

ENROLLED ORIGINAL

A RESOLUTION

17-538

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

February 19, 2008

To approve the small area action plan submitted by the Mayor to the Council for the Park Morton area.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Park Morton Redevelopment Initiative Plan Approval Resolution of 2008".

Sec. 2. Pursuant to section 4(c)(4) of the District of Columbia Comprehensive Plan Act of 1984 Land Use Element Amendment Act of 1984, effective March 16, 1985 (D.C. Law 5-187; D. C. Official Code § 1-306.03(c)(4)), the Mayor transmitted to the Council on December 17, 2007, the proposed Park Morton Redevelopment Initiative Plan ("Redevelopment Plan").

Sec. 3. The Council finds that:

(1) The Park Morton neighborhood ("Neighborhood") is located in the Park View community of Ward 1 and is generally bound by Georgia Avenue on the west, Warder Street on the east, Lamont Street on the south, and Park Road on the north.

(2) The Neighborhood is the fourth New Communities Initiative site. Community outreach and the subsequent neighborhood planning process were initiated by the District government in early spring of 2007, after the Council requested that the Mayor designate the Neighborhood as a proposed New Community.

(3) The proposed Redevelopment Plan was made available to the public on October 31, 2007, and the public hearing on the Redevelopment Plan was held on November 26, 2007, in the Neighborhood.

(4) The Neighborhood was selected as a New Community to bring the benefits and opportunities provided by this initiative, including enabling the Neighborhood to:

(A) Preserve and expand its affordable housing stock;

(B) Improve its economic integration into the larger Park View/Petworth community;

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(C) Enhance residents' employment opportunities through better job placement, education, and training;

(D) Enhance residents' opportunities, in general, by providing improved human services and programs;

(E) Reduce crime and poverty through targeted strategies;

(F) Establish community services and amenities and re-invest in existing services and amenities; and

(G) Engage residents in decision-making.

(5) The Redevelopment Plan includes:

(A) A Physical Plan for the Neighborhood's redevelopment;

(B) A Human Capital Plan, which describes priorities and goals that must be met that are essential for residents to enable them to achieve self-sufficiency and success in the newly revitalized mixed-income community; and

(C) A Development and Finance Strategy, which:

(i) Outlines the development program and the phases of the project;

(ii) Examines financial feasibility; and

(iii) Quantifies the need for gap financing to fund costs that the project's revenue and private investment will not support.

(6) The Physical Plan seeks to improve the Neighborhood's housing, community facilities, access to commercial and retail opportunities, urban design, open space, and transportation system by:

(A) Creating a mixed-income community of various housing types that includes 160 on-site replacement and ownership units, together with new affordable and market-rate units, for a total of 477 on-site units;

(B) Partnering with local property owners and developers to identify an additional 46 off-site replacement units in mixed-income developments in the community;

(C) Recommending the development of new retail and office space along Georgia Avenue;

(D) Restoring an east-to-west street connection and access to the community by reconnecting Morton Street to Georgia Avenue and Warder Street;

(E) Creating a new active neighborhood park and community facility within the development;

(F) Meeting parking demand with new underground parking, shared vehicle services, and on-street residential parking permits; and

(G) Reinforcing sustainable design principles and architectural design guidelines that are compatible with the existing neighborhood character.

(7) The Human Capital Plan is tailored to maximize the community's strengths, address current family challenges, and build upon existing community assets and public resources. It seeks to improve resident self-sufficiency and success by addressing 4 priority

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areas that residents identified through a household survey, targeted focus groups, and stakeholder interviews. The 4 priority areas are:

- (A) Adult education and employment;
- (B) Child and youth development;
- (C) Community physical and mental health; and
- (D) Public safety and security.

(8) The Development and Finance Strategy recommends leveraging several public sector financing tools to fund the project, in addition to using the cross subsidy provided by the Redevelopment Plan's market-rate housing. The strategy also identifies potential sources to reduce the project's \$57.5 million financial gap.

(9) The Redevelopment Plan will provide supplemental guidance to the Zoning Commission and other District agencies in carrying out the policies of the District of Columbia Comprehensive Plan.

Sec. 4. The Redevelopment Plan, as submitted, is approved by the Council as a small area action plan.

Sec. 5. The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 6. This resolution shall take effect immediately.

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A RESOLUTION

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

February 19, 2008

To declare the existence of an emergency with respect to the need to authorize and provide for the issuance, sale, and delivery of District of Columbia revenue bonds in an aggregate principal amount not to exceed \$28 million in one or more series and to authorize and provide for the loan of the proceeds of the bonds to assist the American Legacy Foundation in the financing, refinancing, or reimbursing of costs associated with an authorized project pursuant to section 490 of the District of Columbia Home Rule Act.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "American Legacy Foundation Revenue Bonds Project Emergency Declaration Resolution of 2008".

