

DISTRICT OF COLUMBIA REGISTER**JUL 22 2005****ENROLLED ORIGINAL**

A RESOLUTION

16-216

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

July 6, 2005

To approve the Consolidated Plan for the District of Columbia, Fiscal Years 2006-2010 and the Fiscal Year 2006 Action Plan, which includes 4 annual grant applications for funding provided by the U.S. Department of Housing and Urban Development.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may cited as the "Consolidated Plan for the District of Columbia, Fiscal Years 2006-2010 and the Fiscal Year 2006 Action Plan Approval Resolution of 2005".

Sec. 2. The Council finds that:

(1) The primary objective of the Consolidated Plan for the District of Columbia, Fiscal Years 2006 -2010 and the Fiscal Year 2006 Action Plan is to set forth a strategy for the District to develop a viable urban community by providing decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low- and moderate-income.

(2) The District government is required to submit a 5-year Consolidated Plan and an annual Action Plan for each of the 5 years to the U.S. Department of Housing and Urban Development ("HUD") under Title I of the Housing and Community Development Act of 1974 ("Housing and Community Development Act"), approved August 22, 1974 (88 Stat. 633; 42 U.S.C. § 5301 *et seq.*).

(3) The Action Plan is the successor to the Community Development Program pursuant to regulations issued by HUD under 24 C.F.R. Part 91, Consolidated Submissions for Community Planning and Development Programs, on January 5, 1995.

(4) Under section 3 of the Community Development Act of 1975, effective December 16, 1975 (D.C. Law 1-39; D.C. Official Code § 6-1002), the Council is required to adopt a resolution approving the proposed Fiscal Years 2006 – 2010 Consolidated Plan and the Fiscal Year 2006 Action Plan pursuant to Title I of the Housing and Community Development Act.

(5) The Mayor has submitted to the Council for review the proposed Consolidated Plan for the District of Columbia, Fiscal Years 2006 - 2010 and the Fiscal Year 2006 Action Plan identifying resources and program activities to address the District's housing

and community development needs for the next 5 years and for Fiscal Year 2006.

(6) The Council has reviewed the proposed Consolidated Plan for the District of Columbia, Fiscal Years 2006 - 2010 and the Fiscal Year 2006 Action Plan.

Sec. 3. Pursuant to section 3(c) of the Community Development Act of 1975, effective December 16, 1975 (D.C. Law 1-39; D.C. Official Code § 6-1002(c)), the Council approves the Proposed Consolidated Plan for the District of Columbia, Fiscal Years 2006 - 2010, the Fiscal Year 2006 Action Plan, and the related program funding for the Community Development Block Grant program, the HOME Investment Partnerships program, the Housing Opportunities for Persons with AIDS program, and the Emergency Shelter Grant program; provided, that the Department of Housing and Community Development submits to the Council for review, at least 72 hours before submittal to HUD, the Consolidated Plan for the District of Columbia, Fiscal Years 2006 - 2010 and the Fiscal Year 2006 Action Plan.

Sec. 4. The Secretary to the Council shall transmit a copy of this resolution, upon its adoption, to the Mayor.

Sec. 5. Fiscal impact statement.

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.

A RESOLUTION

16-217

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

July 6, 2005

To amend the Rules of Organization and Procedure for the Council of the District of Columbia, Council Period 16 to permit the time period for Council review of contracts, reprogramming requests, and budget modification grant requests to run from July 15 to August 15, 2005.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Council Period 16 Rules Time Extension Resolution of 2005".

Sec. 2. The Rules of Organization and Procedure for the Council of the District of Columbia, Council Period 16, effective January 2, 2005 (Res. 16-1; 52 DCR 597), is amended as follows:

(a) Section 308(b) is amended as follows:

(1) Paragraph (1) is amended by striking the phrase "during the 30-day period prior to the end of the summer recess of the Council" and inserting the phrase "during the period of July 15 through August 15, 2005" in its place.

(2) New paragraphs (3) and (4) are added to read as follows:

"(3) A reprogramming request that is required to be submitted to the Council may be transmitted from July 15 through August 15, 2005.

"(4) A request for a budget modification for FY 2005 grant funds may be transmitted from July 15 through August 15, 2005."

(b) Section 711 is amended as follows:

(1) The existing text is designated as subsection (a).

(2) A new subsection (b) is added to read as follows:

"(b) Notwithstanding any other law, reprogramming requests may be submitted and the time period for reprogramming requests may be counted from July 15 through August 15, 2005."

Sec. 3. This resolution shall take effect immediately.

