

City of Cincinnati



Interdepartment
Correspondence Sheet

Date: August 6, 2014

To: Mayor and Members of City Council

From: Scott C. Stiles, Interim City Manager

201401027

Subject: Emergency Ordinance – Cultural Facilities Funding

Transmitted herewith is an emergency ordinance captioned as follow:

AUTHORIZING the City Manager to provide an additional \$10,000,000 of financial support from the City of Cincinnati toward the potential renovations of Music Hall (the “Music Hall Project”) and Union Terminal (the “Union Terminal Project”), with the potential renovation of both described facilities being collectively referred to as the “Projects”, and specifically the entities that will administer said renovations (the “Music Hall Project Entity,” the “Union Terminal Project Entity,” and, collectively, the “Project Entities”), by extending the City’s existing \$400,000 annual commitment to the maintenance of the combined facilities in the form of annual \$200,000 payments to the Capital Maintenance Reserve Accounts of each Project Entity, beginning in the year 2016 and continuing for twenty-five (25) years, which funds shall only be used for the maintenance of each facility.

The Administration recommends passage of this ordinance.

Attachment

cc: Terrance A. Nestor, Interim City Solicitor

TAN/2014

City of Cincinnati

LRB
TAN/RET

An Ordinance No. 209

- 2014

AUTHORIZING the City Manager to provide an additional \$10,000,000 of financial support from the City of Cincinnati toward the potential renovations of Music Hall (the “Music Hall Project”) and Union Terminal (the “Union Terminal Project”), with the potential renovation of both described facilities being collectively referred to as the “Projects”, and specifically the entities that will administer said renovations (the “Music Hall Project Entity,” the “Union Terminal Project Entity,” and, collectively, the “Project Entities”), by extending the City’s existing \$400,000 annual commitment to the maintenance of the combined facilities in the form of annual \$200,000 payments to the Capital Maintenance Reserve Accounts of each Project Entity, beginning in the year 2016 and continuing for twenty-five (25) years, which funds shall only be used for the maintenance of each facility.

WHEREAS, the City is the owner of the real property known as Music Hall, a national and local historic landmark, located at 1241 Elm Street in Over-the-Rhine, consisting of approximately 3.265 acres (Hamilton County Auditor’s ID no. 81-3-40) (the “Music Hall Property”); and

WHEREAS, the City is the owner of the real property known as Union Terminal, a national and local historic landmark, located at 1301 Western Avenue in Queensgate, consisting of approximately 23.5 acres (Hamilton County Auditor’s ID nos. 143-5-71 through -73; 144-7-1; 144-7-19; 144-7-31; and 144-9-3)(the “Union Terminal Property” and, together with the Music Hall Property, the “Properties”); and

WHEREAS, by Ordinance No. 84-2013, passed by Council April 10, 2013, the City Manager was authorized to and subsequently did execute a Lease and Funding Agreement with Music Hall Revitalization Company, Inc., an Ohio nonprofit corporation (“MHRC”), which provides for (i) a lease of the Music Hall Property to MHRC, for seventy-five (75) years, at an annual rent of \$1.00, (ii) City funding to MHRC of up to \$200,000 in each of years 2013, 2014 and 2015, for a total of \$600,000, for the cost of making capital repairs and capital improvements to Music Hall, and (iii) City funding to MHRC in each of years 2016, 2017, 2018 and 2019, for a total of up to \$10,000,000, for a portion of the cost of renovating Music Hall; and

WHEREAS, by Lease Agreement dated February 27, 1987, the City leased the Union Terminal Property to Union Terminal Association for a term of ninety-nine (99) years, which leasehold interest Union Terminal Association later assigned to the Museum Center Foundation; and

WHEREAS, the Properties are in need of substantial and ongoing maintenance, renovation and capital repairs; and

WHEREAS, the Cultural Facilities Task Force, convened in December 2013, has recommended renovations plans for both the Music Hall Project and the Union Terminal Project, including Project funding totaling approximately \$208,212,000 for the Union Terminal Project and \$123,500,000 for the Music Hall Project, for a combined total of approximately \$331,712,000 to complete both Projects, which Project funding plans recommend that the Hamilton County Commission pursue, for the November 2014 ballot, a Hamilton County Sales Tax Levy in the amount of 0.25%, with the restriction that such additional sales tax revenues may only be used for the Projects; and

WHEREAS, the Cultural Facilities Task Force has represented to the City that it is pursuing additional funding to support the Projects in the form of possible facilities surcharges to be applied to the ticketing process at Music Hall and Union Terminal, as well as an ongoing effort to expand philanthropic support for the Projects; and

WHEREAS, the City has already indicated its support for the renovation of Music Hall through the commitment of up to \$10,000,000 for renovation costs and \$600,000 for capital repairs and capital improvements, as defined in the Lease and Funding Agreement with Music Hall Revitalization Company, Inc., authorized in Ordinance No. 84-2013, passed by Council April 10, 2013, despite that Lease and Funding Agreement clarifying the City has no current or pre-existing maintenance or repair obligations with regards to Music Hall; and

WHEREAS, the City has provided considerable financial support for the maintenance of Union Terminal for many years, including through a commitment of \$200,000 for capital repairs and capital improvements in fiscal year 2015, despite the Lease Agreement dated February 27, 1987, in which the City leased the Union Terminal Property to the Union Terminal Association, which Lease Agreement established that the City has no current or pre-existing maintenance or repair obligations with regards to the Union Terminal Property; and

