

COMMISSIONERS
Jimmy Dimora
Timothy F. Hagan
Peter Lawson Jones

December 28, 2010

Michael E. Cox,
Director of Parks and Recreation
City of Cleveland
500 Lakeside Avenue
Cleveland, Ohio 44114

RE: Post Closing Items

Dear Director Cox:

The purpose of this letter is to memorialize certain post-closing agreements related to the City's transfer of Convention Center to the County.

Joint Electric and Steam Costs

The County recognizes that the physical separation and individual metering of electric usage for Convention Center and Public Auditorium will not occur for several months after the closing. The County also recognizes that with respect to the steam heating, the physical separation of the Convention Center from Public Auditorium and City Hall will not occur for several months after the closing. As a result, the City will be receiving bills for both electric and steam that include the Convention Center and will require reimbursement from the County for the portion of the electric bills associated with Convention Center usage post-closing. The County hereby agrees to reimburse the City for its proportional usage of the electric from the date of closing until such time as the new substation is installed and fully operational and the electric is separately metered. The City will invoice the County on a monthly basis that provides a copy of the electric bill and a calculation of the County's proportional share. The County's proportional share shall be equitably determined based upon the respective uses of the Convention Center, the Public Auditorium and City Hall during the period in question. The City shall provide appropriate supporting documentation showing how the County's proportional share was determined.

Fire Alarm System

The City's fire alarm system currently services both Public Auditorium and the Convention Center. The cost associated with the City's contract for the operation and servicing of the system is \$3,750 per month. The County will reimburse the City for fifty percent (50%) of such cost, or \$1,875.00 per month. For the month of December, 2010 and the last month prior to separation if not a complete month, the monthly payment will be prorated for the number of days in such month the system remained in place for both facilities. The County and City will also coordinate as appropriate to ensure that the appropriate parties are promptly notified in the event of a fire alarm is triggered that originates in the Convention Center after its transfer to the County.

Partial Release of Hamilton Ave. Water Easement

The existing water main easement is located within the old right-of-way for Hamilton Avenue, with the actual water main located along the north side of such easement. The County has asked the City to permit the release of the southern 8.5 feet of the existing easement to allow the new parcel for the Medical Mart to be created. The City does not object to this limited release of land from the water main easement.

County Administrator's Office
1219 Ontario Street, Cleveland, Ohio 44113, (216) 443-7215, Fax (216) 443-8008
Ohio Relay Service 711

Description of Land

Attached to this letter at Appendix 1 are the legal descriptions to be inserted as Exhibit A to the Definitive Agreement dated November 18, 2010 between the County and the City (the "Definitive Agreement").

Separation Plan

Attached to this letter at Appendix 2 is a copy of the updated Separation Plan to be inserted as Exhibit C to the Definitive Agreement. It is the County's understanding that the Separation Plan will be further updated upon the City's completion of its review of certain drawings as identified in the Separation Plan.

City Renovations to Public Auditorium

A summary description of the City's planned renovations to Public Auditorium as set forth in Section 18.2 of the Definitive Agreement will be provided by the City within 60 days of closing, provided that such planned renovations do not adversely impact the Medical Mart/Convention Center's project costs or schedule.

Legal Description of Public Auditorium

Attached to this letter at Appendix 3 is the legal description to be inserted as Exhibit D-1 to the Definitive Agreement.

Buyer's Improvement Plan for Malls B and C and Project Improvement Budget.

The County will submit to the City its final Baseline Improvement Plan for Malls B and C for review and approval through the City's standard permitting and approval process, together with the Project Improvement Budget related thereto, as set forth in Section 10.5.3 of the Definitive Agreement within 180 days of closing.

Subsurface under Lakeside Avenue Right-of-Way

Attached to this letter at Appendix 4 is the legal description to be inserted as Exhibit W to the Definitive Agreement. The parties acknowledge that the legal description and the vacation plat is still under review by the City and the County.

Pedestrian access to bridge from Mall C to Browns Stadium

The County confirms that pedestrian ingress and egress between the stairs at the northwest corner of Mall C and the bridge to Browns Stadium will continue to be permitted in a safe and prudent manner, provided, however, that the parties acknowledge that during the construction period access will be allowed only during Browns games and other special events held at the Stadium for which special events the County and MMPI will be given at least 60 days prior written notice. The County and the City will cooperate in good faith with each other, MMPI and the Browns to permit such continued access upon terms agreeable to all parties.

Certification of Structural Support under Malls B and C

Attached to this letter at Appendix 5 is a copy of correspondence dated November 19, 2010, December 21, 2010 and December 23, 2010 from Osborn Engineering. Such letters provide confirmation of the structural capacity of Malls B and C upon completion of construction and live load criteria to be met upon completion of construction. Based on such confirmation the County hereby certifies that the condition set forth in Section 7.3.3 of the Definitive Agreement has been met.

Periodic Structural Reports for Mall C

The County shall provide (or shall cause MMPI to provide) to the City an engineering report from a qualified structural engineer that updates the City on the then current condition of the structural support for Malls B and C (the "Engineering Report"), and the County shall be responsible for ensuring that the certification in the foregoing paragraph remains true and correct throughout the anticipated 50-year useful life of the Convention Center. The first Engineering Report shall be provided on the date that is 3 years after the Convention Center opens and subsequent Engineering Reports shall be provided every 3 years thereafter.

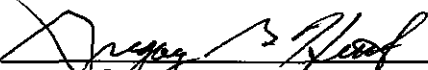
This letter may be executed in one or more counterparts, with each such counterpart being deemed an original instrument and all such counterparts together constituting the same agreement, and shall be governed by and construed under the laws of the State of Ohio, without giving effect to the principles of conflicts of law. Any action, lawsuit or proceeding arising out of or relating to this letter shall be brought in the Courts of Cuyahoga County, Ohio, which shall have jurisdiction over all related counterclaims. Each of the parties irrevocably submits to the jurisdiction of that court in any such action, lawsuit or proceeding, and waives any objection it may now or hereafter have to venue or to convenience of forum.

