

**LEGISLATIVE REFERENCE BUREAU FISCAL ANALYSIS**

**PUBLIC WORKS COMMITTEE**

**FEBRUARY 13, 2008**

**Item 18, File #071432**

File Number 071432 is a resolution approving an Assignment and Amendment of Lease Agreement and Consent to Assignment involving North American Biodiesel, LLC, and Innovation Fuels, Inc., for the leasing of Port of Milwaukee property located at 1414 S. Harbor Drive.

**Background**

1. On July, 31, 2007, the Common Council adopted File Number 070535, a resolution approving the lease of 2.596 acres of vacant Port of Milwaukee land located at 1414 S. Harbor Drive to North American Biodiesel, LLC.
2. This lease has a term of 10 years (August 1, 2007 – July 31, 2017) and gives North American Biodiesel the option of extending the lease for 2 additional 5-year terms.
3. At the time of executing the lease agreement, North American Biodiesel intended to construct a \$12.5 million biodiesel fuel production facility on the site. Construction was to begin shortly after approval of the list, with the facility becoming operational in early 2008.
4. Due to unforeseen adverse changes in the commodities market that have substantially increased the cost of producing biodiesel fuel, it is no longer financially feasible for North American Biodiesel to undertake this project on its own. North American Biodiesel is currently in the process of merging with Innovation Fuels, Inc., of New York, an existing biodiesel fuel producer with the assets necessary to proceed with the Milwaukee biodiesel facility project.

**Discussion**

1. This resolution approves an Assignment and Amendment of Lease Agreement and Consent to Assignment to assign North American Biodiesel's lease of 2.596 acres on the Port of Milwaukee's South Harbor Tract for development of a biodiesel fuel production facility to Innovation Fuels, Inc.
2. The Lease Agreement with Innovation Fuels would continue to be in effect through July 31, 2017, with options for 2 additional 7-year lease extensions.
3. The Assignment and Amendment of Lease Agreement and Consent to Assignment also makes a number of minor clarifications to the lease language. Perhaps most significantly, the Assignment amends the language such to state that the tenant shall not be responsible for any existing environmental contamination on the leased property, but shall be fully responsible for those environmental obligations and responsibilities resulting from its operations on the property.

**Fiscal Impact**

This resolution will have no fiscal impact on the Port of Milwaukee or the City. The Assignment and Amendment of Lease Agreement and Consent to Assignment does not alter the terms of the Lease Agreement relating to rental payments.

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February 12, 2008

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