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A RESOLUTION

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

July 6, 2005

To declare the sense of the Council with respect to the need to amend the zoning regulations to adopt a mandatory inclusionary zoning policy that requires new and rehabilitated residential developments to include housing units affordable to low- and moderate-income residents in exchange for permitting housing developers to obtain additional zoning density as a matter of right.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Sense of the Council in Support of Mandatory Inclusionary Zoning Resolution of 2005".

Sec. 2. The Council finds that:

(1) For almost 30 years, hundreds of cities and counties throughout the United States, including areas neighboring the District, have been using inclusionary zoning to help meet their affordable housing needs and build vibrant, mixed income communities.

(2) Inclusionary zoning is one of many strategies that are currently being examined and adopted to address the critical need to maintain and increase the supply of quality affordable housing in the District.

(3) By adopting an inclusionary zoning policy, the District could:

(A) Increase the supply of affordable housing for low- and middle-income families and workers;

(B) Support the creation of mixed income communities;

(C) Prevent rising prices from driving out low- and moderate-income residents; and

(D) Leverage the expertise and capacity of the private market to develop affordable housing.

(4) For the past several years, the District has been one of the most dynamic real estate markets in the United States. Although rising property values help increase the wealth of District homeowners and generate additional revenue to the District, both of which help fund the District's many social services and other needs and help maintain a balanced budget, rising

property values also present challenges to the District and its residents.

(5) As a result of public and private investments, the District has begun to reverse the decades-long decline in residential population. Its goal now is to gain tens of thousands of new residents during the next decade, while maintaining policies that ensure that existing residents can afford to remain here and that new and renovated housing is affordable across a wide range of income levels.

(6) The District's long-term economic survival requires the adoption of policies that ensure that more of the District's workers, whether in the private or public sector, live in the District and pay income taxes to the District.

(7) The strength of the District, of any thriving jurisdiction, can be found in its diversity; mixed-income neighborhoods are vibrant neighborhoods. To ensure that the District does not become a city comprised of only the very rich and the very poor, it must provide a variety of housing choices for low- and moderate-income households and for working and middle class families, who are an important component of the District's workforce.

(8) In recent years, the District has adopted, or maintained, several strategies to help maintain and increase the supply of affordable housing; for example:

(A) The District requires that new residential developments on land disposed of by the District have a certain percentage set aside for low- and moderate-income households and has funded the Housing Production Trust Fund with a substantial, reliable, and predictable annual stream of revenue to help fund affordable housing construction and renovation.

(B) For homeowners, the Council has reduced the real property tax rate for the first time in 15 years to 92 cents per \$100 valuation, doubled the homestead deduction to \$60,000, and enacted legislation to cap the annual payment of real property taxes to no more than 10%.

(C) For renters, the Council has also reduced the real property tax rate from \$1.54 to 92 cents per \$100 valuation, and the District has continued its longstanding policy in support of rent control and in support of ensuring that tenants have the first opportunity to purchase their apartments when offered for sale.

(D) The Comprehensive Plan requires a developer that has obtained additional commercial office space as a result of a street or alley closing to contribute a certain amount of funds towards the production of low- and moderate-income housing.

(E) In Planned Unit Development zoning cases, upon the recommendation of the Office of Planning, the Zoning Commission requires residential developers that receive bonus density increases to set aside a percentage of the new housing for low- and moderate-income residents.

(9) Inclusionary zoning is a tool to attract new residents and support existing residents by requiring the production of affordable housing in developments throughout the District. However, for these requirements to be effective, developers must be provided sufficient

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compensation in the form of density bonuses, zoning variances, and other incentives.

(10) The District faces unique challenges in implementing a successful mandatory inclusionary policy, for the District is primarily a built urban environment with mostly infill development opportunities, which are further constrained by federal height limitations and historic preservation requirements. In addition, many existing stable neighborhoods, even those with Metrorail stops where additional development is permitted under zoning or the Comprehensive Plan, resist increased height and density in their communities.

(11) An inclusionary zoning policy must strike a balance that supports sustained growth within the parameters of the Comprehensive Plan, ensures affordability within developments, includes incentives for development to occur throughout the District, and promotes fairness and predictability.

(12) Many factors make it a critical time to implement a mandatory inclusionary zoning policy in the District, such as the existence of renewed residential investment, an escalating housing market, increasing housing cost burdens on residents and newcomers, increased displacement, and an ambitious Mayoral plan to attract 100,000 new residents. The District can make a major stride toward meeting its twin goals of growth and affordability by committing to one of the most effective tools in the affordable housing toolkit – inclusionary zoning.