Please acknowledge acceptance of the foregoing by signing the enclosed originals of this side letter in the space provided and returning it to the undersigned.

Sincerely,


James McCafferty
County Administrator

APPROVED AS TO FORM:

By: 
Name: Gregory G. Hersh
Title: Assistant Pros. Atty.

AGREED TO AND ACCEPTED BY:

The City of Cleveland

By: _____
Michael Cox, Director of
Parks and Recreation

Dated: December ____, 2010

APPROVED AS TO FORM:

By: _____
Name: _____
Title: _____

Please acknowledge acceptance of the foregoing by signing the enclosed originals of this side letter in the space provided and returning it to the undersigned.

Sincerely,

James McCafferty;
County Administrator

APPROVED AS TO FORM:

By: _____
Name: _____
Title: _____

AGREED TO AND ACCEPTED BY:

The City of Cleveland

By: Michael B. Cox
Michael Cox, Director of
Parks and Recreation

Dated: December __, 2010

APPROVED AS TO FORM:

By: Richard F. Howard
Name: RICHARD F. HOWARD
Title: CHIEF CORPORATE COUNSEL

Appendix 1

Description of Land

Legal Description
Parcel "A" (South)
File No. 13258C-LD005
December 17, 2010
Page 1 of 2

Situated in the City of Cleveland, County of Cuyahoga, State of Ohio and known as being part of Original Two Acre Lots, Nos. 38 through 43, and is further bounded and described as follows:

Beginning at a stone monument found at the intersection of the center line of St. Clair Avenue N.E. (99 feet wide) with the center line of Ontario Street (99 feet wide). Thence North 55°-47'-14" East, along said center line of St. Clair Avenue N.E., a distance of 49.50 feet. Thence North 34°-03'-06" West, a distance of 49.50 feet to the intersection of the Northwesterly right of way line of said St. Clair Avenue N.E. with the Northeasterly right of way line of said Ontario Street. Thence North 55°-47'-14" East, along said Northwesterly right of way line of St. Clair Avenue N.E., a distance of 258.67 feet to the Southeasterly corner of Parcel No. 2 of land conveyed to the L & R Investment Company by deed recorded in A.F.N. 200609220388 of Cuyahoga County Records and the principal place of beginning of the land herein described;

- Course 1 Thence North 34°-17'-24" West, along the Easterly line of said Parcel No. 2 and along the Easterly lines of parcels of land conveyed to the County of Cuyahoga, a distance of 616.50 feet to a Northeasterly corner thereof and the Southeasterly right of way line of Lakeside Avenue N.E. (99 feet wide);
- Course 2 Thence North 55°-52'-41" East, along said Southeasterly right of way line of Lakeside Avenue N.E., a distance of 546.49 feet;
- Course 3 Thence South 34°-14'-59" East, a distance of 121.33 feet;
- Course 4 Thence South 55°-45'-01" West, a distance of 2.10 feet;
- Course 5 Thence South 34°-14'-59" East, a distance of 371.17 feet;
- Course 6 Thence North 55°-45'-01" East, a distance of 2.10 feet;
- Course 7 Thence South 34°-14'-59" East, a distance of 123.13 feet to the aforesaid Northwesterly right of way line of St. Clair Avenue N.E.;

Legal Description
Parcel "A" (South)
File No. 13258C-LD005
December 17, 2010
Page 2 of 2

Course 8 Thence South 55°-47'-14" West, along said Northwesterly right of way line of St. Clair Avenue N.E., a distance of 546.05 feet to the principal place of beginning and containing 7.7079 Acres (335,755 Square Feet) of land according to a survey made by Thomas J. Neff, Jr. Registered Surveyor No. 7065-Ohio in November of 2010.

Be the same more or less, but subject to all legal highways and easements of record.

Legal Description
Parcel "C" (North)
File No. 13258C-LD008
December 17, 2010
Page 1 of 2

Situated in the City of Cleveland, County of Cuyahoga, State of Ohio and known as being part of Original Two Acre Lots, Nos. 14 through 18, and is further bounded and described as follows:

Beginning at a stone monument found at the intersection of the center line of Lakeside Avenue N.E. (99 feet wide) with the center line of Ontario Street (99 feet wide). Thence North $34^{\circ}-03'-29''$ West, a distance of 49.50 feet to an angle point in the Northwesterly right of way line of said Lakeside Avenue N.E. Thence North $55^{\circ}-52'-41''$ East, along said Northwesterly right of way line of Lakeside Avenue N.E., a distance of 580.91 feet to the principal place of beginning of the land herein described;

- Course 1 Thence North $34^{\circ}-02'-27''$ West, a distance of 297.19 feet;
- Course 2 Thence South $56^{\circ}-23'-13''$ West, a distance of 286.88 feet;
- Course 3 Thence North $34^{\circ}-16'-47''$ West, a distance of 216.58 feet to a Southeasterly line of a parcel of land conveyed to the Pennsylvania Lines LLC by deed recorded in A.F.N. 200208200162 of Cuyahoga County Records;
- Course 4 Thence North $57^{\circ}-57'-05''$ East, along said Southeasterly line of land so conveyed to the Pennsylvania Lines LLC, a distance of 479.36 feet;
- Course 5 Thence South $34^{\circ}-18'-43''$ East, a distance of 151.36 feet;
- Course 6 Thence South $73^{\circ}-45'-15''$ East, a distance of 58.01 feet;
- Course 7 Thence South $34^{\circ}-20'-28''$ East, a distance of 23.20 feet;
- Course 8 Thence North $55^{\circ}-39'-17''$ East, a distance of 0.76 feet;
- Course 9 Thence South $34^{\circ}-20'-43''$ East, a distance of 279.74 feet to the aforesaid Northwesterly right of way line of Lakeside Avenue N.E.;

Legal Description
Parcel "C" (North)
File No. 13258C-LD008
December 17, 2010
Page 2 of 2

Course 10 Thence South 55°-52'-41" West, along said Northwesterly right of way line of Lakeside Avenue N.E., a distance of 231.44 feet to the principal place of beginning and containing 3.9031 Acres (170,021 Square Feet) of land according to a survey made by Thomas J. Neff, Jr. Registered Surveyor No. 7065-Ohio in November of 2010.

