

2109 10th Street, NW
PH1
Washington, DC 20001

May 25, 2015

Board of Zoning Adjustment
441 4th Street, NW
Suite 200S
Washington, DC 20001

Re: Request for Extension of Order No. 18723
2105-07 10th Street, NW (Square 358, Lots 5, 6, and 802; aka lot 831)

Dear Members of the Board:

This is in opposition to the April 29, 2016 letter from Holland and Knight, requesting an extension of Order No. 18723 on behalf of 2101 Morning Bright, LLC (the "Applicant"). The Applicant has not shown good cause for the extension, and there has been a substantial change to the material facts upon which the Board based its original approval, as discussed in more detail below.

Background

The Applicant is 2101 Morning Bright, LLC, whose managing member is Suman Sorg. Ms. Sorg is an architect, and is (or was) the CEO of Sorg and Associates, PC, an architectural firm, which merged with the DLR Group, also an architectural firm. The Applicant purchased the subject property on around March 3, 2006, over a decade ago. The property consists of a former church, designated as a historic landmark, surrounded by vacant land. During all or most of the ten-year period of the Applicant's ownership, the property has remained vacant and derelict, and the Applicant has made little or no effort to actually develop the property. In contrast, during the same time period, numerous condominium and apartment projects have been completed within a radius of just a few blocks from the subject property, such as the Murano (2117 10th Street), Atlantic Plumbing (2030 8th Street), and the Shay (1924 8th Street).

In 2013, as the Board is aware, the Applicant applied for and received variance relief from the Board for lot occupancy, rear yard, and other requirements. The proposed project before the Board was a six-story condominium building, consisting of 38 units, of which 30 were studio apartments, 4 were one-bedroom units, and 4 were two-bedroom units. Many of the units had balconies. One of the two-bedroom units was a penthouse apartment, with a terrace/balcony spanning the entire side of the top floor of the building. The project also included 19 parking spaces in the basement level. One of the primary bases for the variances, especially the lot occupancy restriction, was that without the variances, the proposed units would be "wider and shorter than would be optimal"

The final date of the Board's order was May 23, 2014, with an effective date of June 2, 2014, and the order provided that it shall not be valid for more than two years after it became effective unless, within the two year period, the Applicant filed plans for the proposed structure. The Applicant has not yet filed such plans.

Meanwhile, on February 4, 2016, the District's Department of General Services ("DGS") entered into a Letter of Intent ("LOI") with the Applicant, under which DGS would enter into a 30-year ground lease with the Applicant for the property. The LOI also states that the District (not the Applicant) would develop a 29-unit building to provide housing and on-site supportive services for District residents. The LOI also provided that the DLR Group/Sorg would be the architect for the project, but did not provide that the Applicant would be the developer/builder for the project.

According to the Mayor's fact sheet for the site (see attached), the project will be a "short-term family housing facility" to accommodate up to 30 homeless families at a time. It also stated that the building will include a playground and recreation space, a computer lab for residents, and a common dining area. The Mayor's office held a community meeting on [date] to discuss the proposed design and seek feedback. The proposed design was prepared by Cunningham Quill Architects (see attached), not the DLR Group/Sorg. No final design has been presented to the public.

Although the LOI does not designate the Applicant as the developer/builder for the project, Holland and Knight's letter and the Applicant's affidavit suggest that Applicant is seeking an extension of the Board's order for purposes of building the homeless shelter as proposed by the Mayor.

However, the LOI as proposed by the Mayor has not been approved by the City Council. Instead, the Council passed (on first reading) alternate legislation drafted by Chairman Mendelson, providing that the Mayor shall acquire the property at issue, if necessary by eminent domain, and that the shelter shall be constructed through an award by the Department of General Services pursuant to a request for proposals (see attached).

Substantial Change

As required by the regulations, the Applicant must show that there is no substantial change in any of the material facts upon which the Board based its original approval. In this case, there has been substantial change, as follows

Interior layout:

As noted above, the original proposal approved by the Board in 2014 was for a 38-unit building, consisting primarily of studio apartments, plus a few one- and two-bedroom units, including a penthouse unit with a terrace/balcony spanning an entire side of the top floor. As now proposed, the building would be used for temporary housing for homeless families. As the proposal for the Ward 1 site is to house families, the Mayor's office has proposed that there would be only 30 units, and that all or most of the units would be two- and three-bedroom units. The legislation passed by the Council is for 29 units. As noted above, the original approval was primarily based on the assertion that the proposed layout of the 38 mostly studio apartments would not be optimal without the relief. No evidence has been provided that 29 units of 2 and 3

bedrooms could not be optimally laid out without the relief. Thus, there has been a substantial change in the material facts on which the Board based its original approval.

