdrawn as a result of the Plaintiff's threat of a Dragonetti action which would have been filed against the Bold III litigants and their counsel. As part of the statutory and contractual protections described further below, the County cannot reduce the

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HRRT "until all bonds secured by the pledge of the Authority, together with interest, are fully met and discharged." CCAA, 16 P.S. §2399.72(f); and within the County Guaranty, the County contractually bound itself not to "reduce, diminish or repeal the Hotel Room Rental Tax." See paragraph 32i below.

3. Authority's Issuance and Sale of Series of 2003 Bonds

16. Thereafter, in 2003, the Authority proceeded with further efforts to finance the Project, by entering into, or causing to be exchanged, various and distinct bond related agreements, notes, and other documents, including without limitation, the following:

a. Citizens Bank Commitment Letter dated November 13, 2003;

b. Citizens Bank Bond Purchase Agreement dated December 16, 2003;

c. Trust Indenture dated December 15, 2003;

d. Specimen Bond;

e. Guaranteed Debt Service Reserve Fund Replenishment Note dated December 16, 2003;

f. Account Pledge and Control Agreement;

g. Hotel Tax Payment Acknowledgement Agreement;

h. County Guaranty Agreement (Exhibit "A" hereto);

i. Reimbursement Agreement;

j. Authority Solicitor Opinion;

k. Opinion of Special Counsel to Authority;

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l. Opinion of Special Counsel to the County;

m. Lancaster County Convention Center Authority General Certificate;

i. Authority's Resolution Authorizing Series 2003 Bonds Documents;

n. County General Certificate (a true and correct copy of which is appended hereto as Exhibit "C");

o. Trustee General Certificate;

p. Order of Authority Directing Authentication of Bonds;

q. Trustee Receipt of Bond Proceeds dated December 16, 2003;

r. Authority Receipt of Bond Proceeds dated December 16, 2003;

s. Closing Statement dated December 16, 2003;

t. UCC-1 Financing Statement;

u. Investment Instruction Letter;

v. Report on Self-Liquidating Debt; and

w. Debt Statement and Borrowing Base Certificate.

17. In accordance with and pursuant to the foregoing, the $40,000,000.00 Hotel Room Rental Tax Revenue Bonds, Series of 2003 (hereinafter the "Series 2003 Bonds" or "Bonds") were issued, sold and delivered by the Authority to Citizens Bank of Pennsylvania (the "Bank"), all conditions precedent thereto generally and as required within Article III Section 3.17 of the Guaranty Agreement having been timely met and satisfied.

18. Consistent with the representation and warranty of the County as set forth in Article

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II, Section 2.01E of the Guaranty Agreement, the County obtained the approval of DCED under and pursuant to its exclusive jurisdiction, and administrative review procedures set forth in LGUDA, which approval is now non-appealable and, being the exclusive and binding process therefor, is conclusive and not subject to current appeal, alteration or de facto challenge by anyone, including the Defendant Commissioners. Under the Guaranty Agreement, the "County Obligation" arising in connection with the replenishment of a portion of the "Debt Service Reserve Fund" to maintain the "Required Reserve Amount" cannot exceed $1,506,960.00 in any fiscal year. See Exhibit "A" at Article I, Section 1.01 and Article III, Section 3.01.

19. Notwithstanding, there has been continuing and persistent opposition to the Project and threats of litigation asserted against the Authority, its members, employees, and advisors since the disposition of the Bold litigation, including without limitation the Authority Board members' receipt of a letter dated January 26, 2006 sent by two hoteliers as channeled through the Defendant Board by the Commissioners' letter dated January 27, 2006 addressed to the Executive Director of the Authority. True and correct copies of the aforementioned letters are attached hereto as Exhibit "D".

B. Defendants' Opposition to the Authority and Convention Center Project

20. The Defendant Commissioners assumed office as of January 5, 2004, and have been and continue to be avowed opponents of the Project and the Authority.

21. The Defendant Commissioners have sought, and continue to seek, various and sundry strategies to impede, hinder, delay and diminish, and otherwise interfere

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with, the advancement of the Project, joining with private party opponents in doing so; including, for example, the following:

a. Appointing three replacement County Authority Board members in the Fall of 2005, who have actively and publicly collaborated with Defendant Commissioners in opposing the advancement of the Project at public meetings of the Authority's Board and otherwise;

b. With the publicly voiced support of the Defendant Commissioners, the current County appointees to the Authority Board have attempted to disrupt the operations of the Authority in various ways, including:

i. attempting to unilaterally convene a special meeting of the Authority's Board out of the ordinary course, in violation of the Authority's Bylaws, at a location of one of the Project opponents, i.e., the Farm and Home Center, on January 4, 2006, creating a media-heightened atmosphere of conflict within the Board; and

ii. Unilaterally providing letters and statements to the media attacking the Authority and the Project, or otherwise making assertions or expressing opinions contrary to the position of the Authority as a body ruled by its majority pursuant to Section 3.8 of the Authority's Bylaws; for example, a letter dated February 22, 2006 to the Editor of the Lancaster Sunday News, which, on its face, was written by one author intent on proliferating dissent and disruption within the public eye; and

c. Defendant Commissioner Henderson, joining with two of the County Authority Board appointees in January and February, 2006 in contacting the Bond Buyer, a publication serving the bond market industry necessary to the advancement of the Project, in a campaign to impugn and discredit the Authority and the Project; and

d. Joining with a local private party petitioner in a consolidated challenge under LGUDA before the Department of Community and Economic Development ("DCED") resulting in an October 27, 2005 Opinion and Order of DCED dismissing all counts of their Complaints which attacked the legality of two guarantees by the City of Lancaster relating to the financing of the proposed Hotel which will adjoin the Convention Center as part of the renovation of the former Watt & Shand Building in connection with the Project plan to reinvigorate and

