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: **July 13, 2010**

SUBJECT: **Fiscal Impact Statement – "Union Station Redevelopment Corporation Payment in Lieu of Taxes Act of 2009"**

REFERENCE: **Bill 18-220, Committee Print as Shared with the OCFO on July 8, 2010**

This revised Fiscal Impact Statement reflects the Committee Print version of Bill 18-220, and it replaces the Fiscal Impact Statement issued by the OCFO on May 21, 2009.

Conclusion

Funds are sufficient in the FY 2011 through FY 2014 budget and financial plan to implement the proposed legislation. However, as described below, the proposed legislation could have substantial costs in the out years, all of which are not possible to estimate at this time. Further, by providing a tax exemption in perpetuity, the District may be legally unable to repeal the exemption via legislation at a later date, making the tax exemption permanent.

Background

The proposed legislation would amend Title 47 of the D.C. Official code to require that the Union Station Redevelopment Corporation (USRC) make an annual payment in lieu of taxes (PILOT) in FY 2011 through FY 2015 for Lot 171 and Lot 827[1] in Square 720. The PILOT would total approximately $11.5 million, and the schedule of PILOT would be as follows:

[1] The revised legislation shared with the OCFO on July 8, 2010 exempted Lots 171 and 172 in Square 720 from the possessory interest tax. However, Lot 172 no longer exists, as it was "killed" and divided to create Lots 827 and 7000 in Square 720. According to the Committee on Finance and Revenue, the intent of the legislation is to exempt Lots 171 and 827 and not Lot 7000. The proposed legislation will be amended at mark-up to reflect this intent. Accordingly, this FIS is written based on the Council's intent to exempt Lots 171 and 827.

Proposed PILOT Schedule Under B18-220, FY 2011-FY 2015	
Due Date	**Amount**
FY 2011	$6,214,650
FY 2012	$1,295,738
FY 2013	$1,311,358
FY 2014	$1,327,166
FY 2015	$1,340,498
Total	**$11,489,410**

Starting in FY 2016, the proposed legislation also would exempt Lots 171 and 827 in Square 720 from the possessory interest tax[2] in perpetuity.

Lot 171 contains the historic Union Station and Lot 827 contains the Union Station parking garage. These lots are both federally owned properties that have been leased to the Union Station Redevelopment Corporation. [3] Under current law, Lot 171 is subject to the possessory interest tax, as USRC has sub-leased this portion of its leasehold interest to Union Station Investco, LLC (Investco), and it is being used for a business purpose. Currently, Lot 827 is not included in the sub-lease to Investco and is not included in the value of the lease that is subject to the possessory interest tax.

However, if USRC were to lease the property to a business at a later date, the property would then become subject to the possessory interest tax. This is likely to happen as the USRC and Greyhound Lines, Inc. ("Greyhound") are considering the construction of a 10,000 square foot intercity bus terminal in the parking garage.[4]

Financial Plan Impact

Funds are sufficient in the proposed FY 2011 through FY 2014 budget and financial plan to implement the proposed legislation. Under the proposed legislation, the schedule of PILOT payments equals the amount of possessory interest taxes that would be owed, including outstanding tax liability, on Lot 171 between FY 2011 and FY 2015. Therefore the District would not forego any tax revenue during this time period from Lot 171.

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[2] The possessory interest tax is imposed on property lessees who operate a business on land owned by the Federal Government and is based on the estimated value of leases and not on the assessed value of the property. See D.C. Official Code § 47-1005.01.

[3] Square 720, Lots 171 and 827 are federally owned properties, which have been leased to USRC. USRC has sub-leased a portion on the property to Union Station Investco, LLC (Investco). Investco leases and operates certain parts of Union Station and in turn has multiple retail sub-leases with individuals and owners of the retail establishments within Union Station, as well as a sub-sublease with Amtrak for offices and railroad operations. Testimony of Daniel Levy, Counsel to Union Station Investco, LLC, Before the Subcommittee on Transportation and Infrastructure, U.S. House of Representatives, July 22, 2008. Testimony available at: http://transportation.house.gov/Media/File/Economic%20Development/20080722/LevyTestimony.pdf

[4] See USRC Revised Master Plan for Union Station, Washington, DC with Appendix 1

However, at this time it is not possible to estimate whether the proposed legislation would result in reduced tax revenue as a result of exempting Lot 827. As mentioned above, the possessory interest tax is not levied on Lot 827. If no changes were to occur regarding the status of this property during the budget and financial plan period, then there would be no fiscal impact. However, if the lot were leased to Greyhound or another business during this time, there would be a negative fiscal impact equal to the amount of possessory interest that would have been collected on it. While USRC and Greyhound are planning to construct a 10,000 square foot intercity bus terminal on Lot 827, a development timeline and details of a lease agreement were not available at the time of this analysis, as the development plans for the bus terminal are still in the early stages.

Estimated Fiscal Impact of Exempting Lot 171 in Square 720 Under B18-220: FY 2011 – FY 2014 Budget and Financial Plan

	FY 2011[a]	FY 2012[a]	FY 2013[a]	FY 2014	4 Year Total
Assessed Value of the Lease Subject to Possessory Interest for Lot 171	**$70,700,000**	**$70,364,175**	**$71,208,545**	**$72,063,048**	**$284,335,768**
Estimated Tax Liability[b c]	($6,214,650)	($1,295,738)	($1,311,358)	($1,327,166)	**($10,148,912)**
PILOT under Proposal	$6,214,650	$1,295,738	$1,311,358	$1,327,166	**$10,148,912**
Total Fiscal Impact	**$0**	**$0**	**$0**	**$0**	**$0**

[a] The assessed values for FY 2012 through FY 2014 are based on projections for property tax values.
[b] Lot 171, Square 720 is classified as commercial property (class 2) and therefore taxed at a rate of $1.65/$100 for the first $3 million of the assessed value, and $1.85/$100 for anything in excess of $3 million.
[c] Includes past tax liabilities owed for FY 2008 through FY 2010

Additionally, because the proposed legislation would exempt the properties from possessory interest in perpetuity starting in FY 2016 the proposed legislation would have an impact beyond the FY 2011 though FY 2014 budget and financial plan period. For example, as a result of only exempting Lot 171, the proposed legislation would reduce tax collections by a total of approximately $33.6 million between FY 2016 and FY 2035. See table below. It is unknown how much revenue the District would forgo in the out years as a result of exempting Lot 827. Finally, by providing a tax exemption in perpetuity, the District may be legally unable to repeal the exemption via legislation at a later date, making the tax exemption permanent.

Estimated Negative Fiscal Impact of Exempting Lot 171 in Square 720, FY 2016 – FY 2035	
Fiscal Year	**Negative Fiscal Impact**
FY 2016	$1,381,026
FY 2017	$1,408,767
FY 2018	$1,437,062
FY 2019	$1,465,923
FY 2020	$1,495,362
FY 2021	$1,525,389
FY 2022	$1,556,017
FY 2023	$1,587,257
FY 2024	$1,619,122
FY 2025	$1,651,625
FY 2026	$1,684,777
FY 2027	$1,718,593
FY 2028	$1,753,085
FY 2029	$1,788,266
FY 2030	$1,824,152
FY 2031	$1,860,755
FY 2032	$1,898,090
FY 2033	$1,936,172
FY 2034	$1,975,015
FY 2035	$2,014,635
Total FY 2016 - FY 2035	**$33,581,091**