

RE-ENROLLED ORIGINAL

## A RESOLUTION

18-315

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 1, 2009

To authorize and provide for the issuance, sale, and delivery of District of Columbia revenue bonds in an aggregate principal amount not to exceed \$4.5 million in one or more series and to authorize and provide for the loan of the proceeds of the bonds to assist The River 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 "The River School Revenue Bonds Project Approval Resolution of 2009".

## Sec. 2. Definitions.

For the purposes of this resolution, the term:

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

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

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

(4) "Borrower" means the owner of the assets financed, refinanced, or reimbursed with proceeds from the bonds, which owner shall be The River School, a District nonprofit corporation exempt from federal income taxes, and which is liable for repayment of the bonds.

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

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

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

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

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

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

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

(12) "Project" means the financing, refinancing, or reimbursing of all or a portion of the borrower's cost of:

(A) The acquisition of, and renovation and improvements to, the borrower's facilities, located at 4880 MacArthur Boulevard, N.W., Washington, D.C. (Lot 93, Square 1388), including one or more buildings of approximately 33,000 square feet in the aggregate, together with other property, real and personal, functionally related and subordinated thereto;

(B) Funding any required debt service reserve fund or capitalized interest on the bonds; and

(C) Paying all or a portion of the Issuance Costs, credit enhancement costs, and working capital.

### 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 costs, and to assist in the financing, refinancing, or reimbursing the costs, of undertakings in certain areas designated in section 490 and may effect the financing, refinancing, or reimbursement by loans

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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 \$4.5 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.

(4) The project is an undertaking in the area of education 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 the costs of the project by:

(1) The issuance, sale, and delivery of the bonds, in one or more series, in an aggregate principal amount not to exceed \$4.5 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; maintaining official records of each bond transaction, and assisting in the redemption, repurchase, and remarketing of the bonds.

#### Sec. 5. Bond details.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### Sec. 6. Sale of the bonds.

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

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

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

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

Sec. 7. Payment and security.

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

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

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

Sec. 8. Financing and Closing Documents.

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

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

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

(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

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approval, on behalf of the District, of the final form and content of the executed Financing Documents and the executed Closing Documents.

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

Sec. 9. Authorized delegation of authority.

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

Sec. 10. Limited liability.

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

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

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

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

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

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

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## Sec. 11. District officials.

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

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

## Sec. 12. Maintenance of documents.

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

## Sec. 13. Information reporting.

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

## Sec. 14. Disclaimer.

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

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

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

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## Sec. 15. Expiration.

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

## Sec. 16. Severability.

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

## Sec. 17. Compliance with public approval requirement.

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

## Sec. 18. Transmittal.

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

## Sec. 19. Fiscal impact statement.

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

## Sec. 20. Effective date.

This resolution shall take effect immediately.

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## A RESOLUTION

18-401

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

March 2, 2010

To disapprove the proposed rules to amend Chapter 3107A of Title 12A of the District of Columbia Municipal Regulations for the purpose of authorizing the Department of Consumer and Regulatory Affairs to offer Special Signs permits to billboard owners as compensation for the removal of billboards that were in existence as of January 1, 1972, and are contained in the "Authorized List of Billboards, Three-sheet Poster Boards, and Wall Signs," dated November 30, 1931, as amended through December 31, 1971.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Billboard Blight Removal Disapproval Resolution of 2010".

Sec. 2. Pursuant to section 10(a) of the Construction Codes Approval and Amendments Act of 1986, effective March 21, 1987 (D.C. Law 6-216; D.C. Official Code § 6-1409(a)), the Council disapproves the proposed rules, published at 56 DCR 9565, to amend Chapter 3107A of Title 12A of the District of Columbia Municipal Regulations.

Sec. 3. Transmittal.

The Secretary to the Council shall transmit a copy of this resolution, upon its adoption, to the Director of the Department of Consumer and Regulatory Affairs.

Sec. 4. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 603(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. 5. Effective date.

This resolution shall take effect immediately.

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## A RESOLUTION

18-402

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

March 2, 2010

To confirm the reappointment of Mr. Charles D. Mayo to the Board of Real Property Assessments and Appeals for the District of Columbia.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Board of Real Property Assessments and Appeals for the District of Columbia Charles D. Mayo Confirmation Resolution of 2010".

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

Mr. Charles D. Mayo  
4201 Massachusetts Ave., N.W., #4036  
Washington, D.C. 20016  
(Ward 3)

as a member of the Board of Real Property Assessments and Appeals for the District of Columbia, established by D.C. Official Code § 47-825.01, for a term to end April 30, 2012.

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

Sec. 4. This resolution shall take effect immediately.

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## A RESOLUTION

18-403

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

March 2, 2010

To confirm the appointment of Ms. Millicent D. Williams as the Director of the Homeland Security and Emergency Management Agency.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Director of the Homeland Security and Emergency Management Agency Millicent D. Williams Confirmation Resolution of 2010".

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

Ms. Millicent D. Williams  
1249 Irving Sreet, N.W.  
Washington, D.C. 20017  
(Ward 5)

as the Director of the Homeland Security and Emergency Management Agency, established by section 2 of An Act To authorize the District of Columbia government to establish an Office of Civil Defense, and for other purposes, approved August 11, 1950 (64 Stat. 438; D.C. Official Code § 7-2302), 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 at the pleasure of the Mayor.

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

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

## A RESOLUTION

18-405

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

March 2, 2010

To disapprove the appointment of Ms. Vicky Beasley as the People's Counsel.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "People's Counsel Vicky Beasley Confirmation Disapproval Resolution of 2010".

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

Ms. Vicky Beasley  
221 Rittenhouse Street, N.E.  
Washington, D.C. 20011  
(Ward 4)

as the People's Counsel, established by section 1 of An Act To provide a People's Counsel for the Public Service Commission in the District of Columbia, and for other purposes, approved January 2, 1975 (88 Stat. 1975; D.C. Official Code § 34-804).