Be the same more or less, but subject to all legal highways and easements of record.

Appendix 2

Separation Plan

See attached.

SEPARATION PLAN

Overview

The plan by Cuyahoga County (the “**County**”) to construct the Convention Center and Medical Mart includes the demolition of the 1964 addition to Public Auditorium and the physical separation of Public Auditorium from the Convention Center, while keeping in place appropriate connectivity between Public Auditorium and the Convention Center to allow the buildings to be used as an integrated facility as needed. This separation plan (this “**Plan**”) outlines the essential terms for separating Public Auditorium from the Convention Center, and the County’s responsibilities with respect to Public Auditorium shall be limited to the terms set forth in this Plan. To facilitate this Plan, the County and the City of Cleveland (the “**City**”) will each designate a representative who will be the main contact point between the parties for coordination throughout this separation and renovation process. Such designated representatives are hereinafter referred to respectively as the “**County Representative**” and “**City Representative**.”

The County shall cause Merchandise Mart Properties Inc. (“**MMPI**”) and MMPI Cleveland Development LLC (the “**Developer**”) to comply in all respects with the County’s obligations under this Plan.

Prior to commencement of any construction or building utilities and services work or the renovation and separation plan described in this Plan, the County shall ensure that the County’s work, as described herein, complies with all current applicable ordinances and codes, including the submission of engineering drawings and specifications for review and approval by the appropriate City departments and the City Planning Commission with oversight over such activity. The County’s work under this Plan does not include any work that (1) the City may choose to perform within Public Auditorium to upgrade or improve existing structural, mechanical, electrical and plumbing (“**MEP**”) systems or finishes, or (2) the City is required to perform to accept new power feeds or other MEP connections. Upon closing on the transfer of the Convention Center to the County, the City will, as soon as practicable, but in no event later than January 31, 2011, complete its review of all drawings prepared at the direction of the Developer with respect to work to be completed under the Plan. The County and City will work in good faith to coordinate the review effort with the Developer, so as to minimize impact to the project schedule. Exhibit A attached hereto lists the drawings to be reviewed by the City with respect to the Plan.

All official and required fees, inspections, testing, forensic investigations, permits and licenses incurred related to such separation activities are the responsibility of the County. Further, except as expressly stated herein, the County at its sole cost and expense shall perform all design, development, furnishing, equipping, construction, utilities and services work required of the County under this Plan.

The County shall cause MMPI, the Developer and any contractor hired to perform any of the work on their behalf related to this Plan to indemnify the City with respect to claims for bodily

injury, death or property damage arising out of the negligent performance of work under this Plan by MMPI, the Developer or any such contractor; *provided, however*, that none of such persons will be responsible for the City equipment and conditions that currently exist in Public Auditorium, for which the City has specifically agreed to retain responsibility. The County shall cause the Developer to include the City as an additional insured to the commercial general liability insurance to be carried by any contractor hired to perform any of the work on their behalf related to the separation.

The County shall be responsible for design and construction (including means and methods) of all work required to be performed by it pursuant to this Plan, including costs associated with unforeseen conditions except as set forth below. The County shall not be responsible for costs associated with repair or replacement of any existing system or condition that is determined to be defective, unsafe or in a state of current or imminent failure and that (1) if discovered earlier by the City, would have required remedial work, repair or replacement irrespective of the work being undertaken pursuant to this Plan and (2) is not otherwise scheduled for repair or replacement work by the County pursuant to this Plan. If the County uncovers an unforeseen condition that requires remedial work, repair or replacement for proper implementation of this Plan, it shall immediately notify the City Representative so that the condition can be observed and documented before it is disturbed. Any dispute regarding the respective responsibilities of the City and County with respect to such conditions shall be resolved pursuant to the dispute resolution procedures set forth in the Definitive Agreement; provided, however, that the County and the City shall work towards an equitable solution to resolve any such issue that may arise.

The City and the County recognize and acknowledge that this Plan is based on their current understanding of the facilities. Accordingly, this Plan may be amended and supplemented by mutual agreement of the City and the County as additional information is obtained through the planning, design and construction process. In any such amendment or supplement the City and the County may agree to deviate from this Plan for the benefit of the separation.

Connectivity

The City and County acknowledge the importance of ongoing connectivity between Public Auditorium and the Convention Center to allow the buildings to be used as an integrated facility as needed, as well as to allow for potential future connectivity between the Convention Center and Public Auditorium. The County shall preserve the existing tunnel located at the northern end of Public Auditorium and provide three connections into the Convention Center, two of which will be located at or near the midpoint of the lower meeting room level of Public Auditorium and the third providing a direct connection between Public Auditorium and the Convention Center's Lakeside entrance. The lower level passageway to the northern end of Public Auditorium will continue to be through the existing tunnel. Following completion of this Plan, the City will retain ownership of the tunnel and will be responsible for maintaining it. The City acknowledges that it will perform such additional work at its own expense to address any code issues as may result from the City's intended use of the tunnel.

Any MEP systems and ramps installed by the County in the Convention Center will be located so as to not interfere with the connections between the Convention Center and Public Auditorium

and potential future connectivity among the Convention Center, Public Auditorium and nearby hotels and parking garages.