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revitalize the City's Penn Square commercial district; on appeal, the Commonwealth Court rejected each argument of the Defendant Commissioners and of the private party co-appellant in the Opinion of the Commonwealth Court dated May 3, 2006, which decision is now the subject of mirroring Petitions for Allowance of Appeal by the Defendant Commissioners on behalf of the County and by the private party co-appellant, filed May 31, 2006; and

e. Enacting County Ordinance No. 87 on October 5, 2005, "unbundling" the HRRT and the HRET, and in so doing forecasting an intent to impede the coordination of funding for the Authority and the Project (in place per County Ordinances 44 and 45 of 1999), ignoring the relevant coordinating provisions of: (i) the CCAA and County Ordinance 45 in their disregard of the express legislative findings therein, and the clear declaration therein of the Authority's discretion in the application and use of the HRRT and the HRET for the funding of costs of the Project and of the operation of the Authority (see County Ordinance 45, paragraph D2, page 6), (ii) the Trust Indenture, (iii) the Guaranty Agreement and (iv) the statutory and contractual obligations of the County thereunder; and

f. Comments from Defendant Commissioner Shellenberger, at the October 5, 2005 Public Meeting of the County Commissioners, stating he was "puzzled as to why the two taxes were ever connected in the first place" and that he "would not do anything, as a fiduciary . . .to jeopardize the ability to borrow money at the best rate [the County] can possibly borrow" are telling given the subsequent passage of County Resolutions 36 and 37 of 2006, (see paragraphs 37 and 38, below); and

g. upon information and belief based upon public statements of the Defendant Commissioners in proposing and adopting County Resolutions 36 and 37 of 2006, that their actions were against the advice of the County's Special Counsel and without having sought the advice or counsel of the County's financial advisor, as further described in published media accounts of the Defendant Commissioners' statements at their public meeting of May 24, 2006.

C. Most Recent Opposition by Defendants

22. As a surprise tactic, even to their co-Commissioner, Howard "Pete" Shaub, the

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Defendant Board, upon the initiative of Defendant Commissioner Henderson, and as a result of the affirmative vote only of the Defendant Commissioners, adopted County Resolution No. 36 of 2006, a true and correct copy of which is attached hereto and made a part hereof as Exhibit "E" in the form publicly disseminated, at its May 10, 2006 Public Meeting ("Resolution 36").

23. One week later, on May 24, 2006, again upon the initiative of Defendant Commissioner Henderson, the Defendant Board, as a result of the affirmative vote only of the Defendant Commissioners, adopted Resolution No. 37 of 2006, a true and correct copy of which is attached hereto and made a part hereof as Exhibit "F".

24. At the Board of Commissioners' meeting held in East Donegal Township at night on May 31, 2006, again upon the initiative of Defendant Commissioner Henderson, and as a result of anticipated media coverage, the Defendant Commissioners publicly announced and forecasted their joint plan to seek to directly undermine the operations of the Plaintiff as a further method of their campaign to scuttle the Project, by depriving the Plaintiff of its singular revenue source of the HRRT, by a scheme to revise the "Market Area" within County Ordinance 45 of 1999, contrary to the CCAA, County Ordinance 45, the Guaranty Agreement (see paragraph 32i below citing Article III, Section 3.18), and other commitments upon which the Plaintiff singularly and collectively relied and continues to rely to operate, and to finance and advance the Project.

25. Resolution 36 is premised upon twenty-two (22) separately enumerated recitals

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which are, in large part, factually incorrect and contain various erroneous legal conclusions and misinterpretations of the obligations of the Defendant County under and pursuant to the Guaranty Agreement. Resolution 37 mirrors Resolution 36 adding fourteen (14) additional recitals; however, modifying the action proposed under Resolution 36 by deleting subparagraph (B) b described below, and adding even more publicly forecasted action proposed in furtherance of their opposition to the Project, in particular without limitation, injecting their uninformed concern with respect to meeting the quality standards of the Project design and specifications, a subject which is within the exclusive expertise, control and statutory mission of the Authority under and pursuant to the Authority's pre-existing Project contractual commitments and obligations involving other public agencies and private party participants.

26. As a further strategy and tactic as part of their continuing campaign to impede and/or scuttle the Project and the mission of the Authority, the Defendant Board, through the Defendant Commissioners, has unilaterally Resolved within subparagraphs (A)(I),(A)(II), and (A)(III) of Resolution 36 to delay and/or to preclude the Authority from advancing the Project financing in three (3) distinct and independently identified ways relating to the permanent financing in connection with the re-marketing of the Series of 2003, which re-marketing was and is expressly contemplated within the provisions of the Guaranty Agreement (Exhibit "A") and related Project financing documents.

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27. The Defendant Board, through the Defendant Commissioners, has also Resolved within subparagraph (A) of Resolution 36 to treat the previously contemplated re-marketing of the Series 2003 Bonds as "the issuance of a new County guarantee (sic)."

28. The Defendant Board, through the Defendant Commissioners, has also Resolved within subparagraph (B) of Resolution 36 to:

a. unilaterally treat its own subparagraph (A) Resolution as creating "new financing" such that the Defendant Board would be convened for a Special Meeting for the avowed purpose of "not approv[ing] the **new** County guaranty" thus, in direct effect, forecasting the unilateral repudiation and revocation of the Guaranty Agreement, as described herein above (emphasis added); or

b. "in the alternative", carry their fiction of "new financing" resulting in its and their erroneous perception of a "new County guaranty" to its full deleterious and dilatory effect, by proposing to currently submit to the jurisdiction of DCED under LGUDA for administrative review and approval of the "new County guaranty."

Upon information and belief the Defendant Commissioners have fostered this strategy of a "new financing" to improperly seek to create the public perception of protecting County taxpayers when, in fact and in law, they have been, or should have been, advised against such action by their Special Counsel because DCED

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approval of the County Obligation under the Guaranty Agreement is non-appealable.

29. Without superseding Resolution 36, the Defendant Commissioners next adopted Resolution 37 which essentially repeated the proposed action of Resolution 36(B), but failed to restate the alternative proposed action with regard to seeking further DCED review under LGUDA, substituting therefor, the resolution:

> "(II) not to allow the attachment of any County Guaranty to any LCCCA obligation other than the Citizens Bank Bond secured by the Escrow; and directs the Chief Clerk to advise the LCCCA, Bond Indenture Trustee, Citizens Bank, and other relevant parties of this determination of this Board of Commissioners."

