



# OFFICE OF THE COUNTY AUDITOR

Craig Glendenning, CPA  
County Auditor

## MEMORANDUM

December 3, 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 - **REVISED**

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**We have revised this fiscal analysis based upon information provided by the Administration to the Council on November 23, 2020. We were advised that this information is their most current version of funding for the New Cultural Center.**

**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 the 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 \$284,700 of foregone revenues. **Note:** This assumes that upon the sale of the property, Toby's is merged with the CCTA as a not-for-profit entity.

There is additional risk to the County's General Fund, considering the funding of this project includes \$54.7 million of General Obligation (GO) Bonds backed by County revenues. These include:

- \$842,000 of annual General Fund operating expense for Department of Public Works (DPW) to maintain the building and garage;
- \$755,000 of annual operating and maintenance expense for Department of Recreation and Parks (DRP);
- \$10.9 million for one-time maintenance and renovation of the NCC in FY 2043; and
- \$1.05 million of one-time of Developer Fee payment in FY 2044.

The Administration proposes various non-General Fund revenue sources that may not materialize as follows:

- Debt Service for \$47.7 million is proposed to be paid by Tax Incremental Financing (TIF) 2<sup>nd</sup> Set Aside from the Downtown Columbia TIF (\$3.2 million annually). The development in Downtown Columbia may not be as projected and therefore adequate TIF 2<sup>nd</sup> Set Aside may not eventuate.
- Debt Service for \$7 million (\$534,500 annually) is proposed to be paid from the following sources:
  - Permanent Public Improvement (PPI) revenue. The Administration has indicated there is uncertainty regarding the timing and complete collection of \$6 million in PPI Fund revenues. We believe an additional General Fund cost of up to \$1.9 million for the first five years after occupancy of the project could be incurred. Currently there is \$683,600 of available fund balance in the PPI Fund.
  - DRP and CCTA program revenues which could fall below projected revenues.
- It is proposed that CCTA program revenues pay \$842,000 of annual General Fund operating cost for DPW to maintain the building and garage. However, CCTA program revenues could fall below projected revenues.

- Annual \$755,000 of DRP operating costs are proposed to be funded with Recreation Fund revenues and TIF 2<sup>nd</sup> Set-Aside revenues. The Recreation Fund revenues are derived from DRP programing, which could fall below projections.
- It is proposed that the 2<sup>nd</sup> Set Aside from the Downtown Columbia TIF pay \$10.9 million for maintenance and renovation of the NCC in FY 2043 and \$1.05 million for the Developer Fee in FY 2044. The development in Downtown Columbia may not be as projected and therefore the required TIF 2<sup>nd</sup> Set Aside may not eventuate.

The Administration has proposed funding through FY 2051 for Operations and Maintenance (O&M), Debt Service, and the Developer Fee as noted below:

Revenue Description	Revenue Source	Use Description	Use
CCTA Program Revenue	\$30,944,138	DPW Operating Cost	\$28,626,558
DRP Program Revenue	23,075,000	DRP Operating Cost	26,684,964
PPI Revenue	6,682,970	Portion of Debt Service	6,682,970
2 <sup>nd</sup> Set Aside	8,000,000	Remaining D/S & DRP O&M	4,006,690
2 <sup>nd</sup> Set Aside	1,050,000	Developer Fee	1,050,000
<b>TOTAL</b>	<b>\$69,752,108</b>	<b>TOTAL</b>	<b>\$67,051,182</b>
		<b>NET</b>	<b>\$2,700,926</b>

\* The Administration noted: 1) PPI revenue will support Debt Service on the \$7M GO Bond Issuance. 2) \$12M of PPI revenue will be collected at ~\$500K/year from FY 2024 – FY 2045.

### **Additional Details of Key Elements:**

- **Land Acquisition:** Fiscal Year 2021 Approved Capital appropriation of \$4.3 million is the County’s portion for land acquisition. The Housing Commission has an additional \$3.0 million to offer. The appraised value of Toby’s is \$7.01 million and \$9.03 million.
- **Foregone Revenue:** If the property were sold to a for-profit entity and reassessed at the \$7 million appraised value, the County’s foregone revenue would be approximately \$348,100 in County Tax.

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

- **Garage:** The NCC parking garage will consist of two portions: **non-residential**, funded by Howard County Government using \$1.65 million GO Bonds and \$9.83 million in TIF Bonds (backed by the TIF District special tax revenues); and **residential**, funded by the Housing Commission using \$5.8 million of Maryland State Low-Income Housing Tax Credit (LIHTC).

A parking study utilizing the County's adopted Zoning Regulation for Shared Use (Section 133.0.F.3) 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 the Department of Planning and Zoning (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 Housing Commission originally indicated that 288 parking spaces would be reserved for residential parking. It has been clarified by the Administration that there will be one (1) parking space per unit "reserved" for residential parking (for a total of 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.

- **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 the Administration's projections, our Office noted:
  - The DRP has projected program revenue to cover 86 percent of its operating and maintenance expense. However, they have not yet fully researched the programming opportunities that may exist in the black box or art gallery.
  - 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.
- **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;
  - 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 A**, excluding Toby's, CCTA net revenue is projected to be \$1.5 million.
- **Affordable Housing:** The 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.

The residential portion and corresponding parking for the NCC cost approximately \$65.2 million. This portion will be funded by financing arrangements between the 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
<b>TOTAL SOURCE</b>	<b>\$ 65,274,099</b>	<b>TOTAL USE</b>	<b>\$ 65,274,099</b>

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
<b>TOTAL</b>	<b>174</b>	<b>87</b>	<b>67</b>	<b>20</b>

As noted above, 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*.

- **Tax Increment Financing:** As noted in the 2<sup>nd</sup> Set-Aside Projections attached to the Administration’s testimony, there are five other projects expected to be funded from this source. Please see the Debt Service project summary below:

<b>Project</b>	<b>Estimated Issuance</b>	<b>Total D/S</b>	<b>Annual D/S</b>	<b>Term of D/S</b>
Arts Center	\$ 47.7 million	\$ 63.7 million	\$ 3,185,737	FY22 - FY41
Library	40.0 million	61.0 million	3,054,190	FY25 - FY44
Fire Station	20.0 million	30.5 million	1,527,096	FY28 - FY47
Schools	34.6 million	52.8 million	2,641,874	FY30 - FY49
Traffic Imp	95.1 million	145.3 million	7,262,722	FY32 - FY51
Transit Ctr	12.3 million	18.8 million	938,344	FY32 - FY51
<b>Art Center Maint</b>	<b>10.9 million</b>	<b>10.9 million</b>		<b>FY2043</b>
<b>TOTAL</b>	<b>\$249.7 million</b>	<b>\$ 383.1 million</b>	<b>\$ 18,609,963</b>	

## Attachment A

### CCTA Financials (excluding Toby's)

3 Years after Occupancy

<b>Revenues</b>	
Contributions & Grants	\$1,000,000
Program Service Revenues	4,063,900
Other Revenue	80,000
<b>Total Revenue</b>	<b>\$5,143,900</b>
<b>Expenses</b>	
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
<b>Total Expenses</b>	<b>\$3,598,950</b>
<b>Revenue less Expenses</b>	<b>\$1,544,950</b>

**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