Sec. 2. The Council finds that:

(1) American Legacy Foundation ("Borrower") has requested that the District issue revenue bonds ("Bonds").

(2) The proposed financing will make available funds critically needed to finance, refinance, or reimburse the Borrower for costs of the:

(A) Financing and refinancing the acquisition and renovations of the facility located at 1724 Massachusetts Avenue, N.W., Washington, D.C., in Ward 2;

(B) Funding of any required deposit to a debt service reserve fund or capitalized interest on the Bonds; and

(C) Paying of certain costs of issuance of the Bonds, any bond insurance or credit enhancement, and working capital.

(3) Because the Borrower has requested that the District issue its revenue bonds as soon as possible because changing conditions in the bond market may quickly erode the savings available to the Borrower and to avoid an untimely delay in considering the adoption of the approval resolution, it is important that the Council expedite the process for the issuance of the Bonds by the District.

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Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the American Legacy Foundation Revenue Bonds Project Emergency Approval Resolution of 2008 be adopted on an emergency basis.

Sec. 4. This resolution shall take effect immediately.

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A RESOLUTION

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

February 19, 2008

To authorize and provide, on an emergency basis, for the issuance, sale, and delivery in an aggregate principal amount not to exceed \$28 million of District of Columbia revenue bonds in one or more series and to authorize and provide for the loan of the proceeds of the bonds to assist the American Legacy Foundation in the financing, refinancing, or reimbursing of costs associated with an authorized project pursuant to section 490 of the District of Columbia Home Rule Act.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "American Legacy Foundation Revenue Bonds Project Emergency Approval Resolution of 2008".

Sec. 2. Definitions.

For the purposes of this resolution, the term:

(1) "Authorized Delegate" means the Mayor or the Deputy Mayor for Planning and Economic Development or any officer or employee of the Executive Office of the Mayor to whom the Mayor has delegated or to whom the foregoing individuals have subdelegated any of the Mayor's functions under this resolution pursuant to section 422(6) of the Home Rule Act.

(2) "Bond Counsel" means a firm or firms of attorneys designated as bond counsel from time to time by the Mayor.

(3) "Bonds" means the District of Columbia revenue bonds, notes, or other obligations (including refunding bonds, notes, and other obligations), in one or more series, authorized to be issued pursuant to this resolution.

(4) "Borrower" means the owner of the assets financed, refinanced, or reimbursed with proceeds from the bonds, which owner shall be the American Legacy Foundation, a Delaware corporation exempt from federal income taxes.

(5) "Chairman" means the Chairman of the Council of the District of Columbia.

(6) "Closing Documents" means all documents and agreements, other than Financing Documents, that may be necessary and appropriate to issue, sell, and deliver the bonds and to make the loan, and includes agreements, certificates, letters, opinions, forms, receipts, and other similar instruments.

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(7) "District" means the District of Columbia.

(8) "Financing Documents" means the documents, other than Closing Documents, that relate to the financing or refinancing of transactions to be effected through the issuance, sale, and delivery of the bonds and the making of the loan, including any offering document, and any required supplements to any such documents.

(9) "Home Rule Act" means the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 777; D.C. Official Code § 1-201.01 *et seq.*).

(10) "Issuance Costs" means all fees, costs, charges, and expenses paid or incurred in connection with the authorization, preparation, printing, issuance, sale, and delivery of the bonds and the making of the loan, including, but not limited to, underwriting, legal, accounting, rating agency, and all other fees, costs, charges, and expenses incurred in connection with the development and implementation of the Financing Documents, the Closing Documents, and those other documents necessary or appropriate in connection with the authorization, preparation, printing, issuance, sale, marketing, and delivery of the bonds and the making of the loan, together with financing fees, costs, and expenses, including program fees and administrative fees charged by the District, fees paid to financial institutions and insurance companies, initial letter of credit fees (if any), and compensation to financial advisors and other persons (other than full-time employees of the District) and entities performing services on behalf of or as agents for the District.

(11) "Loan" means the District's lending of proceeds from the sale, in one or more series, of the bonds to the borrower.

(12) "Project" means:

(A) The financing, reimbursing, or refinancing of a portion of the costs incurred by the borrower in connection with the acquisition, construction, renovation, and equipping of the building owned by the borrower located at 1724 Massachusetts, N.W., Washington, D.C. (Lot 0080, Square 0158); and

(B) The paying of certain expenditures associated therewith including, without limitation, Issuance Costs, reserves, and credit enhancement costs.

