



OFFICE OF THE COUNTY AUDITOR

Craig Glendenning, CPA
County Auditor

MEMORANDUM

November 21, 2020

MEMO TO: Howard County Council Members

THRU: Craig Glendenning, County Auditor

FROM: Michelle Harrod, Deputy County Auditor
Owen Clark, Legislative Audit Manager

Subject: Fiscal Impact of Transfer of Appropriation No. 1-FY2021

Purpose / Background:

The purpose of this legislation is to move \$54.7 million of appropriation authority from Capital Project C0214 Category Contingency to C0364 New Cultural Center (NCC) in order to move forward with the development of the NCC.

The Council amended the County Executive Fiscal Year 2021 Capital Budget by moving \$61.7 million of appropriation authority to the Contingency Reserve (Amendment 12 to Council Bill 25-2020). This was to provide the Council an opportunity to evaluate the fiscal impact of this project on County resources and to enable public discussion.

The Office of Law has indicated that Council has the authority to pass or fail this legislation. However, they do not have the authority to put restrictions on the use of funding.

The NCC is a multi-purpose cultural center which will also include affordable housing. The property currently owned by the Orenstein's, including Toby's Dinner Theatre, will be purchased by the County and the Housing Commission.

The Columbia Center for Theatrical Arts (CCTA) is expected to be gifted the entity of Toby's Dinner Theatre (Toby's) prior to occupying the NCC, with the newly combined entity operating as a 501(3)c non-profit. The Administration has indicated program revenues from CCTA will be derived from its lease with the CCTA for access to the dinner theatre, black box, commercial

kitchen, a dance studio, and various classrooms. This lease contract has not yet been drafted and its terms have not been determined.

Fiscal Impact:

The fiscal impact of this legislation to the General Fund is an estimated annual cost of \$1.9 million. This includes foregone revenue of \$284,700, Department of Recreation and Parks (PDR) operating expense of \$755,000, and Department of Public Works (DPW) operating expense of \$842,000.

Details of the fiscal impact are outlined in the subsequent pages. Noted below is a summary of key elements.

- Tax Increment Financing (TIF)
 - General Obligation Bonds of \$33.7 million with debt service paid by TIF 2nd Set Aside (annual debt service of \$2.6 million).
 - General Obligation Bonds of \$21 million with debt service paid by DRP program revenue and CCTA Lease payments (annual debt service of \$1.6 million).
- Land Acquisition
 - FY 2021 Approved Capital appropriation of \$4.3 million.
 - Appraised value of Toby's is \$7.01 million and \$9.03 million.
- Foregone Revenue
 - Approximately \$284,700 in County Tax at current assessed value; or
 - Approximately \$348,100 in County Tax assessed at \$7 million purchase price.
- Program Revenue
 - Projections show revenue will not cover Operations and Maintenance (O&M), Developer Fees, and future Capital Improvements of the NCC.
 - From FY 2024 to FY 2026, NCC revenues are \$2.28 million less than the estimated debt service backed by NCC programming.
 - Any excess of NCC expense over program revenues may require General Fund support.
- Garage
 - Non-residential portion funded by Howard County Government using \$1.65 million GO Bonds and \$9.83 million in TIF Bonds.
 - Residential portion funded by the Howard County Housing Commission using \$5.8 million of Low-Income Housing Tax Credit (LIHTC).
 - Administration proposed the elimination of 120 parking spaces to reduce costs by \$2.83 million for this project.
- Affordable Housing
 - Housing Commission will fund \$65.2 million to construct 174 housing units and the residential portion of the NCC garage.
 - There will be 87 affordable units consisting of 39 one-bedroom units, 29 two-bedroom units, and 19 three-bedroom units.

Tax Increment Financing

The Administration has proposed issuing \$33.7 million of General Obligation bonds with the debt service paid by the Downtown Columbia Incremental Tax's 2nd Set-Aside (2nd Set-Aside).

Unanticipated shortage in 2nd Set-Aside revenues may result in General Fund revenues being responsible for paying the debt service noted below.

The Administration has provided the sources and uses of the non-residential and residential components of the NCC. See **Attachment A**.

As noted in the 2nd Set-Aside Projections attached to the Administration's testimony, there are five other projects expected to be funded from this source. Please see project summary below:

Project	Estimated Issuance	Total D/S	Annual D/S	Term of D/S
Fire Station	\$ 20.0 million	\$ 30.4 million	\$ 1,527,096	FY28 - FY47
Library	40.0 million	61.0 million	3,054,190	FY25 - FY44
Arts Center	33.7 million	51.4 million	2,569,490	FY22 - FY41
Traffic Imp	95.1 million	145.3 million	7,262,722	FY31 - FY50
Transit Ctr	12.3 million	18.8 million	938,344	FY32 - FY51
Schools	34.6 million	52.8 million	2,641,874	FY30 - FY49
Total	\$235.7 million	\$ 359.7 million	\$ 17,993,716	

Land Acquisition

The Administration plans to purchase the site of the NCC, as well as own the non-residential portion and the corresponding parking garage spaces. Appropriations of \$4.3 million for land acquisition were approved in the FY 2021 Capital Budget.

