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: APR -5 2007

SUBJECT: **Fiscal Impact Statement: "Southwest Waterfront Revised Disposition Approval Resolution of 2007"**

REFERENCE: **PR17-105**

Conclusion

Based on the information in the Resolution and the Exclusive Rights Agreement (ERA), it is not possible to determine whether funds are sufficient in the District's FY 2007 budget and FY 2008 – FY 2012 proposed budget and financial plan to implement the proposed legislation. The proposed legislation gives the Anacostia Waterfront Corporation authority to dispose of certain AWC real estate assets. The Resolution and the corresponding ERA do not specifically define those assets, nor do they provide the final terms of the disposition. The resolution may also create some contingent liabilities for the District. Based on the information in the Resolution and the ERA, it is not possible to evaluate the magnitude of those liabilities.

Background

The Anacostia Waterfront Corporation (AWC) is requesting Council approval to dispose of certain real property interests (including fee simple rights, leaseholds, and air rights) pursuant to a negotiated Exclusive Rights Agreement (ERA) with Hoffman-Struever Waterfront LLC (the "Developer"). The rights are a substantial portion of the land and leasehold interests that were recently transferred to AWC from the Redevelopment Land Agency (RLARC) and the National Capital Revitalization Corporation. The land to be transferred is not aligned with those squares and lots because much of the area will be reconfigured from current conditions. The ERA sets out the terms of the disposition, which will occur in phases.

In exchange for the property rights the Developer will make total cash payments to AWC of approximately $12.5 million over a three year period at certain milestones. This amount includes $1.75 million to cover AWC costs related to the development and $750,000 for a workforce development initiative. The ERA includes AWC profit participation, whereby AWC will share in the Developer's profits at different levels depending on the Development's financial success. Finally, the developer and/or owner will make land lease payments to AWC over the life of a 99-year lease. The parameters of such payments are not spelled out in the ERA

Cost to the District

A variety of issues make it difficult to determine whether this resolution will have a financial cost to the District. For example:

- The ERA acknowledges that there needs to be successful resolution with Existing Leaseholders with respect to their interests in the development.
- The ERA acknowledges that the re-zoning of the site will be a joint effort; the effort will include street closings, rededication of those streets to the AWC and/or the developer, and increasing the zoning for development on the site.
- The ERA does not hold the AWC harmless for environmental matters that existed before sale.
- Subsequent to the ERA, final ground lease and disposition documents will be executed.
- The AWC may continue to spend capital funds on the project, beyond those which will be repaid by the Developer as described above.
- The ERA anticipates the possibility of additional public financing in the form of TIF and PILOT.

For these reasons, the OCFO cannot fully evaluate whether the current financial terms of the ERA will create a real property disposition in which the cost to the District will equal the payment from the Developer. In addition, there is no way to fully evaluate the contingent liabilities, including those related to the rights of the existing leaseholders.

In general, a transfer of real property from a District agency to a private entity has no direct impact on the District's budget and financial plan, because assets are not part of the District's operating budget. However, if there are contingent liabilities such as legal liabilities or ongoing AWC expenses related to this transfer, these may have an affect on the budget. These cannot be determined at this time.

Financial Plan Impact

Based on the information in the Resolution and the ERA, it is not possible to determine whether funds are sufficient in the District's FY 2007 budget and FY 2008 – FY 2012 proposed budget and financial plan to implement the proposed legislation.