Sec. 3. Findings.

The Council finds that:

(1) Section 490 of the Home Rule Act provides that the Council may, by resolution, authorize the issuance of District revenue bonds, notes, or other obligations (including refunding bonds, notes, or other obligations) to borrow money to finance, refinance, or reimburse, and to assist in the financing, refinancing, or reimbursing of, undertakings in certain areas designated in section 490 and may effect the financing, refinancing, or reimbursement by loans made directly or indirectly to any individual or legal entity, by the purchase of any mortgage, note, or other security, or by the purchase, lease, or sale of any property.

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(2) The borrower has requested the District to issue, sell, and deliver revenue bonds, in one or more series, in an aggregate principal amount not to exceed \$28 million, and to make the loan for the purpose of financing, refinancing, or reimbursing costs of the project.

(3) The project is located in the District and will contribute to the health, education, safety, or welfare of, or the creation or preservation of jobs for, residents of the District, or to economic development of the District.

(4) The project is an undertaking in the area of facilities used to house and equip operations related to the study, development, application, or production of innovative commercial or industrial technologies and social services within the meaning of section 490 of the Home Rule Act.

(5) The authorization, issuance, sale, and delivery of the bonds and the loan to the borrower are desirable, are in the public interest, will promote the purpose and intent of section 490 of the Home Rule Act, and will assist the project.

Sec. 4. Bond authorization.

(a) The Mayor is authorized pursuant to the Home Rule Act and this resolution to assist in financing, refinancing, or reimbursing the costs of the project by:

(1) The issuance, sale, and delivery of the bonds, in one or more series, in an aggregate principal amount not to exceed \$28 million; and

(2) The making of the loan.

(b) The Mayor is authorized to make the loan to the borrower for the purpose of financing, refinancing, or reimbursing the costs of the project and establishing any fund with respect to the bonds as required by the Financing Documents.

(c) The Mayor may charge a program fee to the borrower, including, but not limited to, an amount sufficient to cover costs and expenses incurred by the District in connection with the issuance, sale, and delivery of each series of the bonds, the District's participation in the monitoring of the use of the bond proceeds and compliance with any public benefit agreements with the District, and maintaining official records of each bond transaction and assisting in the redemption, repurchase, and remarketing of the bonds.

Sec. 5. Bond details.

(a) The Mayor is authorized to take any action reasonably necessary or appropriate in accordance with this resolution in connection with the preparation, execution, issuance, sale, delivery, security for, and payment of the bonds of each series, including, but not limited to, determinations of:

(1) The final form, content, designation, and terms of the bonds, including a determination that the bonds may be issued in certificated or book-entry form;

(2) The principal amount of the bonds and denominations of the bonds;

(3) The rate or rates of interest or the method for determining the rate or rates of interest on the bonds;

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(4) The date or dates of issuance, sale, and delivery of, and the payment of interest on, the bonds, and the maturity date or dates of the bonds;

(5) The terms under which the bonds may be paid, optionally or mandatorily redeemed, accelerated, tendered, called, or put for redemption, repurchase, or remarketing before their respective stated maturities;

(6) Provisions for the registration, transfer, and exchange of the bonds and the replacement of mutilated, lost, stolen, or destroyed bonds;

(7) The creation of any reserve fund, sinking fund, or other fund with respect to the bonds;

(8) The time and place of payment of the bonds;

(9) Procedures for monitoring the use of the proceeds received from the sale of the bonds to ensure that the proceeds are properly applied to the project and used to accomplish the purposes of the Home Rule Act and this resolution;

(10) Actions necessary to qualify the bonds under blue sky laws of any jurisdiction where the bonds are marketed; and

(11) The terms and types of credit enhancement under which the bonds may be secured.

(b) The bonds shall contain a legend, which shall provide that the bonds are special obligations of the District, are without recourse to the District, are not a pledge of, and do not involve, the faith and credit or the taxing power of the District, do not constitute a debt of the District, and do not constitute lending of the public credit for private undertakings as prohibited in section 602(a)(2) of the Home Rule Act.

(c) The bonds shall be executed in the name of the District and on its behalf by the manual or facsimile signature of the Mayor, and attested by the Secretary of the District of Columbia by the Secretary of the District of Columbia's manual or facsimile signature. The Mayor's execution and delivery of the bonds shall constitute conclusive evidence of the Mayor's approval, on behalf of the District, of the final form and content of the bonds.

