

MEMORANDUM

To: Board of County Commissioners of Hamilton County, Ohio
The Honorable Denise Driehaus
The Honorable Stephanie Summerow-Dumas
The Honorable Todd B. Portune

From: Thomas L. Gabelman

Cc: Jeff Aluotto, Holly Christmann, John Bruggen, Alex Linser, Paul Sohi, Victoria Parks, Roger Friedmann

Date: September 15, 2019

Re: Hamilton County's Response to Questions Posed By Mayor Cranley On September 3, 2019 And The City Law Department Statements Regarding The Banks Project

The following is a response to questions posed at the September 3, 2019, Economic Growth and Zoning Committee Hearing and subsequent questions posed by Mayor Cranley on September 4, 2019.

The responses follow the question posed.

1) What can city-county build on lots 1, 13, 23, 25, 28 now, without Bengals approvals?

City Interpretation of City-County Agreement or County-Bengals Lease

The City and County are currently subject to certain design guidelines for Lots 1, 13, 23, 24, 25 and 28, that include, without limitation: (i) height limitations on structures west of Race Street extended to an elevation of 555 feet above sea level (approximately three stories) or structures south of Theodore M. Berry Way (as depicted below as the line between 2a and 2b) to an elevation of 541 feet above sea level (between two and three stories depending on how far south it is), (ii) restrictions on additional stadiums, arenas or an auditorium with 3,000 seats, (iii) screening of mechanical equipment, and (iv) the preservation of certain sightlines to the river and of the skyline. These design guidelines are found in Appendix A of the City-County Agreement for the Redevelopment of the Central Riverfront (the "1998 Agreement"). The County-Bengals Lease contains similar development restrictions for the area to the west of Race Street.

These design guidelines describe a threshold for developments on these lots that the Bengals have previously approved. The Bengals withholding consent to any such developments that did not exceed this previously-approved threshold would be inconsistent with the existing documents. The City and the County could therefore move forward with development on these lots consistent with those guidelines.

Hamilton County Response to Question Posed on Issue 1

The Bengals have approval rights on Banks Lots 1, 13, 23, 25, 27 & 28 pursuant to the 1997 County-Bengals lease and the 1998 City-County Redevelopment Agreement. Those approval rights are beyond height limitations set forth above in the City's response. The City and County entered into an Agreement for the Redevelopment of the Central Riverfront including the

Construction of Paul Brown Stadium dated as of January 31, 1998 (the “1998 City-County Redevelopment Agreement”). The 1998 City-County Redevelopment Agreement is the seminal agreement that commenced the redevelopment of Cincinnati’s riverfront. The 1998 Redevelopment set forth various duties and obligations of the City and County with respect to property transfers, public infrastructure and street grid construction, financial contributions and various development rights specifically in the context of the County-Bengals Lease, and certain City-requested amendments.

The 1998 Redevelopment Agreement also incorporated certain Development Guidelines that were contemporaneously incorporated into the First Amendment to the 1997 County-Bengals Lease Agreement. The Guidelines set forth various parameters regarding the development generally within the Stadium Site, as depicted below, between Paul Brown Stadium and the Suspension Bridge. By way of example, certain of the development blocks have specific building height limitations that, if exceeded, would require the review and approval of the Cincinnati Bengals prior to development of that particular block.



Figure 1 STADIUM SITE AS DEFINED IN 1997 COUNTY-BENGALS LEASE

Development of the Lots proximate to Paul Brown Stadium along Elm Street (Lots 1, 13, 25, 27 & 28) are constrained due to the existing height limitations set forth in the Development Guidelines. Such limitations impact the feasibility of development and the marketability of the remaining lots for development.

In each of the three instances that The Banks Development has advanced West of the Suspension Bridge, in Phases II and III, it has been necessary for the County to seek the Bengals review and modification to existing development guidelines in order to make such developments market feasible. Absent such modifications, the development of such lots would not have advanced. The County's requests for modifications were necessary to secure and advance the development of The Banks. To date, the County has sought and obtained modifications with respect to: 1) height limitations necessary to develop the GE Global Operations Center on Lot 2; 2) height limitations regarding the development Phase II Radius Apartments; and 3) height limitations and other Development Guidelines regarding the Riverfront Music Venue development on Lot 27. In each

instance, in working with the County, the Bengals have reviewed, approved and consented to such modifications so development could proceed.

In order to address the Development Guidelines in a proactive manner, in advance of actually identifying a specific project, the County proposed to the Bengals during its most recent negotiations, that an urban planner be retained to review The Banks Project in the context of existing development and those lots remaining to be developed. Following such review, the urban planner would then issue recommendations regarding potential modifications of the 1997 Development Guidelines.

