

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: December 16, 2008

SUBJECT: Fiscal Impact Statement: "Southwest Waterfront Disposition Third Revised Emergency Approval Resolution of 2008"

REFERENCE: No Bill Number

Conclusion

Funds are sufficient in the FY 2009 through FY 2012 budget and financial plan to implement this resolution as long as contingent liabilities described below are resolved without additional costs. This third revision of the disposition resolution makes administrative and technical changes to the resolution, which do not affect the fiscal impact. Therefore, this fiscal impact statement has no substantive differences from the fiscal impact statement for the Southwest Waterfront Disposition Revised Approval Resolution of 2008 that was signed on July 7, 2008.

The resolution will result in a reduction of District assets. However, because assets are not part of the District's operating budget, a transfer of property or leaseholds to a private entity has no direct impact on the District's budget and financial plan. We do not have a current market appraisal of the project site. The FY 2008 assessed value of the land and piers to be transferred as part of this disposition is approximately \$98 million.

Because the land proposed for disposition is encumbered by leaseholds and HUD requirements, there may be contingent liabilities such as legal liabilities or ongoing District expenses related to this transfer. The costs related to these potential contingent liabilities cannot be determined at this time.

The project also contemplates a TIF/PILOT subsidy to the project of up to \$198 million, which is in addition to the value of the real property being transferred through this resolution. The public financing is being considered as a separate piece of legislation.

Background

The Mayor is requesting Council approval to dispose of certain real property interests (including fee simple rights, leaseholds, riparian rights and air rights) pursuant to a draft negotiated disposition agreement with Hoffman-Struever Waterfront LLC (the "Developer"), which sets out the general terms of the disposition. The draft land disposition agreement currently includes the following requirements:

- Prior to land transfer the developer is responsible for
 - Completing a master plan
 - Obtaining rezoning approval
 - Obtaining building permits
 - Providing an approvable financing package
 - Providing completion guarantees for the infrastructure and the private development on the site.
- At least 231,000 square feet of affordable rental and condominium housing will be included as a part of the project.
- The developer will pay \$2 million for cultural uses.
- The developer will pay \$1 per year for the term of the 99 year lease.
- The developer will make payments of \$2.5 million to cover the District's third party costs related to the development which includes a \$1,000,000 workforce development initiative.
- The District will receive a profit share if the Developer experiences higher than expected returns on the future sale of improvements made.

The legislation requests authority to transfer approximately 16 acres of the 23 acre site. The legislation also requires the Mayor to seek to close and dispose of streets and alleys related to the site. Additional legislation would address the street closings as well as the temporary and permanent disposition of street and alley parcels.

Risks

There are a number of risks in approving a transfer of the land at this time.

Council would be approving a disposition before the land disposition agreement has been finalized and before the District has full control of the land. Much of the land is encumbered by long-term leases. The transaction contemplates resolving current leaseholder issues through negotiations between the Developer and the current leaseholders. Those negotiations are not yet complete. Council approval of a disposition prior to the District's resolution of current leasehold issues adds a potential risk of future unforeseen costs and/or delays in the project.

- The Southwest Waterfront Parcels were originally purchased by the District through the Urban Renewal program at HUD. While the Urban Renewal program no longer exists,

former Urban Renewal properties are covered by various requirements of the Community Development Block Grant (CDBG) program. Any revenue generated from the lease or disposition of the property will be considered CDBG program income. The OCFO has not received definitive information that the District has no other financial obligations to HUD related to the site. All future development on the site may be required to meet CDBG national objectives.

Financial Plan Impact

Based on the information in the resolution and the proposed land disposition agreement, funds are sufficient in the District's FY2009 – FY 2012 budget and financial plan to implement the proposed legislation assuming current encumbrance issues are resolved as planned.

While this transfer would result in a reduction of District assets of approximately \$98 million, based on the currently assessed value of this land and piers, 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.

Notes:

- As discussed above, the proposed land disposition agreement (LDA) cannot be executed until the leasehold issues have been resolved. Based on information received from the Mayor, the condemnation value of the leaseholds pursuant to the current leases is approximately \$24 million. The approximate negotiated cost to the project to accommodate current leaseholders on the site is over \$70 million. Therefore, the cost of requiring the Developer to negotiate with current leaseholders rather than the District condemning the leases prior to transfer is approximately \$46 million. This is included in the current project budget and is being borne by the District either through the subsidy in the land or through the TIF/PILOT subsidy.
- So that this transaction could move forward, the Mayor has recently entered into a settlement agreement on the CASCO litigation, a separate leasehold interest dispute on the Southwest Waterfront site. The settlement includes a release of any claim to leasehold interests on the site. The settlement also includes a commitment by the Mayor to work to transfer three separate parcels to CASCO Marina Development LLC that the District expects to receive as part of the Federal land transfer, and to work to close District-owned streets and alleys and also transfer them to CASCO Marina Development LLC. The properties proposed to be transferred are all outside the Southwest Waterfront site and are assessed at approximately \$8 million. The transfer of the Federal and District parcels would have to be approved by Council. If, for whatever reason, these transfers are unsuccessful, additional claims could be made on the District by CASCO.