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

Sec. 4. This resolution shall take effect immediately.

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## A RESOLUTION

18-407

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

March 2, 2010

To approve the reprogramming request of \$1.5 million for the Office of the Deputy Mayor for Planning and Economic Development.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Reprogramming No.18-96 Approval Resolution of 2010".

Sec. 2. (a) Pursuant to section 47-363 of the District of Columbia Official Code, the Mayor transmitted to the Council on February 19, 2010, a reprogramming request of \$1.5 million from the capital budget authority and allotment from the Department of Parks and Recreation and the District Department of Transportation to the Office of the Deputy Mayor for Planning and Economic Development.

(b) The Council approves the \$1.5 million reprogramming request.

Sec. 3. The Secretary to the Council shall transmit a copy of this resolution, upon its adoption, to the Office of the Mayor.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

## A RESOLUTION

18-408

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

March 2, 2010

To approve the borrowing of funds by the District through the issuance and sale of income tax secured revenue bonds.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as "Fiscal Year 2010 Income Tax Secured Revenue Refunding Bond Issuance Approval Resolution of 2010".

Sec. 2. Pursuant to and in accordance with Subchapter II-D of Chapter 3 of Title 47 of the District of Columbia Official Code ("Subchapter II-D"), the Council approves the issuance and sale of income tax secured revenue bonds in an aggregate principal amount not to exceed \$950 million for the purposes of:

(1) Refunding certain outstanding general obligation bonds to restructure the District's debt portfolio; and

(2) Paying all costs related to structuring, issuing, securing, marketing and maintaining the bonds issued pursuant to this resolution, including, without limitation:

- (A) Capitalized interest;
- (B) Underwriting fees, discounts, and expenses;
- (C) Rating agency fees;
- (D) Legal fees;
- (E) Accounting fees;
- (F) Financial advisory fees;
- (G) Trustee and paying agent fees;
- (H) Collection agent fees;
- (I) Bond insurance and other credit enhancement fees;
- (J) Liquidity enhancement fees;
- (K) Swap termination fees;
- (L) Printing costs and expenses; and
- (M) Any other fees, discounts, expenses, or costs incurred by the District

pursuant to the financing documents related to the bonds, redemption premiums, and other costs of refunding and redemption.

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Sec. 3. Notwithstanding the authorization provided in section 2, the determination as to whether to issue the bonds as income tax secured revenue bonds or general obligation bonds and the determination of the principal amount of the bonds, together with all costs identified in section 2, not to exceed the aggregate principal amount of \$950 million, shall be made by the Chief Financial Officer of the District of Columbia.

Sec. 4. Pursuant to, and in accordance with, Subchapter II-D and applicable law, the Council approves the execution and delivery by the Mayor or the Chief Financial Officer, as applicable, on behalf of the District, of any agreement, document, contract, and instrument, including any amendment of or supplement to any agreement, document, contract, or instrument, in connection with the issuance, sale, and delivery of the income tax secured revenue bonds issued pursuant to Subchapter II-D.

Sec. 5. The Council adopts the fiscal impact statement of the Chief Financial Officer 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. The Secretary to the Council shall submit a copy of this resolution, upon its adoption, to the Mayor and the Chief Financial Officer.

Sec. 7. This resolution shall take effect immediately.

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## A RESOLUTION

18-409

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

March 2, 2010

To declare the existence of an emergency with respect to the need to make technical clarifications to section 47-1078 of the District of Columbia Official Code to correct the corporate name of SOME, Inc., and to clarify that the applicability of the tax exemptions is contingent upon use restrictions during a federal low-income housing tax credit compliance period or a Department of Housing and Community Development compliance period.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "SOME, Inc., Technical Amendments Emergency Declaration Resolution of 2010".

Sec. 2. (a) In 2008, the Council passed D.C. Law 17-185, the So Others Might Eat Property Tax Exemption Act of 2008, effective August 15, 2008.

(b) As enacted, the corporate name contained in the legislation was incorrect. Also, a further clarification is needed to ensure that the property tax exemptions contained in the underlying legislation are also contingent upon use restrictions during a period that the federal low-income housing tax credits are being used or during a Department of Housing and Community Development compliance period.

(c) Later in 2008, the Council passed emergency and temporary legislation to amend D.C. Law 17-185 to rectify these issues. A permanent version of the legislation was not moved in 2008 because it was assumed that a needed financing package would be finalized within the effective dates of the original emergency and temporary legislation.

(d) Securing the financing is nearly complete, but this clarifying language must be in place to satisfy terms set by the financial institution.

(e) Permanent legislation has also been introduced to ensure this language is permanently codified to assure the lender that the tax abatement originally passed by the Council contains this language to satisfy the terms of the loan.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the SOME, Inc., Technical Amendments Emergency Act of 2010 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

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## A RESOLUTION

18-410

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

March 2, 2010

To declare the existence of an emergency with respect to the need to clarify that hand delivery or sending by first class mail a tenant's letter of interest preserves the tenant's or tenant group's opportunity to purchase rights, and that actual receipt of the letter by the housing provider or the Mayor within the relevant time frame is not required.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Tenant Opportunity to Purchase Preservation Clarification Emergency Declaration Resolution of 2010".

Sec. 2. (a) In the Rental Housing Conversion and Sale Act of 1980, effective September 10, 1980, the Council found that there was a severe shortage of affordable rental housing available to the citizens of the District. This shortage continues to date.

(b) The Council found that conversion and sale of rental housing threatened to only increase the problem, disproportionately affecting the poor, the elderly, and the disabled.