(emphasis supplied to underscore that the Defendant Commissioners' intent is to effect current County action in breach of the Guaranty Agreement).

30. The alleged premises and recitals within County Resolutions 36 and 37 in furtherance of the Defendants most recent opposition to the Project, ignore and seek to evade the underlying factual predicates upon which the then County Commissioners reviewed and adopted Ordinance No. 73 at the Board meeting of October 29, 2003, as memorialized in the Commissioners Meeting Minutes of such meeting, which minutes were themselves reviewed and approved at the November 12, 2003 Board meeting, and as amended by Ordinance No. 74, adopted at the Board meeting of December 10, 2003, which minutes, upon information and belief, were themselves reviewed and approved at a subsequent Board meeting; a true and correct copy of the October 29, 2003 Minutes are attached hereto and made a part hereof as Exhibit "G".

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31. The publicly announced and forecasted plan to reduce or diminish the Authority's receipt of HRRT at the level presently imposed, collected and remitted to the Plaintiff i.e., $3.28 million for 2005, ignores and seeks to evade the legislative findings, provisions of the CCAA, County Ordinance 45, the Guaranty Agreement (particularly the express provisions of Article III, Section 3.18 cited in paragraph 32 i below), and the legislative and contractual obligations and commitments created thereunder, upon which the Plaintiff and various third parties reasonably and properly relied and continue to rely.

D. Pertinent Terms of the Guaranty Agreement

32. The alleged premises and recitals within Resolutions 36 and 37 in support of the foregoing most recent opposition to the Project, ignore and seek to evade the underlying express contractual commitments and obligations of the Defendant Board and Defendant County under and pursuant to the Guaranty Agreement, including without limitation, the following:

a. Article II, Section 2.01 C., Representations and Warranties:

"The County has **duly authorized all necessary action on its part** to enter into this Guaranty Agreement, pursuant to proper and necessary official action of its Board of Commissioners in accordance with laws of the Commonwealth";

b. Article II, Section 2.01 D., Representations and Warranties:

"The County, in entering into this Guaranty Agreement, is **acting in**

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the public interest . . ."

c. Article II, Section 2.01 E., Representations and Warranties:

"The County, in entering into this Guaranty Agreement, is incurring lease rental debt pursuant to the terms and conditions of the Debt Act; and the County **has taken all proper proceedings pursuant to the Debt Act and has obtained all approvals required to be obtained in connection with the execution and delivery of this Guaranty Agreement.**"

d. Article III, Section 3.01, Full and Prompt Payment:

"The County hereby **guarantees, unconditionally and irrevocably**, to the registered owners, from time to time, of the Bonds, the **full and prompt payment of the County Obligation** when and as such shall be due and payable **in accordance with the terms and conditions of this Guaranty.**"

e. Article III, Section 3.05, Amounts to be Included in Budget:

". . . the County **pledges its full faith, credit and taxing power.** As provided in the Debt Act, this covenant shall be enforceable specifically against the County. . .

At any time when payments are required to be made by the County hereunder, to the extent that sufficient money shall not be available in the County's then current budget, and if the County shall be unable to incur, lawfully, debt in the current Fiscal Year for the purpose of paying such County Obligation . . . **the County shall include any amounts so payable in its budget for the next succeeding Fiscal Year . . . and for such budgeting, appropriation and payment the County does pledge its full faith, credit and taxing power.** As provided in the Debt Act, this covenant shall be enforceable specifically against the County."

f. Article III, Section 3.08, Obligations of County Absolute and Unconditional:

"The obligations of the County under this Guaranty Agreement shall be absolute, irrevocable and unconditional, irrespective of any other agreement or instrument to which the County shall be a party, and shall remain in full force and effect so long as the Bonds remain outstanding, and such obligations of the County shall not be affected, modified, diminished, or impaired upon the happening, from time to time, **of any event, including,**

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without limitation, any of the following (whether or not with notice to or the consent of the County in accordance with the provisions hereof unless such notice or consent is required hereunder):

A. . . . the occurrence of an insufficiency of funds, **negligence or willful misconduct on the part of the Authority** . . .;

. . .

E. **The failure of the Authority to make any payment to the County under the Reimbursement Agreement**;

. . .

M. **Any failure, omission or delay on the part of the Authority and/or the Trustee to enforce, to assert or to exercise any right, power or remedy conferred upon or vested in the Authority and/or the Trustee hereunder or under the Indenture or the Reimbursement Agreement, or to enforce, to assert or to exercise any other right or rights on the part of the Authority, the Trustee or any owner, at any time or from time to time, of the Bonds and the Note**;

. . .

O. **The release or discharge of the County, to the extent permitted by law, from performance or observance of any obligation, covenant or agreement contained in this Guaranty Agreement, by operation of law**;

. . .

Q. **Any failure by the Authority or the Trustee to comply with any of the covenants, agreements or undertakings set forth herein, in the Indenture or any breach by the Authority or the Trustee of any representation or warranty set forth herein or in the Indenture**;

g. Article III, Section 3.11, Trustee Obligated to Proceed:

". . . **The County agrees to pay all costs, fees and expenses, including, to the extent permitted by law, all court costs and reasonable attorney fees which may be incurred by the Trustee in enforcing or attempting to enforce this Guaranty Agreement against it, following any**

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default on the part of the County hereunder, whether the same shall be enforced by suit or otherwise."

h. Article III, Section 3.17, Conditions Precedent:

"Notwithstanding anything contained in the Guaranty Agreement to the contrary, this Guaranty Agreement shall not be effective, and the County shall be under no obligation to perform hereunder, **unless (1) the Authority shall have obtained bond insurance which enables the Bonds to receive a triple A rating or shall have received other suitable credit enhancement with respect to the Bonds, or shall have received a commitment from a creditworthy commercial bank for private placement of the Bonds**, and (2) the County has approved the terms of the Indenture and the Reimbursement Agreement, **with the execution by the County of this Guaranty Agreement constituting conclusive evidence of approval thereof.**"

i. Article III, Section 3.18, Hotel Room Rental Tax:

