

Substitute Resolution No. RS2017-910

A resolution approving the issuance of public facility revenue improvement bonds by The Sports Authority of The Metropolitan Government of Nashville and Davidson County; authorizing the pledge of certain revenues of the Metropolitan Government as security for the bonds; and authorizing an official statement to be distributed in connection with the sale of the bonds.

WHEREAS, The Sports Authority of The Metropolitan Government of Nashville and Davidson County (the "Authority") has been formed pursuant to Title 7, Chapter 67, Tennessee Code Annotated (the "Act"), by The Metropolitan Government of Nashville and Davidson County (Tennessee) (the "Metropolitan Government") for the purposes set forth in the Act; and

WHEREAS, the Authority is authorized by the Act to issue its revenue bonds to pay (i) costs to acquire, construct, improve, renovate and equip a Major League Soccer stadium (the "Stadium") and related facilities on a portion of the 128-acre Nashville Fairgrounds site located at 300 Rains Avenue (the "Site"); (ii) capitalized interest and debt service reserves (if applicable), (iii) architectural, engineering, legal and consulting costs incident thereto and (iv) costs incident to the issuance and sale of such bonds; and

WHEREAS, Nashville Soccer Holdings, LLC (including its affiliates, the "Team") has proposed to the Board of Directors of the Authority (the "Board") that the Authority (i) issue its revenue bonds to finance the Stadium and (ii) lease the Stadium to the Team for the primary purpose of hosting games to be played by the Team's Major League Soccer franchise, pursuant to a lease agreement between the Authority and the Team (the "Team Lease" or "Team Lease Agreement"); and

WHEREAS, in order to secure a Major League Soccer franchise, the Team must demonstrate the ability to acquire and construct a soccer stadium, and the Metropolitan Government desires to give this conditional approval pursuant to Section 7-67-109(15) of the Act for the Authority to issue its Public Facility Revenue Improvement Bonds (the "Bonds") for the purposes hereinabove stated; and

WHEREAS, pursuant to the Act, the Metropolitan Government is authorized to aid or otherwise provide assistance to the Authority, for such term or terms and upon such conditions as may be determined by resolution of the Metropolitan Council, by granting, contributing or pledging revenues of the Metropolitan Government to or for the benefit of the Authority; and

WHEREAS, to enhance the marketability of the Authority's revenue bonds and thereby reduce the interest costs thereon, the Metropolitan Government wishes to make Non-Tax Revenues (as defined and described in the Intergovernmental Project Agreement attached hereto as Exhibit A) available to the Authority for the payment of debt service for such revenue bonds in the event other Authority funds are insufficient therefor; and

WHEREAS, it is deemed necessary and desirable by the Metropolitan Council that the Metropolitan Government and the Authority enter into the Intergovernmental Project Agreement addressing the funding of the Stadium, the payment of the costs thereof and costs related thereto, and the disposition and administration of the funds needed to pay principal and interest on the revenue bonds approved herein, and for the purpose of establishing the other agreements and rights of the parties hereunder; and

WHEREAS, a form of the Intergovernmental Project Agreement (MLS Stadium Project) relating to the foregoing purposes, by and between the Metropolitan Government and the Authority, has been presented to the Metropolitan Council and is attached hereto as Exhibit A (the “Intergovernmental Project Agreement”); and

WHEREAS, as an inducement for the Team to enter into the Team Lease with the Authority, the Metropolitan Government, by and through the Metropolitan Government Board of Fair Commissioners (the “Fair Board”), further desires to enter into an agreement with the Team wherein the Team will agree to commence on or before a certain date the development of certain property adjacent to the Stadium consisting of +/- 10 acres, which property shall be leased from the Metropolitan Government and/or Fair Board, as applicable, pursuant to a no-cost 99 year ground lease, on the terms and subject to the conditions set forth in said agreement, provided that the Metropolitan Council approves the site plan as part of a Specific Plan (SP) zoning designation; and

WHEREAS, the addition of a Major League Soccer franchise in Nashville would increase public exposure to soccer, which could result in an increased interest and participation in women’s soccer, and one day lead to a professional women’s soccer team in Nashville.

NOW, THEREFORE, BE IT RESOLVED BY THE METROPOLITAN COUNTY COUNCIL OF THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY (TENNESSEE), that:

Section 1. The Metropolitan County Council (the “Metropolitan Council”) hereby approves the Authority’s issuance and sale of the Bonds for the purposes of paying (i) costs to acquire, construct, improve, renovate and equip the Stadium and related facilities on the Site (ii) capitalized interest and debt service reserves (if applicable), (iii) architectural, engineering, legal and consulting costs incident thereto, and (iv) costs incident to the issuance and sale of the Bonds. The Bonds shall be issued on the terms and conditions set forth herein. The Bonds shall be sold by the Authority by negotiated sale, and the Metropolitan Council hereby approves the sale of the Bonds, provided that:

- a. the Bonds shall be sold in one or more series, on a taxable or tax-exempt basis, to be determined in conjunction with bond counsel, with fixed rates of interest;
- b. the final maturity date of the Bonds shall not exceed 30 years beyond the commencement of Stadium operations, and the Bonds shall be payable as to principal in a manner that will not constitute balloon indebtedness for purposes of T.C.A. § 9-21-134;
- c. the aggregate principal amount of the Bonds shall not exceed \$225,000,000;
- d. prior to the sale of the Bonds, the Authority shall (i) cause to be adopted and published an initial resolution for the Bonds in full in one or more newspapers of general circulation in Davidson County, Tennessee, and (ii) cause to be adopted a detailed bond resolution authorizing the terms of the Bonds and the payment thereof; and
- e. prior to the sale of the Bonds, the Authority shall obtain the approval of the Metropolitan Government’s Director of Finance of the pricing terms of the Bonds.