Accessibility; ADA Compliance

The County shall work with the City, including regular communication between the County Representative and City Representative, in an effort to minimize any impact on scheduled events and the day-to-day operations of City employees located in Public Auditorium. The City and the County recognize that during the renovation there will be periods of time when the existing west side entrances of Public Auditorium will not be accessible, and the City will need to utilize another entrance into Public Auditorium in the interim. During these time periods, the County will provide a temporary ramp, which will be constructed in compliance with the Americans with Disabilities Act (“ADA”). Upon completion of this Plan, the County will reopen the existing northwest entrance and all other restored west side entrances for public access.

West Façade; Foundation

Stone Work Restoration. The County will repair and/or replace the stone work on the west façade of Public Auditorium at the impacted areas as a result of the removal of the 1964 addition. Upon completion of the renovation, the west façade stone shall be washed by a light misting process by the County using methodology reasonably approved by the City. The County will repair any damage caused by such cleaning to the caulking, sealant and weatherproofing on the west façade. The stone restoration contractor selected shall be subject to the City’s approval, which approval shall not be unreasonably withheld or delayed.

Integrity of Foundation. The County will conduct the renovation of the west façade of Public Auditorium, work conducted in, on or around the foundation of Public Auditorium and the remaining Convention Center construction in a manner consistent with the best practices reasonably available in the construction and engineering industry so as to minimize impact to the foundation of Public Auditorium, the west façade itself or any other part of Public Auditorium, any risk of damage to the foundation of Public Auditorium, the west façade or any other part of Public Auditorium shall be assumed by MMPI, the Developer and/or the contractor hired to perform such work. A licensed professional engineer will be hired by the County to design any required shoring, bracing or sheeting systems in accordance with the best industry practices reasonably available.

MEP—Overview

The City and County recognize that there may be complications when the MEP equipment currently in place at Public Auditorium is brought back on-line. The City is responsible for addressing, at its expense, any complications arising out of the connection of existing MEP systems to new MEP equipment installed by the County under this Plan. During the time that the County performs the work required to separate Public Auditorium from the Convention Center, the City at its sole cost and expense will be performing such work as necessary to ensure that its existing MEP system can operate correctly with the MEP equipment installed by the County

under this Plan. The City and County will agree to a schedule for completion of the City's work to assure that there will be no delay.

Plumbing Systems

The County will protect or replace the existing 12" storm sewer that runs north/south under the existing registration area of the 1964 addition to Public Auditorium to ensure continued access to the storm sewer during construction of the renovations and subsequent operation of the Convention Center. The County will also protect or replace the existing sanitary sewer located under the 1964 addition to Public Auditorium during construction and operation for its continued operation and use. To the extent that either of the existing storm sewer or sanitary sewer lines cannot be protected or reused, the County will either relocate these lines or install new lines and reconnect them to the City sewer system. The City recognizes that the County may seek a variance to allow the sanitary sewer serving Public Auditorium to cross the property line where Public Auditorium and the Convention Center abut each other and will cause the Parks Department to support such variance, subject to its review of the final plans for the variance being sought.

The 3" sanitary sewer connection from the existing Hall C into the 8" sanitary main under Lakeside will be disconnected and capped by the County.

Public Auditorium is currently fed by an existing 6" potable water supply from East 6th Street that splits into separate fire and potable water mains inside the Public Auditorium.

Public Auditorium's potable water system is interconnected with the Convention Center. The Convention Center will be disconnected from this potable water supply. The East 6th Street supply (splitting into separate fire and potable water mains) shall remain to serve the Public Auditorium.

With regard to the fire service, the Convention Center service must be replaced as part of the separation. The County shall install two new mains, a new 6" fire main and a separate new 6" potable water supply main, from St. Clair Avenue to serve the Public Auditorium. (This is in addition to the 6" supply from East 6th Street described above.)

Mechanical Systems

The County will disconnect the chilled water and steam services located in Public Auditorium that serve the Convention Center and remove the related equipment. Any equipment in use within the Engineering Department of Public Auditorium and currently serving the Convention Center will be removed by the County. The existing chiller that is not currently in operation will remain in Public Auditorium and its removal will be addressed by the City at its sole cost and expense.

Compressed air for the floor boxes in Public Auditorium is provided from an air compressor in the existing Convention Center. The County will remove this compressor as part of its demolition of the existing Convention Center. The County will relocate an existing functional

compressor to a mutually agreeable location within Public Auditorium to supply compressed air to the existing floor boxes.

Currently, the Little Theater is supplied with chilled water from two locations: the pumps serving the Convention Center and the pumps serving Public Auditorium. The County will disconnect and remove chilled water piping served from the Convention Center pumps and maintain the connection and piping from Public Auditorium pumps.

The return air shaft for Public Hall supply fans that was removed in order to build the utility tunnel to the Convention Center will be reconnected by the County and made operable. As part of the separation, the County will install a new partition to close off the 20' x 20' opening in the shaft at the lower level. This installation will recreate the original design configuration and reestablish the use of the shaft.

The County will separate the pneumatic controls system for the two buildings in a manner that is acceptable to the City. No changes or modification will be made by the County to the existing systems in Public Auditorium. No removal of heating equipment will be required.

The County will remove existing split system AC units including outdoor condensing units on the roof of the 1964 addition to Public Auditorium. If determined by the City and County to be necessary for the future operation of Public Auditorium, the County will install a new chilled water cooler. AC units in a location or locations approved by the City with indoor condensing units and intake/discharge ducts/louvers to the outside. Installation and specifications for the new split system will be equivalent in size and kind to existing.

There is currently HVAC equipment located on the West side of Public Auditorium that serves the Convention Center. This equipment includes ductwork and piping passing between the two buildings. The County will separate and cap the ductwork and piping at the property line.