Two appraisals were recently conducted using a sales comparison approach under the premise that the highest and best use of the subject parcel is to develop it as noted on the site development plan for "The New Cultural Center," dated February 2018. The purchase value was estimated at \$7.01 million and \$9.03 million. *Copies of the appraisals are available to Council upon request.*

Foregone Revenue

Our Office conducted a review of the foregone revenues associated with the County's acquisition of the site of the NCC, as well as the gifting of Toby's to a non-profit entity.

Forgone annual taxes associated with the County's purchase of this site are:

Type of Tax	Amount at Current Appraised Value	Amount at Lowest Appraisal Value
Admissions & Amusement, and Sales	\$ 256,000	N/A
Real Property	22,000	70,000
Fire and Ad Valorem	6,700	22,100

Program Revenue

Program revenue derived from the CCTA and the DRP will be used to pay debt service for \$21 million in General Obligation Bonds.

We have reviewed financial information provided by the Administration and identified the following concerns:

- Program revenue will be insufficient to cover all O&M, Developer Fees, and future Capital Improvements of the facility;
- There are total General Fund costs of \$45.3 million to support O&M, Developer Fees, and future Capital Improvements through FY 2051; and
- Insufficient NCC program revenue projected for FY 2024 to FY 2026 of \$2.28 million are assumed to be covered by General Funds.

Columbia Center for Theatrical Arts

The Administration could not provide a comprehensive financial business plan for the CCTA combined with Toby's. However, our Office received other financial statements which provided historical revenues and expense information for Toby's as well as revenue and expense projections for CCTA, not including Toby's. Based on our review of the documentation provided, our Office noted:

- Toby's financials demonstrate that based on historic net revenue, there will be sufficient funds for NCC base rent of \$785,000;
- Once merged as a non-profit, CCTA would not pay certain County taxes;
- The CCTA will operate the NCC's café. Financial projections are not available; and
- According to CCTA projections, third year program revenue including Toby's is likely to be between \$2 and \$3 million. As noted in **Attachment B**, excluding Toby's, CCTA net revenue is projected to be \$1.5 million.

Department of Recreation and Parks

The Administration has indicated that DRP program revenues will be derived from artistic and community-based programming opportunities, as well as a facility rental program. By FY 2027, this revenue is expected to reach \$869,000.

Our Office has been provided DRP's business plan for the NCC and historical operational and financial information related to other facilities operated by DRP. Based on our review of this documentation, our Office noted:

- The DRP has projected sufficient revenue to cover debt service payments. However, they have not yet fully researched the programming opportunities that may exist in the black box or art gallery.
- The Administration has indicated that General Funds will be used if there are not sufficient DRP program revenues generated from NCC, and excess funds will be used to pay O&M, Developer Fees, and Capital Improvement costs.
- The DRP and DPW are projected to incur annual expenses of \$755,000 and \$842,000 associated with staffing, operating, and maintaining the NCC.
- The Administration has noted the owners of Toby's and CCTA have requested a Non-Compete clause in their lease with DRP. The Administration does not believe this will impact DRP program revenues.

Garage

The NCC parking garage will consist of two portion: *non-residential*, funded by Howard County Government using \$1.65 million GO Bonds and \$9.83 million in TIF Bonds; and *residential*, funded by the Howard County Housing Commission using \$5.8 million of Maryland State LIHTC.

A parking study utilizing the County's adopted Zoning Regulation, Section 133.0.F.3 for Shared Use was conducted about two years ago. From this study, the developer included 740 parking spaces in their design.

The Administration proposed the elimination of 120 parking spaces to reduce costs by \$2.83 million for this project. However according to DPZ, there are 38 parking spaces that do not comply with County regulations due to size or obstructions. Therefore, the reduction of these 120 spaces would result in noncompliance with Zoning Regulations.

Changes to the number of parking spaces would require submission of a revised Site Development Plan (SDP). Once submitted, DPZ would be able to determine if the redesign complies with Zoning Regulations or if a Design Manual Waiver would be required due to noncompliance. *However, DPZ has indicated they will not request a revised SDP or parking study until after the passage of TAO1-FY2021.*

The Howard County Housing Commission originally indicate that 288 parking spaces would be reserved for residential parking. This has been clarified by the Administration that there will be one (1) parking space per unit “reserved” for residential parking (174 spaces). The remaining residential parking spaces required per Section 133 of the Zoning Regulations will be included with *shared parking spaces*.

The parking study suggested the possibility of “*shared parking agreements*” with surrounding businesses. The DPZ indicated this was their opinion and not that of the Administration. The Administration has indicated there are no planned, drafted, or proposed shared parking agreements.