The Bengals and County agreed, pursuant to a November 14, 2018 and June 20, 2019 Memorandum of Understanding, that, through the JBSC, a consultant may be retained to conduct an urban planning review of the existing development in the context of the remaining undeveloped lots within The Banks, including Lots 1, 13 and 25 of The Banks. Based on such urban planning review and recommendations, the building height limitations and Development Guidelines that date back to 1997 and 1998, could be modified upon agreement of the County, City and Bengals.

The intent of the County's MOU is to establish a process through the City–County JBSC, to review and formulate plans in the context of the existing development and to consider modifications to the height limitations and Development Guidelines as determined appropriate by the County and the Bengals pursuant to the Lease, and the City and County, pursuant to an Amendment to the 1998 Redevelopment Agreement, as recommended by the City-County JBSC. This will enhance and advance the overall planning process of the remaining undeveloped Lots. **This is a positive development for The Banks.**

2) Given this authority, why is the county giving millions of dollars in additional parking revenue annually to build on Lots 27 and 28?

City Interpretation of City-County Agreement or County-Bengals Lease

The November 2018 MOU and June 2019 MOU indicate the County is making the various commitments described therein in exchange for the Bengals consenting to the construction of the music venue on Lot 27.

Hamilton County Response to Question Posed on Issue 2

Hamilton County is not “giving” millions of dollars in additional parking revenue annually to build on Lots 27 and 28. That statement is simply not correct.

There are several reasons why the Board of County Commissioners on April 11, 2019, and the Cincinnati City Council on April 17, 2019, voted unanimously to approve the development of the Music Venue on Lot 27 and the expansion of Smale Park on Lots 23 and 28.

A. DEVELOPMENT ANALYSIS CONSIDERATIONS

In assessing optimal locations within The Banks for the development of a music venue and the associated development of park greenspaces, as well as additional parking facilities, the following issues warranted consideration:

1. Impact of completing the Music Venue and Smale Park greenspace to catalyze completion and integration of the overall development of The Banks, including Lot 24 – with a proposed \$85MM mixed-use development;
2. Development of the Music Venue on Lot 27 also advances, by ten years, the development of Smale Park on Lots 23 & 28;
3. Balancing “anchor” attractions throughout The Banks development; a Music Venue on the west portion of the development anchors entertainment 200-225 days a year;
4. Need to mitigate parking conflicts with the Bengals/Reds/US Bank Arena events;
5. Long term sustainability of The Banks development;
6. Developing four additional blocks (23, 24, 27, & 28) which will catalyze future development and sustain overall Banks development;
7. Timely and necessary utilization of \$12 million State of Ohio grant dollars for construction of Lots 23, 27 & 28 public parking facilities to support development in accordance with grant requirements;
8. Consistency of development with The Banks Master Plan and current development proposals;
9. Impact of the Music Venue to spur activation of The Banks development, including western retail core;
10. Impact of Lot 23, 27 & 28 remaining as surface parking facilities rather than entertainment and greenspace;
11. The combination of the Music Venue on Lot 27 and the Event Lawn on Lot 23 maximizes the public availability of green space;
12. Lower profile of Riverfront Music Venue on Lot 27 is compliant with 1997 Bengals Development Guideline goals.

B. **FACTORS ASSOCIATED WITH VENUE AND SMALE PARK GREENSPACE DEVELOPMENT ON LOTS 23, 27, AND 28**

Siting of the music venue on Lot 27 optimizes the location of anchor attractions across and throughout the development. As noted by the Riverfront Advisors Commission in 2001, *“given that the Bengals stadium would likely be used just 10 times per year, there is a need to strengthen anchor attractions at the west end of the development.”* The MEMI music venue on Lot 27, with outdoor concerts and events on Lot 23 will generate more than 225 events per year and 350,000 new patrons. The eastern end of The Banks is well supported with over 200 events between the Cincinnati Reds and the US Bank Arena, and more than 2.5 million patrons.

Siting of the venue on Lot 27 provides the critical balance and patron circulation necessary for the entire development. Furthermore, development of the music venue on Lot 27 will enable the completion of the final upper phase of the Smale Park, which will greatly enhance The Banks and serve as a catalyst for the development of the remaining lots in The Banks. MEMI’s concept, which was developed in collaboration Cincinnati Parks over

the last 15 months, and now advanced to construction documents by MEMI and Parks, integrates the music venue development on Lot 27 with the Parks development on Lots 23 and 28 in order to complete the Park and also enable outdoor concerts and event programming.

Mayor Cranley, in his email to Council on April 9, 2019, also recommended that Council approve the development of a Music Venue on Lot 27 and the expansion of Smale Park on Lots 23 and 28.