Electrical Systems

During the demolition of the current Convention Center, the Cleveland Public Power feeders will be removed by the County, which in turn will disconnect the power to Public Auditorium. Prior to demolishing the current Convention Center, the County will provide a new power service to Public Auditorium. Location of the new electrical substation shall be coordinated with and approved by the City. The new electrical substation shall include new circuit breaker switchgear, wiring and distribution apparatus, and grounding system, of industrial type and capacity in accordance with current National Electrical Code requirements and able to provide the power necessary to accommodate the current full building load. The County will re-feed unit substations #4 and #10 through the new circuit breaker switchgear installed in Public Auditorium. Unit substation #4 includes unit substations #4A, #4B, and #4C. Unit substation #10 includes unit substations #10A and #10B.

The new electrical substation servicing Public Auditorium shall be fully independent of any and all electrical service and feeds to the Convention Center, with no interconnectivity between the two facilities. Any potential for electrical failure within one facility shall not result in electrical

failure for the other. This does not include failure in the Cleveland Public Power grid, which could affect both facilities.

The County will not conduct any work on unit substations #4 and #10 beyond providing for the new feeds. The City will independently evaluate what upgrades or other actions may be necessary or advisable with respect to existing electrical services within Public Auditorium as part of its review of renovations to be completed to the facility.

Subject to the ultimate location determined for the new electrical substation, the County shall re-work any existing feeds from unit substation #7 located in the Convention Center to provide for continued electrical power to the trade tunnels area. The existing feeders that are not used or required will be removed by the County. The County will install an electrical distribution panel in the North portion of Public Auditorium if required to provide continued power in the trade tunnels area as unit substation #10 may not have the physical space to provide for this new feed.

All operations involving the energization of the new electrical substation will be conducted by the County during non-working hours. The County shall provide the City with a minimum of 72 hours notice of the impending switchover. The County shall provide for temporary electrical power and for phasing-in of service as necessary and appropriate to provide for a smooth transition with the minimum of disruption to Public Auditorium, City employees working in Public Auditorium and scheduled events.

The City and the County will explore options for Cleveland Public Power to continue to provide electricity to the Mall over which the City shall have an easement after separation of the existing Convention Center and Public Auditorium. Such electric service may be provided if economically feasible.

Electrical Emergency System

The existing generator in the basement of Public Auditorium supplies power to three transfer switches that serve Public Auditorium and one that serves life safety circuits in the Convention Center. The County will disconnect only the life safety feed servicing the Convention Center from the generator in Public Auditorium.

Life Safety System

The main Fire Alarm Control Panel for Public Auditorium is located in Public Auditorium and can remain in place. However, the County will need to reconfigure the Convention Center's life safety system, which includes a computerized monitoring system of sprinklers and smoke detectors, to separate the lower level of Public Auditorium from the Convention Center. The County and City, and their respective representatives, will cooperate to determine what equipment, including a transponder that services portions of Public Auditorium, located in the Convention Center that the County can relocate into Public Auditorium, and what equipment, if any, will need to be replaced by the County in order to ensure the City maintains existing coverage of its life safety system in Public Auditorium. Any relocation of the transponder will

necessitate a re-working by the County of the flow and tamper switches that report to the transponder.

Fiber Optic Cable

The City and the County recognize that fiber optic lines serving 205 West St. Clair Avenue, Public Auditorium, Cleveland City Hall and the City's public utilities building are currently located in the Convention Center along the St. Clair Avenue side at Mall B. The County will install a new fiber optic link into Public Auditorium and connect to existing fiber optic lines provide services to City offices. The County will use best efforts to have the installation of the new service completed as promptly as possible, but it is not expected that this work will be completed prior to commencement of abatement and demolition work on or below Mall B. The installation of the new service will be conducted in a manner that minimizes service disruptions to the City offices, and the County will protect the fiber optic lines from being damaged by such work.

Kitchen

Within thirty (30) days after the Closing Date, the City will be paid \$200,000 as a contribution towards the City's construction of a full service kitchen in Public Auditorium.

Rock Hall Induction Ceremonies

The County acknowledges that Public Auditorium is hosting the 2012 Rock and Roll Hall of Fame Induction Ceremonies in Spring 2012(the "Ceremonies"). The County, MMPI and the Developer have directed that the Master Project Schedule as it relates to the construction under this Plan or otherwise affects the operations of Public Auditorium will be formulated so that the Ceremonies may be held without delay or interruption.

Willard Park Garage

Subject to the City's review of the final plans related to the Convention Center, the City agrees to cause the Parks Department to work in conjunction with the County and MMPI to obtain any variance, easements, property line determinations and to take other reasonable actions to mitigate the costs associated with the encroachment of the Willard Park Garage stairwell at the northeast corner of the existing Convention Center foundation.

Exhibit A**Separation Plan Drawings****SEPARATION DRAWINGS**Public Auditorium Separation Bid Release - 100% CD Set dated September 10, 2010

G000	Cover Sheet
G001	Drawing Index
CD101	Site Demolition Plan - Mall B
A100	Lower Level 2 Architectural Separation Plan
A101	Lower Level 1 Architectural Separation Plan
A102	Lower Level 0 Architectural Separation Plan
A103	Level 1 Architectural Separation Plan
A104	Level 2 Architectural Separation Plan
M000	Mechanical General Notes, Legend, Schedules, Details and Diagrams - Addendum A1 (09/23/10)
M201	Lower Level 2 Mechanical Plan - Addendum A1 (09/23/10)
M202	Lower Level 1 Mechanical Plan - Addendum A1 (09/23/10)
M203	Lower Level 0 Mechanical Plan
M204	Level 1 Mechanical Plan
M205	Level 2 Mechanical Plan - Addendum A1 (09/23/10)
E0000	Electrical Symbol Legends and General Notes - Addendum A1 (09/23/10)
E202	Lower Level 1 Electrical Plan - Addendum A1 (09/23/10)
E203	Lower Level 0 Electrical Plan - Addendum A1 (09/23/10)
E205	Level 2 Electrical Plan - Addendum A1 (09/23/10)
E401	Enlarged Electrical Plans - Addendum A1 (09/23/10)
E501	Electrical Details
E601	One Line Diagram
S-1	Lower Level 1 Structural Separation Plan - Addendum A1 (09/23/10)