(c) The act addressed these problems by ensuring meaningful tenant participation in condominium conversions, to ensure that tenants were not displaced without their own input. The act further required that tenants have a meaningful opportunity to purchase their buildings or units, thus promoting home ownership by District residents.

(d) The Rental Housing Conversion and Sale Amendment Act of 2005, effective July 22, 2005, strengthened the tenant opportunity to purchase by closing a loophole, known as the "95/5 loophole", which was used by unscrupulous landlords to sell buildings without providing tenants their right to a first offer.

(e) On February 5, 2009, a panel of the District of Columbia Court of Appeals interpreted a provision of the act, which requires that a tenant in a single-family or 2- to-4 unit accommodation provide a written statement of interest within 30 and 15 days, respectively, of receiving an owner's offer of sale, as requiring that the owner receive the statement of interest within that time period.

(f) District law requires that the court interpret any ambiguities in the act "toward the end of strengthening the legal rights of tenants or tenant organizations to the maximum extent permissible under law."

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(g) This emergency action is necessary to clarify the Council's intent that tenants have the full 30 or 15 days provided by law to express an interest in purchasing their unit following an offer of sale from the landlord.

(h) The original temporary version of this bill expired in February, 2010, and the permanent version of the bill will be moved by the Committee on Housing and Workforce Development in anticipation of the April legislative meeting.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Tenant Opportunity to Purchase Preservation Clarification Emergency Amendment Act of 2010 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

## A RESOLUTION

18-411

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

March 2, 2010

To declare the existence of an emergency with respect to the need to permit an annual special event exemption for hotels licensed to sell alcoholic beverages.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Special Event Exemption Emergency Declaration Resolution of 2010".

Sec. 2. (a) The underlying emergency legislation would amend the Department of Health Functions Clarification Act of 2001 to permit an annual special event exemption for hotels licensed to sell alcoholic beverages.

(b) The underlying emergency legislation would permit a licensed hotel to host a special event which permits cigar smoking once a year for one day; provided, that:

- (1) An application is made;
- (2) A fee is paid;
- (3) The special event is only permitted in a function room with an occupancy of 500 or more persons; and
- (4) The hotel permits employees to opt out of working at the special event with no penalty.

(c) Such a special event will be held in mid-March.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Special Event Exemption Emergency Amendment Act of 2010 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

## ENROLLED ORIGINAL

## A RESOLUTION

18-412

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

March 2, 2010

To declare the existence of an emergency with respect to the need to grant tax deferral relief to small businesses located along the H Street Great Street corridor undergoing active streetscape construction.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "H Street, N.E. Small Business Streetscape Construction Real Property Tax Deferral Emergency Declaration Resolution of 2010":

Sec. 2. (a) There exists an immediate need to afford real property tax relief to small businesses suffering severe financial hardship due to disruptions caused by active street construction on the H Street Great Street corridor.

(b) The deadline for current real property taxes owed for the first half year is March 31, 2010. Due to the disruption caused by active streetscape construction, many small businesses on H Street, N.E., are unable to immediately pay the full amount of taxes owed.

(c) Many small businesses located along the H Street Great Street corridor have suffered loss of business and revenue due to the disruptions caused by the ongoing construction that has closed streets, impeded pedestrian access to their businesses, filled the air with dust and debris, and caused a massive reduction in the available customer curbside parking.

(d) Success for many of the small businesses located along this corridor is directly related to their accessibility to their customers, which has been sharply reduced due to the disruption of the large-scale construction projects.

(e) This tax deferral will not reduce the amount of taxes owed the city but will simply defer the payment and allow a current maximum cash flow for affected small businesses.

(f) Without this tax deferral, many small businesses currently struggling will be forced to either obtain bank loans to pay their taxes or they will have to close their businesses.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the H Street, N.E. Small Business Streetscape Construction Real Property Tax Deferral Emergency Act of 2010 be adopted after a single reading.

ENROLLED ORIGINAL

Sec. 4. Effective date.

This resolution shall take effect immediately.

ENROLLED ORIGINAL

## A RESOLUTION

18-413

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

March 2, 2010

To declare the existence of an emergency with respect to the need to amend the Neighborhood Investment Act of 2004 to clarify that the Adams Morgan Main Street Group shall be entitled to a \$100,000 grant from the Neighborhood Investment Fund administered by the Department of Small and Local Business Development.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Adams Morgan Main Street Group Emergency Declaration Resolution of 2010".

Sec. 2. (a) There exists an immediate crisis regarding the allocation of \$100,000 to Adams Morgan Main Street Group from the Neighborhood Investment Fund administered by the Department of Small and Local Business Development as authorized by section 2 of the Neighborhood Investment Act of 2004, effective March 30, 2004 (D.C. Law 15-131; D.C. Official Code § 6-1071) ("Neighborhood Investment Act of 2004").

(b) Under the Fiscal Year 2010 Budget Support Act of 2009, signed by the Mayor on December 18, 2009 (D.C. Act 18-255; 47 DCR 181), the Council amended the Neighborhood Investment Act of 2004 to provide the one-time grant to the Adams Morgan Main Street Group.

(c) Relying on the allocation of funds, the Adams Morgan Main Street Group fully performed responsibilities traditionally assigned to Main Street programs; however, since the allocation, the Adams Morgan Main Street Group has ceased to be registered as a Main Street program.

(d) Having not received funds allocated under section 2 of the Neighborhood Investment Act of 2004, the Adams Morgan Main Street Group has been unable to continue operations and maintain personnel.

(e) In light of the wording of section 2 of the Neighborhood Investment Act of 2004, the Department of Small and Local Business Development is unclear as to whether the Adams Morgan Main Street Group can receive funds. To correct this confusion and ensure proper payment of entitled funds, this legislation is needed.

**ENROLLED ORIGINAL**

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Adams Morgan Main Street Group Emergency Amendment Act of 2010 be adopted after a single reading.

