


Council of the District of Columbia
OFFICE OF COUNCILMEMBER KENYAN R. MCDUFFIE, WARD 5
MEMORANDUM

1350 Pennsylvania Avenue, NW, Washington, DC 20004

TO: Chairman Phil Mendelson
FROM: Councilmember Kenyan R. McDuffie 
Chair, Committee on Business and Economic Development
RE: Request to Agendize Measures for the February 2, 2021 Legislative Meeting
DATE: January 28, 2021

I write to request that the following emergency, temporary, congressional review emergency, OCFO contract, and ceremonial measures be agendized for the February 2, 2021 Legislative Meeting:

Emergency Measures:

- **“Fair Meals Delivery Emergency Act of 2021”**
- **“Fair Meals Delivery Emergency Declaration Resolution of 2021”**

On March 11, 2020, the Mayor issued Mayor's Order 2020-45, 2020-46, declaring a public emergency and a public health emergency in the District due to the imminent threat to the health, safety, and welfare of District residents posed by the spread of COVID-19. Additional orders have since been issued.

As a result of the public health emergency, many restaurants have been operating at a limited capacity and it has forced many consumers to order more take-out meals from the comfort of their homes using websites, mobile applications, or other internet services. As a matter of principle, a restaurant should know who or what agency would be providing meal delivery services for consumers who order meals from their locations. These emergency and temporary measures would ensure that a third-party meal delivery platform must first obtain an express agreement from a restaurant to collect meal orders and deliver meals prepared by the restaurant to consumers.

- **“Adams Morgan Business Improvement District Emergency Amendment Act of 2021”**
- **“Adams Morgan Business Improvement District Emergency Declaration Resolution of 2021”**

The Adams Morgan BID, also known as the Adams Morgan Partnership BID (“AMPBID”), was initially authorized by the Adams Morgan Business Improvement District Emergency Amendment Act of 2005, effective May 18, 2005, pursuant to The Business Improvement Districts Act of 1996 (“1996 act”). Thereafter, AMPBID’s term was extended several times as required by the 1996 act. There was no gap in law from the initial emergency through each successor law to the permanent law.

Mayor’s Order 2005-121 dated August 22, 2005 registered the Adams Morgan BID pursuant to section 422(11) of the Charter (D.C. Official Code § 1-204.11(11)) and the initial emergency “as well as any substantially identical successor law.” The Mayor’s order states that the AMPBID is registered retroactively as of June 30, 2005. Yet, contrary to the law, the order

states that AMPBID's registration will expire on June 30, 2010. The law provides that a BID will expire on the last day of the 5th full fiscal year of registration which was September 30, 2010.

Because AMPBID did not timely request an extension of its initial term, emergency legislation was enacted on November 17, 2010 granting it an extension of time to request another 5-year term. In pertinent part, the emergency declaration resolution stated that "District law is unclear whether the BID has until the end of fiscal year 2010 or fiscal year 2011 to give notice of its application."¹The emergency legislation, however, was too late and of no effect. The AMPBID's legal existence, according to the requirements of the 1996 act, had already ended.

To remedy this inadvertent reliance and to prevent a myriad of unintended consequences, including the unintended termination of the AMPBID or preventing OTR from timely creating billing files and sending tax bills, legislation statutorily establishing September 30, 2011 as the end date of the first term of the Adams Morgan BID needs to be expeditiously enacted.

Accordingly, this measure declares the existence of an emergency and amends the Business Improvement Districts Act of 1996 to statutorily establish the expiration date of the first term of the Adams Morgan BID. The Office of Tax and Revenue ("OTR") and the AMPBID need certainty, optimally by February 15, of the lawful existence of AMPBID to allow AMPBID to provide OTR an on-time listing of properties and persons subject to AMPBID taxes and for OTR to go forward in its normal manner, without delay, in its billing process for the AMPBID's taxes.

Temporary Measures:

- **"Fair Meals Delivery Temporary Act of 2021"**

As a complement to the emergency measure, this bill prohibits third-party meal delivery platforms from arranging for the delivery of an order from a restaurant without first obtaining an agreement with the restaurant expressly authorizing the third-party meal delivery platform to collect meal orders and deliver meals prepared by the restaurant.