Section 2. The Bonds shall be payable from:

- a. lease payments (the "Lease Payments") to be made by the Team to the Authority under the Lease;
- b. revenues received by the Authority from any diversion of state and local sales tax revenues collected at the Stadium pursuant to Sections 67-6-103 and 67-6-712, Tennessee Code Annotated, as amended from time to time ("Sales Tax Revenues") as defined in the Intergovernmental Project Agreement; and
- c. proceeds from the Ticket Tax, excluding the amount set aside for capital expenditures at the stadium (as defined below).

Section 3. The Metropolitan Council pledges and agrees to provide the Non-Tax Revenues to the Authority for the purposes and on the terms and conditions set forth in the Intergovernmental Project Agreement.

Section 4. The form, terms and provisions of the Intergovernmental Project Agreement are hereby approved and the Metropolitan Mayor of the Metropolitan Government (the "Metropolitan Mayor") is hereby authorized, empowered and directed to execute and deliver the Intergovernmental Project Agreement in the name and on behalf of the Metropolitan Government in substantially the form now before this meeting, with such changes and additions to and omissions from such draft of such agreement as the Metropolitan Mayor shall approve as necessary or appropriate, provided such changes, additions, or omissions do not substantively alter the basic terms of the agreement. ~~s~~Such execution and delivery is to be conclusive evidence of such approval. From and after the execution and delivery of the Intergovernmental Project Agreement, the officers of the Metropolitan Government or any of them, are hereby authorized, empowered and directed to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of the Intergovernmental Project Agreement as so executed.

Section 5. The Metropolitan Mayor or the Director of Finance is authorized, on behalf of the Metropolitan Government, to enter into a continuing disclosure agreement for the benefit of the owners of the Bonds, specifying the details of the financial information and material event notices to be provided and its obligations relating thereto, all as required by Rule 15c2-12 of the Securities Exchange Commission.

Section 6. All acts and doings of the Metropolitan Mayor, the Director of Finance and any other officer of the Metropolitan Government which are in conformity with the purposes and intent of this Resolution shall be, and the same hereby are in all respects, approved and confirmed as may be necessary or appropriate in order for the Metropolitan Government to comply with the terms of the Intergovernmental Project Agreement.

Section 7. Notwithstanding any other provision of this Resolution to the contrary, the Authority shall not issue or sell any bonds for the construction of the Stadium unless and until all of the following conditions have been fully satisfied:

- a. Major League Soccer awards a MLS expansion franchise to Team;
- b. The execution of a development agreement between the Authority and the Team, (i.) limiting the Metropolitan Government's obligation for Stadium construction to \$225,000,000, (ii.) obligating the Team to fund any Stadium construction costs not funded with the \$225,000,000 bond proceeds, and (iii.) requiring the Team to

contribute \$25,000,000 to the Stadium in addition to the amounts appropriated by the Metropolitan Government for infrastructure costs;

- c. The execution of a long-term ground lease between the Metropolitan Government, by and through the Fairgrounds Board of Commissioners, and the Authority for the Stadium property and development sites. The ground lease shall also incorporate the substantive terms of the Team Lease;
- d. The execution of the Team Lease between the Authority and the Team coterminous with term of the Bonds. The Team Lease shall include the following terms and provisions:
 1. For the term of the Team Lease the Team will pay annual rent in an amount equal to the debt service requirements and other direct debt issuance costs related to ~~on~~ the Bonds less the sum of (A) the sales tax diversion and (B) the Debt Service Portion of the Ticket Tax (the “Rent Reduction”). In no event shall the Rent Reduction for any Team Lease year be less than (i) \$4,000,000 per year for years one through five of the ~~Operating Team Lease Agreement~~ and (ii) \$3,000,000 per year for years six through ten of the Operating Lease Agreement. In the event the sales tax diversion and the Debt Service Portion of the Ticket Tax do not cumulatively generate \$4,000,000 or \$3,000,000, as the case may be, in revenue in ~~an~~ any of the first ten Team Lease years, the Metropolitan Government will provide the difference from Non-Tax Revenues to the extent other funds are not available therefor.
 2. The Team shall be responsible for all operating costs at the Stadium including, but not limited to, utilities, security, routine repairs and maintenance, and insurance expenses. The Metropolitan Government shall be responsible for necessary long-term capital expenses for the Stadium. For purposes of this subsection, “capital expenses” shall include those expenditures that are considered capital expenses under generally acceptable accounting principles (GAAP).
 3. The Team shall be entitled to all revenues generated at the Stadium including ticket sales, seat licenses, concessions, naming rights, fees/rent for use of the Stadium, and parking throughout the duration of the Team Lease.
 4. The Metropolitan Government shall be entitled to twenty public use days of the Stadium per year, provided such public use days do not conflict with Team events. The Team will coordinate scheduling for Stadium events with the Executive Director of the Fair Board to ensure the Nashville Fairgrounds is able to provide all activities on the premises required by Section 11.602 of the Metropolitan Charter, including the fair, expo center events, flea markets, and automobile racing. The Team Lease shall include a reasonable mechanism for resolving scheduling disputes between the Team and the Executive Director of the Fair Board. In addition to the public use days, the Nashville Fairgrounds shall be entitled to use of the concourse of the Stadium for Fairgrounds events. The Metropolitan Government shall be responsible for all operating expenses associated with its use of the Stadium on public use days and for Fairgrounds events.

