

BOND PROCEEDS FUNDING AND DEVELOPMENT AGREEMENT

between

**THE ATLANTA DEVELOPMENT AUTHORITY
(D/B/A “INVEST ATLANTA”)**

and

GEO. L. SMITH II GEORGIA WORLD CONGRESS CENTER AUTHORITY

Dated as of [DATED DATE]

This instrument was prepared by:

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BOND PROCEEDS FUNDING AND DEVELOPMENT AGREEMENT

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THIS BOND PROCEEDS FUNDING AND DEVELOPMENT AGREEMENT (the “**Agreement**”), dated as of _____, 2014, made and entered into by and between **THE ATLANTA DEVELOPMENT AUTHORITY, D/B/A/ INVEST ATLANTA** (the “**Issuer**”), a public body corporate and politic organized and existing under the laws of the State of Georgia, including the hereinafter defined Act, and the **GEO. L. SMITH II GEORGIA WORLD CONGRESS CENTER AUTHORITY** (“**GWCCA**”), an instrumentality of the State of Georgia and a public corporation organized and existing under the laws of the State of Georgia, including the hereinafter defined GWCCA Act;

WITNESSETH:

WHEREAS, the Issuer has been duly created and is existing under and by virtue of the Constitution and the laws of the State of Georgia (the “**State**”), in particular, the Development Authorities Law of the State (O.C.G.A. §36-62-1 *et seq.*, as amended) (the “**Act**”) and an activating resolution of the City Council of the City of Atlanta, Georgia (the “**City**”), duly adopted on February 17, 1997, and approved by the Mayor of the City on February 20, 1997, and is now existing and operating as a public body corporate and politic and an instrumentality of the State; and

WHEREAS, the Issuer was created for the purpose, among other things, of promoting and furthering the public purpose of developing trade, commerce, industry and employment opportunities, and the Act empowers the Issuer to issue its revenue bonds in accordance with the applicable provisions of the Revenue Bond Law of the State, O.C.G.A. Sections 36-82-60 *et seq.*, as amended, for the purpose of financing the cost of any "project" (as defined in the Act), specifically including sports facilities, in furtherance of the public purpose for which it was created; and

WHEREAS, the GWCCA has been created pursuant to the provisions of Article I of Chapter 9 of Title 10 of the Official Code of Georgia Annotated, known as the “Geo. L. Smith II Georgia World Congress Center Act” (the “**GWCCA Act**”) and its board of governors have been duly appointed as provided therein and are currently acting in that capacity; and

WHEREAS, the GWCCA has been created under the GWCCA Act for the purpose of, *inter alia*, acquiring, constructing, equipping, maintaining and operating a project, in whole or in part, directly or under a contract with others, and engaging in activities as it deems appropriate to promote trade shows, conventions, and political, musical, educational, entertainment, recreational, athletic, or other events and related tourism within the state; and

WHEREAS, Article IX, Section III, Paragraph I(a) of the 1983 Constitution of the State of Georgia authorizes any county, municipality or other political subdivision of the State to contract for any period not exceeding 50 years with each other or with any other public agency, public corporation or public authority for joint services, for the provision of services, or for the joint or separate use of facilities or equipment, but such contracts must deal with activities, services or facilities which the contracting parties are authorized by law to undertake or provide; and

WHEREAS, the City has previously levied and collected, within its corporate limits, an excise tax at a rate of seven percent on the furnishing of public accommodations therein (the “**Hotel Motel Tax**”) pursuant to O.C.G.A. Section 48-13-50, *et seq.*, (the “**Hotel Motel Tax Statute**”) with a portion of such Hotel Motel Tax collections expended to fund the Georgia Dome; and

WHEREAS, the City will extend the levy and collection the Hotel Motel Tax as authorized under O.C.G.A. Section 48-13-51(a)(5)(B) for purposes, in part, of funding the New Stadium Project (defined below); and

