

OFFICE OF
MARY M. CHEH

Councilmember, Ward 3 | Chair, Committee on Transportation & the Environment

MEMORANDUM

TO: Chairman Phil Mendelson
FROM: Councilmember Mary M. Cheh
DATE: February 24, 2022
SUBJECT: Requests for the March 1, 2022 Legislative Meeting



I request that the following emergency measures be agendized for the March 1, 2022, Legislative Meeting:

- Urban Forest Preservation Stop Work Order Authority Emergency Declaration Resolution of 2022
- Urban Forest Preservation Stop Work Order Authority Emergency Amendment Act of 2022
- Urban Forest Preservation Stop Work Order Authority Temporary Amendment Act of 2022

Trees are an essential component of a sustainable city and provide us with a multitude of important benefits. These include better air and water quality, of particular relevance in the District, where one in six residents suffer from asthma—50% higher than the national average. Trees naturally help reduce stormwater runoff and combined sewer overflows, helping reduce the number of contaminants released into the Anacostia and Potomac Rivers and Rock Creek Park. They also reduce our burden under the District's 2005 Consent Decree with the Environmental Protection Agency. Shade from our tree canopy saves energy, reduces urban heat island effects, and reduces the damaging effects of heat on asphalt, making our roads last longer. Further, trees have been shown to increase worker productivity, decrease the recovery time of hospital patients, and lead to stronger bonds between neighbors. Of course, trees also create jobs in planning, planting, and maintenance. Nearly all of these benefits are magnified by the size of the tree—older, taller trees create more of these benefits.

With these benefits in mind, the District has taken drastic action to expand our tree canopy and protect existing trees. In the Sustainable DC Plan, the District set a goal of increasing the District's Tree Canopy cover from 35 to 40% by 2032. While the District is nearing that goal, adding about 8,000 new trees per year, we are still shy of 40%; and, new tree plantings are almost exclusively young, immature trees that will not provide the full benefits of a mature tree for decades. Thus, to reach our goal, it is essential that we continue

our work to protect existing mature trees, while increasing the overall tree count via aggressive annual plantings.

With this in mind, in 2002, the District passed legislation to protect certain mature trees; since that time, the Council has acted to update and expand the protection in that law several times. Today, it is illegal to remove certain large, mature trees, called Special Trees or Heritage Trees, without a permit. The Urban Forestry Division (“UFD”) within the District Department of Transportation (“DDOT”) issues these permits; Special Tree removal permits may be obtained for any special tree where the permit seeker pays a fee; permits to remove a Heritage Tree may only be obtained where the tree is hazardous, or the applicant avers that she will relocate the tree. As noted, these laws exist to protect the District’s tree canopy, which provides innumerable benefits to the District.

Currently, however, UFD’s only tool to enforce our tree protection laws is a monetary penalty. These fines are not de minimis: for the illegal removal of a Heritage Tree, for example, a property owner may be fined \$300 per inch of the tree’s circumference; as Heritage Trees are at their smallest 100 inches in circumference, fines start at \$30,000. For some property owners, these fines are dispositive, compelling them to follow the law either by changing their work plans to accommodate a protected tree, or working with an arborist to safely relocate the tree on the property.

Unfortunately, fines alone are not always sufficient to protect these trees and our tree canopy. It has become common practice with some property owners to cut down heritage and special trees, with these individuals seeing the fines as the “cost of doing business;” in fact, property owners may make no attempt to preserve these trees, simply incorporating the fines into the budget of the project. Just earlier this year, a property owner in the Takoma neighborhood of Ward 4 cut down a heritage tree and two special trees, despite UFD, the Metropolitan Police Department, and neighbors making clear to him that removal of the tree was illegal. The property owner was reported as saying, “I don’t care. Everybody does it, all developers do it. We pay the fines, nobody cares.” Clearly, fines alone are an insufficient tool to protect these trees. What’s more, the current scheme creates inequities: wealthier property owners are in effect allowed to remove trees at their leisure, as they can pay, while less affluent residents cannot, due to the high cost of the fine.

UFD has long noted that a scheme in which their only tool to protect Special and Heritage Trees is a fine provides them no method to actually stop a tree from being illegally removed; the fines are inherently backward-looking, and can only penalize past behavior, not prevent the illegal actions from occurring in the first place. Providing UFD with the authority to issue a Stop Work Order where work appears poised to harm or destroy a Special or Heritage Tree will ensure that these trees are actually protected.

Currently, the Committee on Transportation and the Environment is considering B24-444, the Urban Forest Preservation Authority Amendment Act of 2022, which would, among

other legislative changes, provide UFD with the authority to issue stop work orders for work that would illegal harm or remove a protected tree. That legislation, however, will not be effective until it is marked up by the Committee, approved by the Council, and undergoes mayoral and congressional review; thus, it could be several months before that bill becomes law, during which time numerous protected trees could be illegally removed or otherwise harmed.

This emergency legislation is necessary to provide the Mayor with the immediate authority to issue a stop work order when our tree protection laws are in imminent danger of being violated. As noted, it is especially vital that this power be provided on an emergency basis to prevent violations of the law by developers who may elect to pay a fine rather than comply with the law.

On behalf of the Mayor, I also request that the following emergency measures be agendized for the Legislative Meeting:

- Modification Nos. 3, 4, 5, and 6 to Contract No. DCKA-2021-C-0014 with Conduent State & Local Solutions, Inc. Approval and Payment Authorization Emergency Declaration Resolution of 2022
- Modification Nos. 3, 4, 5, and 6 to Contract No. DCKA-2021-C-0014 with Conduent State & Local Solutions, Inc. Approval and Payment Authorization Emergency Act of 2022

This legislation would approve, on an emergency basis, Modifications 3, 4, 5, and 6 to Contract No. DCKA-2021-C-0014 with Conduent State & Local Solutions, Inc. to provide management services for the District of Columbia's parking meter assets and to authorize payment for the goods and services received and to be received under that contract.

Pursuant to the contract modifications, the contractor will provide asset management services to manage, maintain, install, and preserve parking meter assets within the District of Columbia. Furthermore, under the modifications, option year 1 is converted to option *period* 1, to note that the term of the contract is to be reduced from a period of one year to six months. This short-term extension is necessary to bridge the current asset management contract to allow for all pre-award phases for solicitation DCKA-2022-R-0002 to be completed; that is, this extension will allow for these services to be provided while DDOT completes the competitive solicitation for the new parking meter asset management contract.

The period of performance is from December 20, 2021 through June 19, 2022; however, of note, on December 17, 2021, contract modification M003 extended the period of performance through January 19, 2022 in the amount of \$840,775.09; on January 19, 2022, contract modification M004 extended the period of performance through January 26,

2022 in the amount of \$159,223; and, on January 26, 2022, contract modification M005 extended the period of performance through March 5, 2022.

The total option year 1 contract amount was to be in the not-to-exceed amount of \$10,089,301.06. As the proposed partial option year will be half the time, at six months, the option period 1 amount is consequently reduced to a non-to-exceed amount of \$5,044,650.53. As that amount exceeds statutory thresholds for Council review, approval is required. A copy of the emergency measures and contract summary is attached.

Please contact my legislative director Michael Porcello in my office at 724-8062 or mporcello@dccouncil.us if you have any questions.