Sec. 3. It is the sense of the Council that the Zoning Commission and the Mayor should support timely adoption of a mandatory inclusionary zoning policy that includes the following components:

(1) An inclusionary zoning overlay mapped for those areas of the District where at least a 20% extra zoning density bonus could be appropriately provided and obtained within the parameters of the Comprehensive Plan.

(2) For new and substantially rehabilitated residential developments of 10 or more ownership or rental units within the mapped inclusionary zoning overlay, certain minimum percentages of affordable housing should be required to be set aside for low- and moderate-income residents; in return for which, developers can elect to take a 20% density bonus as a matter of right, in addition to the provision of other developer compensation and cost reduction strategies.

(3) As the District has affordable housing needs across a range of income levels, tiered income targets should be established requiring, for example, that half of the affordable units should be affordable to households at 50% of Area Median Income (“AMI”), and half affordable to households at 80% of AMI.

(4) To make the units affordable to households at 30% of AMI or less, the District of Columbia Housing Authority (“DCHA”) and qualified nonprofits should have the first right to purchase or rent a certain percentage of the inclusionary units. Any of the units not optioned by DCHA or by a nonprofit that are affordable to households at 50% AMI should be prioritized for a separate lottery of Housing Choice Voucher holders on the inclusionary zoning waiting list who

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indicate interest in the units. If there are no voucher holders to rent them, the unclaimed portion of the inclusionary zoning units should be distributed to the general applicant pool.

(5) Certain construction requirements should apply. Developers should be required to build inclusionary units within the larger market rate development. Production of affordable and market rate units should proceed simultaneously. Exceptions should be made only when the developer can demonstrate that on-site development would create undue economic hardship, such as, for example, applying inclusionary zoning to a retirement housing community with expensive bundled services, to a development with high condominium fees that cannot be reduced to affordable levels even after non-essential amenity and recreational costs are separated out to attempt to meet the affordability required for targeted income groups, or where compliance would deprive the developer of all economically viable use of the property. When exceptions are granted, the administrative agency should be authorized to require the developer to construct the same number of units either off-site within the same ward or within 2 miles of the development project or to make an in-lieu payment to the Housing Production Trust Fund.

(6) Certain design standards should also apply to inclusionary units. Affordable units should be similar to and compatible with market rate units in outward appearance, number of bedrooms, and location throughout the project; except that the size of affordable units may be reduced to a minimum standard, and interior finishes, appliances, and amenities need not be compatible with market rate units.

(7) The inclusionary zoning program should require long term affordability control periods, in order to build a stock of affordable housing, encourage neighborhood stabilization, and promote economic and racial diversity, which should be balanced with the objective of maintaining the opportunity for families to build wealth through home ownership.

(8) The inclusionary zoning policy that is adopted should be clear about the administration and enforcement of the requirements.

(9) The Mayor should expeditiously prepare and submit to the Council legislation that is necessary to implement and facilitate the inclusionary zoning policy.

Sec. 4. The Secretary to the Council shall transmit a copy of this resolution, upon its adoption, to the Mayor, the Zoning Commission, and to the Director of the Office of Planning.

Sec. 5. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

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A RESOLUTION

16-219

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

July 6, 2005

To approve proposed compensation system changes submitted by the Mayor establishing the Excepted Service Pay Schedule.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Excepted Service Employees Compensation System Changes Approval Resolution of 2005".

Sec. 2. Pursuant to sections 1104 and 1106 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code §§ 1-611.04 and 1-611.06), the Council approves the compensation system changes as recommended by the Mayor for Excepted Service positions, which were transmitted to the Council by the Mayor on June 20, 2005.

Sec. 3. The compensation system changes for Excepted Service positions recommended by the Mayor establish the Excepted Service Pay Schedule ("ES Schedule") as the basic pay schedule for positions in the Excepted Service and provide for an increase of 3.5% to the salary of Excepted Service employees. The 3.5% salary increase shall be computed based on the salary of Excepted Service employees as of the effective date of the compensation system changes specified in section 8.

Sec. 4. The proposed ES Schedule will be divided into 11 pay levels. Each level will have a minimum, midpoint, and maximum range. The personnel authority shall designate the appropriate level for each Excepted Service position.

Sec. 5. The proposed ES Schedule is similar in design and structure to the current DX Schedule established for subordinate agency head positions in that it provides for open ranges with progression based on performance. The Mayor submits that an advantage of this type of pay system is:

(1) The ability to monitor the ranges for market comparability and adjust them as necessary without adjusting individual salaries within the ranges;

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- (2) That it allows for flexibility in the placement of employees in the schedule;
- (3) That it assists in recruitment and retention efforts;
- (4) That it promotes a true pay-for-performance system; and
- (5) That it provides merit progression through the ranges, which is common in other professional and managerial pay structures, both in the public and private sectors.

