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

Natwar M. Gandhi
Chief Financial Officer

MEMORANDUM

TO:	**The Honorable Vincent C. Gray** **Chairman, Council of the District of Columbia**
FROM:	**Natwar M. Gandhi** **Chief Financial Officer**
DATE:	**May 20, 2009**
SUBJECT:	**Fiscal Impact Statement: "Downtown TIF Area Available Increment Allocation and Retail Tax Increment Financing Amendment Act of 2009"**
REFERENCE:	**Draft Legislation – No Number Assigned**

Conclusion

Funds are not sufficient in the FY 2009 budget and the proposed FY 2010 through FY 2013 budget and financial plan to implement the proposed legislation. The legislation designates three new Retail Priority Areas and authorizes Tax Increment Financing (TIF) bonds of up to $35 million in those areas. This designation would have a fiscal impact of $2.5 million over the FY 2009 through FY 2013 period, based on the currently expected revenue growth in the TIF areas. This portion of the legislation is subject to inclusion of its fiscal impact in an approved budget and financial plan. Before these Retail Priority Areas become effective, $2.5 million must be included in the District's financial plan.

In addition, because the incremental growth in sales and property tax revenues in the TIF areas would be available to support future TIF projects starting in FY 2010, any future growth in area tax revenues could be used to support the bonds for these projects. If pledged revenues in those areas increase faster than currently expected, the excess would not be included in future revenue estimates. Alternatively, if the revenues in those areas do not increase, no funds would be available to support the TIF debt.

Background

The legislation amends the Retail Incentive Act of 2004[1], repeals The Great Streets Neighborhood Retail Priority Areas Approval Resolution of 2007[2], and repeals The Children's Museum Project Retail Priority Area Approval Resolution of 2006.[3]

Although the legislation repeals The Great Streets Neighborhood Retail Priority Areas Approval Resolution of 2007, it maintains the six Retail Priority Areas set forth in that resolution. In addition to those six Retail Priority Areas, the legislation designates three additional Retail Priority Areas.

Finally, the legislation authorizes the Mayor to allocate future Available Increment from the Downtown TIF Area to a Future Downtown Project (approved under the TIF Act[4] or the Retail Incentive Act of 2004), to a project approved under the TIF Act outside the Downtown TIF Area, or to a project approved pursuant to separate TIF legislation, subject to additional legislation. The Available Increment consists of tax revenues from the Downtown TIF Area not already pledged to secure other bonds issued to benefit other projects in the Downtown TIF area.

Great Streets Neighborhood Retail Priority Areas

Although the legislation repeals The Great Streets Neighborhood Retail Priority Areas Approval Resolution of 2007, it maintains the six Retail Priority Areas set forth in that resolution. The legislation also funds the six Retail Priority Areas by allocating the amount previously budgeted for the implementation of the The Great Streets Neighborhood Retail Priority Areas Approval Resolution of 2007 to the six Retail Priority Areas maintained by this legislation.

In addition to those six Retail Priority Areas, the legislation designates three additional Retail Priority Areas with a total bond issuance authorization of $35 million, including Brightwood-Georgia Avenue, NW ($10 million), Georgia Avenue Gateway ($10 million), and Rhode Island Avenue, NE ($15 million). The legislation states that the tax increment from each entire Retail Priority Area may be pledged to the repayment of any bonds issued for retail TIF projects within that Retail Priority area. This new flexibility will be available for each of the nine Retail Priority Areas.

