

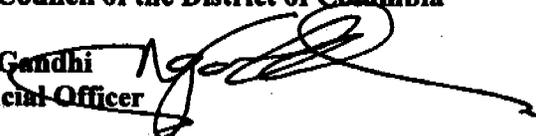
**Government of the District of Columbia  
Office of the Chief Financial Officer**



**Natwar M. Gandhi**  
Chief Financial Officer

**MEMORANDUM**

**TO:** The Honorable Linda W. Cropp  
Chairman, Council of the District of Columbia

**FROM:** Natwar M. Gandhi   
Chief Financial Officer

**DATE:** October 2, 2006

**SUBJECT:** Fiscal Impact Statement: "Ballpark Hard and Soft Costs cap and Ballpark Lease Conditional Approval and Separate Development Authorization Emergency Amendment Act of 2006"

**REFERENCE:** Draft Legislation – No Bill Number Available (attached)

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**Conclusion**

Funds are not sufficient in the budget to implement the Ballpark Hard and Soft Costs Cap and Ballpark Lease Conditional Approval and Separate Development Authorization Emergency Amendment Act of 2006. The net fiscal impact of the proposed bill could be over \$80 million; this includes any budget shortfall that may result from the required private financing of stadium parking and estimated penalties and other costs of late stadium completion if the Sports Commission does not meet its March 1, 2008 deadline to complete the Stadium Facility. Our review of the proposed bill has identified a number of legal issues that may impact the legal sufficiency of the proposed bill, which legal issues should be addressed by OAG. Thus, our fiscal impact statement is not a determination of the legal sufficiency of the proposed bill.

**Background**

The proposed bill addresses multiple amendments to current law.

**Financing of parking construction.** The legislation limits the sources available to pay for parking construction to private financing and/or WDC Baseball Partners LLC ("WDC). Private financing is defined in the legislation as a "private parking real estate fund, managed by a privately owned and operated fund manager... ." Cost estimates of parking structures that

*Fiscal Impact Statement: "Ballpark Hard and Soft Cost cap and Ballpark Lease Conditional Approval and Separate Development Authorization Emergency Amendment Act of 2006"*

support future development are at least \$100 million. Since the sources of repayment for private financing or WDC are unknown, and the revenues from the garage itself are unlikely to provide sufficient returns to a private parking real estate fund, it is not clear what additional District guarantees would be necessary, if any. Because the terms of the agreements have not yet been finalized and the Team has not selected a parking operator, an assessment of the cost or any delays to the District cannot be made. However, any additional revenues that are necessary to provide sufficient returns to a private parking real estate fund cannot be guaranteed by other District assets or revenues without additional legislative authority and without some impact on the District's General Fund.

**Assignment of Separate Development rights to Anacostia Waterfront Corporation ("AWC").** The legislation requires the DC Sports and Entertainment Commission ("SEC") to assign its rights to undertake Separate Development, as defined in the Construction Administration Agreement executed on March 7, 2006, to the Anacostia Waterfront Corporation. This is a legal issue that must be addressed.

**Requirement to present executable LDA to Council.** The legislation also requires the AWC to present to Council an executable LDA within 30 days. As I testified on July 6, 2006, any LDA should satisfy all of the conditions that were raised. Since the terms of the LDA are not specified in this legislation, I cannot estimate the fiscal impact at this time.

**Approval of contract between AWC or the District and WDC.** The provision would approve the terms and conditions of a contract between AWC or the District and WDC. Neither the terms of the agreement nor the liabilities that might be imposed on the District are identified. Accordingly, I cannot estimate any fiscal impact that may be associated with any such letter agreement that would be authorized and approved by the proposed legislation.

**Financial Plan Impact**

Funds are not sufficient in the budget and financial plan to implement the proposed legislation. The full extent of the liability cannot be determined until the terms of certain agreements are identified. However, any payment pursuant to these agreements to WDC Baseball Partners LLC could require the District to increase General Fund expenditures in FY 2007. Furthermore, any delay in the completion of the Stadium parking or Team program space caused by the transfer of Separate Development rights from the SEC to the AWC could cost the District up to \$80 million. Of this \$80 million, approximately \$30 million is attributable to rent reductions at RFK, higher construction costs, lost stadium taxes and additional costs of running RFK. As much as \$50 million could be attributable to compensating the team for its financial losses, if the failure to complete the stadium on time was the result of a lack of reasonable best efforts on the part of the District or the Sports Commission.

