

July 22, 2014

Hamilton County Board of Commissioners

Hon. Chris Monzel, President

Hon. Greg Hartmann, Vice President

Hon. Todd Portune

138 East Court Street, Room # 603

Cincinnati, Ohio 45202

Dear Honorable Board

In the fall of 2013 the Cincinnati Museum Center applied for a renewal of its operating levy. In our report dated November 14, 2013 we recommended that the City of Cincinnati, CMC, and Hamilton County form a task force to “ascertain and approve the necessary plans and cost for renovation and ongoing upkeep of Union Terminal.” A task force was formed, the Cultural Facilities Task Force (Task Force) and its efforts resulted in a proposal presented to the Commissioners on June 23, 2014. The commissioners have asked the Tax Levy Review committee to review this proposal.

In addition to addressing the renovation of the Union Terminal building, the Task Force included the Music Hall renovation in their proposal. If the Commissioners decide to include Music Hall in the funding, the total amount proposed to be funded by the County (\$225,462,000 before interest) will be greater than the total cost of the Union Terminal project (\$208,212,000).

Historically, when the Hamilton County Tax Levy Review Committee reviews proposed taxes we engage a consultant to meet with and review operating efficiencies of the organizations and review financial information. The consultants and TLRC members typically make site visits to some of the funded agencies and the TLRC holds public hearings. In the instant case, we have not been able to perform all of these procedures due to the impending deadline for placing the proposal on the ballot. Consequently, we have had to narrow our scope to review whether the sales tax proposal is based on reasonable assumptions and if it is consistent with our mission statement that Hamilton County shall be the payer of last resort. We have engaged Hines Inc., a global real estate development and property management firm, to review the renovation cost estimates that have been developed for both Union Terminal and Music Hall that the Task Force proposal is based upon.

The first question we addressed is whether a sales tax is preferable to a property tax for funding the renovations. The Task Force conducted a study that concluded that approximately 47 percent of the sales tax would be paid by non-residents of Hamilton County. We believe that this makes a sales tax more attractive than a property tax in funding regional attractions like the Museum Center and Music Hall.

A second concern was whether the revenue projections that assume the sale tax would generate enough revenue to pay off the bonds in nine years were reasonable. While we believe that the assumption of a zero growth rate is reasonable it is also notable that there was negative growth in three

of the last ten years. The impact of negative growth would be to prolong the sales tax. Of course, positive growth would shorten the period.

One objection to the proposed sales tax plan is that cost overruns would result in taxpayers paying the sales tax for a much longer period than intended. While the projected costs are based on estimates, we have relied on Hines to vet the process by which the costs were estimated. Moreover, we are recommending that the sales tax be dedicated only to paying off the bonds to be issued for the Hamilton County funded portion of the renovation costs. If this is implemented, any cost overruns would not be the responsibility of the taxpayers.

Regarding the concerns that there will be substantial cost overruns on these projects, the Task Force assembled a team of local, regional and national experts to develop the preliminary scope of work and cost estimates upon which the request is based. Engineering and construction companies that have built many of the major community facilities we know, use and love in Cincinnati were involved. From our limited review, it appears best practices were used to develop the estimates and Hines concurs. By way of example of how the figures were arrived at, in January, two teams of experienced estimators from Messer Construction and Turner Construction spent two weeks along with architecture and engineering firms to separately arrive at a construction budget that both firms agreed was appropriate for Union Terminal. A similar exercise was facilitated by 3CDC for Music Hall.

Hines recommends an additional \$6,755,000 be added to the Task Force budget for Union Terminal and an additional \$3,295,000 be added to the Task Force budget for Music Hall. This additional \$10,050,000 represents an increase of about 3 percent over the Task Force estimates, showing that the Task Force estimates appear reasonably accurate. Hines notes that some of these recommended increases may not be necessary as some of the items (*e.g.*, cost of temporary utilities during construction) may have been picked up already elsewhere in the budgets developed by the Task Force.