Assuming sales and property tax revenues grow according to projections in the most recent revenue estimates, the three new Retail Priority Areas would generate an estimated $2.5 million in incremental taxes from FY 2009 through FY 2013[5]. Without the proposed legislation, this revenue would be deposited into the General Fund. Therefore, implementing this section of the

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[1] Effective September 8. 2004 (DC Law 15-185; DC Official Code § 2-1217.71 *et seq.*)
[2] Effective July 10, 2007 (Resolution 17-257, 54 DCR 7194)
[3] Effective January 18, 2006 (Resolution 16-430; 53 DCR 747)
[4] Tax Increment Financing Authorization Act of 1998, effective September 11, 1998 (DC Law 12-143; DC Official Code §2-1217.01 *et seq.*).
[5] Local Source, General Fund Revenue Estimate, March 2009, projects that revenue will grow by 1.8 percent over the FY 2009 through FY 2013 period.

legislation will result in a reduction in General Fund revenues of approximately $2.5 million from FY 2009 through FY 2013. However, the legislation states that the designations of Brightwood-Georgia, Georgia Avenue Gateway, and Rhode Island Avenue as Retail Priority Areas shall not apply until the fiscal impact of this section of the legislation has been included in the District's approved budget and financial plan.

Finally, in the FY 2006 Budget Support Act[6], the Council increased the cap on TIF debt (issued both under the TIF Act and the Retail TIF Act) to $500 million. To date, approximately $389 million in TIF under that cap has been authorized by the Council. The additional $35 million in TIF bonds authorized through this resolution would increase the total amount of TIF authorized to $424 million, which is below the $500 million cap.

Allocation of Available Increment from Downtown TIF Area

The legislation authorizes future Available Increment from the Downtown TIF Area to be allocated to a Future Downtown Project (if approved under the TIF Act or the Retail Incentive Act of 2004) located in the Downtown TIF Area, to a project approved under the TIF Act outside the Downtown TIF Area, or to a project approved pursuant to separate TIF legislation.
The allocation of Available Increment is governed by a Reserve Agreement entered into among the District, Wells Fargo (as Trustee), and Financial Security Assurance (as Credit Support Provider) for the Gallery Place and Mandarin Oriental TIF projects. The Reserve Agreement allows for the allocation of Available Increment to future TIF projects authorized pursuant to the TIF Act. However, the Reserve Agreement does not include language regarding TIF projects authorized pursuant to the Retail Incentive Act or separate TIF legislation, unless approved by Financial Security Assurance. To address this issue, the legislation amends the definition in the TIF Act to include projects authorized under the Retail Incentive Act of 2004.

The legislation would require that, prior to the allocation of Available Increment to a Retail TIF Project; the Mayor must transmit to the Council a proposed resolution to approve the allocation. If the Council does not approve or disapprove the proposed resolution within 30 days, the proposed resolution shall be deemed approved. However, any allocation of the Available Increment would have a fiscal impact at the time of allocation.

Furthermore, although the legislation permits allocation of 100% of future Available Increment, the District has entered into an additional agreement with Financial Security Assurance, pursuant to the Verizon Center Financing Note[7]. This agreement states that the District will not issue any debt to be paid from the Available Increment on parity with the Verizon Center Note unless the Available Increment is not less than three times the maximum annual debt service on the Verizon Center Note and any other debt to be paid from the Available Increment. As a result, it will not be possible to allocate 100% of future Available Increment to future TIF projects.

[6] Fiscal Year 2006 Budget Support Act of 2005, effective October 20, 2005 (DC Law 16-33; 52 DCR 7503)
[7] District of Columbia Tax Increment Financing Note relating to DC Arena L.P. Project (Verizon Center), December 1, 2007.

Financial Plan Impact

Funds are not sufficient in the FY 2009 budget and the proposed FY 2010 through FY 2013 budget and financial plan to implement the proposed legislation. Before the portions of Section 101(c) of the proposed legislation that designate three additional Retail Priority Areas shall apply, a fiscal impact of $2.5 million must be included in the District's FY 2009 budget and proposed FY 2010 through FY 2013 financial plan, based on the currently expected revenue growth in the TIF areas. In addition, because the incremental growth in sales and property tax revenues in the TIF areas would be available to support future TIF projects starting in FY 2010, any future growth in area tax revenues could be used to support the bonds for these projects. If pledged revenues in those areas increase faster than currently expected, the excess revenues would not be included in future revenue estimates. Alternatively, if the revenues in those areas do not increase, no funds would be available to support the TIF debt.