- **"Adams Morgan Business Improvement District Temporary Amendment Act of 2021"**

To complement the aforementioned emergency measure, this bill temporarily amends the Business Improvement Districts Act of 1996 to statutorily establish the expiration date of the first term of the Adams Morgan BID. The Office of Tax and Revenue ("OTR") and the AMPBID need certainty, optimally by February 15, of the lawful existence of AMPBID to allow AMPBID to provide OTR an on-time listing of properties and persons subject to AMPBID taxes and for OTR to go forward in its normal manner, without delay, in its billing process for the AMPBID's taxes.

In order to prevent a myriad of unintended consequences, including the unintended termination of the AMPBID or preventing OTR from timely creating billing files and sending tax bills, legislation statutorily establishing September 30, 2011 as the end date of the first term of the Adams Morgan BID needs to be expeditiously enacted.

¹ Extension of Time Emergency Declaration Resolution of 2010, effective November 9, 2010 (PR18-1183; Res.18-970).

Congressional Review Emergency Measures:

- **“Revised Streatery and Pop Up Locations Programs Clarification Congressional Review Emergency Amendment Act of 2021”**
- **“Revised Streatery and Pop Up Locations Programs Clarification Congressional Review Emergency Declaration Resolution of 2021”**

In 2020, the Council passed the Revised Streatery and Pop Up Locations Programs Clarification Emergency Amendment Act of 2020, effective November 2, 2020, and the Revised Streatery and Pop Up Locations Programs Clarification Temporary Amendment Act of 2020, enacted on November 27, 2020. The emergency act expired on January 30, 2021, and the temporary act has not completed the 30-day congressional review period as required by the District of Columbia Home Rule Act, and accordingly has not yet become law. It is important that the provisions of the emergency act continue in effect, without interruption, until the temporary act is law.

This measure declares the existence of an emergency, due to congressional review, and amends the Coronavirus Support Temporary Amendment Act of 2020, and the Coronavirus Support Second Congressional Review Emergency Amendment Act of 2020. The measure also modifies the expiration date of the District’s Streatery Program; makes the permitted hours of alcohol sales under the Streatery and Pop Up Locations Programs consistent with the Fiscal Year 2021 Budget Support Act of 2020; and provides clarity to licensees and the public with regard to the requirements for operating under the Streatery and Pop Up Locations Programs.

- **“Children’s Hospital Research and Innovation Campus Equitable Tax Relief Congressional Review Emergency Act of 2021”**
- **“Children’s Hospital Research and Innovation Campus Equitable Tax Relief Congressional Review Emergency Declaration Resolution of 2021”**

In 2020, the Council passed emergency and temporary legislation to continue Children’s Hospital’s tax exemption to aide it in completing the development of its research and innovation campus. The Children’s Hospital Research and Innovation Campus Equitable Tax Relief Temporary Amendment Act of 2020, effective June 24, 2020 will expire on February 4, 2021. On December 1, 2020, the Council passed the Children’s Hospital Research and Innovation Campus Equitable Tax Relief Act of 2020, enacted on December 22, 2020, which has not completed the 30-day congressional review period required by the District of Columbia Home Rule Act and, accordingly, has not yet become law. It is important that the provisions of the temporary act continue in effect, without interruption, until the permanent act is law.

This measure declares the existence of an emergency, due to congressional review, and amends Chapter 10 of Title 47 of the District of Columbia Official Code to: (i) provide a real property tax exemption to the properties designated as Lots 824 and 826, Square 2950; (ii) provide recordation and transfer tax exemptions for documents recorded with respect to such properties; (iii) require the developer to spend a certain percentage of its total project budget with certified and small business enterprises; and (iv) require the developer to report that spending to the District of Columbia Department of Small and Local Business Development (DSLBD).

- **“Revised Game of Skill Machines Consumer Protections Congressional Review Emergency Amendment Act of 2021”**
- **“Revised Game of Skill Machines Consumer Protections Congressional Review Emergency Declaration Resolution of 2021”**

In 2020, the Council passed the Revised Game of Skill Machines Consumer Protections Emergency Amendment Act of 2020, effective November 2, 2020; the Revised Game of Skill Machines Consumer Protections Temporary Amendment Act of 2020, enacted on November 27, 2020; and the Fiscal Year 2021 Budget Support Clarification Amendment Act of 2020, enacted January 13, 2021, which contains the permanent Games of Skill Machines Consumer Protections legislation (“permanent act”). The emergency act expired on December 29, 2020. Neither the temporary act nor the permanent act have completed the 30-day congressional review period required The District of Columbia Home Rule Act. Accordingly, neither is yet in effect. It is important that the provisions of the emergency act continue in effect, without interruption, until the permanent act or temporary act is law.

