

PORTLAND DEVELOPMENT COMMISSION

MEMORANDUM

DATE: February 24, 2004

TO: Portland City Council

FROM: Donald Mazziotti, Executive Director

SUBJECT: Response to Questions Regarding the Downtown Waterfront Urban Renewal Area

Following are the Portland Development Commission's responses to questions raised by Portland City Council on Wednesday, February 18. The information in these materials was assembled by PDC in collaboration with Ken Rust (City of Portland, Chief Financial Officer), Eric Johansen (City Debt Manager), and Harvey Rogers (bond counsel from Preston Gates & Ellis). We look forward to discussing these at the upcoming Council hearing on February 25.

1. Show us your timeline for addressing the broader issues of examining urban renewal with a total city focus, specifically, URA's within the central city (study of pros, cons, implications of boundaries adjustments or changes).

Since mid-January, PDC has been developing a work plan with the following purpose: *To examine the opportunities and constraints of the consolidation, reconfiguration or expansion of current URA boundaries; and examination of non-URA geography within the Central City. This will include an analysis of special levy allocation levels for all Option 3 districts; debt capacity and borrowing plans; and maximum tax increment revenue levels.*

Details on timeline and process are as follows:

Timeline:

Feb. - March 2004: Scoping discussions with City Debt Manager; bond counsel.

May/June 2004: Approve work plan.

June 2004: Begin formal community process and stakeholder involvement.

June 2005: Present Recommendations to PDC Commission, Planning Commission and Portland City Council (midpoint progress report will occur).

2. Will PDC commit to not requesting that the City issue the 2nd set of bonds before the district boundary analysis is complete?

Yes.

The issuance of all Urban Renewal and Redevelopment bonds must receive prior authorization by the City Council. The Council would need to adopt an ordinance which authorizes a specific series of bonds. The issuance of the second series of bonds (approx. \$36mm) will be part of the study outlined in Question #1.

3. Assume the DTWF expires. If the tax increment bonds are not issued by the City what is the financial impact to the DTWF and the taxing jurisdictions? Where would that flow of resources go? And when would it occur?

If the Downtown Waterfront Urban Renewal Area (“DTWF” or the “Area”) expires in April 2004, and approximately \$46 million in additional 20-year indebtedness is incurred prior to expiration, the following impacts will occur:

1. The Area will forego approximately \$36 million in remaining legal debt capacity and potentially \$36 million in bond proceeds for projects in the district.
2. The Area will continue to collect divide-the-taxes revenues in the approximate amount of \$7.7 million per year until such time as all bonds issued for the Area are retired or defeased. Assuming additional 20-year bonds are issued prior to expiration, the final maturity of the district’s bonds would be June 15, 2024. So, unless the Area’s bonds are retired or defeased prior to 2024, divide-the-taxes collections will occur until FY 2023-24.

The Area will continue to receive as much urban renewal Special Levy as is necessary, when added to the divide-the-taxes revenues, to fund debt service requirements on the Area’s outstanding bonds.

3. Overlapping taxing districts will continue to receive all incremental assessed value above the amount necessary to raise the \$7.7 million divide-the-taxes amount. Substantially all assessed value growth will continue to accrue to the benefit of the overlapping districts. Currently, about 55% of the incremental assessed value in the Area (or about \$423 million) is “released” to the overlapping districts, resulting in additional revenues to the overlapping districts. That percentage should continue to grow as the incremental assessed value of the district grows.

QUESTION #3 CONT.:

4. If a portion of DTWF's remaining \$82 million legal debt capacity expires unused, the Area's required allocation of the urban renewal Special Levy will be reduced over the long-term. Currently, the \$15 million per year urban renewal Special Levy is spread among the four Option 3 districts. Should a portion of DTWF's legal debt capacity expire unused, there should be more Special Levy available to use in any of three ways:

- a) PDC and Council could reallocate the unused Special Levy among the other Option 3 districts (Airport Way, Oregon Convention Center, and South Park Blocks).
- b) PDC and Council could elect to reduce the amount of the Special Levy, resulting in a reduction to City of Portland property tax bills;
- c) PDC and Council could elect to collect more tax increment revenues in the Area than is necessary to pay current debt service, and use the excess to redeem bonds prior to maturity. This would accelerate the return of approximately \$350 million of incremental assessed value that is currently used to generate the divide the taxes amount in the area.