WHEREAS, the City's collection of the Hotel Motel Tax under O.C.G.A. Section 48-13-51(a)(5)(B) is conditioned on a state authority certification that (i) 39.3% of the Hotel Motel Tax proceeds will be used to fund a successor facility to the Georgia Dome; (ii) the successor facility will be located on property owned by such state authority; and (iii) the state authority has entered into a contract with a National Football League team for use of the successor facility through the extended period of collections; and

WHEREAS, the Issuer has issued its Revenue Bonds (New Downtown Atlanta Stadium Project), Series 2014, in an aggregate principal amount of \$_____ [amount necessary to generate not less than \$200,000,000 of available construction and development proceeds] (the "**Series 2014 Bonds**") for the purpose of providing funds (i) to finance a portion of the cost of the development, construction, equipping and funding a new operable roof, state-of-the-art multi-purpose stadium to replace the existing Georgia Dome facility in the City (the "**New Stadium Project**"), (ii) to establish a reserve fund(s) for the Series 2014 Bonds, (iii) to pay capitalized interest on the Series 2014 Bonds through July 1, 2017, and (iv) to pay the costs of issuance of the Series 2014 Bonds; and

WHEREAS, the Series 2014 Bonds are being issued under and pursuant to the terms of a Trust Indenture, to be dated as of the first day of the month in which it is executed and delivered (the "**Indenture**"), between the Issuer and a trustee to be appointed by the Issuer (the "**Trustee**"); and

WHEREAS, the Series 2014 Bonds are secured by the pledge and assignment of 39.3% of the Hotel Motel Tax Proceeds (the "**Funding Agreement Payments**") levied and collected by the City and paid to the Issuer pursuant to a Hotel Motel Tax Funding Agreement, dated as of [DATED DATE] (the "**Funding Agreement**") entered into between the City and the Issuer; and

WHEREAS, the Issuer will issue the Series 2014 Bonds on a tax-exempt basis and both the Issuer and the GWCCA desire to set forth in this Development Agreement (i) certain expectations and representations regarding the use of the proceeds of the Series 2014 Bonds so that the Series 2014 Bonds are issued on a tax-exempt basis and remain tax-exempt, (ii) a procedure for requisitioning bond proceeds by GWCCA, and (iii) certain reporting procedures;

NOW, THEREFORE In consideration of the premises and of the respective representation and agreements hereinafter contained, the Issuer and GWCCA agree as follows:

ARTICLE I.
DEFINITIONS AND CONSTRUCTION OF CONTRACT

Section 1.1. Definitions. All words and terms defined in the Indenture shall have the same meaning in this Development Agreement unless otherwise defined herein.

Section 1.2. Contract with a Certifying State Authority. Provided the proceeds of the Hotel Motel Tax and the Series 2014 Bonds are spent in accordance with this Development Agreement, the Operation and Maintenance Agreement between the GWCCA and the City (the “O &M Agreement”) and the Hotel Motel Tax Funding Agreement between Invest Atlanta and the City (the “Funding Agreement”), this Development Agreement constitutes the “contract with a certifying state authority” as contemplated by O.C.G.A. Section 48-13-51(a)(5)(B) of the Hotel Motel Tax Statute.

ARTICLE II.
REPRESENTATIONS AND COVENANTS

Section 2.1. Representations and Covenants by Issuer. The Issuer makes the following representations and covenants:

(a) The Issuer is a public body corporate and politic duly created and validly existing under the Act, has made all required findings and determinations required by the Act, has the power to enter into the transactions on its part (and to carry out its obligation) contemplated by this Development Agreement and the Indenture. The financing of the New Stadium Project constitutes and will constitute a permissible public purpose under the Act. By proper action, the Issuer has authorized the execution, delivery and due performance of this Development Agreement and all other agreements and instruments relating thereto to which it is a party.

(b) No further approval, consent or withholding of objection on the part of any regulatory body, federal, state or local, is required in connection with (i) the execution and delivery of or compliance by the Issuer with the terms and conditions of this Development Agreement, or (ii) the consummation by the Issuer of the transactions set forth in this Development Agreement in the manner and under the terms and conditions as provided herein will comply with all applicable state, local or federal laws and any rules and regulations promulgated thereunder by any regulatory agency or agencies.

