

AN ACT

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Columbia  
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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the Washington Convention Center Authority Act of 1994 to modify the date on which rent will start to be paid under the ground lease, to authorize the District to assign ground lease rent payments to the Washington Convention Center Authority, to exempt the airspace lease entered into in connection with the hotel from the recordation tax, to provide for participation requirements for certified business enterprises and apprentices in the construction of the new convention center hotel, to provide for the creation of employment for District residents as a result of the construction of the new convention center hotel, and to provide for an internship program at the new convention center hotel for Hospitality High School of Washington, D.C., students; to amend the New Convention Center Hotel Omnibus Financing and Development Act of 2006 to increase the maximum amount of TIF bonds that the Washington Convention Center Authority is authorized to issue, to provide for the repayment to the Washington Convention Center Authority of funding in the amount of \$25 million, to authorize the Mayor to designate recovery zones, and to designate Square 370 as a recovery zone, pursuant to federal law; and to approve the Hotel Development and Funding Agreement by and among the District of Columbia, Washington Convention Center, and HQ Hotel, L.L.C.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “New Convention Center Hotel Amendment Act of 2009”.

Sec. 2. The Washington Convention Center Authority Act of 1994, effective September 28, 1994 (D.C. Law 10-188; D.C. Official Code § 10-1201.01 *et seq.*), is amended as follows:

(a) Section 201(7) (D.C. Official Code § 10-1202.01(7)) is amended to read as follows:

Amend  
§ 10-1202.01

“(7) “New convention center hotel” means a hotel to be constructed on the real property located in Lot 26 (formerly known as Lots 18, 21, 22, 24, 801 through 806, 830 through 839, 843, and 845), Square 370, bounded by 9th Street, N.W., 10th Street, N.W., L Street, N.W., and Massachusetts Avenue, N. W.”.

(b) Section 204(a-1)(2)(C) (D.C. Official Code § 10-1202.04(a-1)(2)(C)) is amended by striking the phrase “property of the Authority” and inserting the phrase “property of the

Amend  
§ 10-1202.04

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Authority (including lease payments assigned to the Authority pursuant to section 702)” in its place.

(c) Section 210(a) (D.C. Official Code § 10-1202.10(a)) is amended by striking the phrase “new convention center” and inserting the phrase “new convention center or certain costs of the new convention center hotel” in its place. Amend  
§ 10-1202.10

(d) Section 218 (D.C. Official Code § 10-1202.18) is amended as follows:

(1) Subsection (h-1) is amended as follows: Amend  
§ 10-1202.18

(A) Strike the phrase “Walter E. Washington Convention Center Headquarters Hotel (“Headquarters Hotel”)” and insert the phrase “new convention center hotel” in its place.

(B) Strike the phrase “Headquarters Hotel” and insert the phrase “new convention center hotel” in its place.

(2) Subsection (i) is amended by striking the phrase “Headquarters Hotel” and inserting the phrase “new convention center hotel” in its place.

(e) Section 702 (D.C. Official Code § 10-1202.22) is amended as follows:

(1) Designate the existing text as subsection (a). Amend  
§ 10-1202.22

(2) The newly designated subsection (a) is amended as follows:

(A) The lead-in text is amended by striking the phrase "Lots 18, 21, 801 through 806, 830 through 839, 843, and 845 in Square 370" and inserting the phrase "a portion of Lot 26 (formerly known as Lots 18, 21, 801 through 806, 830 through 839, 843, and 845), Square 370" in its place.

(B) Paragraph (1) is amended by striking the phrase “in the 4th year of operations” and inserting the phrase “on the 3rd anniversary of operations” in its place.

(C) Paragraph (4) is amended by striking the phrase "a loan for the new convention center hotel" and inserting the phrase "debt financing as permitted under the Hotel Development and Funding Agreement and lease" in its place.

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

“(b) Notwithstanding any other provision of law, the Mayor may assign the annual lease payments required by subsection (a) of this section to the Authority.”.