WHEREAS, the City has determined that the long-term health and viability of both Music Hall and Union Terminal are essential to Cincinnati's cultural and economic vibrancy, and that, if realized, the Cultural Facilities Task Force's funding and renovation proposal presents a long-term, generational resolution of the physical and structural challenges unique to the preservation and renovation of each facility; and therefore, the City will provide an additional \$10,000,000 of financial support toward the Projects, and specifically to the Project Entities, by extending its existing \$400,000 annual commitment to the maintenance of each facility in the form of annual \$200,000 payments to the Capital Maintenance Reserve Accounts of each Project Entity, beginning in the year 2016 and continuing for twenty-five years (25), which funds shall only be used for the maintenance of each facility; and

WHEREAS, the release of any City funds under this ordinance shall be conditioned upon the occurrence of all of the following: (i) passage by the voters of Hamilton County of the sales tax levy proposed by the Cultural Facilities Task Force and the related achievement of the approximately \$331,712,000 funding plan envisioned by the Cultural Facilities Task Force, comprised of approximately \$208,212,000 for the Union Terminal Project and \$123,500,000 for the Music Hall Project; (ii) approval by the City, through the City Manager, and County of suitable advisory bodies for each Project which will contain City and County representation and

will be empowered to exercise oversight regarding (a) the design and completion of each Project, (b) the ongoing maintenance of each Project, and (c) compliance with Project policies including, but not limited to, economic inclusion and diversity, Small Business Enterprise, and American with Disabilities Act compliance; (iii) approval by the City, through the City Manager, and the County of capital and funding agreements that will govern the expenditure of funds for each Project; and (iv) verification by the City and the County of capital maintenance agreements that will govern the maintenance and repair obligations for each Project and, as implemented and followed, will maintain Music Hall and Union Terminal to the standard set in those agreements over the life of the City's commitment; and

WHEREAS, the City has determined that the Cultural Facilities Task Force's Proposal represents a long-term resolution of the renovation needs at Music Hall and Union Terminal, and if MHRC, Cincinnati Museum Center, or any other entity returns to the City or County requesting additional public monies to support either of the Projects during the term of the City's funding commitment, the City Manager shall, with the approval of Council, have the authority to terminate all future payment obligations authorized by this ordinance; now, therefore,

BE IT ORDAINED by the Council of the City of Cincinnati, State of Ohio:

Section 1. That the City Manager is hereby authorized to provide an additional \$10,000,000 of financial support toward the potential renovations of Music Hall (the "Music Hall Project") and Union Terminal (the "Union Terminal Project"), with the potential renovation of both described facilities being collectively referred to as the "Projects," and specifically the entities that will administer said renovations (the "Music Hall Project Entity," the "Union Terminal Project Entity," and, collectively, the "Project Entities") by extending its existing \$400,000 annual commitment to the maintenance of the combined facilities in the form of annual \$200,000 payments to the Capital Maintenance Reserve Accounts of each Project Entity, beginning in the year 2016 and continuing for twenty-five (25) years, ending in 2041, which funds shall only be used for the maintenance of each facility.

Section 2. That the release of any City funds under this ordinance shall be conditioned upon the occurrence of all of the following: (i) passage by the voters of Hamilton County of the sales tax levy proposed by the Cultural Facilities Task Force and the related achievement of the approximately \$331,712,000 funding plan envisioned by the Cultural Facilities Task Force,

comprised of approximately \$208,212,000 for the Union Terminal Project and \$123,500,000 for the Music Hall Project; (ii) approval by the City, through the City Manager, and County of suitable advisory bodies for each Project which will contain City and County representation and will be empowered to exercise oversight regarding (a) the design and completion of each Project, (b) the ongoing maintenance of each Project, and (c) compliance with Project policies including, but not limited to, economic inclusion and diversity, Small Business Enterprise, and Americans with Disabilities Act compliance; (iii) approval by the City, through the City Manager, and the County of capital and funding agreements that will govern the expenditure of funds for each Project; and (iv) verification by the City and the County of capital maintenance agreements that will govern the maintenance and repair obligations for each Project and, as implemented and followed, will maintain Music Hall and Union Terminal to the standard set in those agreements over the life of the City's commitment.

Section 3. That, if the Music Hall Project Entity, the Union Terminal Project Entity, MHRC, Cincinnati Museum Center, or any other entity returns to the City or County requesting additional public monies to support either of the Projects during the term of the City's funding commitment, the City Manager shall, with the approval of Council, have the discretion to terminate all future payment obligations authorized by this ordinance.

Section 4. That all funding authorized pursuant to this ordinance shall be subject to Ohio state law related to appropriations by municipal corporations.

Section 5. That Council authorizes the appropriate City officials to take all necessary and proper actions to fulfill the terms of this ordinance.

Section 6. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety and general welfare and shall, subject to the terms

of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is the immediate need to ensure that the City of Cincinnati's ongoing financial commitment to the Projects is established pursuant to ordinance as soon as possible.

Passed: August 6, 2014

Jh Crawley
Mayor

Attest: [Signature]
Clerk

I HEREBY CERTIFY THAT ORDINANCE No. 209-2014
WAS PUBLISHED IN THE CITY BULLETIN
IN ACCORDANCE WITH THE CHARTER ON 8-19-2014
[Signature]
CLERK OF COUNCIL