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
OFFICE OF THE CHIEF FINANCIAL OFFICER



Natwar M. Gandhi  
Chief Financial Officer

October 2, 2006

The Honorable Linda Cropp  
Chairman  
Council of the District of Columbia  
1350 Pennsylvania Avenue, NW – Suite 504  
Washington, DC 20004

Dear Chairman Cropp:

The purpose of this letter is to provide an update on the progress of building the new stadium and to transmit the Fiscal Impact Statement regarding the proposed Ballpark Hard and Soft Costs Cap and Ballpark Lease Conditional Approval Temporary Act of 2006. My primary concern with this legislation is that it is likely to keep the stadium facility from being completed on time and on budget. As I have previously stated, delays in delivering the new stadium and the associated parking could cost the city between \$60 and \$80 million.

**Status of Construction of the Stadium**

The new Baseball Stadium is underway, on time and on budget. The bonds for the new stadium have been issued. The money to pay for the ballpark is in the bank and earning interest. The stadium is coming out of the ground; the concrete piles are growing and the steel is to be delivered early in October.

The only major budget concern at this time is the financing of the 1,255 parking spaces on the site. The Zoning Board substantially changed the design of the parking facilities on the baseball site and in doing so increased their cost significantly. How this new financial obligation is to be met is as yet undetermined.

**General Concerns**

I strongly support the economic development of the baseball district in Southeast as an important and necessary step in the overall development of the District of Columbia. The return of baseball to the nation's capital after over thirty years is exciting for our city and our residents. However, I have grave concerns about the Ballpark Hard and Soft Costs Cap and Ballpark Lease Conditional Approval and Separate Development Authorization Emergency Amendment Act of 2006 because the legislation would jeopardize the on-time and on-budget completion of the stadium facility.

In approving the Ballpark Omnibus Financing and Revenue Act of 2004, the Council gave the Sports and Entertainment Commission (SEC) the responsibility for construction of the stadium facility and management of the ballpark site, recognizing that the construction and spending had to be closely managed to ensure on-time and on-budget delivery of the stadium. Based upon this Council-approved authority, the SEC then entered into a number of contractual arrangements with the Team, including the Lease and the Construction Administration Agreement.

The proposed legislation would transfer certain spending and decision-making responsibilities for the ballpark site from the SEC to the Anacostia Waterfront Corporation (AWC), by assigning all of the rights for separate development. Although future economic development is a critical element of the ballpark site, the SEC and the District are contractually obligated to deliver the stadium, 1,255 parking spaces, and the team program on the ballpark site by March 1, 2008. Bifurcating responsibility for the ballpark site will inevitably slow the construction of the parking facilities and team program. Late delivery of the stadium facility exposes the District to penalties and losses that I estimated in a testimony before the Council on July 6, 2006 could be as much as \$80 million.

In light of the contractual obligations of the SEC, this potential liability, and the limited amount of time remaining before the delivery deadline, the SEC should maintain the ability to focus on construction of the parking facility without the complications of divided site control.

Furthermore, the District issued the Ballpark Revenue Bonds, Series 2006. The revenues generated at RFK are not sufficient to support debt service on the bonds over the long term. Therefore, stadium completion is critical not just to meet our contractual obligations to the Team, but to retain our strong standing with the rating agencies and bond investors.

The SEC can and should work with the District and the AWC to ensure that the design of the parking enables development rights to be sold in the future. Once the parking construction is underway, and the SEC is on target to meet its contractual obligations, the AWC and the SEC can work together to ensure that future development is realized on the ballpark site. However, the realization of future development is contingent upon the successful completion of the baseball stadium.

For this reason, the District's foremost concern must be the completion of the stadium facility. A decision must be made immediately regarding how to move forward with the design and construction of the parking and team program.

### **Fiscal Impact Statement**

The FIS for the proposed Act is attached to this letter and concludes that funds are **not** sufficient. The net fiscal impact of the proposed bill could be over \$80 million; this includes any budget shortfall that may result from the required private financing of stadium parking and estimated penalties and other costs of late stadium completion if the Sports Commission does not meet its March 1, 2008 deadline to complete the Stadium Facility.

### **Legal Concerns**

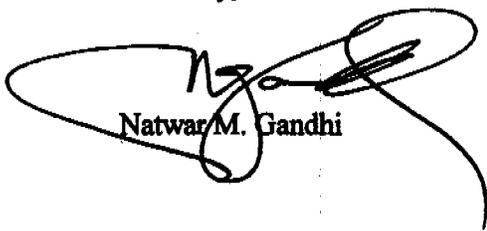
Our review of the proposed bill has identified a number of legal issues that may impact the legal sufficiency of the proposed bill, which legal issues should be addressed by OAG. Thus, our fiscal impact statement is not a determination of the legal sufficiency of the proposed bill. Some of the legal issues are as follows:

1. Transfer of development rights from SEC to AWC.
2. Impact of this legislation on the contracts between the SEC and the Washington Nationals.