Sec. 6. The proposed ES Schedule shall be subject to periodic reviews and range adjustments for the purpose of keeping the salary structure competitive while controlling compensation costs.

Sec. 7. The proposed compensation system changes are as follows:

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District of Columbia Salary Schedule: Excepted Service Schedule



Status: Proposed (new)
Effective Date: 7/10/2005 **CBU/Service Code:** XAA A40, XAA A80
FY: 2005
Union/Non-union: Non-union
Pay Plan Schedule: ES
Resolution Number:
Date of Resolution:
Serv Code Definition: Excepted Service Schedule

Grade	Minimum	Midpoint	Maximum
ES1	\$24,774	\$30,968	\$37,161
ES2	\$27,994	\$34,992	\$41,990
ES3	\$31,631	\$39,539	\$47,447
ES4	\$35,741	\$44,677	\$53,612
ES5	\$40,366	\$50,482	\$60,579
ES6	\$46,444	\$58,054	\$69,665
ES7	\$53,410	\$66,763	\$80,115
ES8	\$61,422	\$76,777	\$92,132
ES9	\$76,777	\$95,971	\$115,166
ES10	\$95,971	\$119,964	\$143,957
ES11*	\$119,964	\$149,955	\$179,946

*ES11 pay level is limited to Deputy Mayor positions.

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Sec. 8. Applicability date.

The compensation system changes delineated in section 7 shall become effective on July 10, 2005.

Sec. 9. Fiscal impact statement.

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

Sec. 11. This resolution shall take effect immediately.

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A RESOLUTION

16-220

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

July 6, 2005

To approve the changes to the Executive Schedule for subordinate agency head positions submitted by the Mayor.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Executive Service Schedule Approval Resolution of 2005".

Sec. 2. Pursuant to section 1052(d) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-610.52 (d)), the Council approves the changes to the Executive Schedule ("DX Schedule"), as recommended by the Mayor for subordinate agency head positions, which was submitted to the Council by the Mayor on June 23, 2005.

Sec. 3. The DX Schedule is divided into 5 pay levels and is the basic pay schedule for subordinate agency head positions. Each pay level has a minimum, midpoint, and maximum salary range. The proposed changes to the DX Schedule are designed to be competitive with the salary ranges of regional and national salary structures for comparable professional, managerial, and executive type positions.

Sec. 4. The proposed compensation system changes are as follows:

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District of Columbia Salary Schedule: Executive Schedule



Fiscal Year: 2005 Service Code Definition: Executive Schedule

Salary: Affected CBU/Service Code(s): XXX A87

Effective Date: 7/24/2005

Percentage Increase: 3.5%

Union/Non-union: Non-union

Pay Plan Schedule: DX

Resolution Number:

Date of Resolution:

Grade	Min	Mid	Max
E1	\$82,800	\$103,500	\$124,200
E2	\$90,045	\$112,525	\$135,005
E3	\$97,911	\$122,295	\$146,580
E4	\$106,398	\$132,873	\$159,348
E5	\$115,196	\$144,538	\$173,880

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Sec. 5. The proposed changes to the DX Schedule provide for an increase to the maximum rates of the salary ranges. This results in a 20% increase to the current maximum rates of the salary ranges. This will enable the District government to become market-competitive with other jurisdictions that offer higher maximum compensation for comparable executive positions. The proposed changes to the DX Schedule will bring the new maximum salary ranges closer to the highest rates offered by other employers for comparable executive positions, which should help in recruitment for these positions. The new range spreads will be closer to the average industry range spreads of 50-60% and will provide additional flexibility in negotiating salaries for difficult to recruit positions.

Sec. 6. The compensation system changes delineated in sections 4 and 5 shall become effective July 24, 2005.

Sec. 7. Fiscal impact statement.

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

Sec. 9. This resolution shall take effect immediately.

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A RESOLUTION

16-221

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

July 6, 2005

To confirm the Mayoral appointment of Mr. Charles James Willoughby as the Inspector General.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may cited as the "Inspector General Charles James Willoughby Confirmation Resolution of 2005".

