

LEGISLATIVE REFERENCE BUREAU FISCAL ANALYSIS

PUBLIC WORKS COMMITTEE

NOVEMBER 10, 2010

Item 12, File #100780

File Number 100780 is a resolution approving a Lease Agreement between the City of Milwaukee, by and through its Board of Harbor Commissioners, and IFI Terminal Milwaukee, LLC, 10.59 acres of real property located at 1626 S. Harbor Drive.

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’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., a New York-based liquid fuels corporation. IFI Terminal Milwaukee, LLC, is the operating project entity created by Innovation Fuels, Inc., for its Milwaukee Operations.
3. STOP, NuStar and IFI Terminal Milwaukee have used the Harbor Drive property for a liquid fuel terminal and related storage facilities.

Discussion

1. The 3rd 5-year extension of the existing lease expired August 17, 2010. Rather than extending that lease for another 5 years, the City and the IFI Terminal Milwaukee, LLC, have negotiated a new Lease Agreement for the property in question. This resolution approves the new Lease Agreement for an initial term extending from August 18, 2010, through December 31, 2015.
2. The agreement gives the tenant the right to extend the term of the lease for 4 successive periods of 5 years each, with the first extension commencing January 1, 2016, and the 4th extension terminating December 31, 2035.
3. The agreement provides for an annual rental payment of \$11,770 per acre per year (\$124,644 annually) during the initial lease term. Rent during the first extension increases to \$17,000 per acre starting January 1, 2016, with annual adjustments for inflation each January 1 thereafter. Rent will also be adjusted for inflation each January 1 in the 2nd, 3rd and 4th extension terms.
4. In addition to rent, the Lease Agreement also requires the tenant to pay the City monthly throughput charges for any petroleum products received or delivered by pipeline, tank car

or tank truck, as well as for non-petroleum products. These throughput charges shall be escalated annually each January 1 during all extension periods to the lease. IFI Terminal Milwaukee is also required to pay the City monthly wharfage and dockage fees for all liquid bulk cargo it receives or ships by water (while the leased parcel is landlocked, it is connected to the Port's liquid cargo pier by pipelines).

3. IFI Terminal Milwaukee, LLC, plans to operate a liquid fuel terminal and related storage facilities at this location. It also intends to develop a biodiesel fuel production facility at this site.
4. At its October 14, 2010, meeting, the Board of Harbor Commissioners approved the Lease Agreement with IFI Terminal Milwaukee, LLC.

Fiscal Impact

1. Approval of this Lease Agreement will result in the Port of Milwaukee receiving \$124,644 in rental revenue per year, plus an estimated \$5,250 in throughput charge revenues (15,000 tons at \$0.35/ton per terms of the lease). Revenue amounts will vary based on tonnage handled, but are likely to increase in the future once the rent and throughput-charge escalators in the Lease Agreement take effect.
2. Since the Port is operated as an enterprise fund, its revenues are used to pay its operating expenditures. Therefore, approval of the Lease Agreement will have no direct, immediate fiscal impact on the City. However, at the end of each year, any surplus Port revenues are transferred to the City's Tax Stabilization Fund. For example, nearly \$1.1 million was transferred from the Port to the TSF after the closing of the 2009 financial books.

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