"The County hereby agrees that, as long as any Bonds are Outstanding under the Indenture, **the County shall not reduce, diminish or repeal** the Hotel Room Rental Tax."

j. Article IV, Section 4.02, Time When Obligations Arise:

"Obligations of the County hereunder shall arise **absolutely, irrevocably and unconditionally when the Bonds shall have been issued, sold and delivered by the Authority.**"

k. Article IV, Section 4.04, Remedies of Authority:

"In the **event of default by the County** in the punctual discharge of its obligations hereunder, the **Authority** and the Trustee shall be **entitled to exercise such remedies** as are **provided under the Debt Act**, together with any other remedies which otherwise may be provided **at law or in equity or by other statutes.**"

l. Article IV, Section 4.08, Amendment:

"Notwithstanding anything in this Guaranty Agreement to the contrary, including Section 3.08 hereof, upon a remarketing or refunding of any Series of Bonds, the maximum County Obligation . . . may be reduced from time to

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time or eliminated **if the refunded or remarketed Bonds shall be insured by a municipal bond insurance company or shall have received other suitable credit support and such insurance company or credit support provider, as applicable, shall have consented in writing to such reduction or elimination.**"

(emphasis added)

33. Defendant County and Defendant Board are now and should continue to be bound to their contractual obligations including decisions as a direct result of the negotiations in 2003 including, without limitation, the purposeful exclusion from the Guaranty Agreement of any provisions that would restrict the Authority's ability to: (a) re-market the Bonds as contemplated expressly within the Trust Indenture and Guaranty Agreement, or (b) to enter into various methods of financing and reduction of the financing costs associated thereunder, including consideration of entering into interest rate SWAP agreements.

E. Pertinent Terms of the Convention Center Authority Act

34. The alleged premises and recitals within Resolutions 36 and 37 in support of the foregoing most recent opposition to the Project, ignore and seek to evade the underlying express statutory obligations of the Defendant Board and Defendant County under and pursuant to the CCCA, including without limitation, the following:

a. Section 2399.55, Purposes and powers generally:

"(b) The authority [Plaintiff Authority] is granted all powers necessary or convenient for the carrying out of the purposes in subsection (a), including, without limiting the generality of the foregoing, the following

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rights and power:

(2) To sue and be sued, implead and be impleaded, complain and defend in all courts.

(10) To borrow money for the purpose of paying the costs of a project and to evidence the same; **make and issue negotiable bonds of the authority [Series 2003 Bonds];** secure payment of the bonds, **or any part thereof**, by pledge or deed of trust of all or any of its revenues (including any hotel room rental tax), rentals, receipts and contract rights; make such agreements with the purchasers or holders of the bonds or with other obliges of the authority in connection with the bonds, whether issued or to be issued, **as the authority shall deem advisable**, which agreements shall constitute contracts with the holders or purchasers; **obtain such credit enhancement or liquidity facilities in connection with the bonds as the authority shall determine to be advantageous; and, in general, provide for the security of the bonds and the rights of bondholders.**

(12) To borrow money and accept grants and to enter into contracts, leases, subleases, licenses or other transactions with any Federal agency, State public body, political subdivision, person, association, partnership or corporation.

. . .

(c)(1) The authority shall have no power to pledge the credit or taxing powers of a State public body, a political subdivision or the county, nor shall its obligations be deemed obligations of any State public body, a political subdivision or the county, nor shall any State public body, a political subdivision or the county be liable for the payment of principal or interest on such obligations.

b. Section 2399.57, Purposes and powers; bonds:

(a) The bonds of an authority created under this subdivision and authorized to be issued shall be authorized by resolution of the board of the authority and shall be of such series, bear such date or dates, mature at such time or times not exceeding forty years from their respective dates, bear interest at such rate or rates as shall be determined by the board as necessary to issue and sell the authorized bonds, be in such denominations, be in such form, either coupon or fully registered without coupons, carry such

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registration, exchangeability and interchangeability privileges, be payable in such medium of payment and at such place or places, be subject to such terms of redemption and be entitled to such priorities in the revenues or receipts of the authority as the resolution or resolutions may provide. The bonds shall be signed by or shall bear the facsimile signatures of such officers as the authority shall determine, and coupon bonds shall have attached thereto interest coupons bearing the facsimile signature of the treasurer of the authority, and all bonds shall be authenticated by an authenticating agent, fiscal agent or trustee, all as may be prescribed in such resolution or resolutions. The bonds may be issued and delivered notwithstanding that one or more of the officers signing the bonds or the treasurer whose facsimile signature shall be upon the coupon shall have ceased to be such officer or officers at the time when the bonds shall actually be delivered.

(b) The bonds may be sold at public sale or private negotiated sale for such price or prices and at such rate of interest as the authority shall determine. Pending the preparation of the definitive bonds, interim receipts may be issued to the purchaser or purchasers of the bonds and may contain such terms and conditions as the authority may determine.

(c) The bonds shall have the qualities of negotiable instruments under 13 Pa.C.S. (relating to commercial code).

(d) The net proceeds of the issue of bonds or notes may be used to pay the costs of a project or to reimburse costs initially paid by a State public body, the county, another political subdivision, an agency, an organization or a person.

(e) (1) Subject to the provisions of the outstanding bonds, notes or other obligations and subject to the provisions of this subdivision, the authority shall have the right and power to refund outstanding debt, in whole or in part, at any time and shall have the right and power to refund outstanding notes with bonds or bonds with notes.

(2) As used in this subsection, the term "refund" and its variations means the issuance and sale of obligations the proceeds of which are used or are to be used for the payment or redemption of outstanding obligations upon or prior to maturity.

c. Section 2399.58, Provisions of bonds, trusts, indentures and mortgages:

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(11) Exercise all or any part or combination of the powers granted in this section; to make covenants other than and in addition to the covenants expressly authorized in this section and to make such covenants and to do any and all such acts and things as may be necessary or convenient or desirable in order to secure its bonds or, in the absolute discretion of the authority, as will tend to accomplish the purposes of this subdivision by making the bonds more marketable notwithstanding that such covenants, acts or things may not be specifically enumerated in this section.

d. Section 2399.72, Hotel room rental tax:

(a) The **county** in which the authority's convention center facilities are located or are to be located is hereby **authorized to impose an excise tax** on the consideration received by each operator of a hotel within the market area from each transaction of renting a room or rooms to accommodate transients. The tax shall be collected by the operator from the patron of the room and paid over to the county and shall be known as the Hotel Room Rental Tax.