4. Can bond proceeds be used for operating expenses such as public safety operating expenditures in URA's? If the City does not extend the district can the City use the \$36mm in debt not issued to fund other City priorities such as a project in another URA or to staff a jail?

In general, the answer is no, subject to Part I and II below.

PART I:

Urban renewal funds (TIF, bond proceeds and program income) are restricted funds by operation of state statute. (See ORS 457.170 and ORS 457.180) The funds are geographically limited as well as functionally limited. In general these funds are made available to urban renewal agencies for the alleviation of blight through investments and improvements that have the direct effect of increasing the value of properties contributing to the tax base within the district. Some collateral uses associated with development projects (such as paying for soft costs associated within a project) may be eligible for TIF expenditures. However, programmatic uses (Operating budgets, rent subsidy programs, personnel costs of other agencies) are not investments that directly increase the value of properties the tax base for those jurisdictions that contribute the funds.

PART II:

If the City does not extend the district can the City use the \$36mm in debt not issued to fund other City priorities such as a project in another URA or to staff a jail?

- Unused debt capacity, if any, in an urban renewal area, can only be used to address capital projects that are part of an urban renewal area’s adopted plan.
- \$36 million of unused legal debt capacity in Downtown Waterfront does not directly transfer to any other urban renewal area; however, not issuing the final \$36 million may have an indirect benefit to other Option 3 districts (see further discussion in the answer to Question 3 and below).
- No overlapping taxing district (City, County, school districts, etc.) would have access to this unused debt capacity.

If the Area expires in April 2004, and a portion of the remaining \$82 million in legal debt capacity expires, unused, additional financial capacity could be made available to the other Option 3 districts. As noted above, if less than all legally available debt is incurred, the Area’s future need for Special Levy allocation will be reduced. As such PDC and City Council could elect to reallocate the Special Levy, reduce the amount of the Special Levy collected city-wide, or use the Special Levy to redeem bonds prior to maturity. If the first option is selected, more financial capacity would be available to fund projects in other Option 3 urban renewal areas as more Special Levy could be directed to those areas.

5. Is extending the life of the DTWF legally defined as creating a new district?

- **If so, how does it impact the Option 3 status of DTWF?**
- **Is there anything in the state statutes that could be used as a realistic basis for a legal challenge?**

No.

There is no support in existing statutes or case law for the notion that action to extend the life of the DTWF would be treated as the creation of a new urban renewal area.

Because the law does not treat an extension as the creation of a new area, the extension should not impact the Option 3 status of DTWF.

In addition, ORS 457.435 provides:

“An option, once chosen, may not be changed to another option. In addition, if Option Three is chosen, the amount specified in the ordinance choosing the option to be collected by dividing the taxes pursuant to ORS 457.440 shall not be changed by subsequent ordinance or amendment to the certified statement.”

Oregon law does not currently provide a basis for claiming that the extension of the life of DTWF will eliminate DTWF’s Option 3 status or create a new area.

6. Can PDC and the City implement a boundary change where Oldtown/China Town could be shifted from DTWF and RD under either of the following scenarios?

- a. What are the impacts to both districts and the other taxing jurisdictions if the City extends the life of the district?**
 - **What are the legal hurdles?**
 - **Can the bond covenants be amended? What is the process?**
 - **Can the insurance covenants be amended? What is the process?**
 - **Other financial impacts**
 - **Option 3 impacts**
 - **Frozen Base impacts**
 - **Increment growth**
 - **10% limitation on expansion**

- b. What are the impacts to both districts and the other taxing jurisdictions if the City does NOT extend the life of the district?**
 - **What are the legal hurdles?**
 - **Can the bond covenants be amended? What is the process?**
 - **Can the insurance covenants be amended? What is the process?**
 - **Other financial impacts**
 - **Option 3 impacts**
 - **Frozen Base impacts**
 - **Increment growth**
 - **10% limitation on expansion**

Boundaries of the Downtown Waterfront and River District Urban Renewal Areas may be modified subject to certain limitations and requirements imposed by Oregon law, and by the bond declaration and insurance agreement that govern the issuance of bonds for Downtown Waterfront.