(d) The official seal of the District, or a facsimile of it, shall be impressed, printed, or otherwise reproduced on the bonds.

(e) The bonds of any series may be issued in accordance with the terms of a trust instrument to be entered into by the District and a trustee to be selected by the borrower subject to the approval of the Mayor, and may be subject to the terms of one or more agreements entered into by the Mayor pursuant to section 490(a)(4) of the Home Rule Act.

(f) The bonds may be issued at any time or from time to time in one or more issues and in one or more series.

Sec. 6. Sale of the bonds.

(a) The bonds of any series may be sold at negotiated or competitive sale at, above, or below par, to one or more persons or entities, and upon terms that the Mayor considers to be in the best interests of the District.

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(b) The Mayor or an Authorized Delegate may execute, in connection with each sale of the bonds, offering documents on behalf of the District, may deem final any such offering document on behalf of the District for purposes of compliance with federal laws and regulations governing such matters, and may authorize the distribution of the documents in connection with the sale of the bonds.

(c) The Mayor is authorized to deliver the executed and sealed bonds, on behalf of the District, for authentication, and, after the bonds have been authenticated, to deliver the bonds to the original purchasers of the bonds upon payment of the purchase price.

(d) The bonds shall not be issued until the Mayor receives an approving opinion from Bond Counsel as to the validity of the bonds of such series and, if the interest on the bonds is expected to be exempt from federal income taxation, the treatment of the interest on the bonds for purposes of federal income taxation.

Sec. 7. Payment and security.

(a) The principal of, premium, if any, and interest on, the bonds shall be payable solely from proceeds received from the sale of the bonds, income realized from the temporary investment of those proceeds, receipts, and revenues realized by the District from the loan, income realized from the temporary investment of those receipts and revenues prior to payment to the bond owners, other moneys that, as provided in the Financing Documents, may be made available to the District for the payment of the bonds, and other sources of payment (other than from the District), all as provided for in the Financing Documents.

(b) Payment of the bonds shall be secured as provided in the Financing Documents and by an assignment by the District for the benefit of the bond owners of certain of its rights under the Financing Documents and Closing Documents, including a security interest in certain collateral, if any, to the trustee for the bonds pursuant to the Financing Documents.

(c) The trustee is authorized to deposit, invest, and disburse the proceeds received from the sale of the bonds pursuant to the Financing Documents.

Sec. 8. Financing and closing documents.

(a) The Mayor is authorized to prescribe the final form and content of all Financing Documents and all Closing Documents that may be necessary or appropriate to issue, sell, and deliver the bonds and to make the loan to the borrower.

(b) The Mayor is authorized to execute, in the name of the District and on its behalf, the Financing Documents and any Closing Documents to which the District is a party by the Mayor's manual or facsimile signature.

(c) If required, the official seal of the District, or a facsimile of it, shall be impressed, printed, or otherwise reproduced on the Financing Documents and the Closing Documents to which the District is a party.

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(d) The Mayor's execution and delivery of the Financing Documents and the Closing Documents to which the District is a party shall constitute conclusive evidence of the Mayor's approval, on behalf of the District, of the final form and content of the executed Financing Documents and the executed Closing Documents.

(e) The Mayor is authorized to deliver the executed and sealed Financing Documents and Closing Documents, on behalf of the District, prior to or simultaneously with the issuance, sale, and delivery of the bonds, and to ensure the due performance of the obligations of the District contained in the executed, sealed, and delivered Financing Documents and Closing Documents.

Sec. 9. Authorized delegation of authority.

To the extent permitted by District and federal laws, the Mayor may delegate to any Authorized Delegate the performance of any function authorized to be performed by the Mayor under this resolution.

Sec. 10. Limited liability.

(a) The bonds shall be special obligations of the District. The bonds shall be without recourse to the District. The bonds shall not be general obligations of the District, shall not be a pledge of, or involve, the faith and credit or the taxing power of the District, shall not constitute a debt of the District, and shall not constitute lending of the public credit for private undertakings as prohibited in section 602(a)(2) of the Home Rule Act.

(b) The bonds shall not give rise to any pecuniary liability of the District and the District shall have no obligation with respect to the purchase of the bonds.

(c) Nothing contained in the bonds, in the Financing Documents, or in the Closing Documents shall create an obligation on the part of the District to make payments with respect to the bonds from sources other than those listed for that purpose in section 7.

(d) The District shall have no liability for the payment of any Issuance Costs or for any transaction or event to be effected by the Financing Documents.