(c) Subject to the deduction of the administrative fee authorized by subsection (i), eighty per centum of revenues received from taxes imposed pursuant to this section shall be deposited within two working days in the special fund required under subsection (d) **for the use of the authority for authority purposes**. Twenty per centum of the revenues received from taxes imposed pursuant to this section shall be deposited within two working days in the tourist promotion agency fund required under subsection (d) until disbursed as provided in subsection (g).

(e) The **authority shall have the right to draw upon the special fund** established pursuant to subsection (d) for the authority. Expenditures from the special fund shall be used by the authority for the following purposes:

(1) Projected annual debt service or lease payments of the convention center authority.

(f) If and to the extent that the authority pledges its share of the proceeds of the tax authorized by this section as security for the payment of bonds issued by the authority for convention center purposes:

(1) the Commonwealth does hereby pledge to and agree

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with any person, firm or corporation subscribing to or acquiring bonds to be issued by the authority for convention center purposes that the Commonwealth itself will not, nor will it authorize a county to, reduce the rate of tax imposed for convention center purposes until all bonds so secured by the pledge of the authority, together with interest, are fully met and discharged; and

(2) the county may not reduce the rate of tax imposed for convention center purposes until all bonds so secured by the pledge of the authority, together with interest, are fully met and discharged.

(k) As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Convention center" or "convention center facility" shall mean any land, improvement, structure, building, or part thereof, or property interest therein, whether owned by or leased by or to or otherwise acquired by an authority, appropriate for any of the following: large public assemblies, the holding of conventions, conferences, trade exhibitions and other business, social, cultural, scientific, sports, recreational, artistic and public interest events, performances and exhibitions, and all facilities, furniture, fixtures and equipment necessary or incident thereto, **including hotels**, meeting rooms, dining rooms, . . .

"Hotel" shall mean a hotel, motel, inn, guesthouse or other building or complex of buildings located within the market area which holds itself out by any means, including advertising, license, registration with an innkeeper's group, convention listing association, travel publication or similar association or with a government agency, as being available to provide overnight lodging or use of facility space for consideration to persons seeking temporary accommodation.

F. Pertinent Terms of County Ordinance 45 of 1999

35. The purported intent of the Defendant Commissioners to re-address the "Market Area" relating to the HRRT seeks to ignore and evade the clear determinations

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and provisions of Ordinance 45 of 1999, as follows:

"...the health, safety and general welfare of the people of the County and the Commonwealth are directly dependent upon the continual encouragement, development, growth and expansion of business, industry, commerce, and tourism within the County and the Commonwealth; and

...unemployment, the spread of indigency and the heavy burden of public assistance and unemployment compensation can be avoided by the promotion, attraction, stimulation, development and expansion of business, industry, commerce and tourism in the County and the Commonwealth, and

...the development of convention centers is appropriate within the Redevelopment Assistance Eligible Area of a third class county and the attraction of business to this County and the Commonwealth as a result of such development is an important factor in the continual encouragement, promotion, attraction, stimulation, development, growth and expansion of business, industry, commerce and tourism within the County, the surrounding counties and the Commonwealth as a whole; and

...the development of a convention center will provide benefits to the Hotel industry throughout the entire County of Lancaster; and

...the development of a convention center will also provide benefits to the restaurant and entertainment industries located throughout the County, to all other businesses and individuals who will benefit by the attraction of major conventions and tourists, and to other individuals and businesses whose livelihood is dependent on major conventions and tourists and to the general public, and

...the County, acting jointly with the City of Lancaster, Lancaster County, Pennsylvania (the "City"), has heretofore created the Lancaster County Convention Center Authority pursuant to the provisions of the Act to assist in the development of a Conference/Convention Center at Penn Square in the City, the proposed site of the Conference/Convention Center as of the date of this Ordinance; and

...the need for and promotion of the Conference/Convention Center, which is the type of facility which will provide significant benefits to the general public, will require the expenditure of public money and it is therefore appropriate for the County to impose and collect a Hotel room rental tax on the consideration received by each operator of a Hotel within the County, as provided in the Act, and

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...an important aspect of the development of the Conference/Convention Center and proceeding with the project will be the removal and redevelopment of blighted areas within the City," and

"[A]6. 'Market Area.' The **entire County of Lancaster, Pennsylvania.** The Commissioners hereby declare that they have determined that the entire area within the County of Lancaster will derive a material benefit from the existence of the Convention Center within the County.

* * *

D. Expenditures from Funds.

2. Expenditures from the Convention Center Authority Fund established for the Authority shall be used by the Authority **at its discretion** for any use permitted by the Act, including, but not limited to the following:

(a) Any debt service or lease payments of the Authority.
(b) Costs associated with financing, constructing, improving, maintaining, furnishing, fixturing and equipping the Convention Center.
(c) Costs associated with the development of the Convention Center, including, but not limited to, design, engineering and feasibility costs.
(d) Costs associated with the operation and management of the Convention Center.
(e) Costs associated with promoting marketing and otherwise encouraging use of the Convention Center.
(f) General purposes of the Convention Center.

E. Reports, Returns, Payment and Collection of Tax and Records.

2. All taxes collected by any Operator in the Market Area in accordance with this Ordinance shall constitute a **trust fund**..."

(emphasis added).

