

Report of Special Project Counsel - Riverfront Redevelopment Return on Investment: 1997-2019

 Frost
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ATTORNEYS



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REDEVELOPMENT OF OHIO'S SOUTHERN GATEWAY - THE BANKS PROJECT, CINCINNATI, OHIO

Frost Brown Todd ("FBT") serves as Special Project Counsel regarding the \$2.8 billion redevelopment of Southwestern Ohio's gateway along Cincinnati's downtown riverfront area known as "The Banks". The Banks Project is one of the largest and most complex urban transportation-oriented public-private partnerships ("P3") in the United States. Although Cincinnati's historic riverfront had been underutilized for decades, the redevelopment of our shores has renewed the connection to Cincinnati's heritage on the Ohio River – a city that has found a compelling balance between its storied past and its resurgent present.

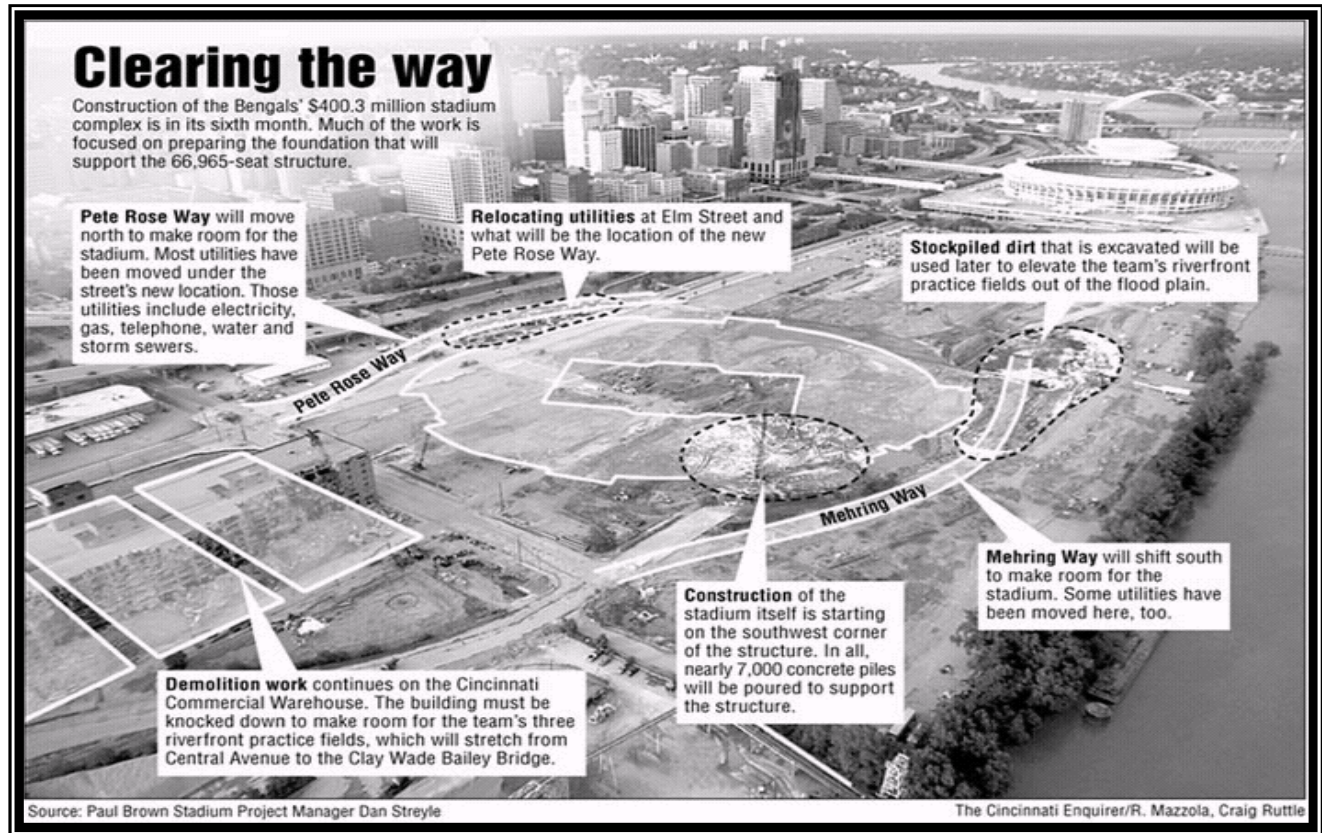


THE BANKS PROJECT – CINCINNATI, OHIO

Under the direction of the Board of Commissioners ("Board") and the County Administrator, Special Project Counsel has worked collaboratively with the County Prosecutor's Office, County Administration and Staff, and the City-County Banks Project Team to lead the negotiation and implementation of multiple P3 agreements which address funding, financing, development, construction and operation of this multi-phase, mixed use project.

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The Banks Project is a marquee, mixed-use development that incorporates residential, office, retail, park and entertainment venues, construction of stadia for the Cincinnati Reds (Great American Ball Park) and the Cincinnati Bengals (Paul Brown Stadium), two museums (National Underground Railroad Freedom Center and Cincinnati Reds Hall of Fame and Museum), complex reconfiguration of major interstate highways (Interstate 71 and Fort Washington Way) and other transportation, transit and social infrastructure improvements to leverage an estimated \$1 billion in private development, including construction of General Electric's first and only US Global Operations Center, which opened in 2016.



The Banks Project is also home to the nationally acclaimed Smale Riverfront Park. The City of Cincinnati and the Cincinnati Park Board initiated the development of a riverfront park in 1997, which has now become the new front yard to our city. The Park's next phase is scheduled to commence in August of this year as part of the development of the riverfront Music Venue and Event Lawn/Greenspace.

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Since its initial retention in the fall of 1997, Special Project Counsel has represented the Board's interests on these projects and their impact on the County's direction, operations, and its short- and long-term goals. It should be noted that the role of Special Project Counsel was initially fulfilled through the Vorys Firm and, since 2012, by Frost Brown Todd; however, throughout the 22-year period that such services have been provided, key team members representing the County have remained the same. Continuity of such counsel and the institutional knowledge and expertise retained has inured to the direct benefit of the County and its taxpayers.



This Report summarizes the efforts and yield in actual taxpayer dollars saved, generated and realistically projected in the very near term, given the existing riverfront agreement structures. The direct and indirect economic impact of the projects actually developed in the same time frame are not detailed in this Report, nor are the economic return on investment analyses set forth herein.

Throughout our tenure as Special Project Counsel, we have worked under the leadership and direction of the Board. The Board, in collaboration with its development partner, the City of Cincinnati ("City") (jointly "Public Parties"), established the necessary policy framework to develop a truly transformational redevelopment plan and advance its implementation in a prudent, yet expeditious manner. We have worked closely with the County Team, including the County

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Prosecutor's office, County Administration, the Joint Banks Steering Committee ("JBSC"), City policy leaders and administration, and the City-County Banks Project Team, since the beginning of our engagement to ensure all riverfront projects, including the Great American Ball Park, The Banks, the Central Riverfront Parking and Garage Facilities, the National Underground Railroad Freedom Center, and infrastructure and utilities work, have all been delivered **on time** and **within budget**.

The work performed by the City-County Joint Banks Steering Committee ("JBSC") is also deserving of recognition. The JBSC, through the leadership of its Chair, Bob Castellini, brought the City and County together at a time of a seemingly unsurmountable impasse. Over the past thirteen years, the JBSC has sought to find consensus between and among the City, County and Community stakeholders. Remarkably, each and every recommendation by the JBSC, and its predecessor, the Banks Working Group, since 2006, has been unanimously approved by the City Council and the County Board. The work of the JBSC serves as a model for multi-governmental entities to find common ground and the right path to work together for the good and betterment of a community and a region.



Figure 1- Cincinnati's Riverfront: 1997

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Commencing in 2000, the County Board mandated that all County riverfront projects be structured to ensure that taxpayer dollars were prudently expended and allocated, with a goal that project delivery would be on time and within budget. Our goal has been to provide the County with the best representation in the most cost-effective manner. We have long understood that, in the interests of the County taxpayers, the cost of our services should be balanced with the benefits derived. As detailed herein, the County's return on investment in Special Project Counsel has significantly exceeded the substantially discounted costs of the services provided.

Under the Board's direction and leadership, Special Project Counsel has also been involved in assisting the County to identify and secure additional sources of funds derived from federal and state governments, as well as private sources, to assist in funding the City-County riverfront transformation effort.



Figure 2- Phase II Public Infrastructure Construction: 2010

Special Project Counsel has researched and extensively analyzed potential sources of funding given the urban, transit, and transportation-oriented nature of The Banks Project. Counsel has also structured the terms and conditions of such grants and loans such that the total net long-term benefit to the City and the County to date is in excess of \$96.6 million.

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In concert with the entire City-County Banks Project Team, and working closely with Federal, State and Local legislators and the JBSC, we have also secured and retained state and federal funding at the most time-critical points necessary in order to maintain the advancement of The Banks.

By way of example only, during the 2008 Great Recession, the City and County secured sufficient federal funding to move forward with Phase II of The Banks, which is now the site of the GE Global Operations Center and the Radius Apartments.

Special Project Counsel, through truly innovative funding requests to the US Department of Transportation, secured 80% (\$24.6 million) of the funding necessary to construct and develop the Phase II parking garage facilities, adjacent streets, and other necessary public infrastructure to support the development of the GE Global Operations Center and the Radius Apartments.

The City and County's \$6 million local contribution, which was funded solely from Banks-generated TIF revenues from Phase I, advanced Phase II of The Banks and **leveraged** an initial private capital investment by GE and the Developer of \$160 million, **a return of more than \$6 private dollars for every \$1 dollar in local public funds invested.**

The P3 development deal between General Electric, the Public Parties and the Master Developer was also consummated in an accelerated time frame to meet GE's schedule requirements: from



GENERAL ELECTRIC GLOBAL OPERATIONS CENTER
THE BANKS – CINCINNATI, OHIO

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concept to financial close within *six* months. A combination of funding/financing through state and local public sources assisted in the development and construction of the Global Operations Center, which is currently occupied by more than 1,400 employees.

The annual regional economic impact of GE's Global Operations Center, which opened in October 2016, is more than \$1 billion annually.

Absent such innovative federal funding requests and diligent pursuit, including utilizing our state and federal legislators to advocate support of the USDOT in Washington DC, the City and County would not have had the funds to construct Phase II initially, and would not have been positioned in a time critical manner to compete nationally for GE to locate its Global Operations Center at The Banks.

BUT FOR THE COUNTY AND THE CITY ADVANCING THE PHASE II PUBLIC GARAGE FACILITIES DURING 2009-2011, GENERAL ELECTRIC WOULD NOT HAVE SELECTED THE BANKS AS THE SITE FOR ITS NEW US GLOBAL OPERATIONS CENTER.

AS A RESULT, MORE THAN 1,400 JOBS ARE NOW SITED AT ROSA PARKS DRIVE WITH A \$1 BILLION ANNUAL ECONOMIC IMPACT TO THE SOUTHWEST OHIO REGION.

There is no question that GE has catalyzed future development phases of The Banks.

Special Project Counsel has ensured that, given the specific nature of certain long-term agreements (e.g., Cincinnati Reds/Cincinnati Bengals Leases; Development Agreements, City-County Redevelopment Agreements, MOU's, Cooperation Agreement), prudent negotiations of terms and conditions regarding not only initial capital investment, but also long-term operations and maintenance expenses, ensure a substantial positive impact on the net amount of taxpayers' dollars expended over the decades past and well into the future. Furthermore, all agreements were structured to ensure that time critical projects are advanced.

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As detailed in this Report, between 1997 and 2019, in negotiating the terms and conditions of agreements, in mitigating and/or avoiding claims, pursuing alternative sources of funding and financing, and in creatively structuring development agreements that return significant dollars back to the City and the County, Special Project Counsel has assisted in obtaining savings and/or generating additional funding with respect to the redevelopment of the riverfront in excess of \$513 million.

The work Special Project Counsel has performed on behalf of Hamilton County has enhanced the County's and the City's ability to develop The Banks as a nationally recognized model public-private partnership that leverages public dollars to obtain significant private investment that literally transforms a formerly blighted riverfront.

Although we were initially retained in late 1997 to assist the County in property acquisition and related riverfront redevelopment efforts with the City following the revelation of a \$51 million cost overrun for the construction of Paul Brown Stadium, the County formalized Special Project Counsel's role in March 2000.

At that time, the Board recognized it was imperative, not only to have Special Project Counsel representation in the oversight during the construction of Great American Ball Park, but also direct involvement in contract negotiations, construction budgets, design and construction development,



Figure 3- 1999 Pre-Development: Cincinnati's Riverfront

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and contract administration regarding the Ball Park and Central Riverfront redevelopment efforts. Working with the Board's mandate and policy directives regarding public projects, Special Project Counsel worked shoulder to shoulder with the City-County Banks Project Team, and as a result, the County's design, development and construction of the Great American Ball Park, Central Riverfront public infrastructure development projects and all Phases of The Banks Project have been completed **on time** and **within budget**.

This Report sets forth the funding attained, the savings retained and/or benefits derived during each of the major Phases of The Riverfront Redevelopment effort.

SINCE 1997, THE FUNDING OBTAINED, SAVINGS REALIZED AND BENEFITS DERIVED IS IN EXCESS OF \$513 MILLION

RIVERFRONT PROPERTY ACQUISITION AND DEVELOPMENT, CITY/COUNTY REDEVELOPMENT, MOU'S AND DEVELOPER-RELATED AGREEMENTS	\$276,879,000
THE BANKS ECONOMIC DEVELOPMENT GRANT FUNDING/FINANCING 2006-2019	\$96,670,000
RIVERFRONT STAKEHOLDER TRANSACTIONS/ AGREEMENTS	\$139,600,000
TOTAL 1997-2019	\$513,149,000

Such sum is exclusive of the Economic Impact arising from the Riverfront Projects completed since 1997.