It should also be noted that some of the cost increases Hines recommends are really more related to project enhancements aimed at saving taxpayers in the long run, than to miscalculated budgets. For example, on Union Terminal, Hines recommends spending an additional \$1.1 million above what the Task Force budget includes to replace all lintels above windows and doors throughout the entire facility rather than just only those that must be addressed now. Hines recommends \$1.125 million be added to the Task Force budget for Music Hall to reconfigure the loading dock which is currently challenging for modern day operation of that facility. The TLRC supports the inclusion of these added items to the Task Force budget so that these expenditures provide a long term solution rather than a temporary fix that will need more attention in the near future.

Some have said that this process has been rushed and waiting would allow for better construction cost estimates. It appears that the development of the cost estimates was handled using best practices by experts who were largely donating their resources to this effort in an unbiased manner to provide decision makers with the best information currently available. Those who developed the cost estimates have not indicated they needed more time to sharpen their estimates, but rather more detailed plans and specifications. But the cost and time to develop more detailed plans and specifications is

substantial. And if it is unclear whether the projects are even going to move forward or not, those costs cannot justifiably be incurred by the Task Force or on the limited budgets of CMC or Music Hall only to then potentially have the plans sit on a shelf for several more years. With construction costs and interest rates predicted to rise in 2015 while the buildings continue to deteriorate, we agree that now is a good time to proceed with these projects if the voters decide to support them.

In part due to lack of detailed plans and specifications, substantial contingency is built into the budget estimates for both buildings. On the one hand this gives some comfort against potential cost overruns. On the other hand, the potential funding pool needed may be more than necessary. It would not be prudent to reduce the contingency now without detailed plans and specifications and the contingency is never going to be 0%. Perhaps a better way to deal with this situation is to use a construction manager at risk project delivery system with a guaranteed maximum price for each project. The new entities created to facilitate each of these projects could be properly incentivized to guard and protect the contingency during construction (*i.e.*, managing the job well to avoid cost overruns) by being told that some or all of any unused contingency will be placed in a locked down fund only to be used for maintenance of the facilities. Providing a potential pool of funds for long-term preventive maintenance rather than deferring maintenance or shifting it entirely onto the limited operating budgets of the nonprofit residents of these facilities would probably be a more responsible way of ensuring the maximum useful life is gained from this taxpayer investment.

Some suggestions have been made to exclude Music Hall from this ballot issue. While the construction needs at Music Hall are different from those at the Museum Center, the question of how to finance and manage those projects is very similar if not the same. The nonprofit residents of both facilities cannot finance the needed renovations. Some of the private and public funding being pooled for the project is contingent upon both projects being completed. Some of the private donors to the Museum Center are not typically donors to the arts and Music Hall, and vice versa. A previous effort to raise private funds to complete all the work needed at Music Hall fell short. So it seems a portion of public funding is necessary at Music Hall and there are some synergies that can be realized from other funding sources of pushing the two projects forward at this time.

The Task force has done an admirable job in obtaining commitments for \$36,000,000, with a goal of at least \$40,000,000, in charitable contributions. The Task Force has indicated that \$40,000,000 is not a stopping point and they should be held to that commitment as we believe additional private funds are achievable. In total, \$40,000,000 represents approximately 12 percent of the project cost. The Music Hall percentage is approximately 20 percent of its renovation costs, while the Union Terminal percentage is 7.5 percent. We believe that the philanthropic portion of the funding should be raised so that CMC raises between \$24,500,000 (the same dollar amount as Music Hall) to \$41,000,000 (the same percentage as Music Hall).

