

AN ACT

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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To amend Chapter 46 of Title 47 of the District of Columbia Official Code to provide for payments in lieu of taxes for real property including air rights, above and adjacent to the Center Leg Freeway (Interstate 395); to authorize the Center Leg Freeway (Interstate 395) special PILOT; to authorize the disposition of parcel of land and air rights above and adjacent to the Center Leg Freeway (Interstate 395) to Louis Dreyfus Property Group, Inc.; to allow Louis Dreyfus Property Group, Inc. to procure studies and construct improvements on behalf of the District of Columbia; and to make conforming amendments to section 301 of the National Capital Revitalization Corporation and Anacostia Waterfront Corporation Reorganization Act of 2008.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Redevelopment of the Center Leg Freeway (Interstate 395) Act of 2010".

Sec. 2. Chapter 46 of Title 47 of the District of Columbia Official Code is amended as follows:

(a) The table of contents is amended by adding a new section designation to read as follows:

“47-4640. Payments in lieu of taxes, Center Leg Freeway (Interstate 395) PILOT Area.”.

(b) A new section 47-4640 is added to read as follows:

“§ 47 -4640. Payments in lieu of taxes, Center Leg Freeway (Interstate 395) PILOT Area.

“(a) For the purposes of this section, the term:

“(1) "Center Leg Freeway (Interstate 395) PILOT Area" means the real property conveyed to the Owner under section 3 of the Redevelopment of the Center Leg Freeway (Interstate 395) Act of 2010, passed on 2<sup>nd</sup> reading on July 13, 2010 (Enrolled version of Bill 18-806).

“(2) "Deck" means the platform to be constructed by the Owner above the Center Leg Freeway (Interstate 395), upon which will be constructed improvements, including

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commercial and residential buildings.

“(3) "Owner" means the Louis Dreyfus Property Group, LLC, or one of its affiliates or assigns approved by the Mayor, who may, from time to time, own all or a part of the Center Leg Freeway (Interstate 395) PILOT Area.

“(4) "PILOT" means the semiannual payments made in lieu of real property taxes pursuant to this section.

“(5) "PILOT Period" means the period commencing on the date that the District conveys to the Owner fee simple title to the Center Leg Freeway (Interstate 395) PILOT Area (but not earlier than October 1, 2011), and ending on the 1st anniversary of the 10th value adjustment required under subsection (b)(2)(E) of this section.

“(b)(1)(A) Notwithstanding part E of subchapter IV of Chapter 3 of Title 1, during the PILOT Period, the owner of each tax lot within the Center Leg Freeway (Interstate 395) PILOT Area shall pay a PILOT with respect to such lot, and any improvements thereon, in an amount equivalent to the real property taxes that would be otherwise levied on Class 1 Properties or Class 2 Properties (as applicable based on the use of the real property) pursuant to § 47-812, based upon the value of the real property in the Center Leg Freeway (Interstate 395) PILOT Area as determined pursuant to subsection (b)(2) of this section. Except as otherwise provided in this section, the PILOT shall be paid at the same time and in the same manner as real property taxes under Chapter 8 of this title.

“(B) If any tax lot included in the Center Leg Freeway (Interstate 395) PILOT Area is exempt from real property taxes pursuant to any provision of this title, other than subsection (h) of this section, the tax lot shall be exempt from payment of the PILOT.

“(C) Notwithstanding any other provision of this paragraph, commencing on October 1, 2014, the PILOT shall not be due until 30 days after the date on which a building permit is issued for the 1st building to be constructed upon the deck, other than buildings for the use of the Archdiocese of Washington or the Jewish Historical Society of Greater Washington, Inc.

“(D) Upon issuance of a Certificate of Completion of Core and Shell of Building with respect to any building that is built upon the deck, the tax lot upon which any such building is situated shall no longer be included in the Center Leg Freeway (Interstate 395) PILOT Area. The tax on any such lot shall be paid in accordance with Chapter 8 of this title commencing on the beginning of the next half tax year.

“(2)(A) For the purposes of calculating the PILOT pursuant to paragraph (1) of this subsection (but not for the purpose of calculating the assessed value), the value of the real property within the Center Leg Freeway (Interstate 395) PILOT Area (excluding the value of improvements constructed upon the deck) shall be computed as provided in this paragraph.