Sec. 4. The resolution shall take effect immediately.

ENROLLED ORIGINAL

## A RESOLUTION

18-414

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

March 2, 2010

To declare the existence of an emergency with respect to the need to clarify that the real property located on Lot 819, Square 5912, in Ward 8, known as the International House of Pancakes Restaurant # 3221, shall be exempt from real property taxation in accordance with the qualified restaurant exemption granted by section 47-1002(23) of the District of Columbia Official Code, notwithstanding subparagraph (B)(iv) of that section, which has been interpreted by the Office of Chief Financial Officer to require the execution of a first-source employment agreement.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "IHOP Restaurant #3221 Tax Exemption Clarification Emergency Declaration Resolution of 2010".

Sec. 2. (a) A new section in Chapter 46 of Title 47 of the District of Columbia Official Code needs to be added to clarify that the real property located on Lot 819, Square 5912, in Ward 8, known as the International House of Pancakes Restaurant # 3221, shall be exempt from real property taxation in accordance with the qualified restaurant taxation exemption granted by D.C. Official Code § 47-1002(23), notwithstanding the requirements of D.C. Official Code § 47-1002(23)(B)(iv), for the period beginning October 1, 2007 and ending September 7th of 2009.

(b) This emergency clarification is necessary because, relying upon the qualified restaurant tax exemption granted by D.C. Official Code § 47-1002(23), Father & Sons, LLC, was able to open International House of Pancakes Restaurant #3221, Ward 8's only sit-down restaurant chain establishment. Because the qualified restaurant exemption contained in D.C. Official Code § 47-1002(23)(B)(iv) required compliance with the District's first-source employment laws, Father & Son's, LLC, worked with the District's Department of Employment Services to ensure that over 98% of the restaurant's employees were Ward 8 residents. Accordingly, the Department of Employment Services issued a letter indicating that Father & Sons, LLC, has been in compliance with the first-source employment agreement program since its opening in 2007.

(c) Although Father & Sons, LLC, was, according to the Department of Employment Services, in compliance with the first-source agreement program since opening, Father & Sons,

## ENROLLED ORIGINAL

LLC, did not finalize execution of a first-source agreement with the Department of Employment Services until September 8, 2009.

(d) The Office of the Chief Financial Officer has interpreted the qualified restaurant exemption to require execution of a first-source agreement; therefore, Father & Son's, LLC, has not received the qualified restaurant exemption for the applicable period. This determination is causing an extreme financial hardship for the District's only chain restaurant in Ward 8—an establishment that, by all accounts, opened with over 98% of its employees being Ward 8 residents and has maintained similar percentages throughout its operation.

(e) This new provision would ensure that Father & Sons, LLC, receives the benefit of its employment efforts by being able to capture that portion of the qualified restaurant real property tax exemption that, for technical reasons, the establishment has been unable to obtain. In addition, the new provision would alleviate the extreme financial hardship being imposed upon Father & Sons, LLC, by the denial of the real property exemption during the applicable period.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the IHOP Restaurant #3221 Tax Exemption Clarification Emergency Act of 2010 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

## ENROLLED ORIGINAL

## A RESOLUTION

18-415

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

March 2, 2010

To declare the existence of an emergency with respect to the need to exempt from real property taxation Lot 857, Square 2084, owned by Tregaron Conservancy.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Tregaron Conservancy Clarification Emergency Declaration Resolution of 2010".

Sec. 2. (a) There exists an immediate need to clarify the tax abatement status of Lot 857, Square 2084.

(b) On January 8, 2008, the Council approved Bill 17-342, the Tregaron Conservancy Tax Exemption and Relief Act of 2008, which provided a tax abatement for land owned by the Tregaron Conservancy, a District corporation exempt from federal taxes under section 501(c)(3) of the Internal Revenue Code of 1986, dedicated to the preservation of the historic Tregaron Estate. The legislation authorized an abatement only so long as the land was maintained as open space and parkland consistent with the property's historical significance. In addition, the legislation contained a provision to ensure that the land would remain accessible to the general public, protecting 13 acres of open green space for current and future residents.

(c) On September 22, 2009, the Council of the District of Columbia approved Bill 18-202, the Fiscal Year 2010 Budget Request Act of 2009, which, among other things, provided funding to implement Bill 17-342.

(d) Later that year, the Office of the Chief Financial Officer discovered a technical error in Bill 17-342 that limited the application of the abatement to only part of the land owned by the Tregaron Conservancy. Bill 17-342 exempted the larger parcel of land that the Conservancy owns, Lot 849, but did not properly designate the adjoining smaller land parcel, Lot 857. Though the abatement was funded, it was not legally recorded.

(e) The Office of Tax and Revenue is preparing to issue a tax bill on the property as part of its biannual property tax assessment. A tax liability on the Tregaron Conservancy will impose an unrealistic burden on this nonprofit community organization dedicated to the preservation of a historic monument and the preservation of open space for the community. Emergency legislation is needed to ensure that this tax liability is not unnecessarily imposed.

**ENROLLED ORIGINAL**

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Tregaron Conservancy Clarification Emergency Act of 2010 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

## A RESOLUTION

18-416

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

March 2, 2010

To declare the existence of an emergency with respect to the need to amend the Health Maintenance Organization Act of 1996 and the Hospital and Medical Services Corporation Regulatory Act of 1996 to establish that an increase in health insurance fees or rates above 10% of the prior year's rates shall not be allowed without a specific exemption, to provide that the Mayor and the Commissioner of the Department of Insurance, Securities, and Banking may grant an exemption to the 10% cap permitting an increase of up to 15% upon receipt of adequate supporting documentation, to require that a fee or rate increase filing include a clear statement of the increase sought, and to clarify that no increase in fees may be assessed by any health maintenance organization unless it is contained in an approved filing.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Reasonable Health Insurance Premium Increase Emergency Declaration Resolution of 2010".