This measure declares the existence of an emergency, due to congressional review, and amends Title 25 of the District of Columbia Official Code to authorize, define, and regulate games of skill.

Contract on behalf of the Chief Financial Officer

- **“Contract No. CFOPD-18-C-018 Approval and Payment Authorization Emergency Act of 2021”**
- **“Contract No. CFOPD-18-C-018 Approval and Payment Authorization Emergency Declaration Resolution of 2021”**

There exists an immediate need to approve proposed Modification No. 4 to Contract No. CFOPD-18-C-018 with Tax Management Associates, Inc. (“vendor”). The vendor provides audit services related to District residential property tax relief programs for the Office of the Chief Financial Officer, Office of Tax and Revenue (“OTR”). On May 1, 2020, Modification No. 2 was issued to exercise Option Year 2 of the Contract for a 12-month period from May 4, 2020 through May 3, 2021 in the total estimated amount of \$480,000. On August 4, 2020, Modification No. 3 was issued to increase the estimated quantity of captured tax collections, which increased the total estimated amount of the Contract to \$983,130.83, an amount less than \$1 million; thus, Council approval was not required.

The increase in funding for this contract will support the District’s goal of increased taxpayer compliance with its residential real property tax relief programs. Over the life of this contract, the vendor has found numerous cases of real property tax avoidance by residents of the District. Continuing to receive these audit services will help to further ensure fair and consistent collection of tax revenues. Accordingly, proposed Modification No. 4 will further increase the estimated quantity of captured tax collections, which will increase the total estimated the amount of the Contract to \$2,983,180 and will increase the overall expenditures under the Contract to more than \$1 million during a 12-month period; therefore, Council approval is required.

This measure declares the existence of an emergency with respect to proposed Modification No. 4 to Contract No. CFOPD-18-C-018 with Tax Management Associates, Inc.

The measure allows the vendor to continue to provide audit services related to District residential property tax relief programs for OTR and authorizes payment for services received and to be received under the contract.

Ceremonial Resolutions:

- **“Kojo Nnamdi Recognition Resolution of 2021”**

Rex Orville Montague Paul, better known as Kojo Nnamdi, is a Washington, D.C. based radio journalist and host of the *The Kojo Nnamdi Show* and *The Politics Hour* on WAMU, Washington, D.C.’s National Public Radio member station. This ceremonial resolution recognizes and honors Kojo Nnamdi for his activism, service, and contribution to the greater Washington region as host of *The Kojo Nnamdi Show*, for 23 years, on the occasion of the conclusion of the show.

- **“Dr. Delon Hampton Recognition Resolution of 2021”**

Dr. Delon Hampton, PhD, was a trailblazing African American and business owner in the field of civil engineering. Dr. Hampton founded Delon Hampton & Associates, a multi-million dollar Washington, D.C. based engineering firm, with offices in six other cities across the country. In 1999, Dr. Hampton was elected as the first African American President of the American Society of Civil Engineers (ASCE). After 47 years, Dr. Hampton’s firm continues to provide civil and structural engineering as well as program and construction management services to the Washington, D.C. region. This ceremonial resolution celebrates the life and legacy of Dr. Delon Hampton on the occasion of his death at 87 years of age.

- **“Charlene D. Fairfax Recognition Resolution of 2021”**

Dr. Charlene D. Fairfax, RPh, has served the residents of the District of Columbia for over 15 years at the DC Department of Health Care Finance where she is a lead advisor to the Medicaid Director, oversees the Pharmacy Benefit Management contract, and co-chairs the Pharmacy and Therapeutics Committee. Dr. Fairfax has molded and shaped generations of pharmacy students for the last 32 years as a Preceptor at the Howard University College of Pharmacy. This ceremonial resolution recognizes and honors Dr. Charlene D. Fairfax on the occasion of 70 years of life.

The measures are attached and have been e-filed with the Secretary’s Office.

Please contact Alicia DiFazio, Committee Director, at adifazio@dccouncil.us with any questions.

cc: Members, Council of the District of Columbia
Office of the Secretary
Office of the General Counsel
Office of the Budget Director
Mayor’s Office of Policy and Legislative Affairs