Such proposed boundary modifications have financial and legal effects that may help or hinder an urban renewal area's ability to fund activities within its boundaries. The tables on the following pages summarize the legal provisions and financial effects associated with a movement of property between Downtown Waterfront and River District. It should be noted that the legal and financial effects of amending boundaries are not necessarily dependent upon a decision to extend the life of Downtown Waterfront (i.e. a decision to modify existing boundaries could occur after Council rendered a decision to extend the expiration date of Downtown Waterfront).

These legal and financial effects will be studied in depth through the work plan identified in Question #1.

LEGAL CONSTRAINTS

	Constraints on Removing Area from Downtown Waterfront	Constraints on Adding Area to River District
State Law Restrictions	State law does not limit the removal of property from an urban renewal area.	<p>ORS 457.220 prohibits adding land to an existing urban renewal district if the aggregate additions exceed 20 percent of the land area of the original plan.</p> <p>In addition, no more than 15% of the total assessed value and no more than 15% of the total land area of the City may be within urban renewal areas.</p>
Bond Declaration Covenants	<p>Before removing property from DTWF, the Debt Manager must project that the Maximum Tax Increment Revenue (MTIR) after the reduction in Area exceeds 130% of Maximum Annual Debt Service.</p> <p>Provisions of the Bond Declaration may be amended with the consent of 51% of the Owners of the Bonds. When Bonds of a particular series are insured, the bond insurer is the “Owner” of the Bonds for purposes of consenting to amendments to the Bond Declaration. Since all outstanding DTWF bonds are insured by AMBAC, there is technically only one “Owner” of all the DTWF Bonds.</p>	Bond Declaration does not limit the addition of land to the urban renewal area.
Insurance Agreement Restrictions	<p>In addition, to the restrictions imposed by the Bond Declaration, the City has further covenanted for the benefit of AMBAC that it shall not, without the prior written consent of AMBAC:</p> <ol style="list-style-type: none"> 1. Withdraw property from a district which has an aggregate assessed value of more than 10% of the total assessed value of all taxable property in the district during any five-year period. 2. Withdraw property from a district if the Debt Manager reasonably projects that the district, after the withdrawal, will have MTIR which are less than 150% of the Maximum Annual Debt Service on all then outstanding obligations of the district. <i>(note: this provision modifies the more lenient restriction contained in the Bond Declaration)</i> 3. Withdraw property from a district if the total assessed value of all taxable property in the district declined in the preceding year for reasons other than withdrawals of property. 	Insurance Agreement does not limit the addition of land to the urban renewal area.