Figure 4- Past, Present and Future: Cinergy Field, Paul Brown Stadium and Great American Ball Park: 2002

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EXECUTIVE SUMMARY OF FUNDING OBTAINED, SAVINGS RETAINED AND BENEFITS DERIVED 1997-2019

IN EXCESS OF ±\$513.149 MILLION

(DETAILS BELOW)

RIVERFRONT PROPERTY ACQUISITION AND DEVELOPMENT, CITY/COUNTY
REDEVELOPMENT AGREEMENTS, MEMORANDA OF UNDERSTANDING AND
DEVELOPER-RELATED AGREEMENTS: \$276,879,000

Special Project Counsel, under the direction of the Board and, in concert with the Prosecutor's Office, negotiated all of the development related agreements between and among the City and County, as well as Master Developer. Special Project Counsel initiated several innovative economic development incentives and Public-Private Partnership structures regarding the riverfront.

All of The Banks Development Agreement structures were designed to: 1) ensure that the City and County retain management and control over all tax increment revenues derived from The Banks, and to preserve such revenues for public infrastructure or economic development incentives to stimulate investment; 2) retain public ownership and control over all County or City owned land until developers are positioned to timely advance projects and prevent developer "land banking"; 3) ensure private development projects be advanced in a timely and efficient manner; and 4) ensure development projects be economically inclusive such that the demographic of our region be fully represented in the riverfront workforce and development efforts. Set forth below is a summary of the dollars saved, retained or projected as a result of the agreement structures negotiated.

City/County Share Equally in all Tax Increment Funding ("TIF") (Phase I & II)	±\$125 million
Master Developer Responsibility for Podium Construction (Not Public Parties)	\$25 million
Riverfront Property Acquisition and Development.....	\$19.6 million
Restructuring Residential Parking Obligations of the County (30 years).....	\$10.9 million
Phase IB Hotel Tax Abatement Eliminated.....	\$11.8 million

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Development Grant Funding and City/County Financing	\$10 million
Phase IB Hotel Development Secured Without Cash Economic Incentive.....	\$8 million
Deferred Purchase Price Payments Projected (Future Phases)	\$7.5 million
Structuring Hotel Parking Payment Obligations (30 years)	\$6.5 million
Master Developer Parking Garage Contribution (Future Phases)	\$6 million
Additional City Funding Secured Phase I	\$5 million
City-County Cost Sharing Street Grid Modifications.....	\$4 million
Phase IIB Deferred Purchase Price Developer's Obligation (GE) to Public Parties	\$3.8 million
Phase IIA Deferred Purchase Price Developer's Obligation (Residential/ Future) to Public Parties (Projected)	\$3.7 million
Negotiated Elimination of Requested Public Economic Property Tax Abatement to Developer.....	\$3.5 million
Potential Repayment to City/County of Developer Phase II Tax Abatement.....	\$1-\$3 million
City-County Cost Sharing Development Related	\$3 million
Phase II City-County Parking Facility Capital Elimination.....	\$2.7 million
Phase IA Deferred Purchase Price (to date, excluding Hotel, Office, Lot 19 Final Development)	\$2.6 million
City-County Cost Sharing Utilities Public Construction	\$2.5 million
Developer Phase IB Reimbursement to County	\$2 million
Developer Phase IA Reimbursement to County	\$2 million
City-County Cost Sharing Floodwall Removal and Construction.....	\$1.5 million
Phase IB Hotel Deferred Purchase Price Payable to Public Parties Secured	\$500,000 - \$1.5 million
Developer's Future Repayment Obligation Upon Phase IIA Podium Conversion	\$1.3 million
Lot 17 Deferred Purchase Price Payment to City/County	\$1.2 million
Reduction in City-County Parking Reimbursement Obligation to Developer	\$950,000
Shifting Block 2 Public Construction Costs to Developer.....	\$575,000
Deferred Purchase Price Offset Removed	\$550,000
Developer Reimbursement to City/County.....	\$504,000
Phase III Garage Reimbursement.....	\$250,000
Phase IIB Additional Deferred Purchase Price.....	\$206,000
Lot 19 Deferred Purchase Price Payment to City/County	\$127,000
Phase IA Additional Developer Distributions To City/County	<u>\$117,000</u>
TOTAL:	\$276,879,000

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THE BANKS ECONOMIC DEVELOPMENT GRANT FUNDING/FINANCING

2006-2019: \$96,670,000

Given the constraints on City-County funding in 2006-2010, and the necessity to develop new public infrastructure to support private development, the City and County were compelled to explore alternative sources of funding.

Set forth below is a summary of the funding and financing benefits derived to date as a result of the City-County Banks Team working collaboratively.

- ✓ American Recovery and Reinvestment Act/CMO Funding – Phase II
Eligibility awarded and ARRA/CMAQ funding programmed.....\$24.6 million
- ✓ State of Ohio Capital Improvement Grant Funding Phase IIB/C Approved May 2016\$12 million
- ✓ Transportation Review Advisory Council (TRAC) CMAQ Funding – Phase I
FHWA determination of eligibility for CMAQ funding was provided in 2002.
The "Hamilton Banks Intermodal" project, PID #77164, is listed as a Tier One
project on the TRAC 2008-2013 Major New Construction Program.....\$11 million
- ✓ OKI Surface Transportation Program (STP) Funding – Phase I invested
in the construction of The Banks access street grid network. \$10.45 million for
"Banks Access Roads," PID #80629, Transportation Improvement Program.....\$10.5 million
- ✓ Special Project Counsel negotiated an Agreement with FHWA and ODOT to Eliminate
Requirement that the County provide a \$500,000 Annual Parking Subsidy for Twenty
Years as a Condition to Receive Federal Grant Funding.....\$10 million
- ✓ ODOT State Infrastructure Bank Low Interest Loan.....\$10 million
- ✓ ODOT Urban Redevelopment Loan.....\$5.4 million
- ✓ State of Ohio/Ohio Department of Natural Resources Phase IIIA Capital
Improvement Grant request was approved June 12, 2014.....\$4 million
- ✓ Phase IIIA JobsOhio Infrastructure Grant Secured.....\$3 million
- ✓ Federal Transit Administration (FTA) 49 U.S.C. §5309 earmark congressional
earmark totaling \$3.398 million, of which \$1.198 million was allocated for
SORTA bus acquisition\$2.2 million

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✓ Economic Development Administration (EDA) Grant – Phase I/II Grant funds through U.S. Department of Commerce were approved in 2004. Invested on a matching basis in construction of The Banks Project access street grid	\$2 million
✓ ODOD 629 Grant funding programmed by ODOD Development Finance Advisory Committee on Sept. 24, 2007 and State Controlling Board Oct. 29, 2007	\$970,000
✓ Federal Earmark - Ted Berry Street Grid Grant funding programmed by OKI. Used for access street construction including curb revisions.....	\$500,000
✓ OKI Banks Rideshare CMAQ Funding January 6, 2011 letter of eligibility from ODOT Director Molitoris to FHWA Division Administrator Leffler. Funds used by OKI to incentivize Rideshare in partnership with the County HOV parking program	<u>\$500,000</u>
TOTAL:	\$96,670,000

RIVERFRONT STAKEHOLDER TRANSACTIONS/AGREEMENTS:

\$139,600,000

Special Project Counsel has been involved in various lease negotiations with the Cincinnati Reds, and extensively involved in the development and construction of Great American Ball Park.

Although Special Project Counsel was not retained regarding the original Bengals lease negotiations or the construction of Paul Brown Stadium, Special Project Counsel has been involved in concert with the Prosecutor's Office in subsequent lease negotiations with the Cincinnati Bengals regarding Paul Brown Stadium and The Banks Development.

Special Project Counsel also represented the County with respect to the development of the National Underground Railroad Freedom Center, and the litigation and lease negotiations regarding the US Bank Arena.

Set forth below is a summary of the outcome of various negotiations with the major riverfront stakeholders to this point.

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CINCINNATI REDS AND GREAT AMERICAN BALL PARK: \$62.5 MILLION

- ✓ Trade Contractor Change Orders/Claims: directly assisted the County's Project Executive, in conjunction with the Project Team, in negotiating multiple trade contractor change orders and claims that resulted in the savings over the initially proposed sums\$15 million
- ✓ Great American Ball Park Construction: negotiated lease modifications establishing County's maximum contribution to Ball Park Construction.....\$14.5 million
- ✓ Scoreboard Replacement: Creatively structured a P3 purchase between the County/Reds of a scoreboard and related media and control room; changes that resulted in Taxpayer Savings.....\$12.5 million
- ✓ Reds' Team Lease: negotiated more favorable lease terms and conditions with the Cincinnati Reds that resulted in short- and long-term savings to the County\$9.5 million
- ✓ Design/CM/PM/Audit Contracts: negotiated fee and expense reductions, as well as terms and conditions in the design, project and construction management, and audit contracts that resulted in direct savings to the County\$7.75 million
- ✓ Claims Regarding Design Team: successfully resolved the County's claims against the Design Team with the Design Team paying the County \$2.35 million in addition to the \$900,000 paid to resolve the Steel Service litigation\$3.25 million
- ✓ Great American Ball Park Lease: re-negotiated and restructured several Reds/County Lease provisions regarding Ball Park costs, capital, operating and maintenance obligations resulting in significant long-term savings.....TBD

THE CINCINNATI BENGALS AND PAUL BROWN STADIUM: \$29.4 MILLION

- ✓ Negotiated lease amendments to enable GE Global Operations Center and Radius to be constructed notwithstanding Lease-imposed height restrictions
- ✓ 13.9 Reimbursement Expense Taxpayer Required Payments to Bengals Eliminated\$29.4 million
- ✓ Capital Enhancements to Paul Brown Stadium Deferred until 2024 for NegotiationTBD

US BANK ARENA: \$32.6 MILLION

- ✓ Mitigated US Bank Arena's \$34 million claim for damages
- ✓ Secured summary judgment that dramatically pared back Arena's damages

Report of Special Project Counsel - Riverfront Redevelopment Return on Investment: 1997-2019

- ✓ Prevailed in an appeal and received a critical favorable Court ruling for the County
- ✓ Rather than making a substantial outlay of new dollars, the County was able to fund bulk of settlement from \$2.8 million in parking proceeds that the Arena was entitled to receive (which the County had escrowed), and such funds collected and segregated from Arena events over the pendency of the case.
- ✓ The case settled on the eve of trial which substantially mitigated Arena's claims and taxpayer expenditures

NATIONAL UNDERGROUND RAILROAD FREEDOM CENTER: \$15.1 MILLION

- ✓ Negotiated Development Agreement with NURFC that resulted in savings to the Freedom Center's overall development costs and also resulted in savings to County taxpayers regarding substantial infrastructure and parking garage obligations.
- ✓ Negotiated the release of Freedom Center's interest in Lots 17, 18 & 19 (Yard House, Ferris Wheel, future development), resulting in availability of additional riverfront property for development and activation which ultimately benefitted the Freedom Center as well.

TOTAL RIVERFRONT STAKEHOLDERS: **\$139,600,000**

ECONOMIC INCLUSION AND WORKFORCE DEVELOPMENT:

Special Project Counsel worked very closely with the City, County and local community leaders to develop and draft the first and only Joint City-County Economic Inclusion and Workforce Development Policy of The Banks, unanimously adopted and implemented by the City and County in 2007. The results due to the JBSC and the City-County oversight and implementation efforts, are set forth below.

- ✓ Small Business Enterprise ("SBE") Participation: 30% goal; 33.2% actual
- ✓ SBE Professional Services: 10% goal; 13.1% actual
- ✓ Minority Business Enterprise ("MBE") Participation: 14.4%
- ✓ Women Business Enterprise ("WBE") Participation: 3%
- ✓ Disadvantaged Business Enterprise ("DBE") Participation: 5%-9%

Workforce participation actual totals based on hours:

- ✓ Female Participation: 1.82%
- ✓ Minority Participation: 16.01%

Report of Special Project Counsel – Riverfront Redevelopment Return on Investment: 1997-2019



THE ROLE OF SPECIAL PROJECT COUNSEL

The Board recognized it was important to have Special Project Counsel representation in the oversight during the construction of Great American Ball Park, as well as direct involvement in contract negotiations, construction budgets, design and construction development, and contract administration regarding the redevelopment effort following the demolition of Cinergy Field. Since Special Project Counsel's involvement and working closely with the City-County Banks Team, the County's construction of the Great American Ball Park, the Central Riverfront infrastructure development project and all Phases of The Banks Project have been completed *on time* and *within budget*.