(f) Section 703 (D.C. Official Code § 10-1202.23) is amended by striking the phrase "Lots 22 and 24, Square 370" and inserting the phrase "a portion of Lot 26 (formerly known as Lots 22 and 24), Square 370" in its place. Amend  
§ 10-1202.23

(g) Section 704 (D.C. Official Code § 10-1202.24) is amended by adding a sentence at the end to read as follows: “The recording of any airspace lease executed pursuant to this section among the land records of the District of Columbia shall be exempt from the recordation tax imposed by section 303 of the District of Columbia Deed Recordation Tax Act, approved March 2, 1962 (76 Stat. 12; D.C. Official Code § 42-1103).” Amend  
§ 10-1202.24

(h) Section 801(1) (D.C. Official Code § 10-1202.31(1)) is amended by striking the Amend

phrase “Lots 18, 21, 22, 24, 801 through 806, 830 through 839, 843, and 845, Square 370” and § 10-1202.31  
inserting the phrase “Lot 26 (formerly known as Lots 18, 21, 22, 24, 801 through 806, 830  
through 839, 843, and 845), Square 370” in its place.”.

(i) A new Title IX is added to read as follows:

“TITLE IX. PROVISIONS RELATING TO THE CONSTRUCTION OF THE  
CONVENTION CENTER HOTEL

“Sec. 901. Construction contracting requirements.

“(a) HQ Hotel, L.L.C., shall comply with the negotiated terms and conditions of the  
Certified Business Enterprise Utilization and Participation Agreement by and between the  
District of Columbia Department of Small and Local Business Development and HQ Hotel,  
L.L.C., which was agreed to and executed on May 1, 2009, and shall, at a minimum, contract  
with certified business enterprises for at least 35% of the adjusted development budget, as  
defined in the agreement, and require at least 20% non-institutional equity, as defined in the  
agreement, and 20% development participation of local, small, and disadvantaged business  
enterprises, all as subject to the terms of the agreement and applicable law.

“(b) HQ Hotel, L.L.C., shall submit a certified business enterprises implementation  
forecasting plan to the Council on or before September 30, 2009. The plan shall include the  
following:

“(1) The total amount to be paid for the construction of the new convention  
center hotel;

“(2) The total amount to be expended for each construction division;

“(3) The amount of each contract in each construction division;

“(4) The contractor and the amount of the contract;

“(5) Each subcontractor and the amount of the contract for each subcontractor;

“(6) The certified business enterprises participation as contractor or  
subcontractor and the amount of the contracts;

“(7) The amount equal to the certified business enterprises participation goal of  
35% of contractor or subcontractor contracts;

“(8) A method of tracking the certified business enterprises participation and the  
amount of each contract from committed, to awarded, to paid;

“(9) A method of monitoring the certified business enterprises participation  
against the certified business enterprises forecast;

“(10) A system of remediation for any shortfalls in the certified business  
enterprises participation; and

“(11) A senior manager with the general contractor that has operational  
responsibility for meeting the certified business enterprises participation for the construction of  
the new convention center hotel.

“Sec. 902. First Source Agreement required.

“HQ Hotel, L.L.C., shall enter into a First Source Agreement with the District that shall

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govern certain obligations of HQ Hotel, L.L.C., pursuant to 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 Mayor's Order 83-265 (November 9, 1983), regarding job creation and employment generated as a result of the construction of the new convention center hotel.

“Sec. 903. Construction apprenticeship programs.

“(a) HQ Hotel, L.L.C., shall enter into an agreement that requires that:

“(1) Contractors and subcontractors participate in apprenticeship programs that:

“(A) Meet the standards set forth in Chapter 11 of Title 7 of the District of Columbia Municipal Regulations;

“(B) Have an apprenticeship program that is registered with the District of Columbia Apprenticeship Council;

“(2)(A) At least 25% of the total journey workers hours performed on the construction of the new convention center hotel shall be performed by journey workers that are District residents.