(c) There is no action, suit, proceeding, inquiry or investigation known to the Issuer to be pending or threatened against or directly affecting the Issuer wherein an unfavorable decision, ruling or finding (i) is reasonably anticipated to materially and adversely affect the transactions contemplated on its part by this Development Agreement, or (ii) is reasonably anticipated to adversely affect the validity or enforceability of the Series 2014 Bonds.

(d) The Issuer makes no representation or warranty that net proceeds of the Series 2014 Bonds and other sources of funds being provided by GWCCA will be sufficient together with any private funds to provide for the construction and installation of the New Stadium Project or that the New Stadium Project will be adequate or sufficient for the purposes of the GWCCA.

Section 2.2. Representations and Covenants by GWCCA. The GWCCA makes the following representations and covenants:

(a) The GWCCA is an instrumentality of the State of Georgia and a public corporation, validly existing and in good standing under the laws of the State, has the power to enter into this Development Agreement to which it is a party and the transactions contemplated thereby and to perform its obligations thereunder and by proper action has duly authorized the execution and delivery of this Development Agreement and the performance of its obligations thereunder.

(b) The GWCCA has obtained or will obtain all consents, approvals, permits, authorizations and orders of any governmental or regulatory agency that are required to be obtained by the GWCCA as a condition precedent to the execution and delivery of this Development Agreement to which it is a party or the performance by the GWCCA of its obligations hereunder.

(c) No litigation at law or in equity or proceeding before any governmental agency involving the GWCCA is pending or, to the best of its knowledge, threatened in which any liability of the GWCCA is not adequately covered by insurance or in which any judgment or order would have a material adverse effect upon the business or assets or the GWCCA or that would affect its existence or authority to do business, the validity of any agreements to which it is a party or the performance of its obligations thereunder.

(d) The GWCCA has received and reviewed a copy of the Indenture and consents to the terms and conditions thereof and agrees to the terms thereof.

(e) The GWCCA has reviewed and approved the Issuer's tax certificate and consents to the terms and conditions thereof and agrees to the terms thereof.

(f) The GWCCA has certified, which certification may assume compliance by the City and the Issuer with the Funding Agreement:

(i) That the same portion of the Hotel Motel Tax proceeds as were used to fund the Georgia Dome will be used to fund the New Stadium Project;

(ii) That the New Stadium Project, as a successor facility to the Georgia Dome, will be located on property owned by the GWCCA; and

(iii) That the GWCCA has entered into a contract with the Atlanta Falcons Football Club, LLC, for use of the New Stadium Project, as a successor facility to the Georgia Dome, through the end of the new extended period of the tax collection.

Section 2.3. Representations and Warranties by GWCCA. GWCCA makes no representation or warranty to the Issuer that the net proceeds of the Series 2014 Bonds made available to it pursuant to this Development Agreement, together with other moneys available to GWCCA and any private funds, will be sufficient to fund the New Stadium Project.

ARTICLE III. **USE AND APPLICATION OF BOND PROCEEDS**

Section 3.1. Issuance of Bonds: Requisition of Bond Proceeds. In order to provide funds for payment of costs related to financing a portion of the New Stadium Project and the issuance of the Series 2014 Bonds:

(a) The Issuer shall, simultaneously with the execution and delivery hereof, proceed with the issuance and sale of the Series 2014 Bonds. The Issuer agrees to deposit the proceeds of sale of the Series 2014 Bonds in accordance with the Indenture.

(b) The Issuer agrees to cause the Trustee to make disbursements from the Project Fund (as defined in the Indenture) in accordance with Section ____ of the Indenture and Section 3.4 hereof.

(c) The Issuer (in consultation with the Chief Financial Officer of the City of Atlanta) agrees to cause requisitions for all closing costs to be paid from the proceeds of the sale of the Series 2014 Bonds.

Section 3.2. Sufficiency of Funds. The Issuer does not make any warranty, either express or implied, that the moneys deposited in the Project Fund under the Indenture and available for payment of the costs of the New Stadium Project will be sufficient to pay all the costs required of GWCCA as the Public Contribution to the New Stadium Project.