Demolition Bid Release - 100%CD Set dated September 10, 2010 (pertinent drawings)

AD001	General Notes, Abbreviations, and Symbols
AD101	Building Demolition Reference Plan
AD202S	Exhibit Hall Level B02 Demolition Plan - South

- AD203S Registration Level B01 Demolition Plan - South
- AD204S Upper Garage Level B00 Demolition Plan - South
- AD205S Mall B Level G00 Demolition Plan - South
- AD206S Registration Lobby Low and High Roof Demolition Plan - South
- AD302N Exhibit Hall Level B02 Demolition Plan - North
- SD201S Mat Foundation Level B03 Demolition Plan - South

Cleveland Public Auditorium GMP Set dated October 14, 2010

- XHR100 Cover
- XHR101 Partial Floor Plans
- XHR102 West Elevation
- XHR103 Enlarged West Elevation - North
- XHR104 Enlarged West Elevation - South
- XHR105 Veneer Elevation and Details - North
- XHR106 Veneer Elevation and Details - South
- XHR107 Wall Sections and Details
- XHR108 Door Schedule and Details
- XHR109 Vestibule Plans, Elevations and Details

Appendix 3

Legal Description of Public Auditorium

Legal Description

Parcel "B" (South) (Public Auditorium)

File No. 13258C-LD006

December 17, 2010

Page 1 of 2

Situated in the City of Cleveland, County of Cuyahoga, State of Ohio and known as being part of Original Two Acre Lots, Nos. 43 and 44, and is further bounded and described as follows:

Beginning at a stone monument found at the intersection of the center line of St. Clair Avenue N.E. (99 feet wide) with the center line of Ontario Street (99 feet wide). Thence North $55^{\circ}-47'-14''$ East, along said center line of St. Clair Avenue N.E., a distance of 49.50 feet. Thence North $34^{\circ}-03'-06''$ West, a distance of 49.50 feet to the intersection of the Northwesterly right of way line of said St. Clair Avenue N.E. with the Northeasterly right of way line of said Ontario Street. Thence North $55^{\circ}-47'-14''$ East, along said Northwesterly right of way line of St. Clair Avenue N.E., a distance of 804.72 feet to the principal place of beginning of the land herein described;

- Course 1 Thence North $34^{\circ}-14'-59''$ West, a distance of 123.13 feet;
- Course 2 Thence South $55^{\circ}-45'-01''$ West, a distance of 2.10 feet;
- Course 3 Thence North $34^{\circ}-14'-59''$ West, a distance of 371.17 feet;
- Course 4 Thence North $55^{\circ}-45'-01''$ East, a distance of 2.10 feet;
- Course 5 Thence North $34^{\circ}-14'-59''$ West, a distance of 121.33 feet to the Southeasterly right of way line of Lakeside Avenue N.E. (99 feet wide);
- Course 6 Thence North $55^{\circ}-52'-41''$ East, along said Southeasterly right of way line of Lakeside Avenue N.E., a distance of 211.18 feet to the Southwesterly right of way line of East 6th Street (99 feet wide);
- Course 7 Thence South $33^{\circ}-59'-20''$ East, along said Southwesterly right of way line of East 6th Street, a distance of 615.30 feet to the aforesaid Northwesterly right of way line of St. Clair Avenue N.E.;

Legal Description
Parcel "B" (South) (Public Auditorium)
File No. 13258C-LD006
December 17, 2010
Page 2 of 2

Course 8 Thence South $55^{\circ}-47'-14''$ West, along said Northwesterly right of way line of St. Clair Avenue N.E., a distance of 208.38 feet to the principal place of beginning and containing 2.9818 Acres (129,889 Square Feet) of land according to a survey made by Thomas J. Neff, Jr. Registered Surveyor No. 7065-Ohio in November of 2010.

Be the same more or less, but subject to all legal highways and easements of record.

Appendix 4

Subsurface under Lakeside Ave. Right-of-way

Legal Description

Parcel "PV" (Partial Vacation Parcel)

December 10, 2010

File No. 13258C-LD020

Page 1 of 2

Situated in the City of Cleveland, County of Cuyahoga, State of Ohio and known as being part of Lakeside Avenue N.E. (99 feet wide) and being further known as all that space of the Northerly 15.43 feet that lies between a lower horizontal plane, said plane being also beneath the bottom of secondary utility trench of the existing lower exhibit hall at elevation 605.50 feet above sea level (NAVD 29) and an upper horizontal plane, said plane being also the top of slab of the existing lower exhibit hall at elevation 643.30 feet above sea level (NAVD 29), the Center 63.00 feet that lies between a lower horizontal plane, said plane being also beneath the bottom of mat foundation of the existing lower exhibit hall at elevation 608.50 feet above sea level (NAVD 29) and an upper horizontal plane, said plane being also the ceiling of the existing lower exhibit hall at elevation 636.00 feet above sea level (NAVD 29) and the Southerly 20.57 feet that lies between a lower horizontal plane, said plane being also beneath the bottom of mat foundation of the existing lower exhibit hall at elevation 608.50 feet above sea level (NAVD 29) and an upper horizontal plane, said plane being also the top of slab of the proposed lower exhibit hall at elevation 644.00 feet tapering to 645.00 feet above sea level (NAVD 29) based on National Geodetic Survey Datum, the lateral limits being bounded and described as follows:

Beginning at a stone monument found at the intersection of the center line of Lakeside Avenue N.E. (99 feet wide) with the center line of Ontario Street (99 feet wide); thence North $55^{\circ}-52'-41''$ East, along said center line of Lakeside Avenue N.E., a distance of 322.70 feet to a surface elevation of 645.81 feet; thence descending vertically, along the locus of a point, a distance of 9.81 feet to a point in the upper horizontal plane of the Center section at elevation 636.00 feet and the principal place of beginning of the land herein described;