From: Cranley, Mayor <mayor.cranley@cincinnati-oh.gov>
Sent: Tuesday, April 9, 2019 9:38 AM
To: Duhaney, Patrick <Patrick.Duhaney@cincinnati-oh.gov>; #COUNCIL <#COUNCIL@cincinnati-oh.gov>
Cc: #COUNCIL Assistants <#COUNCILAssistants@cincinnati-oh.gov>; Juech, John <John.Juech@cincinnati-oh.gov>; Hill-Christian, Sheila <Sheila.Hill-Christian@cincinnati-oh.gov>; Long, Sheryl <Sheryl.Long@cincinnati-oh.gov>; Bigham, Chris (Budget) <Chris.Bigham@cincinnati-oh.gov>; Weldon, Casey <Casey.Weldon@cincinnati-oh.gov>; Carr, Kelly <Kelly.Carr@cincinnati-oh.gov>; Michael, Rahiel <Rahiel.Michael@cincinnati-oh.gov>; Stutz Smith, Holly <Holly.StutzSmith@cincinnati-oh.gov>; Dillon, Bobbi <Bobbi.Dillon@cincinnati-oh.gov>
Subject: RE: CSO/MEMI Music Venue Proposed Term Sheet

Dear City Council,

I am happy that our administration and the county have negotiated a deal at the Banks that will allow CSO/MEMI to locate at the Banks consistent with the long-standing county request to place it on lot 27 rather than lot 24. As you all know, I thought that the lot 24 option would move faster and would cost less money overall. However, I believe the county made a good faith offer to the city that makes me comfortable with their approach since they have made it clear that they will not support lot 24. Some of the benefits include finishing the street grid and the riverfront park lot 23, which we are working on with the involvement of the park board. And of course, I have advocated for years for a music venue so I am glad we have an agreement to let CSO/MEMI start.

The county has asked us to support their vision and this legislation says yes to their request and yes to the music venue at the banks.

I refer this legislation to Budget and ask for approval.

Thanks,

John

Construction has commenced on the public parking garage facilities which are designed to support the Music Venue. The Music Venue is scheduled to commence its construction in November 2019.

3) Can the music venue be built on Lot 24 without giving the Bengals millions of additional parking revenues annually?

City Interpretation of City-County Agreement or County-Bengals Lease

The Bengals have previously indicated to City officials a willingness to proceed with the development of the music venue on Lot 24 under the current design guidelines and without the new terms now agreed to solely by the County under the MOUs (such as the surface parking minimums, the potential for the Bengals to impose additional design guidelines, payment by the County to relocate Hilltop, and additional parking revenue diverted from the public to the Bengals).

Hamilton County Response to Question Posed on Issue 3

1. The Music Venue, as currently designed and set to commence construction in November 2019, cannot be built on Lot 24;

2. Redesigning the Music Venue would delay the completion of the Project for over a year, resulting in a substantial adverse economic impact to The Banks, the City and the County;
3. Lot 24 is designed to accommodate 500,000 sq ft of residential, retail and commercial development and integration of the Music Venue is cost prohibitive.
4. No one is giving the Bengals millions of additional parking revenue.

The timeline for the public and private parties' redevelopment of this next phase of development is important.

Pursuant to an RFQ issued by the City and County, through the JBSC on February 25, 2018, the JBSC recommended CSO/MEMI as the preferred developer of The Banks Entertainment Venue on May 2, 2018.

On June 11, 2018, the Hamilton County Board of County Commissioners unanimously approved MEMI/CSO as the preferred developer of the Banks Entertainment Venue. On June 20, 2018, following an extensive presentation by Promowest Productions and MEMI/CSO, the Cincinnati City Council unanimously approved MEMI/CSO as the preferred Music Venue Developer.

On November 14, 2018, the Bengals and County entered into a MOU pursuant to which the Bengals agreed that the Music Venue will be constructed on Lot 27 and the Park on Lots 23 and 28. Katie Blackburn stated, “The Bengals have long supported the community’s vision for a riverfront music venue, and today we were able to work collaboratively to ensure that the music venue will happen,” said Bengals Executive Vice President Katie Blackburn.

In April 2019, the City and County acted unanimously in approving the development of the Music Venue on Lot 27 and the expansion of Smale Park on Lot 23 and 28. CSO/MEMI’s design is complete and is ready to commence construction.

On June 20, 2019, the County and the Bengals entered into an MOU that provided the County would move forward with construction of the public parking garage facilities on Lots 23, 27 & 28. The public parking garage facility has been specifically designed to support the Music Venue and started construction on August 9, 2019, and is progressing on schedule and within budget.

The Bengals affirmed their agreement to build the Music Venue on Lot 27 in June 2019: ***“The Bengals are interested in seeing the music venue project move forward in a successful fashion... . This agreement will help move the music venue forward..., create better long term parking options for fans all as part of the vision of a thriving riverfront in Cincinnati.”*** said Bengals Director of Business Development Bob Bedinghaus.