“(B)(i) If a contractor or subcontractor performing work on construction of the new convention center hotel is unable to identify and hire a bona fide District of Columbia resident for any of the trade work as a journey worker for the construction of the new convention center hotel, the contractor or subcontractor shall contact the Department of Employment Services (“DC DOES”) to request a list of District residents for the work.

“(ii) All journey workers identified by DC DOES that are District residents shall be referred to the contractor or subcontractor making the request.

“(iii) If no District residents can be identified by DC DOES to fulfill the request for a journey worker after 48 hours, the contractor or subcontractor may employ applicants from any other available source.

“(3)(A) At least 60% of all apprenticeship hours by trade performed pursuant to the apprenticeship programs required by section 5 of the Amendments to An Act To Provide Voluntary Apprenticeship in the District of Columbia Act of 1978, effective March 6, 1979 (D.C. Law 2-156; D.C. Official Code § 2-1431), shall be performed by District residents.

“(B) The DC DOES Office of Apprenticeship may grant a waiver to a contractor or subcontractor if it is not able to meet the apprenticeship requirements by trade;

“(4)(A) At least 60% of all skilled and unskilled laborer hours for the construction of the new convention center hotel shall be performed by District residents.

“(B) For the purposes of this section, skilled laborer and unskilled laborers positions shall be defined by 40 U.S.C. §§ 3141 through 3144, 3146, and 3147;

“(5)(A) Any contractor or subcontractor that fails to make a good faith effort to comply with the requirements of this section shall be subject to a monetary penalty in the amount of 5% of the direct or indirect labor costs of the contract.

“(B) Penalties shall be imposed by the Mayor and all money collected from the penalties shall be deposited into the Get D.C. Residents Training for Jobs Now Career

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Technical Training Fund, established by section 2061(b) of the Fiscal Year 2010 Budget Support Act of 2009, passed on 3<sup>rd</sup> reading on July 31, 2009 (Second Engrossed version of Bill 18-203).

“(b) The general contractor for the construction of the new convention center hotel shall deliver a workforce implementation plan to the Council on or before September 30, 2009. The plan shall include:

“(1) The total number of hours to be worked on the project by trade;

“(2) The total number of journey worker hours on the project and the total number of journey worker hours to be worked by District residents;

“(3) The total number of apprentice hours by trade and the total number of apprentice hours, by trade, to be worked by District residents;

“(4) The total number of skilled and unskilled laborer work hours to be worked and the total number of hours to be worked by District residents;

“(5) A timetable and critical path of the total work hours by trade for the construction of the new convention center hotel over 42 months;

“(6) Establishment of a workforce database of District residents that will provide contractors and subcontractors with a list of journey workers, apprentices, skilled laborers, and unskilled laborers;

“(7) A schedule for a stakeholders working group, including the Chair of the Committee on Economic Development, an Independent, At-Large Councilmember that serves on the Committee of Housing and Workforce Development, or their designees, and representatives from the First Source Agreement Program, the Office of Apprenticeship Information and Training, the Department of Small and Local Business Development, the Washington Convention Center Authority, HQ Hotel, L.L.C., and the general contractor to review and discuss the progress of the workforce mandates;

“(8) An established monitoring process, approved by DC DOES, of all contractors and subcontractors through their certified payrolls, which process shall include a monthly monitoring report including hours worked by District residents and the amount paid to District residents for each trade;

“(9) A remediation strategy to ameliorate any workforce problem encountered with contractors and subcontractors; and

“(10) A senior official from the general contractor who will be responsible for implementing the workforce mandates of this title.

“Sec. 904. Internship program.

“The operator of the new convention center hotel, the Hospitality High School of Washington, D.C., and the District of Columbia Hotel Association shall create an internship program for the Hospitality High School of Washington, D.C., students at the new convention center hotel.”