FINANCIAL EFFECTS

	Effects and Impacts Of Removing Property from Downtown Waterfront	Effects and Impacts of Adding Property to River District
Option 3 District Impacts	<p>If property is removed from an Option 3 urban renewal area, such as Downtown Waterfront, the Maximum Tax Increment Revenues (MTIR) of the district are reduced by the percentage decrease in the district’s incremental assessed value before and after the reduction in area.</p> <p>Reduction of the MTIR may, but does not necessarily, impair the ability of DTWF to collect sufficient tax increment revenues to issue additional future debt. A more detailed analysis is necessary to determine the extent to which the DTWF’s borrowing capacity is affected in the event of a withdrawal of property from its boundaries.</p>	N.A.
Frozen Base Impacts	Reduction of the area within DTWF by a certain percentage would reduce the Frozen Base of the Area by the same percentage. Such a reduction in the Frozen Base would reduce revenues to overlapping districts, but since the reduction would merely be transferred to River District, there should be no financial impact on overlapping districts	<p>The assessed value of all property that is moved into an urban renewal area comes into that area initially as frozen base. Thus, the incremental assessed value of property transferred from DTWF does not increase the incremental assessed value (or borrowing capacity) of River District.</p> <p>Future assessed value growth of the transferred property does increase the incremental assessed value of River District and over the longer term would be expected to add to the financing capacity of River District.</p>
Incremental A.V. Impacts	As noted above, reduction in the area of DTWF would reduce the Incremental Assessed Value (a.v.) of the area and therefore would reduce the area’s MTIR.	See Frozen Base Impacts.
Overlapping Taxing District Impacts	<p>If property were moved from DTWF into River District, the impacts on the overlapping taxing districts should be as follows:</p> <ol style="list-style-type: none"> 1. The amount of incremental a.v. released from DTWF to the overlapping districts would be reduced by the amount of the transferred incremental a.v. However, since the transferred incremental a.v. is moved into the frozen base of River District (where it accrues to the benefit of the overlapping districts), there should be no initial revenue impact on the overlapping districts. 2. For as long as property remains in DTWF, the overlapping districts receive the benefits of future growth in incremental a.v. However, once a portion of this incremental a.v. is moved into River District, the overlapping districts lose the benefit of future growth upon the transferred incremental a.v. since the future growth will instead accrue to River District’s incremental a.v. Thus, while there is no initial adverse impact on overlapping district revenues of moving property from DTWF to River District, there is an adverse impact over the longer term as the overlapping districts forego the benefits of future a.v. growth on the transferred property. 	See Previous Column.

QUESTION 6 CONT.:

c. What is the process to realign the boundaries of the districts?

In general, urban renewal area boundary changes may be accomplished by the adoption of either a minor amendment or substantial amendment to the urban renewal plan. The type of amendment required to effect a boundary change to an urban renewal area (“URA”) depends on two factors:

- (1) whether the boundary change adds land to, or removes land from, the URA;
- and
- (2) the amount of land added to, or removed from, the URA.

The type of amendment needed to effect a boundary change can be determined by using the table below:

	Boundary Change Adds Land	Boundary Change Removes Land
Amount of Land Added/Removed Exceeds 1.0% of Land Area Within Existing URA Boundaries	Substantial Amendment Is Required	Minor Amendment Is Required
Amount of Land Added/Removed is Less Than or Equal to 1.0% of Land Area Within Existing URA Boundaries	Minor Amendment Is Required	Minor Amendment Is Required

The suggestion to transfer all of Oldtown/China Town from the DTWF to the RD would qualify as a Substantial Amendment. This process must take into account restrictions placed on the reduction of land area from a URA by bond covenants and assurance agreements. These considerations are summarized in the tables on pages 6 and 7 of this document.

7. What was the extent of PDC public outreach on the extension discussions? Did PDC reach out beyond the district boundaries?

The Portland Development Commission began public outreach in October 2003 in preparation for the December 17, 2003 consideration of the 26th Amendment to the *Downtown Waterfront Urban Renewal Plan*. This included opportunities for private citizens, downtown stakeholder groups and local taxing districts to solicit and receive public input regarding the future of the Downtown Waterfront Urban Renewal Area.:

Emailed PDC Meeting Notices and Updates to:

- Downtown community and business associations
 - Portland Business Alliance.
 - Oldtown/China Town Neighborhood Association.
 - Oldtown/China Town Visions Committee.
 - Downtown Community Association.
 - Office of Neighborhood Involvement (ONI) listserv: More than 2000 people citywide neighborhood associations, coalition officers and other stakeholders).
- City Bureau directors
- Elected officials and directors for overlapping taxing districts.
- Portland Online and ONI listserv and web site.

PDC Web page:

- Meeting notices.
- URA Map, regular updates and status reports.
- Citizen feedback section for written comments.

In that period of time over 20 stakeholder meetings occurred. Nearly thirty people testified at PDC's public hearing on November 19, 2004. In addition, PDC received more than 35 written responses either through email or postal mail. PDC staff initiated individual dialogue with more than 20 government and elected officials. Seven primary taxing districts were approached (City of Portland, Multnomah County, Multnomah County Education Service District, Metro, Port of Portland, Portland Public Schools, and Tri-Met). Five of the seven expressed a written opinion regarding the expiration of the DTWF Plan.