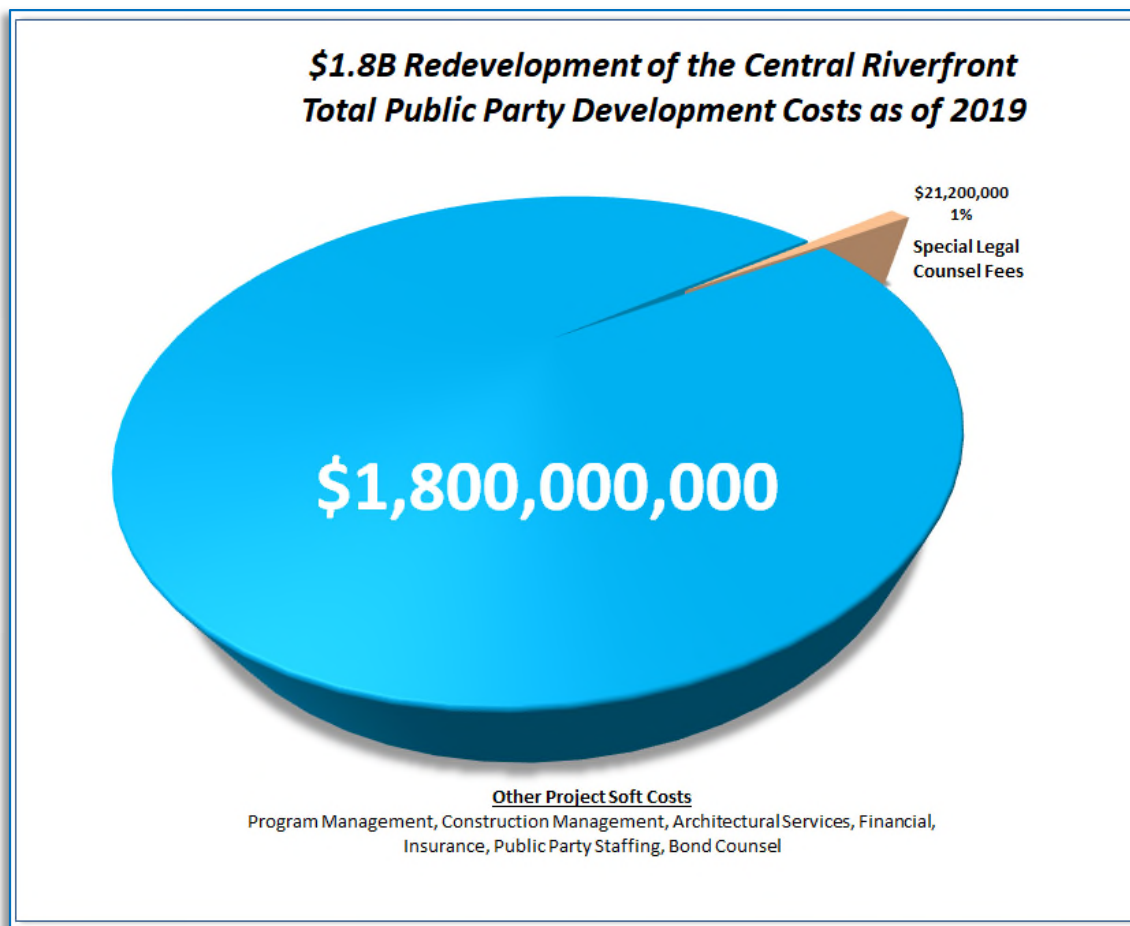
Special Project Counsel negotiated the mitigation of multimillion dollar claims and reduced expenses incurred by the County by avoiding costly disputes through development of appropriate contract terms and conditions, as well as subsequent construction change orders and a structured claims management process.

Report of Special Project Counsel - Riverfront Redevelopment Return on Investment: 1997-2019

Special Project Counsel has been part of the County's legal team working closely with the County Prosecutor's office to negotiate new lease terms with the Cincinnati Reds and the Cincinnati Bengals, as well as structure all of the Development Agreements on the riverfront.

VALUE OF SPECIAL PROJECT COUNSEL

Under the terms of our engagement, Special Project Counsel has provided services "value priced" on a discounted blended hourly rate. This blended hourly rate results in an average discount of over approximately 50% from Special Project Counsel's standard market hourly rates. Over the twenty-two-year period of our representation, the net savings to the taxpayers as a result of such *discount is an additional several million dollars.*



Report of Special Project Counsel - Riverfront Redevelopment Return on Investment: 1997-2019

Since 1997, total legal fees for services rendered relative to Stadium Site Acquisition issues, Great American Ball Park, U.S. Bank Arena litigation, Central Riverfront Redevelopment related projects, Stakeholder negotiations and The Banks Project have totaled approximately \$21.2 million, a significant number if viewed in isolation.

However, the cost of legal services must be placed in the context of other professional services necessary to plan, fund, finance, design and construct a complex redevelopment project such as the Central Riverfront. Those professional services include financial advisors, project managers, construction managers, architects, engineers and other consultants and project staff. Such services are commonly referred to as the "soft costs" on a project and are generally placed in the context of a percentage of the hard construction costs.



Special Project Counsel fees may be placed in the context of the projected Total Project Cost of the redevelopment effort which is \$2.8 billion. Special Project Counsel fees to date are .07% of the projected Total Project Cost of riverfront redevelopment.

As a member of The Banks Project Team, the costs of such services should also be viewed in the context of the other professionals retained to develop and implement projects. Set forth below is a summary of the cost of Special Project Counsel in the context of the combined balance of the Riverfront Project Team.

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RIVERFRONT REDEVELOPMENT PROJECT CONSTRUCTION, MANAGEMENT, DESIGN AND PROFESSIONAL FEES AND SOFT COSTS

RIVERFRONT PROJECTS 1997-2019

PROJECT COUNSEL FEES

PROJECT AND CONSTRUCTION

\$21,200,000

MANAGEMENT/DESIGN/ENGINEERING

PAUL BROWN STADIUM: \$133,400,000

GREAT AMERICAN BALL PARK: \$81,000,000

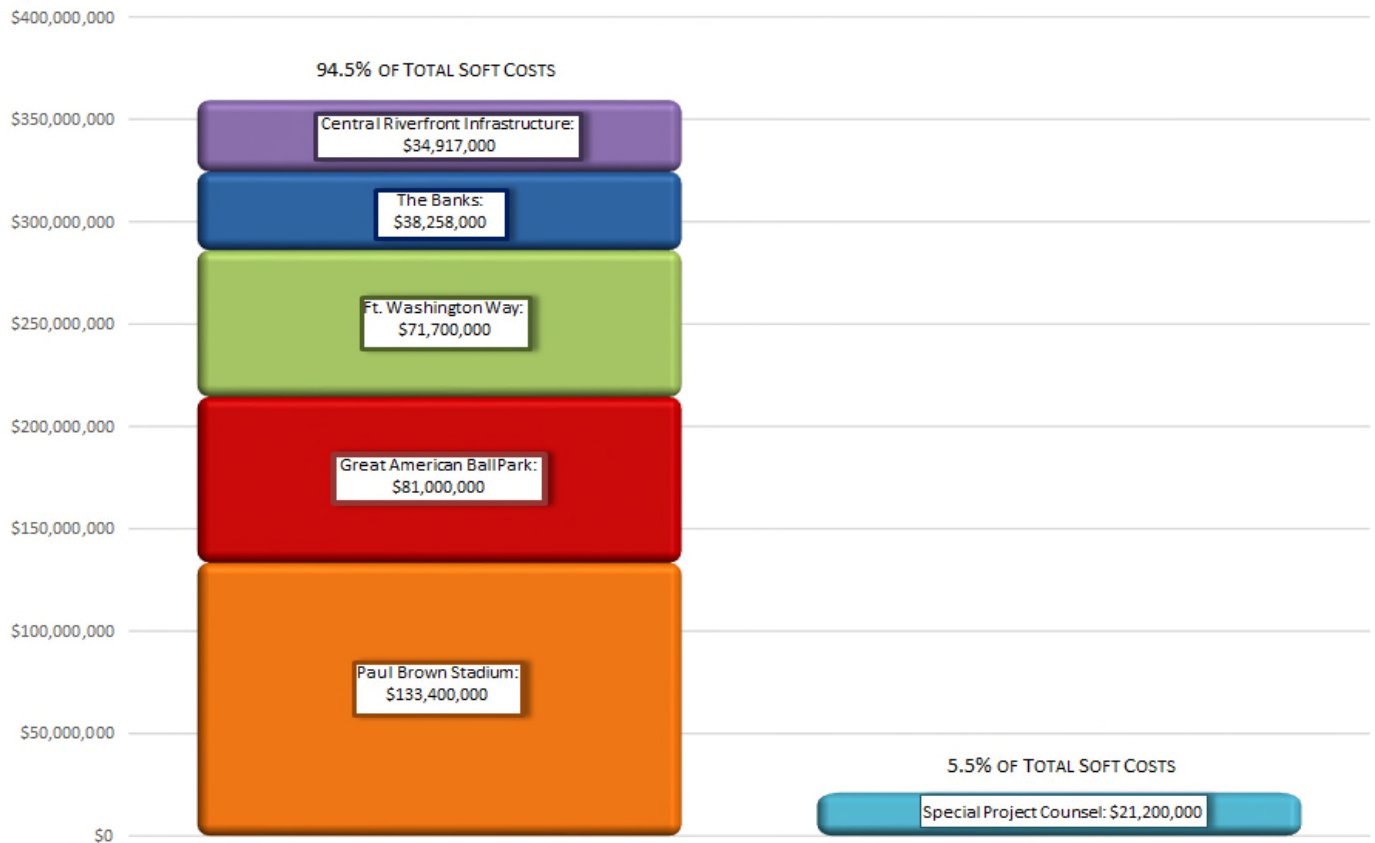
FT. WASHINGTON WAY: \$71,700,000

THE BANKS: \$38,258,312

CENTRAL RIVERFRONT INFRASTRUCTURE: \$34,917,600

TOTAL: \$359,275,912 \$21,200,000

1997-2019 RIVERFRONT DEVELOPMENT FEES AND SOFT COSTS \$359.2 MILLION



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SUMMARY OF MAJOR RIVERFRONT AGREEMENTS

FUNDING OBTAINED, SAVINGS RETAINED AND/OR
BENEFITS DERIVED FOR COUNTY TAXPAYERS

MAJOR RIVERFRONT AGREEMENTS

\$276.8 MILLION

CITY-COUNTY REDEVELOPMENT AGREEMENTS/PROPERTY ACQUISITION/ BANKS DEVELOPMENT AGREEMENTS

In late 1997, Special Project Counsel began its work for the County. At that time, Special Project Counsel had proposed serving the County Board as Project Counsel with respect to the redevelopment of the riverfront, including the construction of Paul Brown Stadium. However, Special Project Counsel was initially retained by the Board to perform only title-search related work for the acquisition of property for the construction of Paul Brown Stadium.



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SUMMARY OF MAJOR RIVERFRONT AGREEMENTS

Sixty days later, the County requested that Special Project Counsel assist in the negotiation of property acquisition with existing tenants and landowners along the riverfront, including the largest tract necessary for the development of Paul Brown Stadium. Special Project Counsel successfully negotiated property acquisition with several riverfront property owners such as the Castellini Company, the Congress Company, CCW Realty, Cincinnati Commercial Warehouse Company, Cincinnati, New Orleans and Texas Pacific Railway and Norfolk & Western railroad. Special Project Counsel also successfully negotiated lease terminations of certain tenants located in the produce warehouses along the riverfront so construction of Paul Brown Stadium could commence in accordance with the completion schedule. In each transaction, Special Project Counsel facilitated agreements expeditiously, without the necessity of costly and protracted litigation, so the purchase price per acre was substantially less (35%-50%) than other parcels acquired by the County for Paul Brown Stadium or the City for Fort Washington Way through litigation or other means. All such property was necessary in order for Paul Brown Stadium to advance beyond the design stage.

In January 1998, approximately 14 days prior to the expiration of a deadline set by the Bengals, Special Project Counsel was retained to assist in negotiations with the City of Cincinnati regarding the redevelopment of the Central Riverfront Area in order for the construction of Paul Brown Stadium to commence.



Figure 5 Cincinnati Riverfront: 1997 Flood

These negotiations culminated in the execution of the City-County Redevelopment Agreement in January 1998. The 1998 Agreement, along with various subsequent memoranda of understanding between the City and the County, have served as the initial framework for all ongoing Central Riverfront redevelopment efforts, including property acquisition for the Great American Ball Park, public infrastructure, utility and street grid construction, Fort Washington Way reconstruction, as well as the future Banks development. The negotiations with the City also included utility cost allocations, infrastructure improvements and development rights in the Central Riverfront, as well as the timing, phasing and sequencing of the various Central Riverfront Projects.

Since 1998, Special Project Counsel has led the drafting and negotiation efforts on behalf of the Board, with respect to all of the City-County Agreements that govern the redevelopment efforts for Ohio's new Southern Gateway.

Areas addressed in the City-County Redevelopment Agreements include:

Obligations and issues relating to the:

- Cincinnati Reds
- Cincinnati Bengals
- U.S. Bank Arena
- National Underground Railroad Freedom Center
- One Lytle Place
- Cincinnati School Board
- SORTA/Riverfront Transit Center

Property-related transactions concerning:

- Cinergy Field transfers
- Paul Brown Stadium area
- Fort Washington Way
- Trench and Trench Extension area
- Great American Ball Park
- Street grid development
- Smale Park development
- U.S. Bank Arena
- East Garage area
- Central Riverfront Park

Infrastructure improvements—funding, design, construction, maintenance and replacement of:

- Street grid modifications—Phases I to IV
- Major utilities: gas/electric/telephone/water/sanitary/storm sewer/chilled water

Funding commitments by City and County relating to:

- Paul Brown Stadium
- Great American Ball Park

SUMMARY OF MAJOR RIVERFRONT AGREEMENTS

- Fort Washington Way (flood protection, Ramp LL, decks for parks)
- National Underground Railroad Freedom Center development
- Street Grid Modifications
- Utility Relocation
- Central Riverfront Park

THE BANKS – THE REDEVELOPMENT OF OHIO'S SOUTHERN GATEWAY

Special Project Counsel has been assisting the Board with the development of The Banks Project since the original concept was developed by the City-County Riverfront Advisors Commission in 1999.



The Banks Project has been a complex and challenging undertaking given the nature of the numerous central riverfront agreements, the interests of stakeholders, and the funding, financing, phasing, design, construction, operation and management issues associated with the more than \$1.8 billion that the County has invested in the Riverfront.

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SUMMARY OF MAJOR RIVERFRONT AGREEMENTS

Special Project Counsel's role has been to:

- Negotiate and draft agreements that address the County's financial and other interests in the context of existing and future riverfront agreements;
- Assist in the interpretation of existing and future obligations as part of the implementation of such agreements;
- Identify and **limit** financial consequences of County commitments;
- Remain fully knowledgeable regarding all aspects of the County's agreements, commitments and responsibilities;
- Assist in the development and utilization of alternative funding sources to meet commitments;
- Assist in the resolution of issues relating to the Riverfront Redevelopment;
- Renegotiate Major Stakeholder Agreements; and
- Develop and implement all of the Development Agreements pertaining to the Riverfront.

On behalf of the Board, Special Project Counsel prepared a Request for Master Developer Qualifications for Redevelopment of Ohio's Southern Gateway ("RFQ"). In an effort to advance the stalled redevelopment of the riverfront, the RFQ was issued by the Board in February 2006, and was the Board's first formal step towards identifying development entities with the capability and demonstrated experience to manage all aspects of the development process for The Banks Project, including planning, community involvement, design, negotiation of public/private partnerships, structuring of private and public financing sources, construction, sales and leasing, and ongoing management of The Banks Project.