Similarly, we believe that the City of Cincinnati should contribute to both the renovation and ongoing maintenance. The City of Cincinnati is the owner of both of the buildings. In recent years it has contributed approximately \$400,000 annually to the maintenance of the two buildings. It has also pledged to contribute \$10,000,000 to the renovation of Music Hall. The Union Terminal renovation

budget includes approximately \$9,500,000 to repair the Dalton Street underpass and the fountain above it (the Hines report indicates it should be an additional \$1,475,000). If the renovation is not funded by the county the city will ultimately have the liability of maintaining and renovating the buildings and the Dalton Street underpass since it is the owner. The \$10,975,000 would represent only approximately 5 percent of the Union Terminal renovation costs. Moreover, we believe there should be a commitment by the city to continue to fund \$400,000 toward the maintenance of the two buildings so that a fund can be maintained to keep the buildings in good condition once they are renovated.

We also believe that the users of the building should contribute toward its renovation. (see footnote 1 below). A \$3.00 user fee would raise approximately \$4,500,000 a year. Based on ticket prices, and attendance, there could be a smaller fee for Union Terminal and a larger fee for Music Hall. Once the bonds are retired, the user fee could be utilized, together with the Cincinnati funding, to insure funds for the maintenance of the two buildings. It should be noted that in order to qualify for the historic tax credits a separate entity (for each building) will need to be formed that will have control of the building through a long term lease. The boards of these organizations should be appointed in proportion to the funding sources. For example, if Hamilton County funds 60 percent of the cost of the Union Terminal renovation, it should appoint 60 percent of the board of the entity that controls the construction and lease of Union Terminal.

The current plan is to have the construction work on Music Hall will be overseen by 3CDC and its designated construction management company. A similar organizational structure should be put in place for Union Terminal so that an independent construction management firm can oversee the project.

In summary, prior to placing this issue on the ballot, we believe the following should occur:

1. Private contributions should be increased from the proposed \$40,000,000 to \$49,000,000 to \$65,000,000.
2. A user fee should be implemented initially to help fund the renovation and then be utilized to insure proper maintenance. The user fee revenues should be escrowed and utilized only for the purposes of retiring the bonds and then for maintenance of the two buildings.
3. The City of Cincinnati should contribute the cost of the Dalton Street improvements, including the fountain (approximately \$10,975,000) to the Union Terminal renovation and pledge to continue funding \$400,000 a year for maintenance of both buildings.
4. Hamilton County should have representation on the boards of the entities that will control the buildings.
5. Union Terminal should have a construction management process similar to that of Music Hall.
6. As described in Ohio Attorney General Opinion No. 73-031, any sales tax authorizing resolution should include "sunset" covenants (stopping collection of sales tax once the bonds have been repaid); thereby limiting the amount of the sales tax collected to the amount necessary to service and repay the bonds issued to support renovation.

7. The obligation of Hamilton County should be limited to a fixed amount based on the estimated costs and the required contributions from philanthropy, tax credits, state grants, user fees and Cincinnati grants.

Respectfully submitted on behalf of the Tax Levy Review Committee,

A handwritten signature in dark ink, appearing to read 'Thomas M. Cooney', is written over the typed name.

Thomas M. Cooney

1. While a sales tax has the benefit (as opposed to a Hamilton County property tax) of bringing in tax revenue to support renovation of regional attractions from regional residents who live outside Hamilton County, it is, nevertheless, a consumption tax. Consumers at all economic levels who purchase taxable goods and services pay the sales tax. This includes consumers who independently lack the financial resources to attend events at Music Hall or to visit the Museum Center. It also includes consumers of modest means who have leisure/entertainment preferences that do not include the offerings at Music Hall or the Museum Center, who direct scarce leisure dollars to other pursuits (fishing, camping, quilting, bowling, what have you). Accepting the \$23 per resident per year projected cost of the levy, a family of four would provide \$92 per year of support to the renovation projects, or \$920 over 10 years. This is a significant commitment to families of modest means, one the committee fully comprehends and respects. If such families are being asked to provide support at this level, it is only fair and equitable to ask patrons of Music Hall and the Museum Center, who directly benefit from the renovation projects, to shoulder some of the burden for renovation. A user fee would not be duplicative of the City ticket tax, as nonprofits such as the Cincinnati Symphony and the Museum Center, are exempt from the ticket tax.