“(B) For Fiscal Years 2011 through 2014, the value of the real property shall be the lesser of:

“(i) The assessed value of the real property as determined under Chapter 8 of this title; or

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“(ii) The assessed value of the real property for the applicable fiscal year projected in the fiscal impact statement adopted by the Council in the Redevelopment of the Center Leg Freeway (Interstate 395) Act of 2010, passed on 2<sup>nd</sup> reading on July 13, 2010 (Enrolled version of Bill 18-806).

“(C) Commencing on October 1, 2014, the value of the real property shall be the purchase price paid by Owner to the District at closing on the transfer of the Center Leg Freeway (Interstate 395) PILOT Area pursuant to section 3 of the Redevelopment of the Center Leg Freeway (Interstate 395) Act of 2010, passed on 2<sup>nd</sup> reading on July 13, 2010 (Enrolled version of Bill 18-806).

“(D)(i) Commencing on October 1, 2015, and on each October 1st thereafter, the value of the real property shall be the adjusted purchase price, as determined under sub-subparagraph (ii) of this subparagraph, as of the immediately preceding January 1st.

“(ii) As of January 1, 2014, and as of each January 1st during the PILOT Period thereafter until the January 1st immediately following substantial completion of the entire deck, the Mayor shall certify to the Council and the Office of Tax and Revenue the adjusted purchase price for such real property as determined in accordance with the procedures contained in the documents governing the transfer of the Center Leg Freeway (Interstate 395) PILOT Area to the Owner pursuant to section 3 of the Redevelopment of the Center Leg Freeway (Interstate 395) Act of 2010, passed on 2<sup>nd</sup> reading on July 13, 2010 (Enrolled version of Bill 18-806). The last such certification shall further certify that substantial completion of the entire deck has occurred and that the adjusted purchase price set forth therein is final for purposes of this paragraph.

“(E) On each anniversary after the final adjustment of the purchase price as provided in subparagraph (E) of this paragraph, the value of such real property shall increase by the average percentage increase in the assessed value of land in the District in the immediately preceding fiscal year.

“(F) For the purposes of calculating the PILOT for each tax lot, the value of the real property determined under this paragraph shall be allocated among all the tax lots in the Center Leg Freeway (Interstate 395) PILOT Area for each fiscal year according to the relative assessed value of each such lot as of the January 1st immediately preceding the fiscal year with respect to which payment of the PILOT accrues (including, for purposes of this determination, any tax lot that is no longer included in the Center Leg Freeway (Interstate 395) PILOT Area pursuant to paragraph (1)(iv) of this subsection).

“(c) The PILOT shall be subject to the same penalty and interest provisions as unpaid real property taxes under Chapter 8 of Title 47.

“(d) Beginning on October 1, 2014, the PILOT deferred under subsection (b)(1)(C) of this section shall be reduced by an amount not to exceed \$2.4 million in consideration for the Owner agreeing to provide no less than 50 affordable housing units and an amount not to exceed \$3 million for Owner’s conducting certain site preparation activities, including demolition of existing structures on the Center Leg Freeway ((Interstate 395) PILOT Area and within F Street,

N.W.

“(e) A lien for unpaid PILOT payments, including penalties and interest, shall attach to each tax lot in the Center Leg Freeway (Interstate 395) PILOT Area in the same manner and with the same priority as a lien for delinquent real property tax under Chapter 13A of this title. Unpaid PILOT payments may be collected in accordance with Chapter 13A of this title.

“(f) The owner of a tax lot within the Center Leg Freeway (Interstate 395) PILOT Area shall not have the right to challenge the Mayor’s determination of the purchase price or adjusted purchase price under subsection (b)(2) of this section. The owner of a tax lot within the Center Leg Freeway (Interstate 395) PILOT Area shall have the right to challenge the assessed value of its tax lot in accordance with the provisions of Chapter 8 of this title.

“(g) This section shall not affect the calculation of the assessed value or payment of real property taxes with respect to any buildings or improvements constructed upon the deck upon the receipt of Certificate of Completion of Core and Shell of Building for such building or improvement.