My office is happy to work with the Mayor and the Council to determine how to best finance the additional costs of constructing underground parking. The proposed legislation would allow proceeds from the sale of development rights on the ballpark site to be used to help offset the costs of constructing under-ground parking. However, additional sources may be required in order to ensure completion of the parking.

By enabling development proceeds to be used to fund parking on the site, and by making a decision about how to immediately proceed with the construction of parking and the team program, as required by the Zoning Commission, the Council can ensure that the District meets its contractual obligations and that the SEC can complete the stadium facility on time.

Sincerely,



Natwar M. Gandhi

cc:    **The Honorable Anthony A. Williams, Mayor of the District of Columbia**  
      **The Honorable Carol Schwartz**  
      **The Honorable David Catania**  
      **The Honorable Phil Mendelson**  
      **The Honorable Kwame R. Brown**  
      **The Honorable Jim Graham**  
      **The Honorable Jack Evans**  
      **The Honorable Kathleen Patterson**  
      **The Honorable Adrian Fenty**  
      **The Honorable Vincent Orange**  
      **The Honorable Sharon Ambrose**  
      **The Honorable Vincent G. Gray**  
      **The Honorable Marion Barry**  
      **Edward Reiskin, Interim City Administrator**  
      **& Deputy Mayor for Public Safety and Justice**  
      **Alfreda V. Davis, Chief of Staff to the Mayor**  
      **Arte Blitzstein, Budget Director, Council of the District of Columbia**  
      **Rob Miller, Legislative Council, Office of the Chairman**  
      **Mark Tuohey, Chairman of the Board, District of Columbia Sports and Entertainment**  
      **Commission**  
      **Allen Lew, Chief Executive Officer, District of Columbia Sports and Entertainment**  
      **Commission**  
      **Steve Goldsmith, Chairman of the Board, Anacostia Waterfront Corporation**  
      **Adrian Washington, Chief Executive Officer, Anacostia Waterfront Corporation**

**DRAFT**

Councilmember Marion Barry, Jr.

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**A BILL**

**IN THE COUNCIL OF THE DISTRICT OF COLUMBIA**

To amend, on an emergency basis, the Ballpark Hard and Soft Costs Cap and Ballpark Lease Conditional Approval Temporary Act of 2006 to provide for the private financing for the construction of parking facilities; and to transfer the development rights of the separate development to the Anacostia Waterfront Corporation.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Ballpark Hard and Soft Costs Cap and Ballpark Lease Conditional Approval and Separate Development Authorization Emergency Amendment Act of 2006".

**Sec. 2. Definitions**

For the purposes of this Act, the term "Private Financing" means:

"A private parking real estate fund, managed by a privately owned and operated fund manager, which can make parking related investments, both debt and equity, to public entities, such as, states, counties, local governments and/or any of their respective instrumentalities."

**Sec. 3. The Ballpark Hard and Soft Costs Cap and Ballpark Lease Conditional**

**Approval Temporary Act of 2006, effective June 8, 2006 (D.C. Law 16-115; 53 DCR 2542)**

is amended as follows:

31

32 Subsection 3(b)(4) is amended by adding a second sentence to read as follows:

33 “Additionally, all costs of providing parking on the Ballpark Site, including the 1225  
34 spaces to be provided to the Team shall be provided through private financing and/or  
35 by WDC Baseball Partners LLC.””

36 (c) Section 4 is amended by adding new paragraphs (c), and (d) to read as follows:

37 “(c) Consistent with the provisions of section 5.5(j) of the Construction  
38 Administration Agreement, executed on March 7, 2006, the Commission shall assign its  
39 rights to undertake a Separate Development, as that term is defined in the CAA, to the  
40 Anacostia Waterfront Corporation. The Anacostia Waterfront Corporation shall within 30  
41 days present to the Council an executable LDA.”

42 “(d) Notwithstanding any other law and subject to the availability of funds, the  
43 Anacostia Waterfront Corporation or the District is authorized to enter into a contract with  
44 WDC Baseball Partners LLC. Sec. 5. Fiscal Impact Statement.

45 The Council adopts the fiscal impact statement provided by the Budget Director to  
46 the Council as the fiscal impact statement required by section 602(c)(3) of the District of  
47 Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code  
48 §1-206.02(c)(3)).

49 Sec. 5. Effective Date.

50 This act shall take effect following approval by the Mayor (or in the event of veto by  
51 the Mayor, action by the Council to override the veto), and shall remain in effect for no  
52 longer than 90 days, as provided for emergency acts of the Council of the District of  
53 Columbia in section 412(a) of the District of Columbia Home Rule Act, approved December  
54 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).