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G. Resolutions 36 and 37 Constitute Continuing Acts of Interference and Oppressive Local Governmental Action in Violation of CCAA, County Ordinance 45 of 1999 and The Guaranty Agreement, Triggered by the Authority's Unwillingness to Renegotiate the Terms of the Irrevocable Guaranty Agreement With The Defendant Commissioners

36. In February 2006, the Defendant Commissioners sought to unilaterally revise the Guaranty Agreement and sought to compel the Authority to relinquish and thereby abrogate the discretion afforded the Authority within the CCAA and County Ordinances No. 45 and 46 of 1999 with regard to application and use of the Authority's revenues derived from the HRRT. A true and correct copy of the Defendant Commissioners' February 28, 2006 letter to the Authority's Chairman is attached hereto and made a part hereof as Exhibit "H".

37. The Defendant Commissioners have acted in further derogation of their duties under the CCAA, the provisions of County Ordinances No. 45 and 46 of 1999 as well as the Guaranty Agreement, and the Trust Indenture, and have publicly expressed their desire to scuttle the Project with the kind of message that chills the Bond Market, including without limitation, the following:

a. Defendant Commissioner Henderson, at the May 3, 2006 Public Meeting of the County Commissioners stated:

> "I anticipate that the [Authority] will soon reveal the responses to the convention center construction bid documents and that County will receive shortly the PKF Feasibility Study commissioned by the County . . . . [T]he Board of Commissioners must be prepared to act next week given the imminent demolition of historic structures and other actions contemplated by the [Authority]. Two and one-half years ago, based upon the following representations made by the [Authority], the prior Board of Commissioners for Lancaster County approved a County guarantee (sic) of part of the Authority's bond debt:

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(1) a representation that an independent feasibility study performed by PriceWaterhouse Coopers supported the viability of the project . . .;

(2) a representation that the Authority would issue $40 million in bonds . . .;

(3) a representation that only when the convention center was ready for construction and fully financed was the existing variable rate taxable Bond held by Citizens Bank to be remarketed to the public as fixed rate tax-exempt Bonds – now the [Authority] proposes a swap for a fixed rate before financing is in place; and

(4) a representation that the County Hotel tax proceeds would first be applied to debt service on the County-guaranteed debt before being applied to any other Authority operating expenses . . .

. . . Because of the lack of a true feasibility study, changes in project program and cost, increased bond indebtedness through a risky swap and failure to require the Authority to use the hotel tax to first pay its debt service, a serious question has arisen whether the County's original Guaranty applies if the Authority attempts to remarket its bonds this year."

b. Defendant Commissioner Henderson, at the May 3, 2006 Public Meeting of the County Commissioners explained "she was not requesting pulling the bond but requesting consideration of a vote a decision by the Board of Commissioners to review the Bond."

c. County Commissioner Howard "Pete" Shaub, at the May 3, 2006 Public Meeting of the County Commissioners, stated "one needs to separate between the word "I" and the word "Me". Commissioner Shaub told his fellow Commissioners that the release of the PKF Consulting Feasibility Study Executive Summary "by itself" would be "very unwise" because a

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"professional will need all the data and calculations to determine how [PKF] got to the summary."

d. The May 4, 2006 Lancaster New Era reports that Defendant Commissioner Henderson "opposes" the Project and "if she can rid the [C]ounty of the guarantee, she would do it."

e. On May 9, 2006, speaking to the Lancaster New Era, County Commissioner Howard "Pete" Shaub observed that Defendant Commissioners Henderson and Shellenberger are executing a "strategy just to distract the bidders and discourage the bidders", referring to the bidding process for the construction of the Project.

f. County Commissioner Howard "Pete" Shaub, at the May 10, 2006 Public Meeting of the County Commissioners, noted the effect of Defendant Commissioner Henderson's questioning of the validity of the County Guaranty, through the passage of Resolution 36 of 2006, "puts [the County's] bond rating at financial risk."

g. Even the PKF Consulting Feasibility Study, commissioned by both the Defendant Commissioners and a private party opponent of the Project, publicly disseminated in the form of an "Executive Summary", and recently released by the Defendant Commissioners, states "we are not fully familiar with the background of this project and have not performed an economic impact analysis[."]; and

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h. Defendant Commissioner Henderson announced and forecasted her plan in further opposition to the Authority and to the Project to address the "Market Area" in connection with the collection of the HRRT. See paragraphs 24 and 31 above.

38. The foregoing are just some examples of continuing efforts by Defendants to chill, deter and cause confusion within both the construction and bond market communities as part of Defendants' tactical campaign: to usurp the powers, discretion and mission of the Authority; to interfere with participation in and advancement of the Project; to stimulate controversy; to seek to undermine and to otherwise impede, hinder, delay and diminish the Authority and its revenues as well as its sources of revenues and further financing; and, to ultimately scuttle the Project.

39. The immediate, imminent, and irrevocable impact and harm to the Authority and to the advancement of the Project, and to the present efforts necessary to continue with the financing of the Authority and the Project, caused by the foregoing, is addressed and confirmed by the Authority's Financial Advisor in his sworn Affidavit incorporated herein, as a part hereof, and appended hereto as Exhibit "I".

IV. COUNT I – DECLARATORY JUDGMENT

40. The Plaintiff incorporates herein Paragraphs 1 through 39 of this Complaint as if the same were set forth, herein, at length.

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41. Defendant County and Defendant Board are now bound to their contractual obligations including decisions as a direct result of the negotiations in 2003 including, without limitation, the purposeful exclusion from the Guaranty Agreement of any provisions that would restrict the Authority's ability to re-market the bonds as contemplated expressly within the Trust Indenture and Guaranty Agreement and to enter into methods of financing including interest rate SWAP agreements.

42. Plaintiff has acted reasonably and at all times within the discretion and authorization of the Convention Center Authority Act and County Ordinance 45 of 1999 as relevant to this Action.

43. Implementation by the Defendants of Resolutions 36 and/or 37 constitutes a direct, or in the alternative an anticipatory material breach of the Guaranty Agreement which, under the circumstances, would be unconscionable and would serve only to foster Defendants' interference with the statutory mission of the Plaintiff, a state instrumentality; therefore, Defendants should be estopped from implementing Resolutions 36 and 37 to the detriment of Plaintiff and the Project.

