

AN ACT

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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District of  
Columbia  
Official Code*

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To amend the PILOT Authorization Increase and Arthur Capper/ Carrollsborg Public Improvements Revenue Bonds Approval Act of 2006 to allocate additional funds to the payment of debt services for the bonds and to approve the revised Capper/Carrollsborg PILOT Agreement.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Arthur Capper/ Carrollsborg Public Improvements Revenue Bonds Amendment Act of 2010”.

Sec. 2. The PILOT Authorization Increase and Arthur Capper/ Carrollsborg Public Improvements Revenue Bonds Approval Act of 2006, effective March 8, 2007 (D.C. Law 16-244; 54 DCR 609), is amended as follows:

(a) Section 201 is amended to read as follows:

“Sec. 201. Definitions.

“For the purposes of this title, the term:

“(1) “Available Increment” means, for any fiscal year of the District, the sum of the Available Real Property Tax Increment and the Available Sales Tax Increment, as defined in the Reserve Agreement; provided, that the Available Increment shall not include the Available Real Property Tax Increment or the Available Sales Tax Increment derived from the Gallery Place Project or the Mandarin Project (as defined in the Tax Increment Revenue Bond Downtown TIF Area Base Year Emergency Approval Resolution of 2002, effective February 5, 2002 (Res. 14-364; 49 DCR 1255), except to the extent that the Available Real Property Tax Increment or the Available Sales Tax Increment has been released from the lien of the respective indenture for these projects; provided, that following any allocation of the Footprint Increment with respect to a Future Downtown Project, such Footprint Increment shall be excluded from the Available Increment; provided further, that to the extent all or part of the Available Real Property Tax Increment and the Available Sales Tax Increment has been committed exclusively for another purpose, the amount committed shall be excluded from Available Increment.

“(2) “Available Real Property Tax Increment” means, for any fiscal year of the District, 100% of the real property tax increment in respect of the Downtown TIF Area, being that portion of the real property tax levied pursuant to Chapter 8 of Title 47 of the District of Columbia Code and payments lieu of real property taxes, exclusive of the special real property tax authorized by section 481 of the Home Rule Act, attributable to the difference, if any, between the aggregate assessed value for such fiscal year of all lots of commercial real property within the Downtown TIF Area and the aggregate assessed value of all lots of Commercial Real Property within the Downtown TIF Area in effect on January 1, 1999.

“(3) “Available Sales Tax Increment” means, for any fiscal year of the District, 100% of the sales tax increments in respect of the Downtown TIF Area, being the revenues resulting from the imposition of tax on sales imposed pursuant to Chapter 20 of Title 47 of the District of Columbia Code, including penalties and interest charges, exclusive of the portion thereof required to be deposited in the Washington Convention Center Authority Fund established pursuant to section 208 of the Washington Convention Center Authority Act of 1994, effective September 28, 1994 (D.C. Law 10-188; D.C. Official Code § 10-1202.08), from sales at locations within the Downtown TIF Area in each fiscal year of the District, less the amount of sales tax revenues for such sales at such locations in Fiscal Year 1999.

“(4) “Bonds” means the District of Columbia revenue bonds, notes, or other obligations (including refunding bonds, notes, and other obligations) authorized to be issued from time to time pursuant to this act.

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

“(6) “Budgeted Reserve” means, for any fiscal year of the District, an amount not to exceed \$15 million, equal to the Debt Service (including Debt Service due and unpaid from any prior fiscal year) payable on equal to the Debt Service (including Debt Service due and unpaid from any prior fiscal year) payable on all of the outstanding Gallery Place Bonds and Mandarin Bonds in such fiscal year.

“(7) “Capper/Carrollsbury HOPE VI Project” means the redevelopment of a 23-acre public housing complex in the southeast quadrant of the District by DCHA pursuant to a grant and other financing agreements with the United States Department of Housing and Urban Development.

“(8) “Capper/Carrollsbury PILOT” or “PILOT” means the payment in lieu of taxes from the Capper/Carrollsbury PILOT Area pursuant to the Capper/Carrollsbury PILOT Agreement.

“(9) “Capper/Carrollsbury PILOT Agreement” means the PILOT agreement described in section 202(b) and approved under section 203.