“(h) Land and improvements that are located in the Center Leg Freeway (Interstate 395) PILOT Area, and not otherwise exempt pursuant to § 47-1002, shall be exempt from the tax imposed by Chapter 8 of this title for the PILOT period; provided, that this exemption shall not apply to any improvements constructed upon the deck and the land and improvements on any lots that are removed from the Center Leg Freeway (Interstate 395) PILOT Area pursuant to subsection(b)(1)(D) of this section.”.

Sec. 3. (a) Notwithstanding the requirements of section 1 of An Act Authorizing the sale of certain real estate in the District of Columbia no longer required for public purposes, approved August 5, 1939 (53 Stat. 1211; D.C. Official Code § 10-801), the Council authorizes the Mayor to dispose of the parcels of land and airspace currently owned by the District, including the lot known for real property taxation and assessment purposes as Lot 0058, Square 0564 within the boundaries of the south side of Massachusetts Avenue, N.W., the west side of 2<sup>nd</sup> Street, N.W., the north side of E Street, N.W., and the east side of 3<sup>rd</sup> Street, N.W. (“Property”), determined by the District Department of Transportation (“DDOT”), with Federal Highway Administration (“FHWA”) concurrence, to be excess of transportation needs and authorized to be disposed of under Title 23 of the United States Code and the regulations thereunder, to Louis Dreyfus Property Group, LLC, and one of its affiliates or assigns approved by the Mayor (“Purchaser”). The disposition of the Property shall be upon the following terms and conditions:

(1) The Purchaser shall be responsible for construction of the Deck, as that term is defined in D.C. Official Code § 47-4640(a)(2), and reconstruction of F Street, N.W., and G Street, N.W., between 3<sup>rd</sup> Street, N.W., and 2<sup>nd</sup> Street, N.W., and any ramps to Interstate 395 (I-395) authorized to be relocated, in accordance with the planned unit development (“PUD”) approved by the Zoning Commission of the District of Columbia and DDOT, with FHWA concurrence;

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(2) The Purchaser shall construct and develop, at its sole cost and expense, no less than 50 affordable residential units on the Property that shall be sold or rented to households earning 80% of the area median income as defined in section 2(1) of the Housing Production Trust Fund Act of 1988, effective March 16, 1989 (D.C. Law 7-202; D.C. Official Code § 42-2801(1) (“AMI”)) or less, with the unit mix and specific AMI levels set forth in the PUD;

(3) The purchase price for the Property shall equal the fair market value of the Property; provided, that in no event shall the purchase price be less than \$8.4 million plus statutory interest owed to the Washington Development Group, Inc. (“WDG”), which shall be paid to WDG at closing on the Property if such payment to WDG is authorized by FHWA;

(4) Except the proceeds that may be disbursed to WDG in accordance with paragraph (1) of this section, the proceeds of the sale of the Property shall be deposited and disbursed, in amounts determined by the Mayor and approved by FHWA, as follows:

(A) In the account designated by DDOT for receipt of funds received for programs authorized under Title 23 of the United States Code and the regulations thereunder; and

(B) To reimburse the Office of the Chief Technology Officer for the costs of relocating the Office of the Chief Technology Officer’s shared computer center from the Property;

(5) The Purchaser shall provide the District assurances that the deck over I-395 will be constructed in a timely manner, including adequate guaranties, and the Mayor shall reserve a right of reverter in the deed of conveyance in the event that the Purchaser does not complete construction within time frames determined by the Mayor to be commercially reasonable;

(6) The Mayor shall reserve rights necessary to operate F Street, N.W., and G Street, N.W., between 2<sup>nd</sup> and 3<sup>rd</sup> Street, N.W., for vehicular and pedestrian use, as determined under the PUD, and any rights necessary for the continued operation of I-395 and its ramps, as determined necessary by the DDOT, with FHWA concurrence;

(7) Purchaser shall be responsible for costs associated with the environmental reviews, assessments, impact statements, transit and traffic studies, security and engineering analyses, and the technical feasibility studies as may be required under District and federal laws and regulations to obtain FHWA approval of the disposition, development, and construction on the Property;