REQUEST FOR MASTER DEVELOPER QUALIFICATIONS FOR REDEVELOPMENT OF OHIO'S SOUTHERN GATEWAY



ISSUED BY:

BOARD OF COUNTY COMMISSIONERS OF
HAMILTON COUNTY, OHIO



*City-County Points of Understanding Regarding
The Banks Development and The Banks Working Group*

In May 2006, during a period that the City and County were at an impasse, Special Project Counsel worked with the City and the County policy leaders and riverfront stakeholders to develop a proposed Banks Implementation Structure and to negotiate an agreement that recommended the establishment of The Banks Working Group ("BWG")— a "consensus entity" through which the City and the County could move forward to develop The Banks. Members of the BWG were jointly selected by the City and County, and Robert H. Castellini was selected as its Chair.

The agreement included "Points of Understanding" developed collaboratively with members of the Cincinnati City Council and the Hamilton County Commission regarding The Banks Working Group's responsibilities, which included:

- Selecting the Master Developer;
- Negotiating the Master Development Agreement with a Master Developer subject to review and approval of the City and County without amendment by either entity;
- Developing small business, economic inclusion and workforce development policies;
- Developing funding and financing solutions pertaining to the major public improvements within The Banks, including:
 - Central Riverfront Park;
 - Fort Washington Way Decks; and
 - Parking garage facilities, streets and utilities.
- Establishing, if determined necessary, a Permitting and Approval Task Force to expedite the review and approval process for permits, inspections, approvals and certificates of occupancy; and
- Working with granting authorities and other third parties who are necessary or appropriate for the BWG's work on The Banks.



Banks Agreements

After extensive negotiations between and among the City-County Banks Working Group, the Master Developer and the City-County administration, the BWG issued recommendations regarding the unanimous approval of the proposed Banks Development Agreement structure and implementation plan.



Figure 6 - The Banks Groundbreaking April 2008

In November 2007, City Council and the County Commission, meeting jointly for the first time between the Halls of Cooperation, Perseverance and Courage at the National Underground Railroad Freedom Center, unanimously approved a series of agreements to move forward with The Banks development. Those agreements, drafted and negotiated by Special Project Counsel in partnership with the City and County Banks Teams, and the BWG included:

- **Master Development Agreement** — the central project document among the City, County and Master Developer that establishes the development requirements, obligations and remedies for the private and public parties, including development design controls, commencement contingencies, private development, ownership entities, phase

I

SUMMARY OF MAJOR RIVERFRONT AGREEMENTS

requirements, property conveyances, public infrastructure construction, Central Riverfront Park, Master Developer parking rights and costs for project development;

- **Infrastructure Development Management Agreement** — provides for engagement of the Master Developer by the Public Parties to serve as the development manager for the design and construction of the public parking facilities, street grid improvements, utilities and related infrastructure improvements, the podiums that support the private development and other podiums above the parking facilities that support the Central Riverfront Park;
- **Master Parking Facilities Operating and Easement Agreement** — agreement between the County and Master Developer outlines parking restrictions and commitments;
- **Joint Policy for Small Business Enterprise, Economic Inclusion and Workforce Development** — policy applicable to both the public and private portions of The Banks Project;
- **Responsible Bidder Requirements** — policy applicable to both the public and private portions of the Project;
- **Declaration of Covenants, Conditions and Restrictions** — agreement between the City and County that will be recorded for the entire residential/commercial Project site;



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SUMMARY OF MAJOR RIVERFRONT AGREEMENTS

- **Specific Declaration of Easements, Covenants, Conditions and Restrictions** — agreement for each development lot to be recorded simultaneously with conveyance of the lot to the developer entity; and
- **City–County Cooperation Agreement** — governing property transfers between the Public Parties, shared public financial responsibilities and management structure with respect to The Banks Project.

The Banks Working Group also recommended the formation of a City-County Joint Banks Steering Committee ("JBSC") to foster the implementation of The Banks Master Plan and the Development Agreement requirements. The City and County unanimously determined that the initial composition of the City-County JBSC would be comprised of the former BWG members and led by Bob Castellini as its Chair.

Following the City-County's adoption of The Banks Development Agreements, Special Project Counsel represented the Board's interests on The Banks Project with the commencement of Phase I in April 2008.



Figure 7 Phase I of The Banks and Smale Park

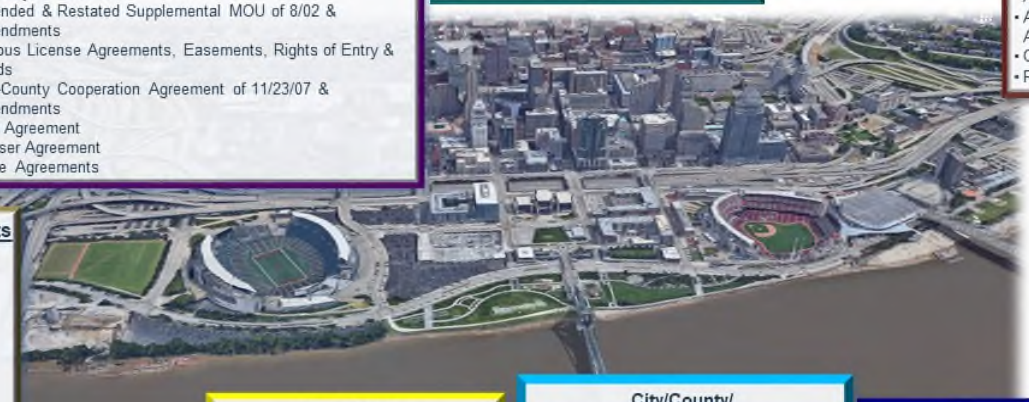
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SUMMARY OF MAJOR RIVERFRONT AGREEMENTS

Phase I commenced during the onset of the Great Recession, and within two years of the ground-breaking, 300 residential apartments and over 100,000 square feet of retail were brought on-line in the area that was fondly referred to as "the mud pit" of the riverfront. The Banks apartments – The Current – were fully occupied within six months at the highest rental rates in the region.

Set forth below is a depiction of the ±125 major (not all) Riverfront-related Agreements entered into since 1997 regarding the redevelopment of the riverfront.

MAJOR RIVERFRONT AGREEMENTS & LEASES: 1997-2019



Paul Brown Stadium Complex

- Bengals' Lease Agreements & Amendments
- OASFC Agreements
- 1998 Redevelopment Agreement
- Property Acquisition Agreements
- Memoranda of Understanding

City/County Riverfront Redevelopment Agreements

- Memorandum of Understanding of 8/21/95
- Memorandum of Understanding of 4/27/96
- Redevelopment Agreement of 1/31/98
- Parcel 20 Acquisition Agreement Between City/County of 8/20/99
- Supplemental MOU of 10/29/99
- 1st Amendment to Supplemental MOU of 2/9/00
- 2nd Amendment to Supplemental MOU of 6/21/00
- 3rd Amendment to Supplemental MOU of 2/14/01
- Smith Street Lot Parking License Agreement of 8/19/00
- Lot B Lease Agreement of 8/19/00
- Agreement for the Creation of the Port of Greater Cincinnati Authority of 10/14/00
- Amended & Restated Supplemental MOU of 8/02 & Amendments
- Various License Agreements, Easements, Rights of Entry & Deeds
- City-County Cooperation Agreement of 11/23/07 & Amendments
- THP Agreement
- Messer Agreement
- Trade Agreements

AC Hotel Agreements

- Hotel Development Agreement
- Supplemental Declaration of Easements
- Amendment to Lot 16B Declaration
- Amendment to Service Agreement
- Amendment to Lot 16 & 26 Supplemental Declaration
- Supplemental Declaration of Easements
- Joinder Agreement to Amended & Restated Master Parking Facilities Operating & Easement Agreement
- Various License Agreements, Easements, Rights of Entry & Declarations
- First Amendment to Specific Declaration

Great American Ball Park

- Cincinnati Reds Lease Agreements & Amendments
- OASFC Agreements
- 1998 Redevelopment Agreement
- Memoranda of Understanding
- HOK Agreement
- HHN Agreement
- PB Agreement
- Foppe Agreement
- Trade Agreements

East Garage

- One Lytle Place Agreements
- HOK Agreement
- HHN Agreement
- US Bank Arena Agreements

One Lytle Place - Parcel 20

- Allen House Acquisition Agreement
- Parking Agreement
- Assumption Agreement
- Quit Claim Deeds
- Right of Entry

Funding Source Agreements

- Hamilton County, Ohio
- City of Cincinnati, Ohio
- US DOT - Federal Highway Administration
- Federal Transit Administration
- US Department of Commerce
- US Economic Development Administration
- US Army Corps of Engineers
- State of Ohio
- State of Ohio – DOT
- State of Ohio – DOD
- OKI Regional Council of Governments

Music Venue Development Agreements

- City/County Memorandum of Understanding Regarding Funding & Financing
- County/CSO/Bengals/City Memorandum of Understanding Regarding Music Venue & Smale Riverfront Park
- County/Bengals Memorandum of Understanding
- Venue Development & Management Agreement

Block 3/NUREC

- OASFC Agreements
- 1998 Redevelopment Agreement
- Third Amendment to Supplemental MOU
- Declaration of Easements, Covenants, Conditions & Restrictions
- Real Estate Transfer Agreement
- Supplemental Agreement between the County, City & NUREC
- Amended & Restated Agreement for Sale of Property, Funding & Development
- Ground Lease
- Messer Agreement
- THP Agreement
- PB Agreement
- Trade Agreements

City/County/ Master Developer Agreements

- Master Development Agreement
- Infrastructure Development Management Agreement
- Master Parking Facilities Agreement & Amendments
- 1st Amended MDA Agreement
- 2nd Amended MDA Agreement
- 3rd Amended MDA Agreement
- 4th Amended MDA Agreement
- 5th Amended MDA Agreement
- Specific Declaration Of Easements, Covenants, Conditions & Restrictions & amendments
- General Declaration & amendments
- Joint Policy for Economic Inclusion & Workforce Development
- Responsible Bidder Policy

US Bank Arena

- Land Disposition Agreement
- Supplemental Land Disposition Agreement
- Deed – Ohio to Cincinnati Coliseum First Amendment to Supplemental Agreement No. 1
- Lease between City/Cincinnati Coliseum Co. & Amendments
- Operating Agreement
- MOU between City/Cincinnati Coliseum Company
- Reciprocal Grant of Easements
- MOU between City/County
- Amendment to MOU
- Assignment between City/County
- Parking Cooperation Agreement
- Easement Agreement

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SUMMARY OF MAJOR RIVERFRONT AGREEMENTS

Phase I of the Smale Riverfront Park was also completed with the addition of the Moerlein Lager House and the Schmidlapp Event Lawn.

Phase I of the City-County's public infrastructure was funded with a combination of federal, state and local funds, with a majority of the funds coming from the City of Cincinnati and Hamilton County.

Subsequently, Special Project Counsel's efforts focused on structuring and negotiating a final development deal with respect to Phase IIA (Radius at The Banks), Phase IA Lot 17 sale (Yard House) and closing related matters, structuring and negotiating potential development agreements for the Phase IB hotel (AC Hotel), seeking and obtaining additional funding for future Banks' parking facilities, and efforts relating to General Electric locating its U.S. Global Operations Center at The Banks.

Although there are financial burdens associated with implementing a development deal, Special Project Counsel worked to focus on mitigating such burdens with expense reductions over the life of a project (30-50 years) and also negotiating the potential recapture of initial economic incentive funding provided to the private sector through innovative funding structures.



For example, public sector economic development grants are common in order to stimulate private investment in the urban environment. **However, public agreements that require the repayment of**

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SUMMARY OF MAJOR RIVERFRONT AGREEMENTS

such grants based on the Master Developer's return on its investment exceeding defined thresholds are an exception. Provisions requiring payment to the Public Parties at sale of the private asset are also an exception to public economic development incentive structures.

Special Project Counsel, working with the City-County Banks Project Team and the JBSC, developed, negotiated and implemented such provisions in the agreements on The Banks Project beginning 2007.

Such innovative repayment structures as part of a P3 development have directly benefitted the City and the County. In the first two Phases alone, the City/County have derived more than \$7 million in Deferred Purchase Price Payments, which could then be reinvested in necessary public infrastructure to complete the Project. In addition, as part of the Phase II Development Agreement structure, the Master Developer is required to repay tax abatement dollars in the event at sale, certain threshold returns are exceeded.

**DEVELOPER DEFERRED PURCHASE PRICE
PAYMENTS TO CITY/COUNTY RECEIVED ON
PHASES I & II TO DATE:**

\$7 MILLION



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SUMMARY OF MAJOR RIVERFRONT AGREEMENTS

Furthermore, requiring repayment of real property tax abatements is also unique to The Banks development deal structure. No other City or County property tax abatement deals were structured this way except within The Banks Development. However, these types of provisions have become fully integrated in The Banks Development structures and have resulted in the savings and/or return of millions of dollars to the County and the City. Since the City/County's utilization of these unique development structures, the City has now adopted a form of these structures in many of its economic development incentive agreements.

By way of example only, additional proceeds will be payable to the City/County upon the development and sale of the hotel and office portions of Phase IB, Lot 19, and the sale of the residential and retail components in Phase II and Future Phases, all of which are conservatively estimated to be in excess of an additional \$7.5 million.

The City and County also retain 100% control over the utilization of TIF revenue proceeds on the riverfront from private development. As a result, the City and the County have been able to utilize more than \$34.3 million in tax increment revenues generated from the initial phases of The Banks Development to fund additional public infrastructure as each Phase of The Banks progresses.

The principal focus with respect to the utilization of Special Project Counsel is the effectiveness of such Counsel in advancing agreements in such a way that new projects are timely commenced and there is a quantifiable return on investment. That is measured in: 1) the overall structure of a deal;



Figure 8 GE Global Operations Center and Podium Under Construction: 2015-2016

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SUMMARY OF
MAJOR RIVERFRONT AGREEMENTS

2) implementation of workable and feasible agreements that bring new development to market that would otherwise not occur; and 3) the economic impact of a development once a reality. Provisions negotiated and structured are self-evident in terms of bringing a project to reality and, at the same time, achieve savings or obtain additional revenues over time for future public infrastructure.