Section 3.3. Limitation of Liability. To the fullest extent allowed by law:

(a) All obligations of the Issuer incurred hereunder and under the Indenture shall be special and limited obligations of the Issuer, payable solely and only from Bond proceeds and the Trust Estate. The Issuer shall have no obligations under any documents or instruments mentioned herein, other than this Development Agreement, the Indenture and the Series 2014 Bonds. The Series 2014 Bonds shall be special and limited obligations of the Issuer as provided therein and in the Indenture, and shall be payable solely from the Trust Estate pledged therefor under the Indenture. Neither GWCCA nor the Owner of any of the Series 2014 Bonds shall ever have the right to enforce the payment of any amounts due hereunder against any property of the Issuer, except as provided in the Indenture.

No member, officer, employee or agent of the Issuer, including any person executing this Development Agreement, shall be liable personally hereunder or for any reason relating to the use and application of the proceeds of the Series 2014 Bonds. No recourse shall be had against any member, officer, employee or agent, past, present or future, of the Issuer for the Series 2014 Bonds, or for any claim based therein, or otherwise in respect thereof, or based on or in respect of this Development Agreement, any obligation, covenant or agreement contained herein or any amendment hereto, or any successor whether by virtue of any constitution, statute or rule of law, or by the enforcement of any assessment or penalty or otherwise, all such liability being, by the acceptance hereof and as part of the consideration for the Series 2014 Bonds, expressly waived and released.

(b) All obligations of GWCCA incurred hereunder shall be payable solely and only from the Hotel Motel Tax collections and the Bond proceeds deposited to the Project Fund. Neither GWCCA nor the Owner of any of the Series 2014 Bonds shall ever have the right to enforce the payment of any amounts due hereunder against any property of the GWCCA, except as provided in the Indenture.

No member, officer, employee or agent of the GWCCA, including any person executing this Development Agreement, shall be liable personally hereunder or for any reason relating to the use and application of the proceeds of the Series 2014 Bonds. No recourse shall be had against any member, officer, employee or agent, past, present or future, of the GWCCA for the Series 2014 Bonds, or for any claim based therein, or otherwise in respect thereof, or based on or in respect of this Development Agreement, any obligation, covenant or agreement contained herein or any amendment hereto, or any successor whether by virtue of any constitution, statute or rule of law, or by the enforcement of any assessment or penalty or otherwise, all such liability being, by the acceptance hereof and as part of the consideration for the Series 2014 Bonds, expressly waived and released.

Section 3.4. Requisition and Project Fund Disbursements.

(a) Requisitions from the Project Fund. The Issuer hereby agrees to cause the Trustee to disburse money available therefor in the Project Fund to the GWCCA if the Issuer and the Trustee have received all the following:

(i) a copy of the Project Fund Requisition form attached to the Indenture, signed by the GWCCA and signed and approved by the Issuer (which shall include a certification that GWCCA will not permit Series 2014 Bond proceeds to be applied in a manner inconsistent with the Issuer's tax regulatory and non-arbitrage certificate, which GWCCA will acknowledge).

(ii) A certification from GWCCA that attests that, except for the closing requisition, the bond proceeds are being drawn for NSP Costs (defined below).

(iii) A copy of the payment certificate corresponding to such disbursement furnished to the GWCCA by the Atlanta Falcons Stadium Company ("StadCo") pursuant to Section 6.4 of the Memorandum of Agreement among the GWCCA, Invest Atlanta, StadCo and the Atlanta Falcons Football Club, LLC, (the "Tri-Party MOU") (or corresponding provision of the Project Development Agreement (as defined in the Memorandum of Agreement among the GWCCA, StadCo and the Club (the "MOU"))).