Sec. 2. The Council of the District of Columbia confirms the appointment of:

Mr. Charles James Willoughby
1745 North Portal Drive, N.W.
Washington, D.C. 20012
(Ward 4)

as the Inspector General, established by section 208(a)(1) of the District of Columbia Procurement Practices Act of 1985, effective February 21, 1986 (D.C. Law 6-85; D.C. Official Code §2-302.08 (a)(1)), and in accordance with section 2 of the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code §1-523.01) to serve for a term to end May 19, 2008.

Sec. 3. The Council of the District of Columbia shall transmit a copy of this resolution, upon its adoption, each to the nominee and to the Office of the Mayor.

Sec. 4. This resolution shall take effect immediately.

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A RESOLUTION

16-222

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

July 6, 2005

To confirm the reappointment of Dr. Lenora Cole to the District of Columbia Board of Elections and Ethics.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may cited as the "District of Columbia Board of Elections and Ethics Lenora Cole Confirmation Resolution of 2005".

Sec. 2. The Council of the District of Columbia confirms the reappointment of:

Lenora Cole, Ph.D.
3020 Brandywine Street, N.W.
Washington, D.C. 20008
(Ward 3)

as a member of the District of Columbia Board of Elections and Ethics, established by section 3 of the District of Columbia Election Code of 1955, approved August 12, 1955 (69 Stat. 699; D.C. Official Code §1-1001.03), for a term to end July 7, 2008.

Sec. 3. The Council of the District of Columbia shall transmit a copy of this resolution, upon its adoption, each to the nominee and to the Office of the Mayor.

Sec. 4. This resolution shall take effect immediately.

A RESOLUTION

16-223

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

July 6, 2005

To confirm the Mayoral reappointment of Mr. Jonathan D. Zischkau as a member of the Contract Appeals Board.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may cited as the "Contract Appeals Board Jonathan D. Zischkau Confirmation Resolution of 2005".

Sec. 2. The Council of the District of Columbia confirms the reappointment of:

Jonathan D. Zischkau
4441 Yuma Street, N.W.
Washington, D.C. 20016
(Ward 3)

as a member of the Contract Appeals Board, established by section 901 of the District of Columbia Procurement Practices Act of 1985, effective February 21, 1986 (D.C. Law 6-85; D. C. Official Code §2-309.01), for a term to end July 28, 2009.

Sec. 3. The Council of the District of Columbia shall transmit a copy of this resolution, upon its adoption, each to the nominee and to the Office of the Mayor.

Sec. 4. This resolution shall take effect immediately.

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A RESOLUTION

16-224

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

July 6, 2005

To declare the sense of the Council on the importance of having a Southwest Airlines airplane decorated with the flag of the District of Columbia.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Sense of the Council in Support of a Southwest Airlines District of Columbia One Resolution of 2005".

Sec. 2. The Council finds that:

Southwest Airlines has approximately 164 daily nonstop departures from Baltimore/Washington International Airport.

(2) Baltimore/Washington International Airport ranks third in operation for daily departures for Southwest Airlines.

(3) Southwest Airlines is the top carrier at Baltimore/Washington International Airport.

(4) Southwest Airlines has 11 jets that are painted in a unique design, 6 of which are state themes. States include Maryland, Arizona, California, Texas, Nevada and New Mexico.

Sec. 3. It is the sense of the Council that the success of Southwest Airlines at Baltimore/Washington International Airport with the District of Columbia should be celebrated by adorning a Southwest Airlines airplane with the flag of the District of Columbia.

Sec. 4. The Secretary to the Council shall transmit a copy of this resolution, upon its adoption to:

(1) The Mayor; and

(2) Southwest Airlines.

Sec. 5. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

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A RESOLUTION

16-225

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

July 6, 2005

To declare the sense of the Council in favor of the renewal of the Voting Rights Act of 1965.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Sense of the Council in Favor of the Renewal of the Voting Rights Act of 1965 Resolution of 2005".

Sec. 2. The Council finds that:

(a) The right to vote is among the most fundamental rights we enjoy as citizens of the United States. During most of this country's existence, however, African Americans have been denied and brutally restricted from exercising this right to participate in the electoral process.

(b) The Voting Rights Act of 1965 outlawed the practice of requiring would-be voters to take literacy tests and provided for federal registration of African-American voters in areas that had less than 50% of eligible voters registered. President Lyndon B. Johnson signed the measure into law on August 6, 1965.

(c) In 2007, the "special provisions" of the Voting Rights Act of 1965 that were enacted to address discriminatory voting practices, and the continuing effects of those practices in many of the jurisdictions where discrimination was especially severe, could expire if not renewed by Congress. Two important provisions included are the following:

(1) Section 5 requires that certain jurisdictions with a history of discrimination in voting, including much of the southern United States, submit to the federal government for pre-approval any law which affects voting in order to ensure that the law is not racially discriminatory. The jurisdictions bear the burden of demonstrating that the proposed law is not discriminatory. This process is called "pre-clearance."

