

LEGISLATIVE REFERENCE BUREAU FISCAL ANALYSIS

PUBLIC WORKS COMMITTEE

OCTOBER 15, 2008

Item 10, File #080859

File Number 080859 is a resolution approving an Assignment of Lease Agreement and Second Amendment to Lease Agreement between Innovation Fuels, Inc., IFI Terminal Milwaukee, LLC, and the Board of Harbor Commissioners for real property located at 1626 S. Harbor Drive, and consenting to a Leasehold Mortgage for the same property.

Background

1. On October 30, 1990, Support Terminals Operating Partnership, LP, (“STOP”) and the City, by and through the Board of Harbor Commissioners, entered into a Lease Agreement under which STOP leased approximately 10 acres of bare-ground real property located at 1626 S. Harbor Drive on the South Harbor Tract. The Lease Agreement was for an initial term of 5 years, with the option of extending the Lease Agreement for up to 4 successive periods of 5 years each.
2. STOP and the City entered into the First Amendment to this Lease Agreement on May 7, 1992.
3. STOP’s name was legally changed to NuStar Terminals Operations Partnership, LP, on March 31, 2008. Also, Common Council File 080735, adopted October 7, 2008, assigned NuStar’s Lease Agreement to Innovation Fuels, Inc..
4. STOP and its successors have used this property for a liquid fuel terminal and related storage facilities.

Discussion

1. Innovation Fuels, Inc, a New York-based corporation, is in the process of acquiring the liquid fuel terminal and related storage facilities on the 10-acre site that NuStar leased from the Port of Milwaukee. The transfer of the Lease Agreement for the real property has already been completed (CC File 080735). However, the terms of the sale for the private improvements on this property requires an Assignment of Lease Agreement and Second Amendment to Lease Agreement between Innovation Fuels, Inc., IFI Terminal Milwaukee, LLC, and the City of Milwaukee, as well as consent of the City to the Leasehold Mortgage for this property.
2. IFI Terminal Milwaukee, LLC, is the operating project entity created by Innovation Fuels, Inc., for its Milwaukee operations. This resolution approves the assignment of the Lease Agreement and the First Amendment by Innovation Fuels, Inc., to IFI Terminal Milwaukee, LLC. The Second Amendment approved by this resolution relates to the right of IFI Terminal Milwaukee to mortgage its leasehold interest (but not the City’s interest, or title to the fee or the property itself) to a financial institution, subject to the City’s consent. The second part of this resolution gives that City consent to a Leasehold

Mortgage between Securant Bank and Trust Company and IFI Terminal Milwaukee, LLC.

3. IFI Terminal Milwaukee, LLC, plans to operate a liquid fuel terminal and related storage facilities at this location. It will also be developing a biodiesel fuel production facility at this site.
4. At its October 8, 2008, meeting, the Board of Harbor Commissioners approved the Assignment of Lease Agreement and Second Amendment to Lease Agreement and gave its consent to the Leasehold Mortgage.

Fiscal Impact

Approval of this resolution will have no direct fiscal impact on the Port or the City of Milwaukee. It will, however, facilitate the increased utilization of the liquid fuel terminal and storage facilities at this site and, therefore, is likely to produce additional throughput-charge revenues for the Port.

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