(b) The costs of the New Stadium Project (collectively, the "NSP Costs") will include, but not be limited to:

(i) New Stadium Project vertical and horizontal construction and development costs on the NSP Site (as defined in the Project Development Agreement);

(ii) Costs associated with the acquisition of real property by StadCo for the development of the New Stadium Project (although such acquired real property shall not be a part of the NSP Site) in an amount up to \$20,000,000;

(iii) All soft costs associated with construction and development of the New Stadium Project (including, but not limited to, architectural, engineering and related professional services, permit, license and inspection fees);

(iv) So long as such roadwork is managed by StadCo. (in consultation with the City), infrastructure costs associated with roadwork on Martin Luther King Jr. Drive, Mitchell Street and Mangum Street that is necessary for the development of the NSP Site in an amount up to \$50,000,000;

(v) New Stadium Project infrastructure on the NSP Site;

(vi) NSP Site utilities;

(vii) Any contiguous surface parking for the New Stadium Project on the NSP Site (including all costs associated with the preparation of the Georgia Dome Site for surface parking);

(viii) Any plazas constructed as part of the New Stadium Project on the NSP Site;

(ix) Pedestrian bridges and walkways for connectivity to other facilities on the GWCCA Campus, the location and design of which will be proposed by StadCo and approved by the GWCCA (such approval not to be unreasonably withheld);

(x) Any Dome Demolition Costs (as defined in Section 2.2(A) of the MOU) (or corresponding provision of the Project Development Agreement (as defined in the MOU) (subject to the cap on Dome Demolition Costs if the North Side Site is selected as set forth in Section 2.2(A) of the MOU);

(xi) Relocation of power lines and other utilities (if necessary);

(xii) All environmental remediation expenses, including, but not limited to, onsite contaminated soil remediation for NSP Site preparation (if necessary);

(xiii) All third-party legal and consulting fees (including costs of the Construction Representative (as defined in the Project Development Agreement) and the GWCCA otherwise exercising its monitoring rights) incurred by the GWCCA in connection with the New Stadium Project (collectively, "Professional Fees") following the date of this Development Agreement for which the GWCCA provides evidence reasonably satisfactory to StadCo of the actual incurrence of such Professional Fees, provided that, such amount is limited to an amount up to \$2,500,000 in the aggregate;

(xiv) All necessary due diligence expenses to be performed and incurred by the Parties related to the NSP Site (including but not limited to Feasibility Studies, environmental assessments, transportation studies, legal fees (except as otherwise capped as provided in Section (xiii) above), potential infrastructure and other pre-development costs, utilities, parking, signage, etc.); and

(xv) Any and all other costs and expenses required in the mutual and reasonable judgment of StadCo and the GWCCA for full and timely construction of the New Stadium Project, including any out of pocket costs and expenses incurred by the GWCCA at the request of StadCo.

The Issuer and the Trustee may rely conclusively on the truth and accuracy of any certification, opinion, notice or representation made or provided by the GWCCA which is required to be noticed, represented or certified by the GWCCA hereunder in connection with requisitioning of the proceeds of the Series 2014 Bonds.

ARTICLE IV. **SPECIAL COVENANTS**

Section 4.1. Agreement to Spend the Bond Proceeds. The GWCCA hereby agrees to apply the Bond proceeds authorized for disbursement hereunder to the funding of the New Stadium Project in compliance with the GWCCA Act, the Act and the Hotel Motel Tax Statute. Nothing in this Development Agreement shall impose any liability or obligation on GWCCA with respect to the development and construction of the New Stadium Project beyond that contained in the License Agreement and the other principal project documents referred to therein.

Section 4.2. Tax Covenants. The GWCCA hereby represents, warrants and agrees that:

(a) The GWCCA acknowledges that the Series 2014 Bonds have been issued with the intention that the interest thereon be exempt from income taxation under Section 103 of the Code. Accordingly, the GWCCA covenants for the benefit of the Issuer and the owners of the Series 2014 Bonds that it will not knowingly take any action or omit to take any action which, if taken or omitted, respectively, would reasonably be expected by it to adversely affect the tax-exempt status of interest on the Series 2014 Bonds under the Code.