In fact, Lot 24 was never designed to support a concert venue. Lot 24 was designed and built by the County to accommodate 400,000 to 500,000 square feet of residential, retail and commercial development. The City-County received a proposal to develop Lot 24 into a 400,000 sq. ft., \$85MM residential, retail, commercial office and entertainment complex that complements the 1

million square feet of development to date. This is the highest and best use for Lot 24, which is not subject to the Bengals Lease height limitations.

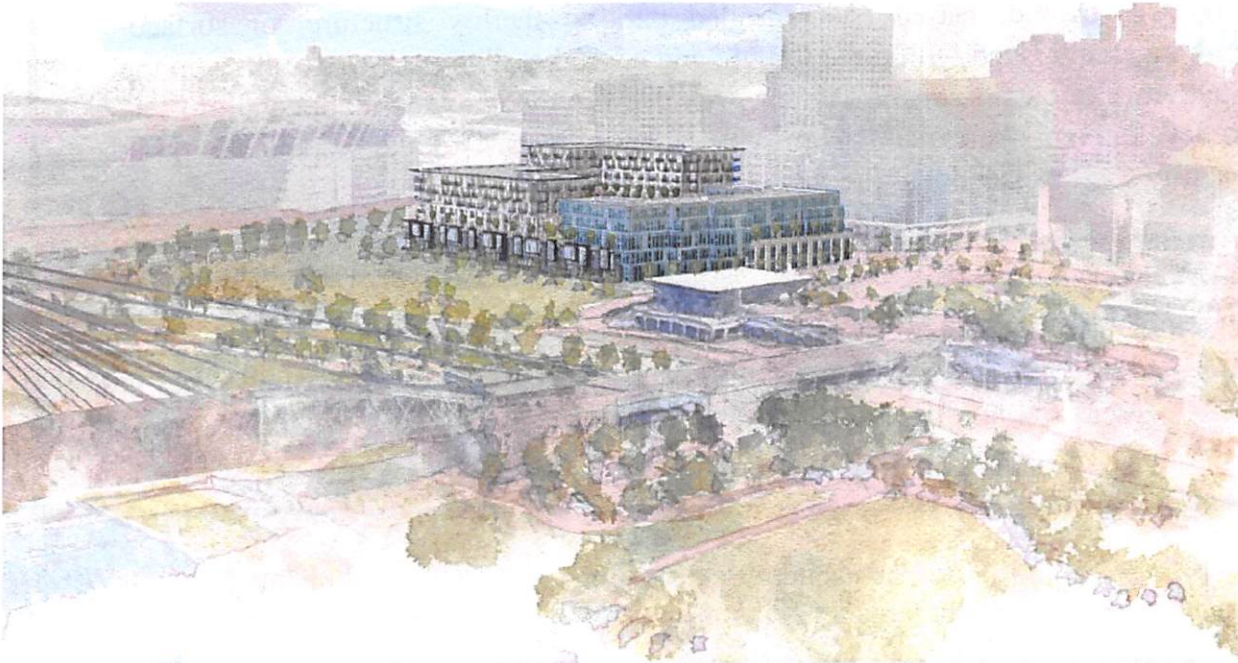


Figure 2 Proposed \$85MM 400,000 sq. ft Mixed-Use Development

4) Does the city own the Crosset Lot?

City Interpretation of City-County Agreement or County-Bengals Lease

Yes, the City currently owns Crosset Lot (also known as Central Lot). The City granted easements to ODOT over this parcel for the overpass structure overhead and ODOT also claims an interest in easements with respect to utilities over the site. The City currently receives parking revenues from the lot on all days except up to 15 "Designated Events", under the terms of the 1998 Agreement, the A/R MOU and the License Agreement (each as defined below).

Hamilton County Response to Question Posed on Issue 4

Pursuant to the express terms of the 1998 City-County Redevelopment Agreement, the City agreed, that as long as the Central Lot was owned by the City or leased by and used for parking, the City would allocate the revenue received from Bengal Patrons on Designated Event Days to the Bengals.

According to Part Four of the 1998 City-County Redevelopment Agreement titled "Development of Central Riverfront Development Site and Parking for Designated Events", Article IV.A., defines "Designated Events" as Bengal Football Game Days.

That same Section, states in pertinent part, totally, in aggregate to no more than 15 days per year.

Any City-owned, leased or controlled parking facility structure, or surface-parking area located within the CRDS, and any other City parking facilities in the Stadium Site outside of the Trench Area that are made available pursuant to this Redevelopment Agreement to provide parking as part of the Stadium Parking Facility shall be subject to the following:

2. The Bengals shall have the right to set the price to be charged for parking, to receive the revenues from parking generated from such Designated Event (as paid by the City to the County) and to sell season and pre-sold passes for the parking facility for such Designated Event.