The level of savings and funding achieved to date is the direct result of working together with a collaborative City-County Banks Project Team. *Furthermore, such savings and funding described herein are independent and exclusive of the economic impact of additional development on the riverfront, including the development aspects of Paul Brown Stadium, Great American Ball Park, Smale Riverfront Park, The Banks, National Underground Railroad Freedom Center, Cincinnati Reds Hall of Fame and Museum, GE's Global Operations Center at The Banks and the new Music Venue.*

Special Project Counsel also ensured that The Banks Project is designed and constructed in a sustainable manner that provides the greatest long-term potential for the Project. By way of example, the Master Developer proposed the development of Phase IIA without the flexibility to include a commercial office development on Block 2. With the full consensus and support of the County Board and the City-County Banks Project Team, Special Project Counsel steadfastly maintained that the Developer's additional investment in the Phase II office podium would be



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SUMMARY OF MAJOR RIVERFRONT AGREEMENTS

required as part of the Phase IIA Project in order to ensure an office tower on Block 2 could be developed as part of The Banks Master Plan.

Due to the City-County's team approach which superseded the short-term financial interests of the Developer to save dollars on the increased costs of an office podium, the City-County was well positioned to competitively pursue General Electric as the first commercial office tenant at The Banks. Absent such investment, such option would have been eliminated based on GE's mandated schedule requirements for the opening of its Operations Center in 2016.

Working closely with the City-County Banks Project Team resulted in aggregate County/City savings and additional funding for The Banks Project with respect to Phase II in the range of \$28 million to \$34 million through negotiation of the terms and conditions of multiple development related agreements; mitigation and/or avoidance of claims; and through pursuit of alternative sources of funding and financing.

Special Project Counsel continues to work shoulder to shoulder with the City-County Banks Project Team, which includes the County Prosecutor's Office, in order to leverage the legal, financial, and construction expertise of each of the respective team members, while carefully avoiding the duplication of efforts. We also continue to

utilize City/County resources as we negotiate and structure development agreements that, as a threshold matter, protect the public interests, while at the same time maximizing the return on every public dollar invested in the Project through private investment.

Special Project Counsel has successfully:

- Negotiated and finalized all agreements pertaining to GE's Global Operations Center and the Radius apartments;



Figure 9 The Banks - Phase II: The Radius Apartments and GE Global Operations Center

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SUMMARY OF MAJOR RIVERFRONT AGREEMENTS

- Negotiated agreements with respect to the development of the Music Venue and the next phase of the Smale Riverfront Park, and related property acquisition agreements;
- Negotiated and finalized all agreements and other necessary documents relating to the development of a long-awaited lifestyle hotel, the AC Hotel, within The Banks Project;
- Sought and successfully secured the necessary capital funding to construct the public infrastructure required to advance the Phase IIIA development (\$7 million);
- Continued to work to advance the next phase of residential and retail development on Lot 24, south of the GE Global Operations Center site;
- Sought and obtained Phase IIIB State Funding (\$12 million); and
- Negotiated a series of agreements relating to the Phase IIIB development, including State Grants, Bengals Lease, Venue Development Agreements and City-County Agreements.

The complex and innovative nature of the agreements enabling the Public Parties to obtain the demonstrated benefits required extensive negotiations. For example, since no hotel had been recently developed in the Cincinnati Central Business District as of 2014 without a tax abatement, Special Project Counsel performed multiple analyses regarding such hotel development on behalf of the Public Parties in order to demonstrate to private entities that a non-abated, upper scale, lifestyle hotel was financially viable in our market.

Our experience in previous construction and financing projects enabled us to reach an agreement to the satisfaction of all parties, without compromising the Public Parties' stance with respect to the Phase I hotel that no public subsidies, including cash incentives or tax abatements would be provided. The result is additional tax increment revenues worth an estimated \$11 million and a savings of \$8



Figure 10 AC Hotel at The Banks

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SUMMARY OF MAJOR RIVERFRONT AGREEMENTS

million in other economic development incentives that had been requested. In addition, the Yard House deferred purchase price payment exceeding \$1 million received by the Public Parties demonstrates the return on investment that the Public Parties can expect to receive as a result of the Public-Private Partnerships utilized on all Banks development structures.

In addition to the documentation produced in connection with the State of Ohio Capital Grant for Lot 24 development, we researched various grant programs offered by JobsOhio. Special Project Counsel crafted an application submittal with the greatest likelihood of success based on research on the types of projects JobsOhio would most likely to support. We then utilized such information, persistence, and professional and political relationships to increase the State's initial funding of The Banks to an aggregate amount of \$7 million for Phase IIIA and \$12 million for Phase IIIB.

PHASE III OF THE BANKS PARKING GARAGE FACILITY



In the context of closing the hotel development deal, modifications to the Phase I and Phase II related agreements were necessary, which involved the Master Developer, Hotel Developer, Phase I Owner, Phase II investors and the respective lenders and equity investors for each.

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SUMMARY OF MAJOR RIVERFRONT AGREEMENTS

The Public Parties are realizing a substantial return on their investment. That is reflected in: 1) deal structures which focus on *reducing* needed Public Party funding for the remaining infrastructure and *increasing* Public Party revenue; 2) implementation of workable and feasible development structures in order to spur private investment and continued development; and 3) utilization of Public Party resources to maximize economic impact of development upon completion.

We negotiated with the Hotel Developer and its financing partners in order to protect the County with respect to future maintenance, repair and replacement of hotel utilities and parking located within the public infrastructure of The Banks. By way of example only, the negotiated Hotel Agreement ensures that the County will receive revenues from current and future hotel parking alone of \$6.5 million over a 30-year period.



In connection with the closing of the Hotel Development *Figure 11 Smale Riverfront Park - 2019*

Agreement and the sale of Lot 19, coordination among The Banks stakeholders was required in order to amend the General Declaration applicable to the entire Banks Project and the Master Development Agreement in order to accommodate the development.

Each of the foregoing was a result of careful negotiation and issue resolution necessary in order to finalize agreements among multiple parties involved and advance The Banks Project.

Phase IIIA of The Banks Parking Garage Facility and Development Podium involved construction of the next phase of a multi-level parking structure adjacent to the Cincinnati Central Business District which is designed to support a 400,000-500,000 square feet mixed use development.

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SUMMARY OF MAJOR RIVERFRONT AGREEMENTS

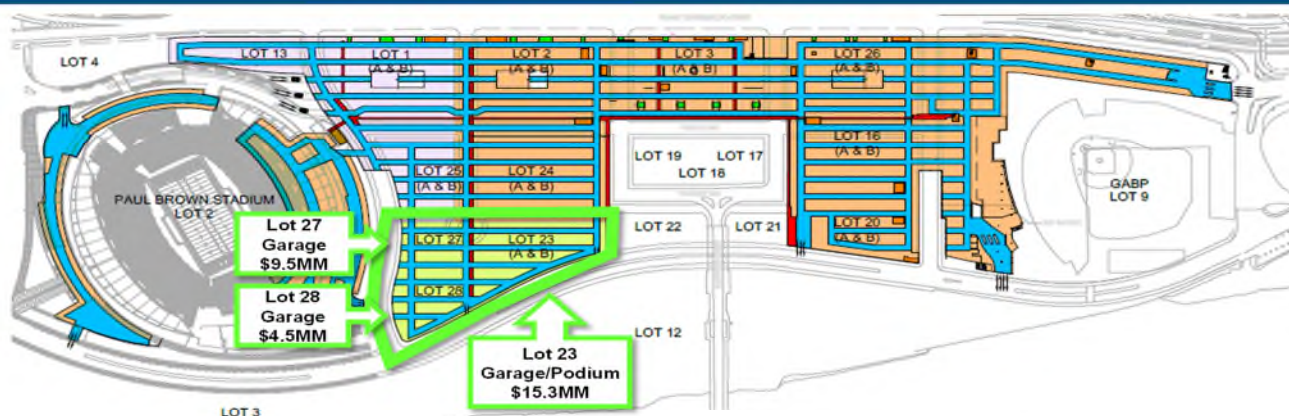
The facility will provide general public parking including parking for the General Electric employees at its U.S. Global Operations Center which was completed in October 2016, Central Business District employees, retail and commercial businesses located within The Banks Project, Paul Brown Stadium, Great American Ball Park, US Bank Arena, Smale Riverfront Park, and the National Underground Railroad Freedom Center.

Phase IIIB public infrastructure is designed to accommodate the development of the Cincinnati Symphony Orchestra/Music and Event Management Inc.'s ("CSO/MEMI") \$25 million music venue and event lawn. Such a venue will represent a private investment in excess of \$25 million and enable more than 175 events per year along the riverfront with more than 350,000 attendees annually resulting in an additional economic impact of \$25 million annually.

In addition, construction of Phase IIIB of The Banks Parking Garage Facility and Development Podium will also provide the structural support for the completion of the next phase of the \$120 million Smale Riverfront Park.

Development of Public Infrastructure Improvements Phase IIIB (Lots 23, 27 & 28)

Frost
Brown Todd
ATTORNEYS



Use of Funds

Infrastructure Funding for Lot 27	\$9.5MM
Infrastructure Funding for Lot 23	\$15.3MM
Infrastructure Funding for Lot 28	\$4.5MM

TOTAL: **\$29.3MM**

Source of Funds

State of Ohio FY 19 Capital Grant	\$12.0MM
Phase I-II Reconciliation of City/County Funds	\$4.7MM
Phase III Remainder of City/County Funds	\$3.5MM
Ohio DSA 629 Grant Remainder	\$132,580
Developer Phase II Escrow	\$180,000
Phase IIIB Financing	±\$8,787,420
TOTAL:	\$29.3MM

I

SUMMARY OF MAJOR RIVERFRONT AGREEMENTS

Construction of the public infrastructure portion of Phase IIIB will create an estimated 400 jobs during construction, yielding a \$70 million regional economic impact from 2019-2020. Phase IIIB private capital investment is estimated to be approximately \$85 million which will also create an additional 450 jobs during construction.



Phase III Renderings of Music Venue and Smale Riverfront Park

II

FEDERAL/STATE GRANT FUNDING AND FINANCING

**FUNDING OBTAINED, SAVINGS RETAINED AND/OR
BENEFITS DERIVED FOR COUNTY TAXPAYERS**

FEDERAL/STATE GRANT FUNDING AND FINANCING

**SINCE 2008, SPECIAL PROJECT COUNSEL HAS WORKED TO SECURE
\$96.6 MILLION IN FEDERAL/STATE FUNDING**

Since 1998, a total of \$1.8 billion in public dollars has been invested on the riverfront, with the County investing \$1.3 billion, and the City, approximately \$247 million, to reshape the Central Riverfront, with the balance from federal and state sources and private developer payments. At the commencement of the Project, with the exception of Fort Washington Way, which was primarily funded with Federal dollars, approximately 90% of the Central Riverfront expenses were originally derived from local funding sources only. Special Project Counsel has aggressively investigated and pursued alternative sources of funding so that projects within The Banks development may be properly funded and advanced regardless of the economic constraints at the local level.



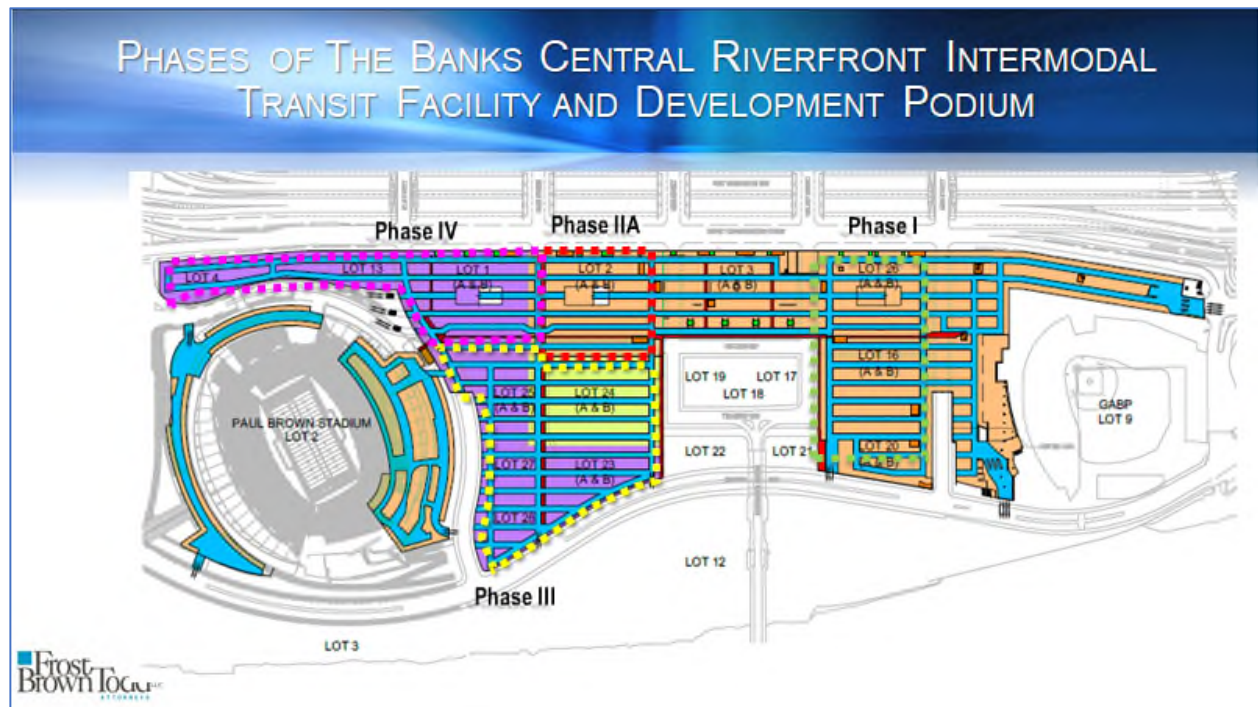
Special Project Counsel had led efforts in concert with the City/County political leaders at all levels to creatively seek and marshal more than 25 funding sources from Federal, State and Local

II

FEDERAL/STATE GRANT FUNDING AND FINANCING

governments along with required private capital contributors to enable the projected \$2.8 billion Project.