Sec. 2. (a) The Health Maintenance Organization Act of 1996 and the Hospital and Medical Services Corporation Regulatory Act of 1996 give, respectively, the Commissioner of the Department of Insurance, Securities and Banking and the Mayor the authority to review rate and fee increase proposals from health maintenance organizations and hospital and medical services corporations.

(b) It has been publicly reported in *The Washington Post* that District residents have been experiencing rate increases of 40% and more. Health and Human Services Secretary, Kathleen Sebelius, has been quoted as saying that these increases have been disproportionately assessed on consumers who buy their insurance policies individually.

(c) A number of individuals have corresponded with Councilmembers' offices asserting increases as high as 55%.

(d) The Reasonable Health Insurance Premium Increase Emergency Amendment Act of 2010 will prohibit any rate or fee increase of more than 10% but allow for an exemption permitting an increase of up to 15%, at the discretion of the Mayor or Commissioner, if the filing and supporting documentation show that the increase is warranted.

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(e) It is important that the law be amended immediately so that pending and recently filed rate and fee changes that are unreasonably high shall not be approved or remain in effect.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Reasonable Health Insurance Premium Increase Emergency Amendment Act of 2010 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

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## A RESOLUTION

18-417

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

March 2, 2010

To declare the existence of an emergency with respect to the need approve Contract No. DCFL-2006-D-6001 with Unity Health Care, Inc., and to authorize payment to Unity Health Care, Inc., in the amount of \$14,852,599.98 for goods and services received under the contract, to approve Contract No. DCTO-2008-C-0135 with Optimal Solutions and Technologies, Inc., and to authorize payment to Optimal Solutions and Technologies, Inc., in an amount of up to \$75 million for goods and services received under the contract, and to disapprove Contract No. DCAM-2008-D-0078-A06.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Option-Year Contracts Approval and Payment Authorization and Disapproval Emergency Declaration Resolution of 2010".

Sec. 2. (a) Pursuant to section 451(b) of the District of Columbia Home Rule Act; approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51(b)) ("Home Rule Act"); no contract involving expenditures in excess of \$1 million during a 12-month period may be made unless the Mayor submits the contract to the Council for its approval and the Council approves the contract.

(b) The approval of the 12-month base term of a contract in excess of \$1 million does not obviate the Home Rule Act requirement that each option year in excess of \$1 million be submitted to the Council for review and approval.

(c) The Council affirmed and clarified the clear requirements of the Home Rule Act and the longstanding practice of this and previous administrations to submit option-year contracts in excess of \$1 million for Council review and approval when it enacted the Criteria for Council Review of Contract Options Clarification Emergency Amendment Act of 2009, effective October 15, 2009 (D.C. Act 18-207; 56 DCR 8228), and the Criteria for Council Review of Contract Options Clarification Amendment Act of 2009, signed by the Mayor on December 18, 2009 (D.C. Act 18-255; 57 DCR 181) (collectively, "clarification acts").

(d) As the result of a directive from the Attorney General emailed to all agency contracting officers and contrary to the requirements of section 451(b) of the Home Rule Act, option-year contracts in excess of \$1 million were not submitted to the Council for review and

## ENROLLED ORIGINAL

approval during the period from January 7, 2009, to October 1, 2009.

(e) After the adoption of the clarifications acts, the Executive resumed transmitting option-year contracts in excess of \$1 million. However, there remained a need to obtain option-year contracts for the period between January 7, 2009, and October 1, 2009, that had not been transmitted to the Council by the Mayor for Council review and approval.

(f) Reviewing contracts of over \$1 million is an important oversight function of the Council and the failure to be provided with these contracts, and other documents, impairs the Council's ability to discharge that function.

(g) There exists an immediate need to approve and authorize payment for 2 option-year contracts and to disapprove an option-year contract pursuant to section 451 of the Home Rule Act.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Option-Year Contracts Approval and Payment Authorization and Disapproval Emergency Act of 2010 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

## ENROLLED ORIGINAL

## A RESOLUTION

18-418

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

March 2, 2010

To adopt the findings, conclusions, and recommendations of the Report of Investigation, dated February 16, 2010, submitted by Special Counsel to formally censure Councilmember Marion Barry for the conduct referenced in the report that violated Council Rule 202, and to refer to the Office of Campaign Finance and the United States Attorney for the District of Columbia the conclusions of the Special Counsel that Councilmember Marion Barry violated District of Columbia laws and regulations.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Censure of Councilmember Marion Barry and Enforcement Referral Resolution of 2010".

Sec. 2. (a) Since 1979, section 1801(a) 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 § 1-618.01(a)) ("CMPA"), has provided that:

Each employee of the District government must at all times maintain a high level of ethical conduct in connection with the performance of official duties, and shall refrain from taking, ordering, or participating in any official action which would adversely affect the confidence of the public in the integrity of the District government.

(b) Rule 202 of the Rules of Organization and Procedure for the Council of the District of Columbia, Council Period 18, effective January 2, 2009 (Res. 18-1; 56 DCR 748), and section 601 of the District of Columbia Campaign Finance and Conflict of Interest Act, approved August 14, 1974 (88 Stat. 465; D.C. Official Code § 1-1106.01), require any member who in the discharge of his or her official duties on the Council would be required to take an official action on a matter as to which he or she has a conflict situation created by a financial or personal interest to disclose that information. The Council reaffirmed the applicability of these provisions and other provisions of District and federal law to members of the Council when it adopted a Code of Conduct that requires Councilmembers to "maintain a high level of ethical conduct in

## ENROLLED ORIGINAL

connection with the performance of their official duties” and to “refrain from taking, ordering or participating in any official action that would adversely affect the confidence of the public in the integrity of the District government.” Council Code of Official Conduct Rules Amendment Resolution of 2009, effective September 22, 2009 (Res. 18-248; 56 DCR 7804).