44. Defendants' efforts to scuttle the Project through enactment of Resolutions 36 and 37 are unconscionable in that Defendants have both the duty and obligation, statutorily under the CCAA and County Ordinances 44 and 45 of 1999, and contractually under the Guaranty Agreement, to perform its and their obligations and duties necessary to advance the financing of the Authority and the Project to its timely completion.

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45. Defendants' adoption of Resolutions 36 and 37 has created a chilling effect upon the ability of the Authority to proceed within the clear and contemplated path of re-marketing the Bonds, and financing of the Project, all of which appears to be the tactical and ultimate goal of the Project opponents, including the two Defendant County Commissioners.

46. An actual and justiciable controversy exists between Defendants and Plaintiff regarding Defendants' obligations to perform its duties and obligations under the Convention Center Authority Act and the Guaranty Agreement.

WHEREFORE, Plaintiff, Lancaster County Convention Center Authority, requests this Honorable Court enter judgment in its favor and against Defendants:

(a) declaring that Defendant Commissioners and Defendant Board have breached directly or by anticipatory repudiation, the Guaranty Agreement; and

(b) declaring that Defendant Commissioners and Defendant Board each have a statutory and contractual duty to perform, under the CCAA and the Guaranty Agreement, respectively, and to advance the Project, by requiring them to rescind, vacate or suspend County Resolutions 36 and 37; and/or

(c) declaring, in the alternative, that County Resolutions 36 and 37 shall have no adverse effect upon the Guaranty Agreement and related Project funding documents under the CCAA and County Ordinances 45 and 46 of 1999, and confirming that Defendants' "County Obligation", as defined in the Guaranty Agreement, remains in full force and effect upon which bondholders of the re-marketed Bonds may rely without

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doubt or hesitation; and

(d) enjoining the Defendants from implementing and/or communicating an intent to, or taking further action, directly or indirectly in contravention of the advancement of the Project, whether in connection with the express and/or implied terms of Resolutions 36 and 37 or otherwise; and

(e) awarding Plaintiff attorney's fees and costs incurred in bringing this declaratory judgment action; and

(f) granting such further and additional relief as the Court may deem appropriate.

COUNT II – ACTION IN MANDAMUS

47. The Plaintiff incorporates herein Paragraphs 1 through 46 of this Complaint as if the same were set forth, herein, at length.

48. In the instant case, Defendant County and Defendant Board are now bound to their contractual obligations including decisions as a direct result of the negotiations in 2003 including, without limitation, the exclusion from the Guaranty Agreement of any provisions that would restrict the Authority's ability to re-market the Bonds as contemplated expressly within the Bond Indenture and Trust Agreement, or to enter into other methods of financing the Project and reducing the costs of financing associated therewith, including interest rate SWAP agreements.

49. The Authority is entitled to the performance, on the part of Defendants, of their end of the bargain of the Guaranty Agreement.

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50. The Authority is entitled to full compliance with County Ordinance 45 in regard to the imposition, collection and remittance of the HRRT within the Market Area expressly defined therein, and without reduction or alteration of any kind whatsoever.

51. Pursuant to Pa.R.C.P. Nos. 1091 – 1098, an Action In Mandamus is the appropriate method for obtaining recognition of, confirming, and compelling Defendants' intended and continuing performance under the Guaranty Agreement and County Ordinance 45.

52. Defendants have a duty to perform under the Guaranty Agreement and County Ordinance 45 and to authorize Plaintiff to proceed with the Project but has refused to do so, instead enacting Resolutions 36 and 37 and forecasting a reduction in the amount of the HRRT remitted to the Authority, which seek to undermine the Project in clear violation and abrogation of their duties. Pa.R.C.P. No. 1095(3).

53. Plaintiff has an immediate commercial and economic interest in confirming and compelling performance by Defendants under the Guaranty Agreement and County Ordinance 45. Pa.R.C.P. No. 1095(4).

54. Plaintiff has suffered, and will continue to suffer, commercial and economic harm by Defendants' anticipatory refusal to perform under the Guaranty Agreement and Defendants anticipatory reduction of the HRRT under County Ordinance 45, for which Plaintiff cannot merely seek recovery of financial compensation. Pa.R.C.P. No. 1095(5).

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55. If Plaintiff is unable to proceed to advance the Project to completion, it will suffer irreparable commercial and economic harm and will be stymied and prevented from exercising the public powers of the Commonwealth in fulfilling its singular statutory mission in furtherance of the clear legislative findings expressly set forth in the CCAA and in County Ordinances 44 and 45 of 1999. Pa.R.C.P. No. 1095(5).

56. Plaintiff has no other adequate remedy at law. Pa.R.C.P. No. 1095(6).

57. Plaintiff has an absolute, irrevocable and unconditional legal right to performance by Defendants under the express terms of the Guaranty Agreement and of County Ordinances 44 and 45 of 1999. Pa.R.C.P. No. 1095(6).

58. Plaintiff is entitled to have County Resolutions 36 and 37 of 2006 rescinded, vacated and/or suspended.

59. Plaintiff is entitled to, and seeks, entry of judgment against Defendants commanding that Defendants:

a. rescind and vacate County Resolutions 36 and 37;

b. perform all of the requirements under the Guaranty Agreement including the County Obligation defined therein, in a full and timely manner;

c. refrain from any and all direct or indirect attempts, plans, actions, or communications regarding same, to reduce the "Market Area" and/or to repeal, reduce or diminish the imposition, collection and remittance to the Authority, of the HRRT under and pursuant to County Ordinance 45 or otherwise; and

d. compensate Plaintiff for all damages and costs incurred to date and to be incurred to the time of entry of judgment. Pa.R.C.P. Nos. 1095 and 1098, including attorneys fees.

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WHEREFORE, Plaintiff, Lancaster County Convention Center Authority, requests this Honorable Court enter a judgment in Mandamus in favor of Plaintiff and against Defendants compelling Defendants to:

(a) rescind, vacate, and/or suspend County Resolutions 36 and 37; and

(b) perform all obligations under the Guaranty Agreement in a full and timely manner;

(c) refrain from any and all direct or indirect attempts, plans, actions, or communications regarding same, to reduce the "Market Area" and/or to repeal, reduce or diminish the imposition, collection and remittance to the Authority, of the HRRT under and pursuant to County Ordinance 45 or otherwise; and

(d) compensate Plaintiff for all damages incurred to date and to be incurred to the time of entry of judgment. Pa.R.C.P. Nos. 1095 and 1098, including attorneys fees;

(e) together with such other and further relief as the Court deems appropriate under the circumstances.