The Banks private improvements are leveraged to advance construction of public infrastructure improvements through P3 tax increment financing ("TIF") service agreements executed in connection with each lot as it is transferred for development. Tax increment financing revenues are utilized to finance phases of the street grid, public infrastructure, utilities and intermodal transit facility that, upon completion, will include over 8,000 parking spaces supporting The Banks Project, as well as light rail, streetcar, bus, bicycle and pedestrian traffic. Phase II of The Banks was funded with \$6.5 million of Banks generated TIF revenues and \$24.6 million of Federal funds. Phase III public infrastructure of The Banks was funded with \$22 million of TIF revenue generated from Phase I private development; the balance of the necessary funding was from a \$7 million State Grant.



In an effort to obtain federal funding, Special Project Counsel analyzed applicable statutes and regulations and determined that parking garage facilities (which extend over eight city blocks) developed adjacent to the Riverfront Transit Center and major transportation arteries could be considered "Intermodal Transit Facilities" and therefore eligible for Federal funding.

The Banks Central Riverfront Parking Garage Facility also known as an "Intermodal Transit Facility" serves multiple purposes – parking for the CBD and The Banks; makes possible \$1 billion in private development above the Ohio River 100-year floodplain; and serves as an intermodal transportation and transit facility with ready access to rail, bike, highway, bus and other transportation linkages serving the entire region.

Special Project Counsel determined that the design of the intermodal transit facility, with the "street grid" integration above, provided "collectors" and "distributors" for vehicular access to adjacent highways, and bridges resulting in reduction of congestion and CO2 emissions throughout the CBD.

Congestion Mitigation –Intermodal Access and Collector Network

Intermodal Access and Collector Network will reduce congestion by:

- Providing access network for satellite parking alternative on the periphery of downtown linking users to the downtown by the Central Loop Shuttle service
- Three buses purchased and incorporated in the intermodal facility to facilitate the Central Loop transportation
- Increasing the mobility of people and goods thus reducing the burden of traffic in the CBD
- Providing an efficient facility for vanpool, rideshare, and park and ride programs
- Providing a facility that has the capacity to expand the rideshare program

Ultimately, working with OKI Regional Council of Governments, and state and federal legislators, the Project was determined to be eligible for Congestion Mitigation, Surface Transportation, FTA, EDA, stimulus and other public funding which became critical components of the P3 funding and financing structures. Special Project Counsel drafted The Banks Transportation Implementation Plan for submission to USDOT and FTA.

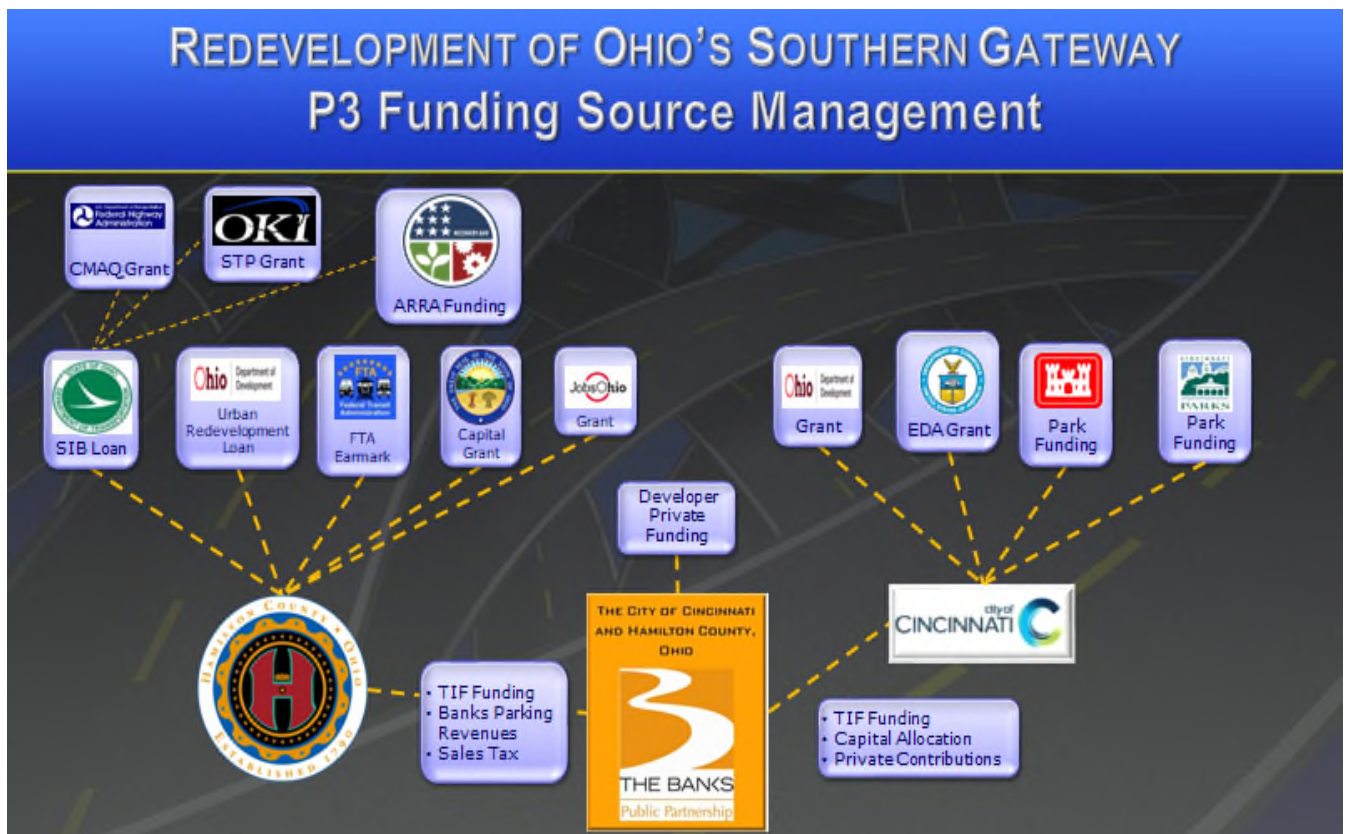
II

FEDERAL/STATE GRANT FUNDING AND FINANCING

Over 1 million square feet of commercial, residential and retail uses has been constructed in the first decade of development. Such P3 agreements included complex property issues involving multiple distinct parcels (including air and ground lots), allocation of responsibility for financing, construction, maintenance and operation costs, utility maintenance and upgrades, and parking accommodations among public and private parties.

Given the unique nature and complexity of a multitude of issues presented on The Banks Project, Special Project Counsel innovatively developed multiple sources of public-private funding and creatively structured P3 Agreements accordingly.

Special Project Counsel directly assisted the City-County Banks Project Team to secure the following funding and financing sources:



As set forth on pages 12-13, more than \$96.6 million has been obtained in grant funding and financing to date.

Completion of Phase IIIB will also enable the development of the Music Venue and the next phase of Smale Riverfront Park, which will result in a capital investment in excess of \$25 million and create an additional 300-350 jobs during construction and yield an economic impact annually of \$25 million.

SUMMARY OF BANKS FUNDING AND FINANCING MODEL FOR PHASE II AND III: ±\$90 MILLION

PHASE II: 82% FEDERAL FUNDS (\$24.6 MILLION)/18% BANKS TIF FUNDS (\$6.5 MILLION)

PHASE IIIA: 75% BANKS TIF FUNDS (\$22 MILLION)/25% STATE CAPITAL GRANTS (\$7 MILLION)

PHASE IIIB 41% STATE FUNDS (\$12 MILLION)/27% DEVELOPER PAYMENTS (\$8 MILLION)

**31% COUNTY FINANCING FROM BANKS GENERATED PARKING REVENUES
(\$9 MILLION)**

To demonstrate how the City-County's burden of bearing all of the public infrastructure costs has shifted, from primarily "local" in Phase I to Banks Development generated revenue sources and state and federal assistance as each Phase progresses, the actual funding and financing for Phases I, II and III is outlined above and the chart on the following pages.

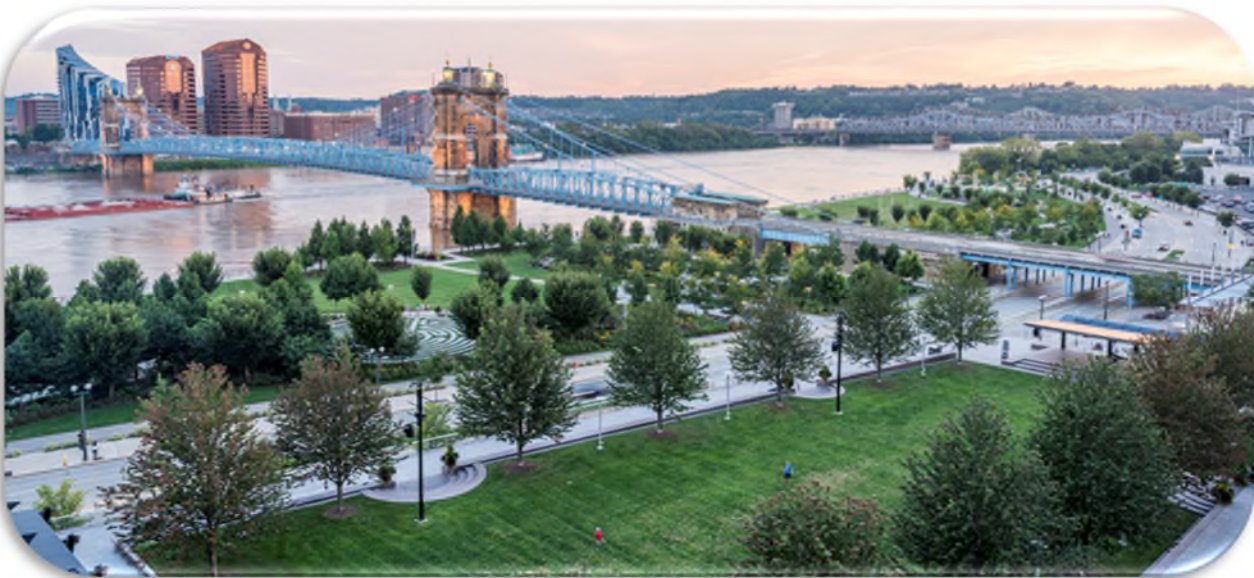


Figure 12 Phase IIIB Rendering of Music Venue, Race Street Pedestrian Esplanade and Smale Riverfront Park

II

FEDERAL / STATE GRANT FUNDING AND FINANCING

As set forth above, Special Project Counsel, in working with the City-County Banks Project Team, has sought to leverage the successful P3 model of The Banks, and its return on investment to the region, as a funding model to advance each phase of development. In each instance, *mitigating* the utilization of City and County General Fund dollars and *maximizing* The Banks generated revenues and State/Federal grants help ensure the long-term sustainability of The Banks.



SECURING THE SUSTAINABILITY OF THE BANKS

100% of Phases II, IIIA & IIIB have been funded by combination of a) Federal, b) State Grants and c) Banks Generated Sources received as a result of The Banks Development Agreements thereby eliminating the need for City and County general Local Funding.

**A TOTAL OF \$90 MILLION OF FUNDING –
INDEPENDENT OF CITY/COUNTY LOCAL SOURCES**

II

FEDERAL/STATE GRANT FUNDING AND FINANCING

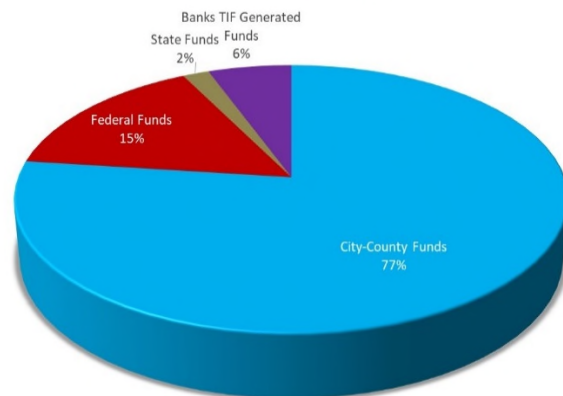
The evolution of The Banks Funding and Financing Model is depicted graphically below.

Given the constraints on City-County local funding, the City-County Banks Project Team aggressively pursued alternative sources of funding. Importantly, the structure of the Development Agreements negotiated with the Master Developer in 2007, ensured future funding availability as each phase of The Banks progressed.

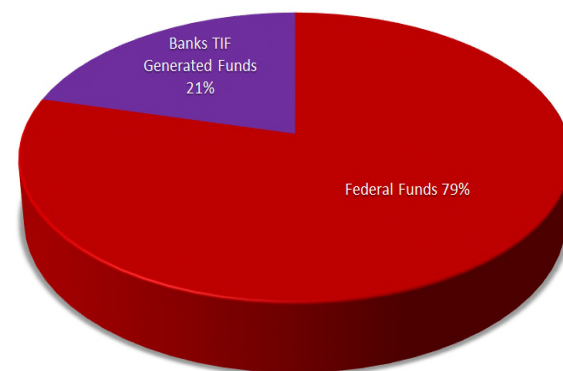
Such sources included required developer payments, structured as deferred purchase price payments, as well as the City/County management and control over TIF revenue generated from private development. As a result, the City/County have retained control over \$132 million in funding from just these two sources alone on Phases I and II of The Banks. In addition, as set forth in this Report, the City/County have pursued federal and state funding to supplement the local funding allocated to the Project and have been able to utilize \$96.6 million in State and Federal funds to advance the Project.

The City and County have been able to effectively demonstrate to Federal and State leaders that The Banks is a model P3 development structure that has achieved transportation, transit and urban redevelopment in an accelerated timeframe. The "rebirth" of Cincinnati's riverfront has catalyzed development not only along the Ohio River, but also the Central Business District, Over-the-Rhine and throughout Hamilton County.