(e) All covenants, obligations, and agreements of the District contained in this resolution, the bonds, and the executed, sealed, and delivered Financing Documents and Closing Documents to which the District is a party, shall be considered to be the covenants, obligations, and agreements of the District to the fullest extent authorized by law, and each of those covenants, obligations, and agreements shall be binding upon the District, subject to the limitations set forth in this resolution.

(f) No person, including, but not limited to, the borrower and any bond owner, shall have any claims against the District or any of its elected or appointed officials, officers, employees, or agents for monetary damages suffered as a result of the failure of the District or any of its elected or appointed officials, officers, employees or agents to perform any covenant, undertaking, or obligation under this resolution, the bonds, the Financing Documents, or the Closing Documents, or as a result of the incorrectness of any representation in or omission from the Financing

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Documents or the Closing Documents, unless the District or its elected or appointed officials, officers, employees, or agents have acted in a willful and fraudulent manner.

Sec. 11. District officials.

(a) Except as otherwise provided in section 10(f), the elected or appointed officials, officers, employees, or agents of the District shall not be liable personally for the payment of the bonds or be subject to any personal liability by reason of the issuance, sale, or delivery of the bonds, or for any representations, warranties, covenants, obligations, or agreements of the District contained in this resolution, the bonds, the Financing Documents, or the Closing Documents.

(b) The signature, countersignature, facsimile signature, or facsimile countersignature of any official appearing on the bonds, the Financing Documents, or the Closing Documents shall be valid and sufficient for all purposes notwithstanding the fact that the individual signatory ceases to hold that office before delivery of the bonds, the Financing Documents, or the Closing Documents.

Sec. 12. Maintenance of documents.

Copies of the specimen bonds and of the final Financing Documents and Closing Documents shall be filed in the Office of the Secretary of the District of Columbia.

Sec. 13. Information reporting.

Within 3 days after the Mayor's receipt of the transcript of proceedings relating to the issuance of the bonds, the Mayor shall transmit a copy of the transcript to the Secretary to the Council.

Sec. 14. Disclaimer.

(a) The issuance of bonds is in the discretion of the District. Nothing contained in this resolution, the bonds, the Financing Documents, or the Closing Documents shall be construed as obligating the District to issue any bonds for the benefit of the borrower or to participate in or assist the borrower in any way with financing, refinancing, or reimbursing the costs of the project. The borrower shall have no claims for damages or for any other legal or equitable relief against the District, its elected or appointed officials, officers, employees, or agents as a consequence of any failure to issue any bonds for the benefit of the borrower.

(b) The District reserves the right to issue the bonds in the order or priority it determines in its sole and absolute discretion. The District gives no assurance and makes no representations that any portion of any limited amount of bonds or other obligations, the interest on which is excludable from gross income for federal income tax purposes, will be reserved or will be available at the time of the proposed issuance of the bonds.

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(c) The District, by adopting this resolution or by taking any other action in connection with financing, refinancing, or reimbursing costs of the project, does not provide any assurance that the project is viable or sound, that the borrower is financially sound, or that amounts owing on the bonds or pursuant to the loan will be paid. The borrower, any purchaser of the bonds, or any other person shall not rely upon the District with respect to these matters.

Sec. 15. Expiration.

If any bonds are not issued, sold, and delivered to the original purchaser within 3 years after the date of this resolution, the authorization provided in this resolution with respect to the issuance, sale, and delivery of the bonds shall expire.

Sec. 16. Severability.

If any particular provision of this resolution, or the application thereof to any person or circumstance is held invalid, the remainder of this resolution and the application of such provision to other persons or circumstances shall not be affected thereby. If any action or inaction contemplated under this resolution is determined to be contrary to the requirements of applicable law, such action or inaction shall not be necessary for the purpose of issuing of the bonds, and the validity of the bonds shall not be adversely affected.

Sec. 17. Compliance with public approval requirement.

This approval shall constitute the approval of the Council as required in section 147(f) of the Internal Revenue Code of 1986, approved October 22, 1986 (100 Stat. 2635; 26 U.S.C. § 147(f)), and section 490(k) of the Home Rule Act, for the project. This resolution has been adopted by the Council after a public hearing held at least 14 days after publication of notice in a newspaper of general circulation in the District.

Sec. 18. Transmittal.

The Secretary to the Council shall transmit a copy of this resolution, upon its adoption, to the Mayor.

Sec. 19. Fiscal impact statement.

The Council adopts the February 19, 2008 fiscal impact statement of the Budget Director as the fiscal impact statement required by section 602(c)(3) of the Home Rule Act.

Sec. 20. Effective date.

This resolution shall take effect immediately.