“(10) “Capper/Carrollsbury PILOT Area” means land in the southeast quadrant of the District located in Lots 0045, 0046, 0047, and 0048, Square 799; Lots 0020, 0025, 0026, 0027, 0028, 0816, 0818, 0819, and 0820, Square 800; Lots 0037, 0038, and 0039, Square 824; all lots in Squares 737, 739, 767, 768, 769, 797, 798, 825, S825, and 882; any portion of the

land known as Reservation 17A which becomes part of Square 737 or 739; and land consisting of streets or alleys located within the Capper/Carrollsborg PILOT Area upon abandonment thereof and reversion to a square or lot included in the Capper/Carrollsborg PILOT Area.

“(11) “Capper/Carrollsborg PILOT Fund” means the nonlapsing fund established under section 204.

“(12) “Capper/Carrollsborg Public Improvements” means the infrastructure, including streets, sidewalks, walkways, streetscapes, curbs and gutters, gas, electric and water utility lines, and other publicly-owned infrastructure, and the relocation, construction, and redevelopment of certain public facilities located within or serving the Capper/Carrollsborg PILOT Area.

“(13) “Chief Financial Officer” means the Chief Financial Officer of the District of Columbia.

“(14) “DCHA” means the District of Columbia Housing Authority.

“(15) “DCHA bonds” means the revenue bonds, notes, or other obligations (including refunding bonds, notes, and other obligations) issued by or on behalf of DCHA secured by bonds authorized by this act.

“(16) “Development costs” means all costs and expenses incurred by or on behalf of the District of Columbia or DCHA relating to the development, redevelopment, purchase, acquisition, protection, financing, construction, expansion, reconstruction, restoration, rehabilitation, renovation, repair, furnishing, equipping, and operating of the Capper/Carrollsborg Public Improvements, including:

“(A) The costs of demolishing or removing buildings or structures on, and site preparation of, land acquired or used for, or in connection with, the Capper/Carrollsborg Public Improvements;

“(B) Costs of relocation, construction, and redevelopment of the Capper/Carrollsborg Public Improvements;

“(C) Expenses incurred for utility lines, structures, or equipment charges;

“(D) Interest prior to, and during, construction and for a period as may be necessary for the operation of the Capper/Carrollsborg Public Improvements;

“(E) Provisions for reserves for principal and interest, capitalized interest, and extraordinary repairs and replacements;

“(F) Expenses incurred for architectural, engineering, energy efficiency technology, design and consulting, financial, and legal services;

“(G) Fees for letters of credit, bond insurance, debt service reserve insurance, surety bonds, or similar credit or liquidity enhancement instruments;

“(H) Costs and expenses associated with the conduct and preparation of specification and feasibility studies, plans, surveys, historic structure reports, and estimates of expenses and revenues;

“(I) Expenses necessary or incident to issuing the bonds and DCHA

bonds and determining the feasibility and the fiscal impact of financing the acquisition, construction, or redevelopment of the Capper/Carrollsborg Public Improvements; and

“(J) The provision of a proper allowance for contingencies and initial working capital.

“(17) "Financing Costs" means issuance costs as defined in D.C. Official Code § 47-340.01(14), including such costs incurred by or on behalf of DCHA with respect to the Capper/Carrollsborg Public Improvements and DCHA bonds.

“(18) "Financing Documents" means closing documents as the term is defined in D.C. Official Code § 47-340.01(6), and financing documents as the term is defined in D.C. Official Code § 47-340.01(11), including any offering document, and any required supplements to any such documents, that relate to the financing, refinancing, or reimbursement of the costs of the Capper/Carrollsborg Public Improvements.