(c) On July 4, 2009, Councilmember Marion Barry was arrested in an incident involving Donna Watts-Brighthaupt. The charge was dismissed by the United States Attorney’s Office. It was subsequently reported that Councilmember Barry and Ms. Watts-Brighthaupt were involved in an intimate personal relationship and that Councilmember Barry had requested that Ms. Watts-Brighthaupt be awarded a personal services contract from the Council, without disclosing that relationship.

(d) It was further reported that Councilmember Barry had created nonprofit organizations that he controlled for the purpose of receiving earmark grants from the Council using his office and committee staff to prepare the organizing documents.

(e) In response to these allegations, on July 14, 2009, the Council, by a vote of 11 - 0, with 2 members absent, adopted the Contracts and Grants Investigation Authorization Resolution of 2009, effective July 14, 2009 (Res.18-217; 56 DCR 5892) (“authorizing resolution”), which authorized the Chairman to retain and delegate investigative duties to a special counsel, Robert S. Bennett, (“Special Counsel”) to:

(1) Conduct an investigation into whether personal services contracts awarded by the Council to Donna Watts-Brighthaupt were executed and administered in compliance with District law and Council rules, policies, and procedures;

(2) Conduct a thorough review of District laws and Council rules, policies, and procedures governing the issuance of contracts by the Council to independent contractors for the provision of services to individual members of the Council and grants awarded to organizations by the Council during the budget process; and

(3) Make recommendations for any necessary changes to District laws or Council rules, policies, and procedures.

(f) The authorizing resolution was amended by the Council Contracts and Grants Investigation Authorization Amendment Resolution of 2009, effective October 20, 2009 (Res. 18-286; 56 DCR 8557), to appoint Amy R. Sabrin as Deputy Special Counsel “under the same terms as those applicable to the Special Counsel, and [to authorize her] to perform any duties of the Special Counsel that are delegated to her by the Special Counsel.”

(g) The Special Counsel was authorized to subpoena documents and witnesses and to examine any personal-service contract or grant awarded by the Council, including any documents relating to an award. In conducting the investigation, the Special Counsel deposed 9 persons, interviewed more than 40 persons, and issued 49 document subpoenas. The Special Counsel was required to present a report to the Council within 45 days of the conclusion of the investigation.

## ENROLLED ORIGINAL

Sec. 3. (a) On February 16, 2010, the Special Counsel presented to the Council his 107-page report, including 40 exhibits, entitled Report of Investigation Pursuant to Council Resolution 18-217, submitted by Special Counsel Robert S. Bennett, Hogan & Hartson LLP, and Deputy Special Counsel Amy R. Sabrin, Skadden, Arps, Slate, Meagher & Flom LLP, dated February 16, 2010 ("Report"). The Report contained findings of fact, which are set forth in greater detail in the Report, including that:

(1) Mr. Barry arranged for a personal services contract to be awarded to Ms. Watts-Brighthaupt, with whom he had a sexual and close personal relationship. Ms. Watts-Brighthaupt was paid a total of \$15,000 pursuant to the contract. Report at 9.

(2) Mr. Barry sought to hire Ms. Watts-Brighthaupt to draft a proposal for a program entitled "Emerging Leaders of Ward Eight." *Id.*

(3) Significant portions of the initial Emerging Leaders of Ward Eight deliverable prepared by Ms. Watts-Brighthaupt for Councilmember Barry were copied without attribution from publicly available materials located on the Internet. *Id.*

(4) Testimony and other evidence showed that Councilmember Barry sought approval for the contract after paying for certain expenses for Ms. Watts-Brighthaupt and that he received a portion of the monies paid to Ms. Watts-Brighthaupt under the contract as repayment for funds he claimed to have loaned her. *Id.*

(5) At the behest of Mr. Barry, 6 councils in Ward 8 ("the Ward Eight Councils") were awarded a total of \$450,000 in earmark grants for fiscal year 2009. These entities principally performed citizen-services activities in the ward represented by Mr. Barry. Report at 11.

(6) The Ward Eight Councils were conceived by Councilmember Barry and implemented at his direction by Brenda Richardson, a long-time supporter who managed his Constituent Services Office. *Id.*

(7) A number of signatures on the Articles of Incorporation of the Ward Eight Councils were falsified. Report at 12.

(8) At Mr. Barry's direction, Rev. Anthony Motley drew on funds from the account of an entity known as the Marion Barry Scholarship Fund to pay the incorporation fees for the Ward Eight Councils. The money in that fund had been raised for the purpose of providing scholarships to students. *Id.*

(9) Most of the Ward Eight Councils operated out of Councilmember Barry's Constituent Services Office before and after incorporation, and often held meetings in the conference room at that location. Councilmember Barry was involved in directing the activities of the Ward Eight Councils. Report at 53, 59.

(10) A handful of individuals close to Mr. Barry, and their friends and relatives, made tens of thousands of dollars from the Ward Eight Councils and other earmark grantees sponsored by Councilmember Barry. Report at 12.

(11) The Special Counsel found that Councilmember Barry attempted to impede the investigation by refusing to answer material questions related to his conduct and by advising

## ENROLLED ORIGINAL

a material witness to withhold documents and information requested or subpoenaed by the Special Counsel. Report at 13.

(b) The Report included the following conclusions:

(1) Approval of the personal services contract to Donna Watts-Brighthaupt was not obtained in accordance with District of Columbia law or Council rules, policies, and procedures because the authorities responsible for approving such contracts were misled about its purpose and Mr. Barry did not disclose his financial, personal, and sexual relationships with Ms. Watts-Brighthaupt. Report at 8, 39.