- Course 1 Thence North $34^{\circ}-07'-19''$ West, a distance of 49.50 feet to the Northwesterly right of way line of said Lakeside Avenue N.E.;
- Course 2 Thence North $55^{\circ}-52'-41''$ East, along said Northwesterly right of way line of Lakeside Avenue N.E., a distance of 489.70 feet;
- Course 3 Thence South $34^{\circ}-07'-19''$ East, a distance of 99.00 feet to the Southeasterly right of way line of said Lakeside Avenue N.E.;

- Course 4 Thence South 55°-52'-41" West, along said Southeasterly right of way line of Lakeside Avenue N.E., a distance of 88.99 feet;
- Course 5 Thence North 34°-07'-19" West, a distance of 17.00 feet;
- Course 6 Thence South 55°-52'-41" West, parallel with said Southeasterly right of way line of Lakeside Avenue N.E., a distance of 267.00 feet;
- Course 7 Thence South 34°-07'-19" East, a distance of 17.00 feet to said Southeasterly right of way line of Lakeside Avenue N.E.;
- Course 8 Thence South 55°-52'-41" West, along said Southeasterly right of way line of Lakeside Avenue N.E., a distance of 133.71 feet;
- Course 9 Thence North 34°-07'-19" West, a distance of 49.50 feet to the principal place of beginning and containing 43,941 Square Feet of land according to a survey made by Thomas J. Neff, Jr. Registered Surveyor No. 7065-Ohio in November of 2010.

Be the same more or less, but subject to all legal highways and easements of record.

A plat of the vacated areas described in the above parcels shall be filed in the Cuyahoga County Map Records pursuant to the ordinance vacating the portions of the street described above.

Legal Description
Parcel "FV" (Full Vacation Parcel)
December 10, 2010
File No. 13258C-LD023
Page 3 of 1

Situated in the City of Cleveland, County of Cuyahoga, State of Ohio and known as being part of Lakeside Avenue N.E. (99 feet wide) and is further bounded and described as follows:

Beginning at a stone monument found at the intersection of the center line of Lakeside Avenue N.E. (99 feet wide) with the center line of Ontario Street (99 feet wide). Thence North $55^{\circ}-52'-41''$ East, along said center line of Lakeside Avenue N.E., a distance of 49.50 feet. Thence South $34^{\circ}-03'-06''$ East, a distance of 49.50 feet to the intersection of the Southeasterly right of way line of said Lakeside Avenue N.E. with the Northeasterly right of way line of said Ontario Street. Thence North $55^{\circ}-52'-41''$ East, along said Southeasterly right of way line of Lakeside Avenue N.E., a distance of 406.97 feet to the principal place of beginning of the land herein described;

- Course 1 Thence North $34^{\circ}-07'-19''$ West, a distance of 17.00 feet;
- Course 2 Thence North $55^{\circ}-52'-41''$ East, parallel with said Southeasterly right of way line of Lakeside Avenue N.E., a distance of 267.00 feet;
- Course 3 Thence South $34^{\circ}-07'-19''$ East, a distance of 17.00 feet to said Southeasterly right of way line of Lakeside Avenue N.E.;
- Course 4 Thence South $55^{\circ}-52'-41''$ West, along said Southeasterly right of way line of Lakeside Avenue N.E., a distance of 267.00 feet to the principal place of beginning and containing 0.1042 Acres (4,539 Square Feet) of land according to a survey made by Thomas J. Neff, Jr. Registered Surveyor No. 7065-Ohio in November of 2010.

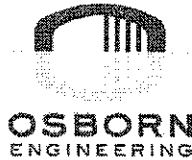
Be the same more or less, but subject to all legal highways and easements of record.

A plat of the vacated areas described in the above parcels shall be filed in the Cuyahoga County Map Records pursuant to the ordinance vacating the portions of the street described above.

Appendix 5

Engineering Letters re: Structural Support under Malls

See attached.



13999-140

November 19, 2010

Mr. Lloyd Davidson
Merchandise Mart Properties, Inc.
222 The Merchandise Mart., Suite 470
Chicago, IL 60654

sent via email: ldavidson@mmart.com

**Re: Cleveland Medical Mart & Convention Center
Mall C – Comparison of Existing and Proposed Live Load Design Criteria**

Dear Mr. Davidson:

We are writing this letter to summarize the proposed structural design criteria for the Mall C area as it compares to the current structural capacity of Mall C. The proposed Mall C support structure has been designed to meet or exceed the structural live load and vibrational characteristics of the existing structure. Specifically, the proposed design provides for a 100 psf live load in all areas of Mall C north of the Lakeside Avenue right-of-way line and 250 psf on the sidewalks within the Lakeside Avenue right-of-way. Therefore, any City vehicles that have had approved access to Mall C, and any City sponsored events that have been held on Mall C in the past can continue to occur in the future upon review and approval of the City's engineer. Please note however, any overloading that may have occurred in the past on the existing Mall C structure may also potentially overload the proposed structure.

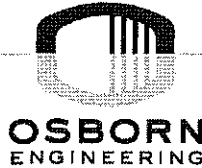
Sincerely,
OSBORN ENGINEERING
Scott A. Vura, P.E., LEED AP

By: 
Jack P. Krebs, P.E., SECB

cc: Ryan Grommes, MMPI
Chris Eseman, LMN
Howard Howlett, LMN
Steve Barber, URS
E. P. Baxendale
K. K. Rim
S. A. Vura
J. P. Krebs
File

1300 East 9th Street Suite 1500 | Cleveland, OH 44114
t 216 861 2020 | f 216 861 3329 | osborn-eng.com

441 Wolf Ledges Parkway Suite 300 | Akron, OH 44311
t 330 535 3132 | f 330 535 3195



13999-140, Add'l Info

December 21, 2010

Mr. Lloyd Davidson
Merchandise Mart Properties, Inc.
222 The Merchandise Mart., Suite 470
Chicago, IL 60654

sent via email: ldavidson@mmart.com

**Re: Cleveland Medical Mart & Convention Center
Mall C – Comparison of Existing and Proposed Live Load Design Criteria
Additional Information**

Dear Mr. Davidson:

We are writing this letter to summarize the proposed structural design criteria for the Mall C area as it compares to the current structural capacity of Mall C. This letter contains additional information to what was written in our original letter dated November 19, 2010.