“(19) "Footprint Increment" means for any fiscal year of the District, the sum of”

“(A) An amount not to exceed 100% (as set forth in the resolution of the Council approving the applicable Future Downtown Project) of that portion of the real property tax levied pursuant to Chapter 8 of Title 47 of the District of Columbia Official Code and payments in lieu of real property taxes, exclusive of the special real property tax, attributable to the difference, if any, between the aggregate assessed value during such fiscal year of all lots of commercial real property included in the site of such Future Downtown Project and the aggregate assessed value of all lots of commercial real property included in such site in effect on the effective date of the allocation to the Future Downtown Project as stated in the applicable Council resolution; plus

“(B) An amount not to exceed 100% (as set forth in the resolution of the Council approving the applicable future Downtown Project) of the tax revenues resulting from the imposition of the taxes imposed pursuant to Chapter 20 of Title 47 of the District of Columbia Official Code on sales at locations included in the site of such Future Downtown Project, including any penalties and interest charges, exclusive of the portion thereof required to be deposited in the Washington Convention Center Authority Fund established pursuant to section 208 of the Washington Convention Center Authority Act of 1994, effective September 28, 1994 (D.C. Law 10-188; D.C. Official Code § 10-1202.08), less the amount of the sales tax revenues from such sales at such locations for the fiscal year prior to the year in which the Council approves such Future Downtown Project.

“(20) "Future Downtown Project" means an eligible project located in the Downtown TIF Area, other than the Gallery Place Project and the Mandarin Project, and certified and approved in accordance with the Tax Increment Financing Authorization Act of 1998, effective September 11, 1998 (D.C. Law 12-143; D.C. Official Code § 2-1217.01 *et seq.*).

“(21) "Gallery Place Bonds" means the \$73,650,000 District of Columbia (Washington, DC) Tax Increment Revenue Bonds (Gallery Place Project Issue) Series 2002.

“(22) "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.*).

“(23) “Mandarin Bonds” means the \$45,995,387.40 District of Columbia (Washington, DC) Mandarin Oriental Hotel Project Tax Increment Revenue Bonds Series 2002.

“(24) “PILOT improvements” means the improvements located on the real property located at Lots 0074 and 0075, Square 737, and Lot 0021, Square 769, but excluding any portion of the land known as Reservation 17A which becomes part of Square 737, and land consisting of streets or alleys located within the Capper/Carrollsborg PILOT Area upon abandonment thereof and reversion to Square 737 or 769 or lot included in Square 737 or 769.

“(25) “PILOT improvement payments” means the excess of the payments in lieu of real property taxes payable pursuant to D.C. Official Code § 47-4611 and allocable to the PILOT improvements, over an amount equal to the special tax provided for in section 481 of the Home Rule Act.

“(26) “Pledged PILOT payments” means the sum of:

“(A) Payments in lieu of real property taxes (including any penalties and interest charges) from the Capper/Carrollsborg PILOT Area (other than the PILOT improvements) payable pursuant to D.C. Official Code § 47-4611; and

“(B) The PILOT improvement payments.

“(27) “Reserve Agreement” means the Reserve Agreement, dated April 1, 2002, by and among the District, Wells Fargo Bank Minnesota, N.A., and Financial Security Assurance, Inc.”.

(b) Section 202 is amended as follows:

(1) Subsection 202(c)(1) is amended to read as follows:

“(c)(1) The bonds may be issued directly by the District or may be issued in the form of a PILOT Note to DCHA, or its designee, in which case the PILOT Note may secure the DCHA bonds or otherwise be applied to finance, refinance, or reimburse development costs of the Capper/Carrollsborg Public Improvements.”.

(2) Subsection (h) is amended as follows:

(A) Designate the existing text as paragraph (1).

(B) The newly designated paragraph (1) is amended by striking the phrase “and income realized” and inserting the phrase “other moneys, that, as provided in the Financing Documents, may be made available to the District for the payment of the bonds, other sources of payment (other than the District), and income realized” in its place.

(C) A new paragraph (2) is added at the end to read as follows:

“(2) There is further allocated to the payment of debt service on a principal amount of bonds not to exceed \$32 million (and the funding of reserves for such purposes) the Available Increment, subordinate to the allocation of the Available Increment to the Budgeted Reserve, to be used for the payment of debt service on the bonds (and the funding of reserves for such purpose) to the extent that the revenues allocated in paragraph (1) of this subsection are inadequate to pay debt service on (and the funding of reserves for) the bonds.”.

**Sec. 3. Approval of revised Capper/Carrollsbury PILOT Agreement.**

The Council approves the execution of revised Capper/Carrollsbury PILOT Agreement in substantially the form that has been transmitted to the Council.

**Sec. 4. Fiscal impact statement.**

The Council adopts the fiscal impact statement of the Chief Financial Officer, dated December 10, 2009, 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. 5. 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