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Sec. 3. The New Convention Center Hotel Omnibus Financing and Development Act of 2006, effective September 19, 2006 (D.C. Law 16-163; D.C. Official Code § 10-1221.01 *et seq.*), is amended as follows:

(a) Section 101(16) (D.C. Official Code § 10-1221.01(16)) is amended to read as follows:

**Amend  
§ 10-1221.01**

“(16) “New Convention Center Hotel Site” means the real property located in Lot 26 (formerly known as Lots 18, 21, 22, 24, 801 through 806, 830 through 839, 843, and 845), Square 370, bounded by 9th Street, N.W., 10th Street, N.W., L Street, N.W., and Massachusetts Avenue, N.W.”.

(b) Section 103(b)(2) (D.C. Official Code § 10-1221.03(b)(2)) is amended to read as follows:

**Amend  
§ 10-1221.03**

“(2)(A) If the New Convention Center Hotel Fund has funds in excess of the amount required for any purpose described in this subsection, the excess shall be transferred as follows:

“(i) Until the Authority has been reimbursed in full for the Additional WCCA Funding, the first \$1 million of such excess in any fiscal year of the District shall be transferred to the Authority; and

“(ii) Following any transfer to the Authority required by subparagraph (i) of this subparagraph, if there are excess funds in the New Convention Center Hotel Fund, 50% of the excess shall be transferred annually to the Authority to promote tourism in the District, Washington Convention Center neighborhood development, hospitality job training and readiness programs, and other needs of the Washington Convention Center and 50% of the excess shall be transferred to the General Fund of the District of Columbia pursuant to subsection (c) of this section.

“(B) For the purposes of this section, the term “Additional WCCA Funding” means the payment of \$25 million to the developer of the New Convention Center Hotel for the costs of the development and construction of the New Convention Center Hotel not paid from the proceeds of the bonds or the \$22 million payment by the Authority.”.

(c) Section 104(a) (D.C. Official Code § 10-1221.04(a)) is amended by striking the phrase “Lots 18, 21, 22, 24, 801 through 806, 830 through 839, 843, and 845, Square 370” and inserting the phrase “Lot 26 (formerly known as Lots 18, 21, 22, 24, 801 through 806, 830 through 839, 843, and 845), Square 370” in its place.

**Amend  
§ 10-1221.04**

(d) Section 105(a) (D.C. Official Code § 10-1221.05(a)) is amended as follows:

**Amend  
§ 10-1221.05**

(1) The lead-in text is amended by striking the phrase "not to exceed \$187 million. The net proceeds shall be used" and inserting the phrase "sufficient to provide net proceeds" in its place.

(2) Paragraph (1) is amended to read as follows:

“(1) An amount not to exceed \$159 million for the costs of the project; and”.

(e) New sections 113a and 113b are added to read as follows:

“Sec. 113a. Recovery zone designation.

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“(a) The Mayor may designate recovery zones pursuant to sections 1400U-1, 1400U-2, and 1400U-3 of the Internal Revenue Code of 1986, approved February 17, 2009 (123 Stat. 348; 26 U.S.C. §§ 1400U-1, 1400U-2, and 1400U-3).

“(b) Square 370, having been determined to be an area of general distress, is designated as a recovery zone.

“Sec. 113b. Federal recovery act reimbursement requirement.

“If the District or the Authority receive reimbursement, subsidy, or TIF debt service relief in excess of the funds required by the bond covenant authorized by this act, pursuant to the American Recovery and Reinvestment Act of 2009, approved February 17, 2009 (123 Stat. 115; 26 U.S.C. § 1, note), the revenue and relief shall be credited to the District and shall be deposited in the General Fund of the District of Columbia.”.

Sec. 4. Contract approval.

Pursuant to section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51), and notwithstanding section 105a of the District of Columbia Procurement Practices Act of 1985, effective March 8, 1991 (D.C. Law 8-257; D.C. Official Code § 2-301.05a), the Council approves the Hotel Development and Funding Agreement by and among the District of Columbia, Washington Convention Center Authority, and HQ Hotel, L.L.C., as revised, as both a multiyear contract and a contract involving expenditures in excess of \$1 million during a 12-month period.

Sec. 5. Fiscal impact statement.

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. 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

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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