

LRB – RESEARCH AND ANALYSIS SECTION ANALYSIS

**MAY 1, 2006 AGENDA
JUDICIARY & LEGISLATION COMMITTEE**

**ITEM 1, FILE 051694
Emma J. Stamps**

File #051694 is a resolution approving a settlement agreement with the United States of America relating to a complaint filed under the Americans with Disabilities Act and approving amendment no. 13 to the riverwalk development agreement with Business Improvement District No. 15. (This resolution will appropriate City funds.)

Background

1. On May 23, 1994, the City and the Board of Business Improvement District No. 15 (BID No. 15) entered into an agreement to develop a riverwalk system.
2. Generally, the Agreement, which as been amended 12 times, provides for the construction and development of a riverwalk system along the Milwaukee River in downtown Milwaukee (the "Riverwalk System").
3. In August 2003, the City and the Board of BID No. 15 were noticed that the U.S. Attorney for the Eastern District of Wisconsin had opened an investigation into a complaint filed with the Federal Department of Justice alleging that various components of the Riverwalk System between Highland Avenue and Clybourn Street violated ADA requirements (Americans with Disabilities Act of 1990).

Discussion

1. The Settlement Agreement presented in File 051694 concludes a 2003 Americans with Disabilities Act ("ADA") handicap accessibility complaint.
2. BID No. 15 hired a Chicago based consultant who specializes in ADA construction matters to prepare a conceptual design that would bring the riverwalk system into ADA compliance. Department of Public Works and Department of City Development have reviewed and approved the conceptual design and estimates.
3. The plan requires some tear down of existing riverwalk façade between State Street and Highland Avenue and adjacent to establishments such as John Hawk's Pub, Benihana, and the Mason Street Plaza.
4. Approximately 5 elevator lifts and 2 ramps will be built, according to DCD. The City and BID will share the \$1,500,000 estimated project cost; 78% (\$1,170,000), and 22% (\$330,000), respectively.
5. If approved, the Settlement Agreement will remove a threat of litigation by the U.S. Attorney and require adoption of a 13th amendment to the Business Improvement District No. 15 Riverwalk Development Agreement to provide necessary capital funding.

6. A DPW spreadsheet on file lists riverwalk system construction budget *estimates* for costs paid using a mix of City capital improvement budgets (e.g. Development Fund and Tax Incremental District financing), state grants, and private funds.

Responsible Parties	Original Construction Cost Estimate	ADA Construction Cost Estimates	Pct Share ADA	Adjusted Total Construction Cost Estimate	Adj. Total Pct
BID #15/Private Share	\$ 4,798,838	\$ 330,000	22%	\$ 5,128,838	26%
City Share	\$13,629,359	\$1,170,000	78%	\$14,799,359	74%
Total Estimates	\$18,428,197	\$1,500,000	100%	\$19,928,197	100%

The BID No. 15 Board contracts out the construction work while DPW would inspect the work, notify DCD when work has completed, and request DCD transfer city funds to pay to Board for work completed.

7. File 051694 approves a settlement agreement with the United States of America relating to the ADA complaint filed, and approves a \$1,500,000 riverwalk development agreement Amendment No. 13 with BID No. 15 of which the ADA enhancement costs will be shared by the city (78%) and the BID (22%).

To ensure that this case settles expeditiously, the City will commit current and future capital funds from the Development Fund and Contingent Borrowing Fund to pay for these enhancements. The Development Fund account generally assists projects that do not qualify for TID classification. Typical projects include BID support, façade grants and loan program, brownfield cleanups, retail investment fund, commercial revitalization, job training, and neighborhood street improvement/spot.

Fiscal Impact

This file affects capital accounts budgeted for years 2006, 2007 and 2008 for an aggregate \$1,500,000. The intent also requires footnoting both the 2007 and 2008 City Capital Budgets, when presented to the Common Council for adoption. According to the fiscal note and DCD:

First Year (2006): +\$500,000 from 2006 Development Fund Capital Acct
 +\$1 million from Contingent Borrowing

Second Year (2007): +500,000 from 2007 Development Fund Capital Account
 (budget footnote required) -\$500,000 adjustment in Contingent Borrowing

Third Year (2008): +500,000 from 2008 Development Fund Capital Account
 (budget footnote required) -\$500,000 adjustment in Contingent Borrowing

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