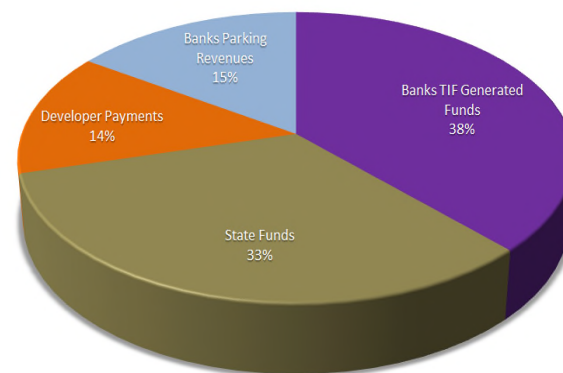
Banks Phase I Public Infrastructure Costs



Banks Phase II Public Infrastructure Costs



Banks Phase III Public Infrastructure Costs





RIVERFRONT STAKEHOLDER RELATED AGREEMENTS AND STRUCTURES

FUNDING OBTAINED, SAVINGS RETAINED AND/OR BENEFITS DERIVED FOR COUNTY TAXPAYERS:

RIVERFRONT STAKEHOLDER RELATED AGREEMENTS AND STRUCTURES: \$139.6 MILLION

CINCINNATI REDS/GREAT AMERICAN BALL PARK SAVINGS TO TAXPAYERS:	\$62.5 MILLION
CINCINNATI BENGALS/PAUL BROWN STADIUM SAVINGS TO TAXPAYERS:	\$29.4 MILLION
US BANK ARENA SAVINGS TO TAXPAYERS:	\$32.6 MILLION
NATIONAL UNDERGROUND RAILROAD FREEDOM CENTER SAVINGS TO TAXPAYERS:	\$15.1 MILLION

THE CINCINNATI REDS AND

GREAT AMERICAN BALL PARK: \$62.5 MILLION IN SAVINGS

Following PricewaterhouseCoopers’ revelation that the Paul Brown Stadium project would realize a \$51 million cost overrun in February 2000, the Board requested that the Prosecutor formally retain Special Project Counsel with respect to the construction of the Great American Ball Park project, scheduled to begin construction in August 2000. Prior to February 2000, Special Project Counsel had provided general advice and counsel regarding property acquisition, City-County redevelopment agreements and potential terms and conditions of the design and construction management agreements, including forms of agreements.

III

RIVERFRONT STAKEHOLDER RELATED AGREEMENTS AND STRUCTURES

Special Project Counsel assisted the County in developing a comprehensive Request for Proposal for construction auditing services that was tailored for the Central Riverfront and Great American Ball Park projects. The Board also requested that Special Project Counsel become involved in issues relating to the retention of a new project manager and the retention of a dedicated project executive to oversee the design and construction efforts on behalf of the Board with respect to the Ball Park and Central Riverfront work. In conjunction with that representation, Special Project Counsel developed the Request For Qualifications for Project Management Services that substantially modified the scope and nature of project management services on the Ball Park project to avoid overruns such as those incurred on the Paul Brown Stadium project.

One of the first contracts Special Project Counsel negotiated pertained to the auditing of the design and construction management services on the Great American Ball Park project. Special Project Counsel also

worked with the County's Project Team in the development of a comprehensive Request for Qualifications relating to the Project Management Services and a Request for Proposals for Material Testing and Inspection Services.

Project Team Agreements

Special Project Counsel crafted a detailed, well-defined set of agreements with respect to project management, construction management, design professional and environmental project management services. Each of these coordinated agreements include various provisions that require the preparation and implementation of specific management systems and procedures with respect to the management of cost, quality and scheduling of the work described below.



Cinergy Field Partial Demolition: 2001

- **Project Management Agreement**
 - Establishment and Implementation of Master Project Management Plan
 - Establishment and Implementation of Project Cost Management Plan
 - Establishment and Implementation of Project Management Information System
 - Establishment and Management of a Project Development Schedule
 - Establishment and Management of Project Development Budget
 - Oversight of Project Architect's Design Schedule, Work Plan and Quality Control Plan
 - Oversight of Construction Manager's Construction Budget, Construction Schedule and Management Systems
 - Review and Monitor Project Quality Management
- **Construction Management Agreement**
 - Establishment, Implementation and Management of Cost Management Plan
 - Responsible for Program Evaluation, Design Document Review and Value Engineering Analyses during Design Development Phases
 - Establishment, Implementation and Management of detailed Project Construction Schedule
 - Establishment, Implementation and Management of Project Construction Budget
 - Establishment, Implementation and Management of a Comprehensive Value Engineering Program
 - Establishment, Implementation and Management of Contract Project Controls and Management Systems
 - Establishment, Implementation and Management of Project Documentation System
 - Establishment, Implementation and Management of Trade Contractor Change Order, Construction Change Directives, Payment Applications and Construction Schedules



Figure 13 Great American Ball Park Superstructure Construction

- Development and Implementation of Comprehensive Construction Quality Management and Assurance Plan
- Development and Implementation of Procedures for Requests for Information, Shop Drawings, Project Data Samples and Submittals
- Development and Implementation of Uniform System for Bidding
- Management and Coordination of Work on the Project
- Management and Implementation of Project Safety Program
- **Design Professional Agreement**
 - Development of Design Documents that meet a specific Standard of Care for the design and construction of large scale and complex projects
 - Development and Implementation of Quality Control Plan with respect to Design Document Issuance
 - Development and Implementation of Comprehensive Staffing and Work Plan defining deliverables and tasks required for each Phase of the Project
 - Development of all Design Documents in full Compliance with Standard of Care and Contract Requirements
 - Review and Evaluation of estimates of Construction Cost at the completion of each phase of Design Document Development
 - Issuance of Design Documents pursuant to Design Schedule and specific Document Delivery Dates established in Design Professional Agreement
 - Review and Evaluation of the progress and quality of the Work on the Project to ensure compliance with Contract Documents
 - Review and Evaluation of Change Orders, Applications for Payment and Submittals



Great American Ball Park Superstructure Construction

III

RIVERFRONT STAKEHOLDER RELATED AGREEMENTS AND STRUCTURES

- Trade Contractor Agreements/General Conditions
 - As part of the overall protections included in the four principal agreements, the Trade Contracts and the General Conditions provisions were substantially modified. These modifications have led to considerable savings in dollars, as well as claims and the mitigation of schedule impacts.
 - Substantial revisions were made to the following areas: Scope of services; Document review and management; Schedule; Source and management of delay issues; Change order submission management; Claims prevention, submissions and management; and Project completion.
 - The General Conditions also establish specific procedures regarding off-site inventories that substantially mitigate the legal risks associated with storing County-owned inventory off the project site.



Great American Ball Park - 2015

Cincinnati Reds Lease

Special Project Counsel negotiated lease amendments with the Cincinnati Reds regarding both the Cinergy Field and Great American Ball Park leases. Special Project Counsel also successfully negotiated with the Reds to cap the County's maximum contribution to the Great American Ball Park's construction, with the balance of the Ball Park costs to be funded by the Team in order to maintain the County's budgetary constraints. This resulted in \$14.5 million in savings to the County taxpayers. Special Project Counsel, in conjunction with the County's Project Team, also worked to shift certain Ball Park-related elements out of the County's budget which resulted in initial savings of \$2 million and, over the life of the lease, \$10 million in future capital repair and replacement costs.

Special Project Counsel also assisted in the negotiations regarding:

- ✓ Provisions setting forth the maximum County's contribution to the maintenance and operation of Great American Ball Park, saving the County taxpayers millions of dollars each year;
- ✓ Enforcement of the terms and conditions of security requirements;
- ✓ Interim and final parking issues in the context of all of the existing City/County agreements and other lease agreements; and
- ✓ Purchase and installation of a new scoreboard with cost structures saving the County in excess of \$12.5 million.

Claims Management

As mandated by the County Board, Special Project Counsel worked with the County-Reds Project Team to ensure that the Ball Park project remained on time and within budget. As part of those efforts, Special Project Counsel and the Great American Ball Park Project team:



III

RIVERFRONT STAKEHOLDER RELATED AGREEMENTS AND STRUCTURES

- ✓ Worked closely with the Cincinnati Reds regarding budget, schedule and quality of work issues;
- ✓ Initiated principals' meetings focused on budget, schedule and quality of work issues;
- ✓ Conducted in-depth reviews and analyses of budgets and forecasts;
- ✓ Reviewed contractor bids for statutory and bid document compliance;
- ✓ Reported bid irregularities and provided advice regarding contract awards;
- ✓ Assisted in the development of revised small business participation requirements; and
- ✓ Reviewed and analyzed claims submitted by trade contractors.

Special Project Counsel participated in regular project meetings to monitor the status of issues that could impact the County. Special Project Counsel also participated in regular claims meetings with the County's construction manager to coordinate the resolution of trade contractor claims.

When trade contractors made claims to increase contract sums and/or timelines, Special Project Counsel coordinated the securing and review of pertinent materials for their defense and resolution. Special Project Counsel coordinated requests for contractually required back-up documentation from the trade contractors that were necessary to allow full evaluation of claims, including estimates, scheduling, payroll and other detailed records.



Cinergy Field/Great American Ball Park Construction - 2001

Special Project Counsel assisted in the claims review and in the defense of claims and led the County's team in attempting to resolve the claims amicably either directly with the trade contractor or through mediation or litigation as a last resort. As a result of Special Project Counsel's active role in the claims management process, the County saved more than \$15 million over the amount of the claims asserted.

This savings does not capture claims avoided by virtue of Special Project Counsel's proactive participation in project meetings, anticipation of potential claims, and resolution of issues before they escalated into a situation that could involve a claim.

Steel Service Litigation

The County was sued in federal court in 2004 by Steel Service Corporation ("Steel Service"), the structural steel contractor for Great American Ball Park. Steel Service alleged entitlement to more than \$6.5 million in additional compensation on its \$33+ million contract as a result of alleged delay, acceleration and impact damages caused as a result of poor design drawings for the Ball Park. When the suit was filed, the County demanded that HOK, the Ball Park's architect, defend the claims, but it refused to do so.



Cinergy Field/Great American Ball Park Construction - 2002

After extensive depositions and document discovery, the County moved for and secured summary judgment based on the favorable terms of the extensively modified standard contract under which Steel Service was retained. While Steel Service prevailed on an appeal of the summary judgment, the appeal did not affect the underlying factual issues, and the County retained substantial

III

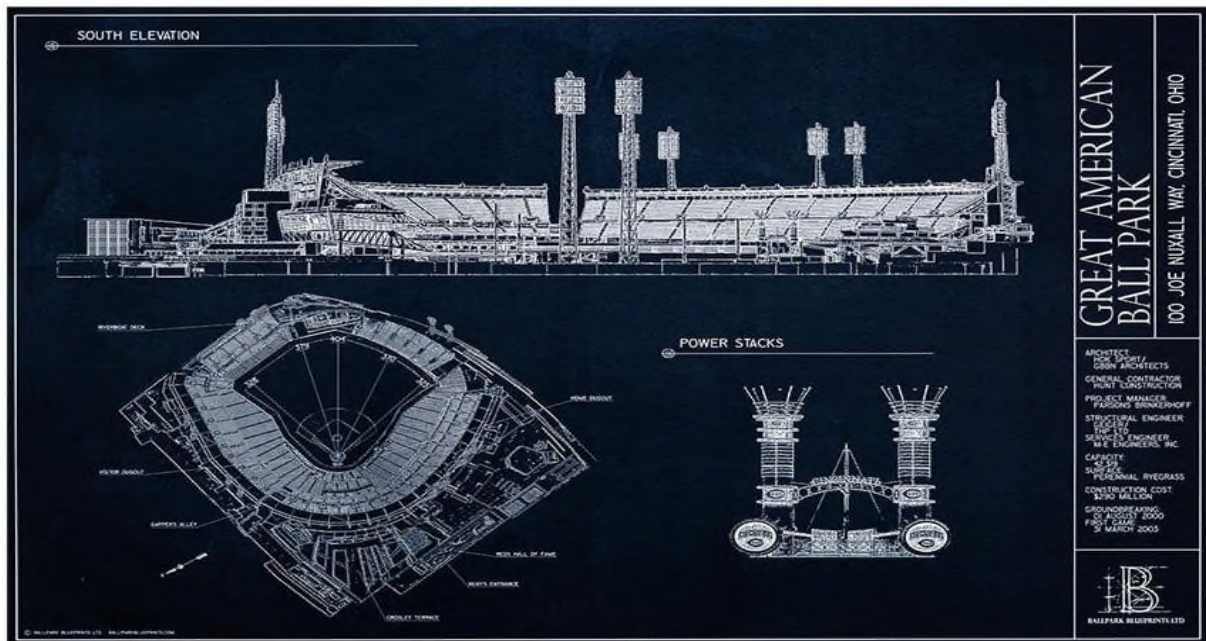
RIVERFRONT STAKEHOLDER RELATED AGREEMENTS AND STRUCTURES

contractual defenses for trial. When the case returned to the trial court, the County participated in settlement discussions with Steel Service. By that point, the County was able to leverage its separate pursuit of claims against HOK by securing HOK's participation in the settlement discussions. As a result, the County settled with Steel Service in return for a contribution of \$900,000 and dismissal of its counterclaims, and HOK contributed an additional \$900,000.

Design Team Litigation

In 2006, the County was sued by HOK, the Ball Park Project architect, for approximately \$2.2 million, for additional services HOK claimed it provided under its contract with the County.

The County also sought a contribution from HOK for any liability it incurred as the result of the Steel Service litigation. After undergoing extensive document discovery, the County assembled a team of experts to respond to HOK's claim for additional payment and to analyze project cost to determine what amount was associated with HOK's errors and omissions. The County used its team of experts to review the as-built conditions at the Ball Park and determine the extent and cost of the repairs necessitated by HOK's negligence.



The County was able to successfully negotiate a settlement with HOK on both its claims against the County and the County's counterclaim. In addition to its contribution of \$900,000 to the

III

RIVERFRONT STAKEHOLDER RELATED AGREEMENTS AND STRUCTURES

settlement of the Steel Service litigation, the County was able to negotiate a resolution of HOK's claims against it for approximately one half of the original claim.