The 1998 Amendment to the County-Bengals Lease, attached as Exhibit A to the 1998 Redevelopment Agreement provides in pertinent part:

5. City-Owned Property. For and only for so long as any portion of the Stadium Site (outside the Stadium Complex) is owned by or leased to the City and is actually occupied or is being developed by the City (any such property being hereinafter referred to as "City Property"), or any Person lawfully claiming by, through or under the

(b) Except as provided in Subsection (c) and (d) below, any Stadium Parking Facility located on any such City Property shall be made available for the use of Stadium patrons for Team home professional football games (preseason, regular season or post-season), other events held on Team Use Days and Other Events together totalling, in aggregate, no more than fifteen (15) dates each year (as designated by Team in its sole and absolute discretion) (any such event, a "Designated Event"); provided, however, Designated Events other than Team home

The Central Lot is within the "Stadium Site." As a result, the City is obligated to remit revenues received from Bengal patrons on Designated Event Days.

5) When do we get control back to develop?

City Interpretation of City-County Agreement or County-Bengals Lease

The City regains control of the revenues related to Crosset Lot upon completion of the street grid improvements (which occurs upon the completion of the Race Street roundabout) pursuant to Section 8 of the Parking License Agreement between the City and the County (the "License Agreement"), which is also reflected in Section 3.5.1 of the 2002 Amended and Restated Supplemental Memorandum of Understanding between the County and the City (the "A/R MOU").

Hamilton County Response to Question Posed on Issue 5

The City retains control to develop the Central Lot.

THE CENTRAL LOT, FORMERLY, THE CROSSET LOT



6) Will the City get game day revenues from the Crosset Lot once the street grid is complete?

City Interpretation of City-County Agreement or County-Bengals Lease

Yes.

Hamilton County Response to Question Posed on Issue 6

See response to Section (4) above. The City is obligated to pay revenues received from Bengal patrons to the Bengals in accordance with the terms of the 1998 City-County Redevelopment Agreement.

7) What does the County-Bengals MOU say about the City getting game day revenues?

City Interpretation of City-County Agreement or County-Bengals Lease

Section 5 of the November 2018 MOU states "County agrees with Team that the Central [Crosset] Lot (upper and lower sections) is and should be available and will use its best efforts to assure it will remain available, with revenue to Team, for all Bengals Game Days during Term..." The County's lease with the Bengals runs, with extensions, through June 2036.

Hamilton County Response to Question Posed on Issue 7

The obligations of the City with respect to the payment of parking revenues received from Bengal patrons to the Bengals is clearly set forth in the 1998 City-County Redevelopment Agreement.

The County agrees with the Bengals that the City should fulfill its obligations to the Bengals under such Agreement.

8) Does the MOU establish the idea that 3200 spaces are forever surface lots at the banks?

City Interpretation of City-County Agreement or County-Bengals Lease

The November 2018 MOU, as slightly then modified by the June 2019 MOU, commits the County to providing 3200 surface parking lots beginning with the 2021 NFL season and continuing through the duration of the County-Bengals Lease, which currently runs through June 30, 2026 and includes five two-year extensions which allow the Bengals to extend through June 30, 2036.

Hamilton County Response to Question Posed on Issue 8

The November 2018 and June 2019 MOU provided that the County will use commercially reasonable efforts to have 3,200 surface spaces within reasonable proximity to the Hilltop Site or the Stadium Site beginning in the 2021 NFL Season; such spaces are not required to be within The Banks. The 3,200 threshold number was derived with the specific assumption of the complete build-out of The Banks Project, including specifically Lots 1, 13, 23, 25, 27 & 28 with parking garage facilities and development above in accordance with The Banks Master Plan. Pursuant to the Master Plan, The Banks Development would not have any surface parking facilities between Paul Brown Stadium and Great American Ball Park.

The November 2018 MOU also provided that the County may make other areas within the Stadium Site available for tailgating which would be factored and reduce the 3,200 threshold number. As a result of the County's acquisition of Hilltop, the balance of The Banks Development will proceed



Figure 3 State Farm Stadium

instead of remaining as surface parking lots. The County and the Bengals have discussed the potential benefits of green tailgating which enhance the overall game day experience and reduce the required number of surface parking spaces. Certain of these "green" tailgating concepts, forth below, could also be developed for the future Hilltop Concrete Parking Facility.



Figure 4 USC Gamecock Park - Tailgate Facility

The County and the Bengals, in collaboration with the City, will continue to explore ways in which the fan tailgating experience is accommodated. There are multiple areas within the 200-acre riverfront that could accommodate tailgating as we move forward with The Banks Development.

9) Is that new?

City Interpretation of City-County Agreement or County-Bengals Lease

To the best of our knowledge, the County's obligations to provide certain parking spaces to the Bengals on Team Use Days did not, prior to the November 2018 MOU, include any requirements that those spaces be in surface lots.

