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AN ACT

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To require labor peace agreements for hotel development projects in which the District of Columbia has a proprietary interest.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Hotel Development Projects Labor Peace Agreement Act of 2002".

Sec. 2. Findings and declarations.

(a) In the course of managing real property that it owns or in otherwise carrying out its functions in the public interest, the District may participate in real property developments as a property owner, lessor, proprietor, lender, or guarantor, facing similar risks and liabilities as other business entities participating in such ventures. As a result, the District has an ongoing proprietary interest in these developments and a direct interest in their financial performance.

(b) The District must make prudent management decisions, similar to any private business entity, to ensure efficient management of its business concerns and to maximize benefits and minimize risks. One risk is the possibility of labor-management conflict.

(c) A major potential outcome of labor-management conflict is economic action by labor unions against employers. Experience of municipal and other investors demonstrates, for example, that organizing drives pursuant to the formal and adversarial union certification process often deteriorate into protracted and acrimonious labor-management conflict. Labor-management conflict can result in construction delays, work stoppages, picketing, strikes, consumer boycotts, and other forms of adverse economic pressure. Such conflict may adversely affect the District's financial or other proprietary business interests by causing delay in the completion of a project, reducing the revenues or increasing the costs of the project, and by generating negative publicity.

(d) These risks are heightened in the hotel industry because this industry is so closely related to tourism, which is a linchpin of the District economy. Labor-management conflict in hotel projects in which the District is an economic participant can jeopardize the operation of related tourist and commercial facilities, as well as the District's national reputation as a tourist and convention destination.

(e) One method of reducing the risk to the District's proprietary interests is to require, as a condition of the District's investment or other economic participation in a development project, that employers taking part in the development project seek agreements with labor organizations in which the labor organizations agree to forbear from adverse economic action against the employers' operations.

Sec. 3. Determination of need for labor peace agreement.

(a) For each hotel development project in which the District participates or has a financial interest, the Mayor shall determine whether the District of Columbia has a proprietary interest in the development project. The District shall be deemed to have a proprietary interest in the development project where the Mayor determines that the District of Columbia:

(1) Through a lease of real property that is owned by the District of Columbia and used for the development project, receives ongoing revenue, excluding government fees, tax revenue, or assessment revenue, or similar fees and revenues, except for tax revenue under the circumstances specified in paragraphs (2) and (3) of this subsection;

(2) Receives ongoing revenue from the project to repay loans provided by the District to assist in the development of the project, including incremental tax revenues generated by the project;

(3) Receives ongoing revenue from the project to pay debt service on bonds provided by the District to assist in the development of the project, including incremental tax revenues generated by the project;

(4) Has significant assets at risk because it has agreed to underwrite or guarantee the development of the project or loans related to the project; or

(5) Has a significant ongoing economic and nonregulatory interest at risk in the financial success of a project which is likely to be adversely affected by labor-management conflict, except that no interest shall be considered economic and nonregulatory if it arises from the exercise of regulatory or police powers such as taxation (except as set forth in paragraphs (2) and (3) of this subsection), zoning, or the issuance of permits or licenses.

(b)(1) If the Mayor determines that the District has a proprietary interest at risk in a hotel development project, a District contract related to that project shall include a provision requiring any employer on the project to enter into a labor peace agreement with a labor organization that requests a labor peace agreement and which represents, or reasonably might represent, workers on the project, as essential consideration for the District entering into the contract.

(2) For the purposes of this subsection:

(A) "Contract" means a lease, management agreement, service agreement, loan, bond, guarantee, or other similar agreement to which the District is a party and in which the District has a proprietary interest;

(B) "Employer" means any person, corporation, company, association, limited or general partnership, joint venture, contractor, subcontractor, or other entity that employs individuals at the site of a development project and whose ongoing economic performance and potential for labor-management conflict at the site may substantially affect the District's proprietary interest; provided, that the term "employer" shall not include the United States, the District of Columbia, a wholly owned government corporation, a Federal Reserve Bank, or a state or other political subdivision;

(C) "Labor organization" means an organization of any kind, or an agency or employer representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

Sec. 4. Contents of labor peace agreement.

(a) The labor peace agreement shall be a written agreement between the employer and the labor organization that contains, at a minimum, a provision prohibiting the labor organization and its members from engaging in any picketing, work stoppage, boycott, or other economic interference with the employer's operations in which the District has a proprietary interest, for

the duration of the interest.

(b) The labor peace agreement shall be enforceable under section 301(a) of the Labor Management Relations Act of 1947, approved July 23, 1947 (61 Stat. 156; 29 U.S.C.§ 185(a)), or through any other relief provided by law, including administrative and judicial relief, after the best efforts of the parties at resolving a dispute have failed.

(c) The employer and labor organization may incorporate additional provisions in the labor peace agreement to protect the District's proprietary interest.

(d) An employer that performs its obligations under a labor peace agreement will be relieved of further obligation to abide by the procedures in the agreement, if the labor organization engages in adverse economic action such as striking, picketing, or boycotting the employer.

Sec. 5. Exceptions.

The requirements to enter into a labor peace agreement shall not apply to:

(a) An employer employing fewer than the equivalent of 15 full-time or part-time employees at the development project;

(b) An employer who is a signatory to a valid and binding collective bargaining agreement or agreements covering the terms and conditions of employment for all of its employees at that development project or who has entered into an agreement or agreements with one or more labor organizations regarding such employees, and the agreement provides at least equal protection from the risks of labor-management conflict as provided by the minimum terms of a labor peace agreement;

(c) A development project where the Mayor determines that the risk to the District's financial or other nonregulatory interests resulting from labor-management conflict is so minimal or speculative as not to warrant concern for the District's investment or other nonregulatory interests;

(d) A development project that receives less than $1 million dollars of the total cost of the project from the District;

(e) A residential development project;

(f) A multi-tenanted development project that is built on a speculative basis;

(g) A development project that receives only conduit bond financing from the District; or

(h) A development project involving a historically designated building.

Sec. 6. Limitations.

(a) Nothing in this act requires an employer to recognize a particular labor organization.

(b) Nothing in this act requires an employer to enter into a collective bargaining agreement establishing the substantive terms and conditions of employment.

(c) This act is not intended to, and shall not be interpreted to, enact or express any generally applicable policy regarding labor-management relations or to regulate those relations in any way.

(d) This act is not intended to favor any particular outcome in the determination of employee preference regarding union representation.

(e) Nothing in this act permits or requires the District or any employer to enter into any agreement in violation of the National Labor Relations Act of 1935, approved July 5, 1935 (49 Stat. 449; 29 U.S.C.S.§ 151 *et seq*.).

Sec. 7. Requirement of District notice.

A request for proposals or invitation to bid or similar document regarding a District development project covered by this act shall include a summary description of and reference to

the requirements of this act. Failure to include a description or reference to this act in the document shall not exempt an employer otherwise subject to the requirements of this act.

Sec. 8. 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. Code § 1-206.02(c)(3)).

Sec. 9. 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