(b) The GWCCA covenants that it shall not knowingly (A) take or omit to take any action, or approve the Trustee's making any investment or use of the proceeds of any Series 2014 Bonds or any other monies within its respective control (including without limitation the proceeds of any insurance or any condemnation award with respect to the New Stadium Project) or the taking or omission of any other action, the taking or omission of which would cause any Series 2014 Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code or (B) barring unforeseen circumstances, approve the use of the proceeds from the sale of any Series 2014 Bonds otherwise than in accordance with this Development Agreement.

(c) To ensure compliance with the rebate requirements of the Code, the Indenture shall contain a Rebate Fund into which periodic deposits will be made to ensure compliance with the arbitrage rebate requirements as specified by an arbitrage rebate consultant to be retained by the Issuer, or by the Trustee on behalf of the Issuer. The deposits to the Rebate Fund and the fees and expenses of the Rebate Consultant shall be paid from the Funding Agreement Payments.

(d) Neither the Issuer or the Trustee shall be responsible for the GWCCA's compliance with the provisions of this Section 4.2, nor shall the Issuer or the Trustee be in any way responsible for the application of proceeds of the Series 2014 Bonds by the GWCCA, nor shall the Issuer or Trustee be responsible for determining the GWCCA's compliance with the provisions of this Section 4.2.

Section 4.3. Inspection of New Stadium Project and Records. The Issuer and the Trustee and their duly authorized agents shall have the right at all reasonable times after reasonable written notice to the GWCCA to examine during regular business hours the books and records of the GWCCA insofar as such books and records relate to the acquisition, construction and equipping of the New Stadium Project.

Section 4.4. Obligation of GWCCA to Furnish Certain Information.

(a) Pursuant to Section 11.4 of the Tri-Party MOU (or corresponding provision of the Project Development Agreement (as defined in the MOU), the GWCCA has required that StadCo implement an equal business opportunity ("EBO") plan and provide certain status reporting with such EBO plan to be made the Issuer quarterly on each January 1, April 1, July 1 and October 1 until 180 days following the Completion Date. GWCCA covenants to use good faith efforts to require StadCo to comply with such provisions against StadCo and to furnish to the Issuer copies of all reports received from StadCo pursuant thereto until 180 days after the Completion Date (as defined in the Project Development Agreement) of the New Stadium Project.

(b) GWCCA also agrees to provide the Issuer with copies of all reports received from GWCCA's Construction Representative (as defined in the Project Development Agreement) or from StadCo, which reports shall include, to the extent prepared in the ordinary course:

(i) any achievements or deviations from milestones set forth in the Project Development Agreement (on at least a quarterly basis);

- (ii) any material delays or likely delays, disputes or work stoppages;
 - (iii) with respect to any construction contract entered into, the dollar amount and percentage of completion for each stage of construction and its comparison to, the amounts estimated in the schedule of values in the Project Development Agreement;
 - (iv) any material legal, administrative or legislative challenge or claim relating to the New Stadium Project;
- (c) GWCCA shall provide Issuer with a copy of any New Stadium Project annual business plan or annual report

Section 4.5. Notice of Suits. The GWCCA shall notify the Trustee, StadCo and the Issuer in writing as soon as it has knowledge of any actions, suits or proceedings at law, in equity or before or by any governmental issuer, pending, or to its knowledge reasonably threatened, materially affecting or involving the validity or enforceability of this Development Agreement, or that, if determined adversely, would have a materially adverse impact on the New Stadium Project.

Section 4.6. Compliance with all Laws Relating to Design and Construction. GWCCA shall require through its contract with the Lead Architect that it comply with all laws, standards and guidelines governing and/or customary with respect to construction and development of projects of similar type or nature as the New Stadium Project, including without limitation, as applicable, (i) United States Occupational Safety and Health Administration requirements, (ii) Americans with Disabilities Act requirements, (iii) requirements under Title VII of the Civil Rights Act of 1964, as amended, (iv) Age Discrimination in Employment Act requirements, and (v) immigration laws .

ARTICLE V.