Hamilton County Response to Question Posed on Issue 9

The County-Bengals Lease entered into in July 1997 and various subsequent amendments since 1997, have set forth parameters, requirements and limitations with respect to parking spaces, geographic locations, number, and required availability before and after Bengals games. Section 33.7 of the 1997 Bengals Lease provides that the County and Bengals will use reasonable efforts to accommodate tailgating in appropriate areas of the parking facilities and plaza.

10) If the music venue was built on 24, could city and county develop 1, 13, 25, 27, and 28 without creating new surface lot requirements?

City Interpretation of City-County Agreement or County-Bengals Lease

If both the November 2018 MOU and June 2019 MOU are terminated because of a failure of the conditions precedent (the Hilltop acquisition and the construction of the music venue) to come about, the new surface lot requirements the County committed to in those MOUs would not be in place and therefore the City and the County could proceed with development under the existing rules.

Hamilton County Response to Question Posed on Issue 10

The Music Venue cannot be built on Lot 24. See Responses to Question 3 and 8. The County and the Bengals agreed, in Section 17 of the June 2019 MOU, that the November 2018 and June 2019 MOUs are legal and binding agreements. The City and County did not approve, nor did the Mayor recommend, on April 9, 2019, the development of the Music Venue on Lot 24. The City, County and the Mayor all agreed that the Music Venue should be developed on Lot 27 and Smale Park on Lots 23 & 28. Construction of the public parking garage facilities to support the Music Venue on such Lot is currently ongoing, and the Music Venue is scheduled to commence construction above such parking garage facilities in November 2019. See Hamilton County's Response to Question 2 above.

11) From the original lease until now, has there ever been a guarantee of surface spaces to the Bengals?

City Interpretation of City-County Agreement or County-Bengals Lease

Not to our knowledge. See above.

Hamilton County Response to Question Posed on Issue 11

See response to Questions 8 and 9 above.

12) Assuming we redevelop the Crosset lot, what lots would need to remain surface in order to meet this new surface lot requirement? Please show a map with lot numbers and put X's on surface lots.

City Interpretation of City-County Agreement or County-Bengals Lease

The November 2018 MOU references the ultimate creation of 1750-1950 surface parking spaces at the current Hilltop site. Public information indicates the capacity of the remaining county-controlled surface parking facilities on or near The Banks as follows: Lot A (under Fort Washington Way - 239 spaces), Lot B (future Banks development lots 1 & 13 - 350 spaces), and Lot E (394 spaces). In addition, an undetermined number of spaces will remain in Lot 25 if Lots 23, 27, and 28 are developed in connection with the music venue (these lots collectively provide 1,276 spaces currently under the name Lot D).

Based on the descriptions in the MOU and the publicly-available information regarding capacities at these various lots, it appears the County will need to provide, somewhere between 1,250 and 1,450 surface spaces, in addition to the new Hilltop surface spaces, beginning in the 2021 NFL season. Lots A and E could provide roughly 633 of those spots, leaving 617 to 817 remaining that would need to be filled by all of Lot B (future development lots 1 and 13) and whatever remained of Lot D in the form of the undeveloped Lot 25.

While we cannot confirm whether this combination of surface spaces would meet the County's new obligations under the MOU, it does appear relatively clear - based on the publicly accessible information - that doing so would require the County to hold Lots 1, 13, and 25 back from development during the remainder of the Bengals lease term.

Hamilton County Response to Question Posed on Issue 12

But for the County's acquisition of Hilltop's 15 acres on the Central Riverfront, that will be owned by the public, the remaining Banks Lots 1, 13 & 25, would remain surface parking through the initial term of the Bengals' Lease. In fact, Banks Lots 23, 27 & 28 would also be surface lots but for the County's commitments set forth in the June MOU.

Based on the full build-out of The Banks within the next 5-8 years, with the addition of the Hilltop Facility parking, the threshold number of parking spaces will be met.

The County, in no way, is holding Lots 1, 13 and 25 back from development. In fact, the County's acquisition of Hilltop, *without City's financial participation*, ensures that Banks Lots 1, 13 and 25 will be developed. Absent that, the Bengals would not have approved any development on remaining Banks Lots without the assurances of sufficient spaces for tailgating.

Furthermore, the City and County, in collaboration with the Bengals, have an opportunity to review and revise the 1997 Development Guidelines to enhance the development opportunities on Lots 1, 13 & 25 as The Banks Project moves forward. This is a positive development for The Banks.

See also County's response to Question 8 regarding other areas within the Stadium Site being made available for tailgating which would reduce the threshold parking space number.

13) The City and County are supposedly 50-50 partners at the banks. Were we asked to agree to the new surface lot requirement? How did they do it without our consent?