(2) Councilmember Barry received part of the contract proceeds from Ms. Watts-Brighthaupt in payment for loans he claimed to have made to her. Report at 8, 9.

(3) Councilmember Barry had an undisclosed financial interest in Ms. Watts-Brighthaupt's ability to repay him. He furthered that financial interest by taking official action to award her a public contract that enabled her to repay him as she was otherwise unemployed and had insufficient sources of income to pay her mortgage and other bills. Report at 39.

(4) Many of the grantee organizations to which Mr. Barry steered public funds were rife with waste and abuse and provided substantial financial benefits to some of his close friends and supporters. These grants also effectively permitted Mr. Barry to circumvent laws and regulations that restrict the nature and amount of funds that can be expended for citizen-service programs. Report at 12.

(5) Councilmember Barry violated section 1801 of the CMPA and sections 1801.1(c) and 1806 of the District Personnel Manual (18 DPM §§ 1804.1(c) and 1806) by allegedly ordering employees on his Council committee and office staff to draft and file the incorporation documents for the Ward Eight Councils. Report at 95.

(6) In violation of numerous District laws and regulations and Council Rule 202, Councilmember Barry's conduct:

- (A) Constituted a conflict of interest;
- (B) Violated the public trust; and
- (C) Cast substantial doubt on the integrity of the District government.

Report at 39, 94, 95.

(7) There is substantial evidence that Mr. Barry engaged in conduct to impede the Council's investigation. This conduct may implicate criminal laws respecting obstruction and false testimony and should be referred to the appropriate authorities for investigation. Report at 93.

(c) The Report contained the following recommendations regarding the conduct of Councilmember Barry:

(1) That the Council enact a resolution expressing the Councilmembers' collective condemnation of Mr. Barry's conduct;

(2) That the Council consider whether it would be appropriate to remove Mr. Barry from his Council committee chairmanships or take other administrative action with regard to his committee appointments; and

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(3) That the Council refer the matters referenced in this resolution and the Report to the authorities charged with investigating potential violations of criminal and civil laws, including the United States Attorney's Office for the District of Columbia, the District of Columbia Office of Campaign Finance, and other authorities the Council considers appropriate.

Sec. 4. (a) Councilmember Barry has had a full and fair opportunity to respond to the allegations and to the Special Counsel's Report, which sets forth the facts upon which this resolution is based, and in fact did so.

(b) Councilmember Barry, on February 23, 2010, filed a response to the Special Counsel's findings ("Barry Response"). That response stated that he "did not willfully violate any District law or regulation, or Council Rule or policy." It further stated that he "did not use his public office for personal gain." Barry Response at 2.

(c) The Special Counsel filed a Supplemental Report Regarding Council of the District of Columbia Contracts and Grants on March 1, 2010 ("Supplemental Report"). In the Supplemental Report, the Special Counsel stated that he found nothing in Councilmember Barry's submission that "alters the conclusion that Mr. Barry's conduct not only created an appearance of impropriety, but was in fact improper." Supplemental Report at 1.

Sec. 5. Following the consideration of the Report, the response of Councilmember Barry, and the Supplemental Report, the Council adopts the findings and recommendations in the Report, including the recommendations restated in section 3(c) of this resolution.

Sec. 6. To maintain the confidence of the public in the integrity of the legislative branch of government, the Council:

(1) Expresses its disapproval of the actions of Councilmember Marion Barry as detailed in the Report, and hereby censures Councilmember Marion Barry for committing acts found by the Special Counsel to be a violation of the standards embodied in Council Rule 202, including his failure to disclose his financial, personal, and sexual relationship with Ms. Watts-Brightaupt prior to the award of the personal service contract;

(2) Recommends that Councilmember Barry be removed as Chairman of the Committee on Housing and Workforce Development and from membership on the Committee on Finance and Revenue for actions that adversely affect the confidence of the public in the integrity of the Council; and

(3) Refers to the Office of Campaign Finance and the United States Attorney for the District of Columbia the conclusions of the Special Counsel that Councilmember Barry violated the District of Columbia's Conflict of Interest Statute, Standards of Conduct, Constituent Services statute, and possibly criminal laws.

Sec. 7. The Council shall transmit a copy of this resolution to Councilmember Marion Barry, and a copy of this resolution and the Report to the Director of the Office of Campaign

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Finance and to the United States Attorney for the District of Columbia.

Sec. 8. This resolution shall take effect immediately.

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## A RESOLUTION

18-419

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

March 2, 2010

To amend the Council Period 18 Appointment of Chairperson Pro Tempore, Committee Chairpersons, and Committee Membership Resolution of 2009 to modify the composition of the Committee on Finance and Revenue, the Committee on Housing and Workforce Development, and the Committee on Public Services and Consumer Affairs, and amend the Rules of Organization and Procedure for the Council of the District of Columbia, Council Period 18 to temporarily transfer the jurisdiction of taxicabs and transfer the functions of the Special Committee on Statehood and Self-Determination to the Committee on Aging and Community Affairs.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Council Period 18 Committee Membership and Committee Jurisdiction Amendment Resolution of 2010".

Sec. 2. Section 3 of Council Period 18 Appointment of Chairperson Pro Tempore, Committee Chairpersons, and Committee Membership Resolution of 2009, effective January 2, 2009 (Res. 18-2; 56 DCR 823), is amended as follows:

(a) Paragraph (3) is amended by striking the name "Marion Barry" and inserting the name "Harry Thomas, Jr." in its place.

(b) Paragraph (6) is amended to read as follows:

"(6) The chairperson of the Committee on Housing and Workforce Development established by section 237 of the Rules, shall be Michael Brown, and its members shall be Phil Mendelson, Jim Graham, Harry Thomas, Jr., and Marion Barry."

(c) Paragraph (10) is amended by striking the name "Harry Thomas, Jr." and inserting the name "Marion Barry" in its place.