(2) Section 203 of the act, the bilingual voting materials provisions, requires jurisdictions to provide translated election materials and bilingual ballots in jurisdictions with significant language minority populations who have limited English proficiency and higher rates of illiteracy than the general population. Without bilingual voting materials, voters with limited English language proficiency could be effectively shut out of the electoral process.

(d) In light of the voting irregularities reported in Florida in 2000 and in Ohio in 2004, it is clear that the Voting Rights Act of 1965 is still necessary.

(e) The Voting Rights Act of 1965 itself has been called the single most effective piece of civil rights legislation ever passed by Congress.

Sec. 3. It is the sense of the Council that it is vital to the nation's political and social health that the Voting Rights Act of 1965 be renewed by Congress to ensure that this important protection is preserved for generations to come.

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Sec. 4. The Secretary to the Council of the District of Columbia shall transmit copies of this resolution, once adopted, to the President of the United States, the President Pro Tempore of the United States Senate, the Speaker of the United States House of Representatives, the United States Senate Majority Leader, the United States Senate Minority Leader, the United States House of Representatives Majority Leader, the United States House of Representatives Minority Leader and the District of Columbia Delegate to the United States House of Representatives.

Sec. 5. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

A RESOLUTION

16-226

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

July 6, 2005

To declare the sense of the Council in favor of the District of Columbia Fair Federal Compensation Act of 2005.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Sense of the Council in Favor of Fair Federal Compensation Resolution of 2005".

Sec. 2. The Council finds that:

(a) The District of Columbia Fair Federal Compensation Act of 2005, H.R. 1586, was introduced in the United States House of Representatives by District of Columbia Delegate Eleanor Holmes Norton on April 12, 2005.

(b) Republican and Democratic co-sponsors of the bill included Government Reform Committee Chair Tom Davis, Appropriations Subcommittee Chair Frank Wolf, Democratic Whip Steny Hoyer, Former Congressional Black Caucus Chair Elijah Cummings and Representatives Jim Moran, Chris Van Hollen, and Albert Wynn.

(c) The goal of the District of Columbia Fair Federal Compensation Act of 2005 is to prevent a fiscal crisis in the District that could occur due to an unsustainable financial burden on both the District government and District residents. District residents and businesses remain largely unaware of an imbalance that is inherent in the District's financial structure.

(d) The structural imbalance identified by the District of Columbia Fair Federal Compensation Act of 2005 is the difference between the cost of District government services and operations and the add-on cost to local taxpayers that would otherwise be carried by the federal government.

(e) The Government Accounting Office("GAO") reports that the imbalance is exclusively federal and has three sources: 1) federal use of the District's most valuable land; 2) the District's continuing responsibility for many costly state functions; and 3) the commuter tax ban, which prohibits the District from taxing nonresidents despite the fact that the District provides government infrastructure services to 200,000 federal employees.

(f) The GAO has concluded that the only options for relieving the structural imbalance are 1) to change federal procedures and expand the District's tax base, or 2) provide additional financial support and a greater role by the federal government to help the District maintain fiscal balance.

(g) The District of Columbia Fair Federal Compensation Act of 2005 redresses a portion of the annual structural imbalance, estimated by the GAO to be from \$470 million to more than \$1.1 billion, by providing for an annual federal contribution to the District of \$800 million. The federal contribution would be directed to support the District's infrastructure.

(h) The legislation mandates specific uses only for the nonoperational and urgent capital

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needs that are delayed each year in favor of keeping the District government operating due to budget constraints. The bill would also improve the District's investment bond rating and thus reduce the high interest payments, the costs of which are passed on to all District taxpayers.

(i) Several years ago Congress relieved the District of the costs of some, but not all, state functions and left in place several of the uniquely federal structural impediments as described in the GAO report. The CFO has ominously warned that the remaining structural imbalance endangers the District's financial future and cannot continue to be carried by the District alone.

(j) The District of Columbia Fair Federal Compensation Act of 2005 will put in place measures that ensure that the District is able to continue to expand its financial strength, avoid future financial risks, and provide relief to District taxpayers.

Sec. 3. It is the sense of the Council that it is vital to the District's financial future that the District of Columbia Fair Federal Compensation Act of 2005 be enacted by Congress to ensure correction of the structural imbalance that threatens the significant financial gains made by the District in the last few years.