City Interpretation of City-County Agreement or County-Bengals Lease

To our knowledge, the first time anyone in the City administration was made aware of the surface lot commitment by the County is when the Board of County Commissioners authorized executing the November 2018 MOU. To our knowledge, the City was not asked to agree or consent to the new surface parking lot commitment contained in the November 2018 MOU and the June 2019 MOU between the County and the Bengals. Nor were any copies of the MOU in draft form sent to the City prior to passage by the Board of County Commissioners.

Hamilton County Response to Question Posed on Issue 13

The County's MOU with the Bengals does not place any constraints or financial obligations on the City. The City's obligations to the Bengals were made over 21 years ago, pursuant to a 1998 City-County Redevelopment Agreement that commenced the transformation of the Riverfront. The City is not a 50-50 partner on the County's Leases with the Reds, Bengals or U.S. Bank Arena. The County assumed all of the City's obligations under such leases in 1996.

14) Does voting down the land deal turnover the surface lot requirements? Would passing it contingent on the County getting the Bengals to eliminate the requirements also turn it over?

City Interpretation of City-County Agreement or County-Bengals Lease

If both the November 2018 MOU and June 2019 MOU are terminated because of a failure of some of the conditions precedent (the Hilltop acquisition and construction of the new Hilltop parking facility) to come about, the new surface lot requirements the County committed to in those MOUs would not be in place and therefore the City and the County could proceed with development under the existing rules.

Hamilton County Response to Question Posed on Issue 14

The November 2018 and June 2019 MOU's are legal, binding and fully enforceable, including all terms and conditions stated therein.

- 15) Did you tell the county that we planned to develop the Crosset lot and ask for their help? Did the county ever tell you that they were signing a contract with Bengals to try to keep our lot a surface lot forever? Did they seek our consent?**

City Interpretation of City-County Agreement or County-Bengals Lease

For a number of years, the City has made clear to the County its position that total control of the revenues related to that lot reverts to the City upon completion of the street grid. We have indicated to the County that the City intended to exercise its control over that lot when that condition was met. To the best of our knowledge, the County did not share with the City any information regarding the new surface lot commitment prior to those commitments being made by the County in the November 2018 MOU and the June 2019 MOU.

Hamilton County Response to Question Posed on Issue 15

The County has made it clear to the City for years that the 1998 Redevelopment Agreement obligated the City to pay revenues received from Bengal patrons parking in the Central Lot on Designated Team Days to the Bengals. The City has never shared any of its plans to develop the Central Lot. The County would be interested in learning about the City's development plans for the Central Lot.

The November 2018 County-Bengals MOU and County-Bengals June 2019 MOU do not, in any way, prevent the City from developing the Central Lot.

- 16) Do the new development guidelines proposed in the MOU expand the Bengals' approval rights in any way?**

City Interpretation of City-County Agreement or County-Bengals Lease

The current County-Bengals Lease, as amended, and the 1998 Agreement between the City and County establish development guidelines to which the Bengals have agreed. The November 2018 MOU re-visits these guidelines and commits the County and Bengals (and City and JBSC) to an "urban planning review" of all undeveloped parts of The Banks, with the condition that any changes to the existing guidelines must be approved by both the Team and the County. One effect of this change is to give a private party - the Bengals - a new decision-making veto over future design requirements governing the public Banks project.

Hamilton County Response to Question Posed on Issue 16

The City's analysis with respect to the 1998 Redevelopment Agreement and the November 2018 and June 2019 MOU's is not correct.

The City, County, and the Bengals, pursuant to the various agreements set forth herein, have various approval rights with respect to existing agreements and modifications to them. As set forth in Response 1, as a result of the November 2018 and June 2019 MOU's, the City, County and Bengals have an opportunity, for the first time in 21 years, to potentially modify the Development Guidelines, including height limitations, to enhance the development of the remaining Lots in The Banks. There is absolutely no "new" decision making veto rights granted to the Bengals.

17) Please explain the 2024 provision of the County-Bengals Lease. Does that mean the Bengals can demand the hologram upgrade? Does this mean upgrades are not capped at 42 million in that year?

City Interpretation of City-County Agreement or County-Bengals Lease

Section 9 of the November 2018 MOU, separate and apart from any other limits on County capital spending obligations, gives the Bengals the right to require the County pay for both "Level I Enhancements" (defined as stadium-related improvements not available in 1997, such as holographic replay systems or smart seats, which have since been adopted by a threshold number of other NFL stadia) and "Future Enhancements" (defined as improvements to the stadium complex not provided for in the County-Bengals Lease, with a threshold analysis based on various comparisons of the Bengals to other NFL teams and stadia functionality). These rights kick in on July 1, 2024, with the "Future Enhancements" right lasting one year and the "Level I Enhancements" right staying in place through the remainder of the lease term.