Affordable Housing

The residential portion and corresponding parking for the NCC cost approximately \$65.2 million. This portion will be funded by financing arrangements between the Howard County Housing Commission and various Federal, State, and Private entities.

Below is a summary of the Commission’s projected Sources and Uses of funding for this project.

Source of Funds		Use of Funds	
Type	Amount	Category	Amount
Tax Exempt Bond	\$ 26,887,449	Construction Cost	\$ 48,413,803
LIHTC	18,894,547	Developer Fees	3,927,412
Private Loan	6,585,733	Financing Charges	3,092,230
Partnership Rental Housing	5,395,480	Land Acquisition	2,972,768
Rental Housing Works	2,500,000	Guarantees & Reserves	2,727,352
Other Equity	2,500,000	Construction Contingency	2,420,690
Developer Equity	1,810,508	Construction Fees	1,599,844
Interim Income	700,381	Legal Fees	120,000
TOTAL SOURCE	\$ 65,274,099	TOTAL USE	\$ 65,274,099

Affordable housing, known as Artists Flats, is planned for the NCC development. Below is a breakdown of the number of units and bedrooms by Area Median Income (AMI).

% Area Median Income	Number of Units	Number of Bedrooms		
		1 Bedroom	2 Bedroom	3 Bedroom
30% or less (11 w/disability)	33	10	12	11
31 – 40%	6	1	5	0
41 – 50%	33	18	8	7
51 – 60%	15	10	4	1
No Income Restriction	87	48	38	1
TOTAL	174	87	67	20

The Housing Commission and the Administration have confirmed that there will be one (1) parking space per unit “reserved” for residential parking (174 spaces). The remaining parking spaces required per Section 133 of the Zoning Regulations will be included in the *shared parking*.

Attachment A

TAO1-FY2021

Sources and Uses Table

	Phase 1-A Main Theater	Phase 1-B Parking Garage	Phase 2-A Visual and Performing Arts	Subtotal Commercial	Phase 2-B Residential	
Use of Funds	Commercial/County				Commission	Total
Construction costs (includes 10% contingency)*	25,052,225		20,695,316	45,747,541	45,033,207	90,780,748
Parking garage**		8,800,349		8,800,349	5,801,286	14,601,635
Land	1,441,000	1,441,000	1,441,000	4,323,000	2,877,000	7,200,000
FF&E	595,250		569,000	1,164,250		1,164,250
Soft costs (inc dev. fee)	2,225,328	670,815	1,930,150	4,826,293	5,623,023	10,449,316
Carry					1,208,482	1,208,482
Financing	139,400	40,000	270,600	450,000	4,731,100	5,181,100
Total uses of funds	29,453,203	10,952,164	24,906,066	65,311,433	65,274,098	130,585,531
Source of Funds	Commercial/County				Commission	Total
GO Bonds***	28,000,000	1,652,000	25,000,000	54,652,000		54,652,000
TIF Bonds		9,833,000		9,833,000		9,833,000
State Grant	500,000			500,000		500,000
Donation	1,000,000			1,000,000		1,000,000
Housing Commission					65,274,098	65,274,098
Total sources of funds	29,500,000	11,485,000	25,000,000	65,985,000	65,274,098	131,259,098
Excess Sources	46,797	532,836	93,934	673,567	0	673,567

Cost Savings Table****

Measure	Phase 1-A Main Theater	Phase 1-B Parking Garage	Phase 2-A Visual and Performing Arts	Subtotal Commercial
Value engineering & Gen. Cond.	1,718,200		1,405,800	3,124,000
Parking garage adjustment**		2,826,000		2,826,000
Deferred developer fee	350,000	350,000	350,000	1,050,000
Total	2,068,200	3,176,000	1,755,800	7,000,000

*Based on Arcardis estimates

**\$23,550/space (reduction of 120 spaces)

***These GO Bonds represent the \$33.652 million issuance backed by the 2nd Set-Aside and \$21 million issuance backed by program revenues.

**** The Administration indicated these costs could be considered by the Council for inclusion in the approved appropriation transfer.

Attachment B

CCTA Financials (excluding Toby's)

3 Years after Occupancy

Revenues	
Contributions & Grants	\$1,000,000
Program Service Revenues	4,063,900
Other Revenue	80,000
Total Revenue	\$5,143,900

Expenses	
Salaries	\$1,470,150
Occupancy	450,000
Depreciation	500,000
Advertising & Promotion	250,000
Fundraising	150,000
Travel	50,000
Repairs & Maintenance	80,000
Insurance	100,000
Office Expense	200,000
Royalties	52,800
Sets, Props & Costumes	56,000
Utilities	60,000
Information Technology	100,000
Legal & Accounting	80,000
Total Expenses	\$3,598,950

Revenue less Expenses **\$1,544,950**

Notes: These financials were provided by CCTA's ownership.
Assumes all program schedules are needed.

For tax year 2014 through 2017, CCTA's average revenue was \$560,000 and average expense was \$520,000 for a Net Annual Revenue of \$40,000