Sec. 4. The Secretary to the Council of the District of Columbia shall transmit copies of this resolution, once adopted, to the President of the United States, the President Pro Tempore of the United States Senate, the Speaker of the United States House of Representatives, the United States Senate Majority Leader, the United States Senate Minority Leader, the United States House of Representatives Majority Leader, the United States House of Representatives Minority Leader and the District of Columbia Delegate to the United States House of Representatives.

Sec. 5. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

A RESOLUTION

16-227

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

July 6, 2005

To authorize and provide for the issuance, sale, and delivery of District of Columbia revenue bonds in an aggregate principal amount not to exceed \$13.5 million in one or more series and to authorize and provide for the loan of the proceeds of the bonds to assist the Washington International School 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 "Washington International School Revenue Bonds Project Approval Resolution of 2005".

Sec. 2. Definitions.

For the purpose 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 shall be the Washington International School, a nonprofit corporation organized under the laws of the District of Columbia and 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 contemplated thereby, and includes agreements, certificates, letters,

opinions, forms, receipts, and other similar instruments.

(7) "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.

(8) "Home Rule Act" means the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 774; D.C. Official Code § 1-201.01 *et seq.*).

(9) "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 contemplated thereby, 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, 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.

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

(11) "Project" means:

(A) The financing or reimbursement of certain costs incurred in connection with the construction or renovation of a library, additional classrooms, and a theatre on the borrower's campus, located at 3100 Macomb Street, N.W., Washington, D.C. (Square 2084, Lot 0837);

(B) Funding any required debt service reserve fund and capitalized interest; and

(C) Paying certain costs of issuance, and fees and premiums for any bond insurance, credit enhancement, and other related 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.

(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 \$13.5 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 within the meaning of section 490 of the Home Rule Act.

(4) The project is an undertaking in the area of elementary and secondary school facilities 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 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 \$13.5 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 such bonds may be issued in certificated or book-entry form;

- bonds;
- (2) The principal amount of the bonds to be issued 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;
 - (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'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.

(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 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 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 to which the District is a party that may be necessary or appropriate to issue, sell, and deliver the bonds and to make the loan to the borrower. Each of the financing documents and each of the closing documents to which the District is not a party shall be approved, as to form and content, by the Mayor.

(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 bonds, the other financing documents, and the closing documents to which the District is a party.

(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, including those financing documents and closing documents to which the District is not a party.

(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 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 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 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 the 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 development 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 its 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.

(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, a 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 of 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 the 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 fiscal impact statement of the Budget Director 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 § 1-206.03(c)(3)).

Sec. 20. Effective date.

This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

16-228

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

July 6, 2005

To authorize and provide for the issuance, sale, and delivery of District of Columbia revenue bonds in an aggregate principal amount not to exceed \$8.3 million in one or more series and to authorize and provide for the loan of the proceeds of the bonds to assist the Charter Schools Development Corporation 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 "Charter Schools Development Corporation Revenue Bonds Project Approval Resolution of 2005".

Sec. 2. Definitions.

For the purpose 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 shall be the Charter Schools Development Corporation, a nonprofit corporation organized under the laws of the District of Columbia and 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

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and to make the loan contemplated thereby, and includes agreements, certificates, letters, opinions, forms, receipts, and other similar instruments.

(7) "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.

(8) "Home Rule Act" means the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 774; D.C. Official Code § 1-201.01 *et seq.*).

(9) "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 contemplated thereby, 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, 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.

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

(11) "Project" means:

(A) The financing or reimbursement of a portion of certain costs incurred in connection with the acquisition and renovation of a former surplus District of Columbia Public Schools school building, known as the Kingsman School, located at 1375 E Street, N.E., Washington, D.C. (Square 1030, Lot 813), and the refinancing of the taxable construction loan associated therewith;

(B) Funding any required debt service reserve fund and capitalized interest; and

(C) Paying certain costs of issuance, and fees and premiums for any bond insurance, credit enhancement, and other related 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

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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.

(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 \$8.3 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 within the meaning of section 490 of the Home Rule Act.

(4) The project is an undertaking in the area of elementary and secondary school facilities 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 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 \$8.3 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 such bonds may be issued in certificated or book-entry form;

- bonds;
- (2) The principal amount of the bonds to be issued 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;
 - (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 by the Secretary'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.

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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.

(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 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 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 to which the District is a party that may be necessary or appropriate to issue, sell, and deliver the bonds and to make the loan to the borrower. Each of the financing documents and each of the closing documents to which the District is not a party shall be approved, as to form and content, by the Mayor.

(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 bonds, the other financing documents, and the closing documents to which the District is a party.