The County also successfully resolved its claims against HOK, and HOK agreed to pay the County \$2,350,000 on its claim for errors and omissions in addition to HOK's payment of \$900,000 on the Steel Service claim.

Great American Ball Park Scoreboard

The original Great American Ball Park scoreboard was purchased from the low-cost bidder, Trans-Lux, which exited the marketplace for large-scale scoreboards shortly after Great American Ball Park was completed. Special Project Counsel assisted the County in avoiding litigation over the scoreboard and structuring a practical solution for its replacement. According to the Reds, by 2006, the scoreboards, which were County-owned, suffered from both isolated and systemic outages, which were blamed on the obsolete design of the computer hardware and software that powered the scoreboards.



Special Project Counsel assisted in the negotiation and drafting of an amendment to the Lease with the Reds to allow the replacement of the scoreboard in 2009. The amendment provided for the Reds to assume primary responsibility for the scoreboard, including contracting for its replacement

and maintenance responsibilities. In return, the County reduced the rent due from the Reds for three years and used already-existing capital reserves to pay for a larger portion of the Ball Park's utilities for a limited time. The County's concessions, which involved no new outlays of cash, were comparable to its obligations for replacing the old scoreboards with equivalent functionality, and the County had no role in paying for upgrades to the scoreboard. The negotiations with the Reds helped mitigate a substantial risk of a claim for scoreboard failure that may have exposed the County to claims for full replacement costs of the system as well as damages for lost income.

THE CINCINNATI BENGALS AND

PAUL BROWN STADIUM:

\$29.4 MILLION IN SAVINGS

In 2014, Special Project Counsel, in working with the County Prosecutor, successfully negotiated an amendment to the Cincinnati Bengals Lease with Hamilton County to waive certain height restrictions with respect to Block 2 of The Banks that enabled the City and County to move forward with Phase II of The Banks - the development of General Electric's \$90 million US Global Operations Center and the \$75 million Radius residential and retail project, a nine-story residential building with 291 apartments and 19,000 square feet of street-level retail on the west side of the National Underground Railroad Freedom Center.

In 2018 and 2019, Special Project Counsel, under County Board's leadership and guidance, worked with the County Prosecutor's office, Administrator Aluotto and the Cincinnati Bengals to develop a



III

RIVERFRONT STAKEHOLDER RELATED AGREEMENTS AND STRUCTURES

comprehensive plan to ensure the sustainability of the Bengals and Paul Brown Stadium into the future.

The County and the Bengals worked collaboratively to ensure that necessary short-term capital repairs to the aging Paul Brown Stadium would be addressed through the remaining balance of the initial Lease term. Although such agreements resulted in the County committing to significantly increase its annual capital contributions in the short term, deferring necessary capital improvements would only increase the cost and compromise the integrity of the Stadium. In addition, as part of the Memoranda of Understanding with the Bengals, the Bengals agreed to defer its requests for potential Lease-required enhancements to Paul Brown Stadium until 2024. The goal of such Lease-required enhancements was to make sure that Paul Brown Stadium, constructed in 2000, would be maintained and improved over the term of the Lease consistent with other NFL stadia.

Such enhancements would ensure the long-term sustainability of the Stadium, as well as the Bengals' franchise in Cincinnati. Furthermore, recent renovations and enhancements to existing



NFL stadia have averaged approximately \$170 million, with at least seven NFL stadia renovations

in the last five years exceeding \$360 million. Pursuant to the terms of the Lease, the Bengals could have requested that the County consider performing substantial enhancements to Paul Brown Stadium in the very near term potentially well in excess of \$150 million. However, recognizing County taxpayer and other constraints, the County and the Bengals agreed the first priority was to ensure the stadium was repaired and improved to preserve and protect the County taxpayer's investment. In consideration of the County's commitments set forth in Memoranda of Understanding, including the increased capital funding through 2026, the Bengals also agreed to eliminate the County taxpayers' obligations to reimburse the Bengals for certain game day expenses that totaled approximately \$29.4 million over a nine-year period.

The Bengals requested, in consideration for the Bengals' commitments under the MOU's, including the deferral of enhancements to PBS, that the County acquire property west of Paul Brown Stadium in order to ensure Bengals' patrons would continue to enjoy its fifty-plus year tradition of tailgating as The Banks Project is completed. In addition, such property will also provide the Team with the option and flexibility to develop an indoor practice facility (at its sole cost), as many NFL teams have recently initiated.



Acquisition of such property by the County also ensures the sustainability of The Banks by providing additional daily and event parking as The Banks continues to be developed and completed between the Great American Ball Park and Paul Brown Stadium. The development of the property

currently owned by Hilltop Basic Resources will further enhance the City's front door and the Southern Gateway to Ohio.

The Bengals and the County reached mutually beneficial terms and conditions under the MOU's that ensure the long-term sustainability of Paul Brown Stadium and The Banks Development, and also result in substantial savings to the County taxpayers in the short and long term.

THE US BANK ARENA:

\$32.6 MILLION IN SAVINGS

The County retained Special Project Counsel on litigation adverse to the owners of U.S. Bank Arena at the end of 2002. Before Special Project Counsel was retained, the County faced significant legal prejudice; the County had been ordered, by a writ of mandamus, to file an eminent domain lawsuit against the Arena's owners to establish compensation for "property" rights for parking, pedestrian access and staging that were deemed to be "taken" by the County during the construction of the Great American Ball Park. The appeal of the writ to the First District Court of Appeals, before Special Project Counsel was retained, was also unsuccessful. As a result, the County was liable to the Arena's owners for damages.



Figure 14 Riverfront Stadium and US Bank Arena 1996

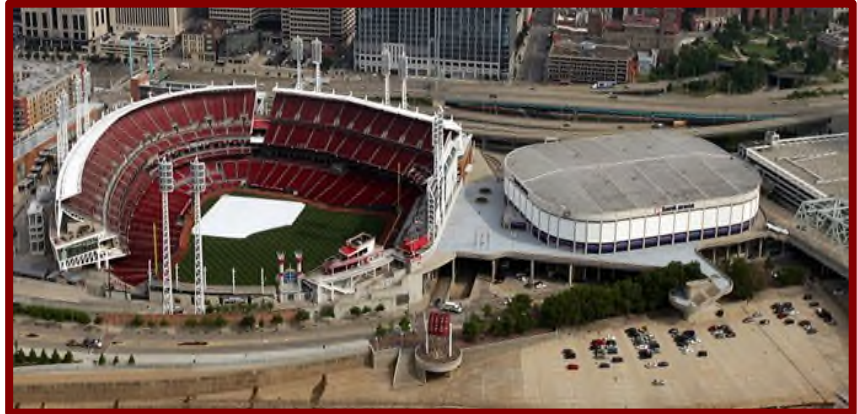
The Arena sought damages from the County in excess of \$34 million as a result of the taking. By the time the second phase of litigation began, the Arena's prior owners had gone into bankruptcy.

III

RIVERFRONT STAKEHOLDER RELATED AGREEMENTS AND STRUCTURES

The new owners, who took over the previous owner's claim, were quick to blame the facility's troubles on the County and contended the problems directly caused the Arena property to become devalued.

When the Board asked Special Project Counsel to enter an appearance, trial was imminent. Significant discovery, including depositions and document discovery, had not been completed. On behalf of the



County, Special Project Counsel worked with the Prosecutor's Office, secured a continuance, and promptly filed a motion for partial summary judgment to limit the Arena's claims for lost parking revenues. That motion was granted, and the decision was affirmed on an appeal.

As the trial neared, the County prevailed in the trial court on another significant issue — whether the taking of the Arena's lease rights was temporary or permanent. The trial court sided with the County and concluded the taking was temporary. The appellate and trial courts' rulings created the impetus to settle the case on terms favorable for the County on the eve of trial. Rather than making a substantial outlay of new cash, the County was able to fund the bulk of the settlement from \$2.8 million in parking proceeds that the Arena was entitled to receive, and such funds collected and segregated from Arena events over the pendency of the case. In mitigating the Arena's \$34 million claim, the County paid the Arena's owners \$1.4 million in compensation and obtained a Parking Cooperation Agreement that established parking revenue sharing, as well as defining the County's parking facilities that would be made available for Arena Events.

THE NATIONAL UNDERGROUND RAILROAD

FREEDOM CENTER

\$15.1 MILLION IN SAVINGS

Special Project Counsel, working with the County's Project Team, the City, SORTA and the Ohio Arts and Sports Facilities Commission, successfully addressed and resolved issues outline below with respect to property acquisition, development and construction of the Block 3 garage that

RIVERFRONT STAKEHOLDER RELATED AGREEMENTS AND STRUCTURES

serves as the support structure for the National Underground Railroad Freedom Center ("NURFC"), the related facilities, including the Riverfront Transit Center, as well as the funding, design and construction of the NURFC.

- **Ownership Rights and Responsibilities:** Ownership and operational management issues between and among County, Transit Center (SORTA/City) and the NURFC;
- **NURFC and Garage Facility Design and Construction Integration:** Agreement provides for the County's construction of Museum-related elements in the Block 3 Garage which ultimately saved the NURFC over \$3.5 million in capital costs;
- **Financial Security:** The NURFC was required to establish a \$6.3 million security fund to ensure performance under the County/NURFC Declaration;
- **Parking:** including the reduction of the number of parking spaces to be dedicated for use by the NURFC;
- **Waterproofing:** costs and maintenance responsibilities with respect to the Block 3 garage structure waterproofing membrane were shifted from the County to the Freedom Center and the City; and
- **Property Acquisition:** negotiated the Freedom Center conveyance of its interests in Lot 7 in order to permit 1.5 acres of riverfront property to be utilized for The Banks development. .



IV

ECONOMIC INCLUSION

FUNDING OBTAINED, SAVINGS RETAINED AND/OR BENEFITS DERIVED FOR COUNTY TAXPAYERS	
ECONOMIC INCLUSION: 2008-2019	
SBE PARTICIPATION:	30% GOAL; 33.2% ACTUAL
SBE PROFESSIONAL SERVICES:	10% GOAL; 13.1% ACTUAL
MBE PARTICIPATION:	14.4%
WBE PARTICIPATION:	3%
DBE PARTICIPATION:	5%-9%
<u>WORKFORCE PARTICIPATION</u>	
MINORITY PARTICIPATION:	16.01%
FEMALE PARTICIPATION:	1.82%

INCLUSION EFFORTS

As part of the 2006 City-County Points of Understanding, the City and County agreed that The Banks Working Group would establish a Joint Policy for Small Business Enterprise, Economic Inclusion and Workforce Development and Responsible Bidder Requirements for The Banks Project. Special Project Counsel worked closely with The Banks Working Group, City, County and Master Developer to draft the policies that were unanimously approved and adopted by the public entities in November 2007. Such policies were a first to be jointly adopted by the City and the County, and

IV

ECONOMIC INCLUSION

have served as a template for the City and County's economic inclusion and responsible bidder policies for all procurements and services.

Economic Inclusion and Workforce Development

The Banks Economic Inclusion Policy promotes business opportunities for small business enterprises, including minority-owned and women-owned firms, in the areas of contracting and business ownership, by using strategies such as outreach, marketing and oversight. The Policy also supports and encourages the participation of small business enterprises, including minorities and women, in the retail, hospitality and entertainment components of The Banks. This has been accomplished through active recruitment, facilitation of relationships and aggressive information sharing.



For the federally funded portions of the development, the City and the County have established a Disadvantaged Business Enterprise ("DBE") program that is intended to ensure non-discrimination, to level the playing field and to help remove barriers for disadvantaged businesses. Specific DBE goals are established by the Ohio Department of Transportation.

For all other portions of the development, the goal for The Banks Project is that small business enterprises will annually receive percentages of contracts and awards that will represent at least:

- 30 percent for construction

IV

ECONOMIC INCLUSION

- 15 percent for commodities and general services
- 10 percent for professional services

The Policy seeks to facilitate the creation of jobs for unemployed and underemployed individuals. The Policy requires that contractors use their good faith efforts to increase the utilization of minorities and women in the skilled construction trades and demonstrate their good faith efforts to achieve The Banks workforce participation goals of 11 percent minority and 6.9 percent women participation in each trade with a combined goal of 22 percent. The City, the County and a project consultant continue to work

in conjunction with various community-based

workforce development programs to facilitate

reaching such goals. To facilitate the

implementation and administration of The Banks

inclusion policy, the Master Developer hired an inclusion

outreach consultant. This consultant has been

responsible for conducting extensive outreach

programs, tracking, monitoring and preparing monthly participation reports on inclusion goals.



Responsible Bidder Policy

The Responsible Bidder Policy ensures that:

- Skilled and experienced contractors and workers will be employed to build The Banks;
- Workers will be paid prevailing wages and have access to retirement or pension plans; and

IV

ECONOMIC INCLUSION

- Bidders do not have any negative history including revoked licenses and/or uncovered final judgments.

This policy allows the developer (on the private development) and the City and the County (on the public development) to request and conduct reviews of bids to ensure a contractor is meeting all the requirements of the responsible bidder policy.

The implementation of these Policies on The Banks Project have resulted in the highest level of economic inclusion and workforce participation to date in the City and the County.



The Board of County Commissioners of Hamilton County and the City of Cincinnati deserve accolades for their leadership and direction in transforming Cincinnati's urban riverfront into a new gateway to Southwestern Ohio. Special Project Counsel is honored for the opportunity to serve the community through our representation of Hamilton County on these matters.

Over the past 22 years, our efforts, all at the direction of the Board and in collaboration with the City-County Banks Project Team, have resulted in substantial savings for the County taxpayers. Our work has also allowed the County to leverage its public investment to obtain additional resources in order to stimulate economic development and investment throughout our region. Additionally, Special Project Counsel has assisted the County in mitigating claims and risks of significant liability. These direct economic benefits far exceed, by a factor of more than twenty times, the discounted cost of our services.

Special Project Counsel is proud to be one of the key partners in working with the Board of County Commissioners, the City of Cincinnati and their respective constituents, and the City-County Joint Banks Steering Committee, to effectively and efficiently transform our riverfront.



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