5. ~~The execution of a guaranty by the Team owners guaranteeing payment of the Lease Payments for the duration of the Development Agreement and the Team Lease.~~
5. Entry into the Operating Team Lease Agreement will be subject to the approval of Major League Soccer.
- e. The Metropolitan Council approves a ticket tax pursuant to Section 7-3-202 or 7-3-204, Tennessee Code Annotated, in the amount of one dollar seventy-five cents (\$1.75) per ticket sold or given away during years one through five of the Operating Team Lease, two dollars twenty-five cents (\$2.25) per ticket sold or given away during years six and seven, and two dollars fifty cents (\$2.50) after year seven of the Operating Team Lease, excluding tickets to events under the control of the Fair Board (the "Ticket Tax"). Of the Ticket Tax, one dollar seventy-five cents (\$1.75) will be dedicated to the payment of debt service on the Bonds (the "Debt Service Portion"). From and after year five of the Operating Team Lease, the amount of the ticket tax above one dollar seventy-five cents (\$1.75) per ticket sold or given away shall be deposited to a reserve account maintained by the Metropolitan Government Department of Finance on behalf of the Authority to be used for long-term capital expenditures at the Stadium.
- f. The Fair Board approves the infrastructure changes needed to construct the Stadium, including roads and sidewalks.
- g. The Metropolitan Council authorizes the issuance of General Obligation Bonds not to exceed \$50,000,000 as part of a capital spending plan for improvements to the fairgrounds, of which \$25,000,000 will be used for public infrastructure improvements associated with the Stadium and \$25,000,000 will be used for improvements to the existing fairgrounds buildings and facilities.
- h. The execution of a guaranty by the Team and acceptable to MLS unconditionally guaranteeing payment of the Lease Payments, the Team's initial capital contribution, and cost overruns for the Stadium construction for the duration of the Development Agreement and the Team Lease. No personal guaranty shall be required for any of the Team's owners so long as John Ingram has a controlling interest in the Team. In the event John Ingram no longer has a controlling interest in the Team and/or falls below MLS guidelines defining a controlling owner, the Team shall promptly notify the Director of Finance. Within 14 days following delivery of such notice, a guarantor designated by the Team and acceptable to the Director of Finance for the successor controlling interest (the "Successor Guarantor") shall provide to the Director of Finance a guaranty (the "Successor Guaranty"), acceptable to MLS, insuring payment of all Stadium cost overruns and the sum of annual Lease Payments (minus the Rent Reduction) due over the remaining term of the Lease (collectively, "Outstanding Payments"). The Successor Guaranty shall further provide for evidence of the Successor Guarantor's ability to make payment of the Outstanding Payments, reduced by annual Lease Payments made subsequent to delivery of the Successor Guaranty, in the event of the dissolution of the Team. The Successor Guaranty shall be in a form reasonably acceptable to the Director of Law, and in accordance with MLS guidelines, with supporting material sufficient to demonstrate the financial capability of the Successor Guarantor to fulfill its guaranty obligations.

- i. The Metropolitan Council approves an ordinance with twenty-seven (27) affirmative votes authorizing the demolition of structures at the Fairgrounds necessary to construct the Stadium and the infrastructure necessary for the Stadium.
- j. The Fair Board approves the demolition of the structures at the Fairgrounds necessary to construct the Stadium and the infrastructure necessary for the Stadium.

Section 8. The Metropolitan Council hereby goes on record as expressing its intent that one-half (1/2) of the property taxes generated by the +/- 10-acre private development site be annually appropriated as part of the Metropolitan Government operating budget to a reserve account maintained by the Metropolitan Government Department of Finance to be used for long-term capital expenditures at the fairgrounds.

~~Section 89.~~ All resolutions in conflict or inconsistent herewith are hereby repealed insofar as any conflict or inconsistency exists.

~~Section 910.~~ This Resolution shall take effect from and after its adoption, the welfare of the Metropolitan Government requiring it.

APPROVED AS TO AVAILABILITY OF FUNDS BY:

 Talia Lomax-O'dneal
 Director of Finance

APPROVED AS TO FORM AND LEGALITY:

 Jon Cooper
 Director of Law

INTRODUCED BY:

 MEMBERS OF COUNCIL