(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, including those financing documents and closing documents to which the District is not a party.

(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 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 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 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 the 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 development 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 its 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.

(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, a 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 of 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 the 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 fiscal impact statement of the Budget Director 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 § 1-206.03(c)(3)).

JUL 22 2005

ENROLLED ORIGINAL

Sec. 20. Effective date.

This resolution shall take effect immediately.

A RESOLUTION

16-229

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

July 6, 2005

To authorize and provide for the issuance, sale, and delivery of District of Columbia revenue bonds in an aggregate principal amount not to exceed \$215 million in one or more series and to authorize and provide for the loan of the proceeds of the bonds to assist The Freedom Forum, Inc., 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 "The Freedom Forum, Inc. Revenue Bonds Project Approval Resolution of 2005."

Sec. 2. Definitions.

For the purpose 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 shall be The Freedom Forum, Inc., a Virginia nonprofit corporation.

(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 contemplated thereby, and includes agreements, certificates, letters, opinions, forms, receipts, and other similar instruments.

(7) "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.

(10) "Home Rule Act" means the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 774; D.C. Official Code § 1-201.01 *et seq.*).

(11) "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 contemplated thereby, 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, 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.

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

(13) "Project" means:

(A) The financing or refinancing of the cost of the construction and equipping of a headquarters office facility which shall include a museum, conference center areas, retail space and associated parking facilities, all located at 500 C Street, N.W. (Lots 826 and 831, Square 491);

(B) Paying net capitalized interest and certain issuance costs with respect to the bonds;

(C) Paying the cost of any bond insurance or other credit enhancement; and

(D) The funding of a debt service reserve fund, if any.

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.

(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 \$215 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 a capital project as facilities used to house and equip operations related to the study, development, application or production of innovative commercial or industrial technologies and social services and industrial and commercial development 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 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 \$215 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 such bonds may be issued in certificated or book-entry form;

(2) The principal amount of the bonds to be issued 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;

(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'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 Columbia, 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.

(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 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.

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 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 to which the District is a party that may be necessary or appropriate to issue, sell, and deliver the bonds and to make the loan to the borrower. Each of the financing documents and each of the closing documents to which the District is not a party shall be approved, as to form and content, by the Mayor.

(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 bonds, the other financing documents, and the closing documents to which the District is a party.

(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, including those financing documents and closing documents to which the District is not a party.

(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 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 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 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 the 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 development 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 its bonds in the order or priority it determines in its sole and absolute discretion.

(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, a 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 of 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 the 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. Public hearing.

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 fiscal impact statement of the Budget Director 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 § 1-206.03(c)(3)).

Sec. 20. Effective date.

This resolution shall take effect immediately.

A RESOLUTION

16-230

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

July 6, 2005

To authorize and provide for the issuance, sale, and delivery District of Columbia revenue bonds in an aggregate principal amount not to exceed \$150 million in one or more series and to authorize and provide for the loan of the proceeds of the bonds to assist Children's Hospital 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 "Children's Hospital Revenue Bonds Project Approval Resolution of 2005".

Sec. 2. Definitions.

For the purpose 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 shall be Children's Hospital, a nonprofit corporation and 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 contemplated thereby, and includes agreements, certificates, letters, opinions, forms, receipts, and other similar instruments.

(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. 774; 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 contemplated thereby, 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, 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 and refinancing of all or a portion of the costs of the construction, renovation, equipping and furnishing of health facilities located at 111 Michigan Avenue, N.W., Washington, D.C. (Lot 1, square 3129);

(B) Funding, if necessary, of any working capital costs;

(C) Funding of any required deposit to a debt service reserve fund or capitalized interest; and

(D) Paying certain costs of issuance such as fees and premiums for any bond insurance or credit enhancement.

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.

(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 \$150 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 health facilities 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 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 \$150 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 such bonds may be issued in certificated or book-entry form;

(2) The principal amount of the bonds to be issued 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;

(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'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.

(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 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 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 to which the District is a party that may be necessary or appropriate to issue, sell, and deliver the bonds and to make the loan to the borrower. Each of the financing documents and each of the closing documents to which the District is not a party shall be approved, as to form and content, by the Mayor.

(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 bonds, the other financing documents, and the closing documents to which the District is a party.

(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, including those financing documents and closing documents to which the District is not a party.

(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 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

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 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 the 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 development 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 its 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.

(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, a 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 of 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 the 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 fiscal impact statement of the Budget Director 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 § 1-206.03(c)(3)).

Sec. 20. Effective date.

This resolution shall take effect immediately.