COUNT III – COMPLAINT IN EQUITY

60. The Plaintiff incorporates herein Paragraphs 1 through 59 of this Complaint as if the same were set forth, herein, at length.

61. Pursuant to Pa.R.C.P. Nos. 1095 and 1098, Plaintiff is entitled to peremptory judgment in the Action In Mandamus as a matter of law.

62. Assuming, arguendo, that this Honorable Court determines that neither a declaratory judgment, nor mandamus peremptory judgment is appropriate, Plaintiff is entitled to, and therefore seeks, the following equitable relief:

a. a Court Order:

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(1) granting Plaintiff a preliminary injunction preventing Defendants from implementing and/or communicating an intent to, or taking any action under County Resolutions 36 and 37 adverse to the Project or to Plaintiff; and

(2) a Court Order granting Plaintiff a permanent injunction preventing Defendants from implementing and/or communicating an intent to, or taking any action under County Resolutions 36 and 37 adverse to the Project or to Plaintiff; and

(3) a Court Order rescinding, vacating and/or suspending County Resolutions 36 and 37; and

(4) a Court Order declaring, approving, or deeming approved, affirmed and ratified, the Guaranty Agreement as in full force and effect upon which bondholders and other interested parties of the Authority's re-marketed Bonds may rely without doubt or confusion; and

b. a Court Order:

(1) granting Plaintiff a preliminary injunction preventing Defendants from implementing and/or communicating an intent to, or taking any action under County Ordinance 45 of 1999 directly or indirectly adverse to the Project or to Plaintiff; and

(2) a Court Order granting Plaintiff a permanent injunction preventing Defendants from implementing and/or communicating an intent to, or taking any action under County Ordinance 45 of 1999 directly or indirectly adverse to the Project or to Plaintiff; and

(3) a Court Order declaring, approving, or deeming approved, affirmed and ratified, County Ordinance 45 as in full force and effect upon which bondholders, and other interested parties, of the Authority's re-marketed Bonds may rely without doubt or confusion; and

c. such other Orders and relief as the Court deems appropriate under the circumstances.

63. The requested relief is necessary to preclude and prevent immediate and irreparable harm which could not be compensated by damages.

64. Greater injury would result by refusing the requested relief than by granting it.

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65. The requested relief properly restores the parties to their status as it existed immediately prior to the alleged wrongful conduct.

66. The activity sought to be restrained is actionable and the requested relief is reasonably suited to abate such activity.

67. The Plaintiff's right is clear and the wrong to be remedied is manifest.

68. In addition, Plaintiff asserts that no bond should be required pursuant to Pa. R.C.P. No. 1531(b).

WHEREFORE, Plaintiff, Lancaster County Convention Center Authority, requests:

(a) entry of a preliminary injunction, and subsequent permanent injunction, against Defendants, preventing Defendants from:

(1) implementing and/or communicating an intent to, or taking any actions that are:

(i) adverse to the Project or to Plaintiff or

(ii) inconsistent with the requirements of the Guaranty Agreement and the Trust Indenture, including without limiting the foregoing, the full and timely performance of the County Obligation defined in the Guaranty Agreement notwithstanding County Resolutions 36 and/or 37; and

(2) any and all direct or indirect attempts, plans, actions, or communications regarding same, to reduce the "Market Area" and/or the imposition, collection and remittance to the Authority, of the HRRT under and pursuant to County Ordinance 45 or otherwise; and

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(b) entry of an Order rescinding, vacating or permanently suspending any implementation of County Resolutions 36 and/or 37; and

(c) entry of an Order declaring approval, affirmation and ratification of the Guaranty Agreement as valid, binding and enforceable upon its terms; and

(d) entry of an Order declaring approval, affirmation and ratification of County Ordinances 45 and 46 and

(e) entry of an Order rescinding, vacating or permanently suspending implementation of County Ordinance 87 of 2005 pursuant to which the Defendant Commissioners have sought to rescind or modify the bundling of the HRRT and the HRET upon which the Authority and all other parties interested in the advancement and completion of the Project have relied since 1999;

(f) entry of an Order further ameliorating and mitigating the purposeful delay tactics of the Defendant Commissioners adverse to the Project by postponing and deferring until the date of final completion of the construction of the Convention Center the change in the majority constituency of the Authority's Board as presently existing under and pursuant to Ordinance 44 notwithstanding paragraph 6 thereof;

(g) entry of an Order requiring Defendant County to compensate Plaintiff for all attorneys' fees and costs incurred to date and to be incurred to the time of entry of judgment in favor of Plaintiff herein;

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(h) such other and further relief as the Court deems appropriate under the circumstances.

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Respectfully submitted,

FENNINGHAM, STEVENS & DEMPSTER LLP

Dated: June 13, 2006

By: _____

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Attorney I.D. No. 22655
Maura F. Ratigan, Esquire
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Special Counsel for Plaintiff, Lancaster County Convention Center Authority

-and-

HOLLAND & KNIGHT LLP

Dated: 6/13/06

By: _____

Andrew W. Stephenson, Esquire
PA Attorney I.D. No. 23276
2099 Pennsylvania Avenue, NW
Suite 100
Washington, DC 20036
(202) 457-7056
Special Counsel for Plaintiff, Lancaster County Convention Center Authority

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VERIFICATION

I, David W. Hixson, Executive Director of the Lancaster County Convention Center Authority, verify that I am authorized to execute this verification on behalf of Plaintiff, Lancaster County Convention Center Authority. I verify that the statements contained in the foregoing Complaint are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are subject to the provisions set forth in 18 P.S. § 4904 relating to unsworn falsification to authorities.

David W Hixson

Name: David W. Hixson
Title: Executive Director
on behalf of Lancaster County Convention Center Authority

Date: 6-13-2006

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