EVENTS OF DEFAULT AND REMEDIES

Section 5.1. Event of Default Defined. An Event of Default shall occur if:

(a) Either GWCCA or the Issuer shall default in the performance of any covenant, agreement or obligation under this Development Agreement and such default remains uncured for a period of 30 days after written notice thereof shall have been given by the non-breaching party to the other; provided, however, if the failure stated in the notice cannot be corrected within the period specified herein, the non-defaulting party will not unreasonably withhold its consent to an extension of such time if it is possible to correct such failure and corrective action is instituted by the defaulting party within the applicable period and diligently pursued until the default is corrected.

(b) Any warranty, representation or other statement contained in this Development Agreement was false or misleading in any material respect at the time it was made.

Notwithstanding the foregoing, no Event of Default hereunder shall constitute an event of default under the Series 2014 Bonds.

Section 5.2. Remedies on Default. Upon the occurrence of an Event of Default hereunder the non-defaulting party may except as provided below, take such other action at law or in equity as may appear necessary or desirable to enforce the obligations, covenants and agreements of the defaulting party hereunder.

Any action to be taken by the Issuer hereunder may be taken by the Trustee. The Issuer and the Trustee shall cooperate in any action taken by the other with respect to this Development Agreement to enforce the covenants contained herein.

The Issuer or the Trustee may employ an attorney in-fact or agent acceptable to the Issuer or the Trustee, as the case may be, for the purpose of enforcing any covenants made by the GWCCA hereunder, and the Issuer shall permit any such enforcement action to be brought in the name of the Issuer if necessary to enforce such covenants.

Section 5.3. No Remedy Exclusive. No remedy set forth in Section 5.2 is intended to be exclusive of any other remedy, and every remedy shall be cumulative and in addition to every other remedy herein or now or hereafter existing at law, in equity or by statute. No delay or failure to exercise any right or power accruing upon an Event of Default shall impair any such right or power or shall be construed to be a waiver thereof, and any such right or power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Issuer or the Trustee to exercise any remedy reserved to it in this Article VI, it shall not be necessary to give any notice, other than such notice as may be herein expressly required in this Development Agreement.

Section 5.4. No Additional Waiver Implied by One Waiver. If any party or its assignee waives a default by any other party under any covenant, condition or agreement herein, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

ARTICLE VI. **MISCELLANEOUS**

Section 6.1. Notices. Unless otherwise provided herein, all demands, notices, approvals, consents, requests and other communications hereunder shall be given in the manner provided in the Indenture. A duplicate copy of each demand, notice, approval, consent, request or other communication given hereunder by any party to any other party shall also be given to the other parties hereto.

Section 6.2. Successors and Assigns. This Development Agreement shall be binding upon, inure to the benefit of and be enforceable by the parties hereto and their respective successors and assigns.

Section 6.3. Severability. If any provision of this Development Agreement shall be held invalid by any court of competent jurisdiction, such holding shall not invalidate any other provision hereof.

Section 6.4. Applicable Law. This Development Agreement shall be governed by the applicable laws of the State.

Section 6.5. Entire Contract; Amendments, Changes and Modifications. This Agreement contains the entire contract between the Issuer and the GWCCA relating to matters covered by this Development Agreement.

Section 6.6. Captions. The captions and headings in this Development Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions of this Development Agreement.

Section 6.7. Counterparts. This Development Agreement may be executed in several counterparts, each of which shall be an original and all of which together shall constitute but one and the same instrument.

Section 6.8. Term of Agreement. This Development Agreement shall be effective upon execution and delivery hereof, shall expire on the Completion Date (as defined in the Project Development Agreement), and shall be binding upon the successors and assigns of the GWCCA.

IN WITNESS WHEREOF, the parties, by their duly authorized representatives, have set their hands as of the day and year first above written.

**THE ATLANTA DEVELOPMENT
AUTHORITY**

By: _____
Chair

ATTEST:

Secretary

(SEAL)

**GEO. L. SMITH II GEORGIA WORLD
CONGRESS CENTER AUTHORITY**

By: _____

Its: _____

ACKNOWLEDGED BY:

[_____]

(SEAL)

Attest: _____
Authorized Agent

By: _____
Authorized Agent

(Signature page to Development Agreement)