Sec. 3. The Rules of Organization and Procedure for the Council of the District of Columbia, Council Period 18, effective January 2, 2009 (Res. 18-1; 55 DCR 748), is amended as follows:

(a) Section 231 is amended as follows:

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(1) Subsection (a) is amended by striking the phrase "cable television; the regulation of taxicabs;" and inserting the phrase "cable television;" in its place.

(2) Subsection (e) is repealed.

(b) Section 232(b) is amended by adding the phrase "District of Columbia Taxicab Commission".

Sec. 4. The functions and responsibilities of the Special Committee on Statehood and Self-Determination, established by the Special Committee on Statehood and Self-Determination Establishment Resolution of 2009, effective March 3, 2009 (Res. 18-51; 56 DCR 2112), are transferred to the Committee on Aging and Community Affairs.

Sec. 5. This resolution shall take effect immediately.

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## A RESOLUTION

18-421

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

March 2, 2010

To declare the sense of the Council that the 2011 National Hockey League's Winter Classic should be played in 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 that the District of Columbia Should Host the 4th Annual NHL Winter Classic".

## Sec. 2. The Council finds that:

- (1) Hosting the National Hockey League's Winter Classic would be most advantageous for the District of Columbia.
- (2) According to reports in the Boston Globe, the District is being strongly considered to host the 2011 National Hockey League Winter Classic hockey game.
- (3) The District of Columbia is the best city to host the Winter Classic because it is our nation's capital, a world-renowned city, a historic city, and a city with a strong hockey fan base.
- (4) The District of Columbia provides countless sightseeing and nightlife opportunities for Winter Classic spectator-tourists. The District of Columbia is home to some of the world's most-visited landmarks.
- (5) According to the Boston Chamber of Commerce, the 2010 Winter Classic hockey game generated nearly \$36 million for the city of Boston.
- (6) According to an online National Broadcasting Company Washington Sports poll, 89% of those that cast a vote were in favor of the District hosting the 2011 Winter Classic.
- (7) Alex Ovechkin, arguably the world's best, and the National Hockey League's most illustrious player and the reigning 2-time Most Valuable Player, plays for the Washington Capitals.
- (8) The Washington Capitals currently have the highest attendance rating in the National Hockey League. The Washington Capitals regularly experience sellout crowds exceeding 18,000 spectators.
- (9) The Washington Capitals are regarded as one of the league's most popular and profitable franchises.

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(10) The Washington Capitals are regarded as a favorite in the 2009-2010 season to win the Stanley Cup Championship.

(11) The District of Columbia currently has 2 ideal venues to host the game: RFK Stadium and Nationals Park.

(12) The District can accommodate the largest crowd in the history of the Winter Classic. Nationals Park has a capacity of 41,888. RFK Stadium has a capacity of 46,000.

(13) Fenway Park's capacity for baseball is 36,301. Last year's sold-out attendance for the Winter Classic at Fenway Park was 38,112. The District can easily top this attendance due to its larger venues.

(14) 307,000 people applied for premium tickets through a lottery system for the 2010 Winter Classic, and more than 4.4 million American viewers watched the game in 2010.

(15) In 2009, the Winter Classic hosted at Chicago's Wrigley Field boasted a 2.9 overnight television rating (exceeding some college bowl games held on the same day, January 1, 2009).

(16) The National Broadcasting Company has exclusive television rights to the game. Thus, the District will receive further national exposure.

(17) An issue the National Hockey League considers in selecting a host city is whether fans and tourists will be able to easily commute to the game. The Metro is highly accessible for the game, with Metro stations located at both potential sites.

(18) Reagan National Airport provides easy accessibility for spectators traveling to the District to view the Winter Classic.

(19) Cities with winter climates are preferred. This winter shows that the District of Columbia has a winter climate that compares with any other city in the Northeast.

Sec. 3. For those reasons, it is the sense of the Council that the National Hockey League should hold its 2011 Winter Classic hockey game in the District of Columbia.

Sec. 4. The Council of the District of Columbia shall transmit a copy of this resolution, upon its adoption, to the National Hockey League.

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

## ENROLLED ORIGINAL

## A RESOLUTION

18-422

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

March 2, 2010

To declare the existence of an emergency with respect to the need to extend the holdover period for the People's Counsel to avoid a vacancy and allow the Council to consider a new nomination.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "People's Counsel Holdover Extension Emergency Declaration Resolution of 2010".

Sec. 2. (a) There exists an immediate need to extend the holdover period for the current People's Counsel.

(b) The holdover period for the person holding the office may expire on March 10, 2010.

(c) A new People's Counsel has been nominated, and on February 24, 2010, the Committee on Public Services and Consumer Affairs voted 5 to 0 to disapprove the nominee. A full Council vote is scheduled for March 2, 2010.

(d) Without an extension of the holdover period of the current People's Counsel's term, the office may be faced with a vacancy of leadership.

(e) It is important that the public, the Committee on Public Services and Consumer Affairs, and the Council be able to participate thoroughly in a process to review the nomination for this important position. A People's Counsel is an important position requiring public confidence in the position holder and it is urgent not to force and rush a decision because of an impending vacancy.

(f) A vacancy in the position would severely hurt the public interest in having ongoing high-level representation before the Public Service Commission, in cases in front of the District of Columbia Court of Appeals, and in advocating for the public.

(g) The People's Counsel is currently involved in a number of urgent cases before the Public Service Commission, including a \$51 million electricity rate case before the Public Service Commission, which require an ongoing presence and capacity to act of the People's Counsel.

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(h) To ensure continuity of operations, and allow for a reasonable transition of this important office, this extension is necessary. Consequently, it is necessary for the Council to pass this legislation on an emergency basis.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the People's Counsel Holdover Extension Emergency Amendment Act of 2010 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.