Hamilton County Response to Question Posed on Issue 17

See response to Question 16. The County-Bengals Lease sets forth an extensive process with respect to Level I and Level II Enhancements. As a result of the June 2019 County-Bengals MOU, any such enhancements would be considered in the context of a long-term lease extension in advance of the initial Lease termination in 2026. This provision saved the County taxpayers \$250MM-\$280MM through 2026.

18) Does the MOU require that an asphalt plant always remain open and operational? Could Hilltop just tear down the asphalt plant down and not rebuild?

City Interpretation of City-County Agreement or County-Bengals Lease

None of the MOUs address the asphalt plant currently on the Hilltop site or the possibility of an asphalt plant on a new Hilltop site. To the best of our knowledge, the City is not aware of any restrictions related to either the destruction or construction of an asphalt plant in connection with this project. That said, the MOU clearly requires the replacement of the entire Hilltop site - including the existing asphalt plant - with surface parking in order to meet the County's new 3200 surface parking space commitment.

Hamilton County Response to Question Posed on Issue 18

Valley Asphalt's Plant will not move to Hilltop's proposed current off-loading site or Sixth Street Yard Campus. Valley Asphalt will not be relocated until suitable and acceptable location is determined; the process will be transparent to City Council and County. Valley Asphalt Plant will

likely be relocated once Hilltop's existing 13.5-acre campus south of Mehring on the Riverfront is developed as a parking facility in 2020-2021. Valley Asphalt Plant relocation is a modest undertaking – 1.5 acres vs. 15 acres needed for the Hilltop Plant Operation Campus. Such phased relocation does not, in any way, impact Hilltop's proposed conveyance of City property on the East Mill Creek in exchange for the property on the West Mill Creek.

The County would like to collaborate with the City on the relocation of the Asphalt Plant given the City's interest in maintaining its maintenance costs and other contracts.

Responses to Mayor Cranley's Supplemental Request on September 4, 2019:

(1) An accounting of parking revenues paid to the Bengals for all games and event days over the last 10 years.

Hamilton County Response to Supplemental Question Posed

PBS - Bengals	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	TOTAL
III. PBS Patron Parking Revenues Paid to Bengals												
Presold	1,576,911	1,502,555	1,247,991	1,223,168	1,220,451	1,232,655	1,430,221	1,082,156	910,901	1,077,754	955,722	\$13,460,484
Day of Cash		63,211	289,865	256,603			417,054	217,030	275,242	245,597	233,190	\$1,997,792
Other Event							130,693	99,133	23,547	39,595	32,987	\$325,954
TOTAL:	\$1,576,911	\$1,565,766	\$1,537,856	\$1,479,771	\$1,220,451	\$1,232,655	\$1,977,967	\$1,398,318	\$1,209,690	\$1,362,945	\$1,221,899	\$15,784,2

(2) A complete list of all event days for which the Bengals have received and been promised future parking revenues from taxpayers inclusive of both County garages and surface parking lots.

Pursuant to the 1997 County-Bengals lease, as modified by the November 14, 2018 and June 20, 2019 MOU, the number of Team Use Days for which the Team can receive parking revenues is 20 days; and from the future Hilltop Facility, is 27 Team Use Days, which include 12 training camp days, 10 Game Days, NFL Draft Days and other events. The revenues set forth above are inclusive of all revenues received by the Bengals for Team Use Days.

The Bengals initiative to move their training camp from Georgetown to Paul Brown Stadium and increasing the activation of the riverfront should be viewed as a positive economic generator for The Banks and the City. The County encourages such additional activation on the part of the Bengals Organization.

In fact, although not requested, set forth below is the County's analysis of just two elements of the Bengals presence in Cincinnati that contribute to the City directly over the same ten year period, which totally nearly \$51 Million:

PBS - Bengals	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	TOTAL
I. PBS Employee/Player Earnings Tax Paid to City												
Cincinnati Bengals	\$2,548,354	\$2,399,734	\$2,290,934	\$2,824,949	\$2,948,855	\$3,409,769	\$3,135,916	\$3,729,370	\$3,806,822	\$4,068,287	\$3,630,033	\$34,793,023
PBS Visiting Team	\$250,000	\$250,000	\$250,000	\$250,000	\$250,000	\$250,000	\$250,000	\$250,000	\$250,000	\$250,000	\$250,000	\$2,750,000
TOTAL:	\$2,798,354	\$2,649,734	\$2,540,934	\$3,074,949	\$3,198,855	\$3,659,769	\$3,385,916	\$3,979,370	\$4,056,822	\$4,318,287	\$3,880,033	\$37,543,023
II. PBS Patron Admissions Tax Paid to City												
	\$1,277,779	\$1,371,180	\$1,206,170	\$947,805	\$1,112,361	\$1,299,541	\$1,126,132	\$1,346,761	\$1,159,375	\$1,184,473	\$1,223,256	\$13,254,833