(8) Unless the Court of Appeals for the District of Columbia issues an opinion in Case No 04-CV-1425 or Case No. 04-CV-1464 that does not require the District of Columbia to pay the WDG, or its successor in interest, more than the judgment issued by Superior Court of the District of Columbia (inclusive of statutory interest accrued), the Purchaser shall, prior to conveyance, obtain WDG’s consent to the dismissal of the litigation prior to the Mayor’s conveyance of the Property to the Purchaser;

(9) The Purchaser shall enter into and comply with agreements required under the Small, Local, and Disadvantaged Business Enterprise Development and Assistance Act of

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2005, effective October 20, 2005 (D.C. Law 16-33; D.C. Official Code § 2-218.01 *et seq.*) and section 4 of the First Source Employment Agreement Act of 1984, effective June 29, 1984 (D.C. Law 5-93; D.C. Official Code § 2-219.03.); and

(10) The agreement entered into under the Small, Local, and Disadvantaged Business Enterprise Development and Assistance Act of 2005, effective October 20, 2005 (D.C. Law 16-33; D.C. Official Code § 2-218.01 *et seq.*), shall require:

(A) The Purchaser to contract with Certified Business Enterprises, as defined in section 2302(1B) of the Small, Local, and Disadvantaged Business Enterprise Development and Assistance Act of 2005, effective October 20, 2005 (D.C. Law 16-33; D.C. Official Code § 2-218.02(1B)) (“CBE Contractors”), for at least 35% of the contract dollar volume of the project;

(B) At least 20% equity and development participation of local, small, and disadvantaged business enterprises, including The Jarvis Company, LLC, Spectrum Management and RJB Consulting Group, Inc.; and

(C) The Purchaser to establish a Quick Pay Program for the CBE Contractors requiring the following:

(i) The Purchaser or developer shall hold a meeting with the CBE Contractor within 10 calendar days after receiving an invoice from the CBE Contractor to discuss any disputed items and to agree on a final invoice;

(ii) Within 30 days after the meeting, the CBE Contractor shall be paid the full amount of the undisputed portion of the invoice; and

(iii) If the Purchaser or developer does not pay the undisputed portion of the invoice within the 30-day period, the unpaid, undisputed portion shall be subject to a late fee of 1% interest per month, calculated on a daily basis, for every day over 30 days that the CBE Contractor is not paid the unpaid, undisputed amount.

(b) In addition to the Property listed in this subsection, the Mayor is authorized to convey the improvements owned by the District and commonly known as the Jewish Historical Society Synagogue, currently located at 701 3<sup>rd</sup> Street, N.W., to the Purchaser if the Mayor conveys to the Purchaser the real property known for real property taxation and assessment purposes as Lot 0058, Square 0564.

**Sec. 4. Exemptions.**

The following actions and projects required of the Purchaser under section 3 are exempt from the District of Columbia Procurement Practices Act of 1985, effective February 21, 1986 (D.C. Law 6-85; D.C. Official Code § 2-301.01 *et seq.*):

- (1) Environmental reviews;
- (2) Assessments;
- (3) Impact statements;
- (4) Transit and traffic studies;
- (5) Security and engineering analyses;

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(6) The technical feasibility studies and other actions required by applicable federal and District law or the Mayor for the District's potential disposition;

(7) Development and construction on the parcels of land and airspace disposed of by the Mayor under section 3; and

(8) Development and construction of F Street, N.W., and G Street, N.W., between 2<sup>nd</sup> Street, N.W., and 3<sup>rd</sup> Street, N.W., and any ramps to I-395.

Sec. 5. Section 301 of the National Capital Revitalization Corporation and Anacostia Waterfront Corporation Reorganization Act of 2008, effective March 26, 2008 (D.C. Law 17-138; D.C. Official Code § 2-1225.21), is amended as follows:

(a) Subsection (b)(1)(C-i) is repealed.

(b) Subsection (c) is amended by striking the phrase "is made; except, the monies deposited into the Account pursuant to subsection (b)(1)(C-i) of this section shall be allocated as set forth in subsection (d-1) of this section." and inserting the phrase "is made." in its place.

(c) Subsection (d-1) is repealed.

Sec. 6. 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. 7. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

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Chairman  
Council of the District of Columbia

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Mayor  
District of Columbia