The proposed Mall C support structure has been designed to meet or exceed the structural live load and vibrational characteristics of the existing structure. Specifically, the proposed design provides for a 100 psf live load in all areas of Mall C north of the Lakeside Avenue right-of-way line and 250 psf on the sidewalks within the Lakeside Avenue right-of-way.


Furthermore, any reasonable assembly of people for the purposes of a rally or the like will be within the live load limits, including people assembled shoulder to shoulder anywhere on Mall C. Mall C will continue to support a straight truck vehicle (ODOT 2F1 – similar to the older AASHTO designation of H15-44). And, if the structure renovations to the Convention Center below Mall C are built per Osborn's proposed design drawings and specification, the live load limits will remain the same for at least the anticipated useful life of the building as long as proper maintenance and upkeep are performed.

Therefore, any City vehicles that have had approved access to Mall C, and any City sponsored events that have been held on Mall C in the past can continue to occur in the future upon review and approval of the City's engineer. Please note however, any overloading that may have occurred in the past on the existing Mall C structure may also potentially overload the proposed structure.

Sincerely,

OSBORN ENGINEERING

Scott A. Vura, P.E., LEED AP

By: 
Jack P. Krebs, P.E., SECB

cc: Ryan Grommes, MMPI
Steve Barber, URS
Chris Eseman, LMN
K. K. Rim
S. A. Vura
J. P. Krebs
File

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13999-140, Add'l Info #3

December 23, 2010

Mr. Lloyd Davidson
Merchandise Mart Properties, Inc.
222 The Merchandise Mart., Suite 470
Chicago, IL 60654

sent via email: ldavidson@mmart.com

**Re: Cleveland Medical Mart & Convention Center
Mall C – Comparison of Existing and Proposed Live Load Design Criteria
Additional Information**

Dear Mr. Davidson:

We are writing this letter to summarize the proposed structural design criteria for the Mall C area as it compares to the current structural capacity of Mall C. This letter contains additional information to what was written in our original letter dated November 19, 2010, and our subsequent letter dated December 21, 2010.

The proposed Mall C support structure as designed by Osborn Engineering has been designed to meet or exceed the structural live load and vibrational characteristics of the existing structure for the useful service life of the structure as long as proper maintenance and upkeep is performed. Specifically, the proposed design provides for a 100 psf live load in all areas of Mall C north of the Lakeside Avenue right-of-way line and 250 psf on the sidewalks within the Lakeside Avenue right-of-way. Furthermore, as referenced in Osborn Engineering's letter dated December 21, 2010, any reasonable assembly of people for the purposes of a rally or the like will be within the required live load limits, including people assembled shoulder to shoulder anywhere on Mall C. In addition, Mall C will continue to support a straight truck vehicle (ODOT 2F1 – similar to the older AASHTO designation of H15-44).

Based on good engineering practice, we are using the applicable national building code and the typical and appropriate loading criteria of 100 psf. The 100 psf load is typical loading for assembly and similar type usages. We are not using a load reduction factor in our design approach as was commonly allowed by code in the past. The stated live load capacity of Mall C includes an estimated factor of safety of 2.0. In other words, the currently recommended live load of 100 psf can be increased to 200 psf, but such infringement on the factor of safety may result in adverse consequences such as premature degradation of the structure.

The proposed Mall C support structure is being designed to accommodate the conceptual planting enhancements, including trees, depicted in the Gustafson Guthrie Nichol Ltd. draft Mall enhancement package dated December 16, 2010. These plantings are permissible assuming that the trees are properly maintained throughout the 50 year service life of the structure.

The proposed Mall C support structure is being designed to accommodate the conceptual water features depicted in the Gustafson Guthrie Nichol Ltd. draft Mall enhancement package dated December 16, 2010. The water feature, including the water and containment vessel, must not exceed a load of 100 PSF.

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The Mall C support structure will be protected by a new waterproofing system applied to the top surface of the facility's roof slab. The entire slab, both new and existing areas, throughout Mall C will be protected with this system. As a result, the waterproofing system will eliminate any further degradation of the existing slab areas in addition to protecting the new concrete slab during the anticipated useful service life and beyond. The new waterproofing system will also be enhanced with a continuous remote monitoring system that detects and locates any breaches to the system. The expected useful service life of the support structure of Mall C is expected to be 50 years or more if supported by continuous and proper maintenance and upkeep.

Future events, that impose customary and reasonable loading conditions on Mall C, are feasible upon appropriate engineering evaluation. Therefore, any City vehicles or temporary structures (such as stages) that in the past have had Osborn Engineering's approved access to, or placement on Mall C and/or any City sponsored events with corresponding Osborn Engineering approved loading that have been held on Mall C can continue to occur through the 50 year service life of the structure. Such events should be reviewed and approved in advance by the City's engineering consultant. Please note however, any unauthorized overloading that may have occurred in the past on the existing Mall C structure may also potentially overload the proposed structure in the future.

Please do not hesitate to contact our office should you have any questions.

Sincerely,

OSBORN ENGINEERING

Scott A. Vura, P.E., LEED AP

By: /s/ Jack Krebs

Jack P. Krebs, P.E., SECB

cc: Ryan Grommes, MMPI
Jeff Appelbaum, Thompson Hine
Steve Barber, URS
Chris Eseman, LMN
K. K. Rim
S. A. Vura
J. P. Krebs
File