Exterior:

The Applicant states in her affidavit that "We are not proposing to change the exterior of the approved building." However, a homeless shelter will not likely include a penthouse apartment with a terrace/balcony spanning an entire side of the top floor, and would likely not include the other balconies as had been included in the original plans approved by the Board. In addition, as noted above, the new building proposed by the Mayor is to include playground and recreation space. Certainly, the exterior of the building must be changed to accommodate playground and recreation space. Thus, there has been a substantial change in the material facts on which the Board based its original approval.

Use:

As originally proposed, the building was to be a mixed-use condominium project. As now proposed, the building will be a transitional homeless shelter. The Applicant has failed to explain how this use is permitted in the Arts/C-2-B District.

Good Cause

The regulations require that the Applicant show good cause for the extension, such as evidence of an inability to obtain financing, or an inability to secure governmental agency approvals. The Applicant has failed to make these showings.

Financing:

The applicant states that it cannot secure financing until a lease for the property has been negotiated upon approval from the DC Council. However, this statement does not appear to make any sense. As noted above, the LOI did not provide that the Applicant would be the developer/builder for the project, such that the Applicant would need financing for anything. Rather, the LOI provided that the government would simply be leasing the land from the Applicant, and that DLR Group/Sorg would be the architect of record. In any event, as noted above, the LOI has not been approved by the Council, and it is unlikely that it will be approved, as the Council has instead approved alternate legislation to require purchase, not leasing of the property, upon which the District itself, not Applicant, would be constructing the property.

Government approvals:

The Applicant states that it filed its initial application for a foundation permit on December 5, 2013. However, it's unclear how or why applicant intended to be approved for a foundation before obtaining approval from the Board for the setback and lot occupancy restrictions. In any event, what applicant did before receiving the Board's approval on May 23, 2014 is not relevant. What is relevant is what actions the Applicant took after that date to merit an extension. In that respect, Applicant states only that it filed an exemption from the Green Area Ratio (GAR) requirements on March 20, 2015, nearly a year after it has received Board approval for the variances. Such a delay in filing for the exemption was within the Applicant's control. The Applicant then states that the foundation permit was finally approved on October

28, 2015, but provides no details as to how diligently the Applicant had acted in pursuing that permit. More importantly, the Applicant makes no mention of having applied for a permit for the building itself, but rather mentions only the foundation. As the Applicant's managing member is an architect, she should have been well aware of the requirements and timing needed to obtain the relevant permits. In short, the Applicant has not provided sufficient details as to how it diligently pursued the obtaining of governmental approval for the project.

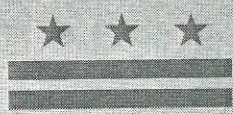
Conclusion

There has been a substantial change in the material facts on which the Board based its original approval. In addition, the Applicant has failed to show that there was an inability to secure all required governmental agency approvals by the expiration date because of delays that were beyond the applicant's reasonable control. Therefore, the extension request should be denied.

Sincerely,

A handwritten signature in black ink, appearing to be 'D. Stirpe', written over the word 'Sincerely,'.

David Stirpe



GOVERNMENT OF THE DISTRICT OF COLUMBIA
MURIEL BOWSER, MAYOR

ENDING HOMELESSNESS IN THE DISTRICT

Closing DC General: Short-Term Family Housing in Ward 1

The District of Columbia has a plan to end homelessness – and that includes closing DC General, the city's largest family shelter. Experts, community leaders, and current and former residents agree that DC General is not a good place for families. It's too big, too old and geographically removed from the services that families experiencing homelessness need to exit shelter.

In order to close DC General, the Bowser Administration and DC Council are advancing a plan to open up short-term family housing in every single ward. These facilities will be small, safe and dignified – with the services and supports that help families get back on their feet.

Short-Term Family Housing in Ward 1

After a thorough search, the District's Department of General Services has secured a site for short-term family housing in Ward 1 at 2105-2107 10th Street, NW. The facility will accommodate up to 30 families at a time.

The Ward 1 short-term family housing facility will involve a refurbishment of a blighted historical structure, the former Morning Bright Church, along with new construction. The new and modern building will complement the look and feel of the neighborhood, and will include:

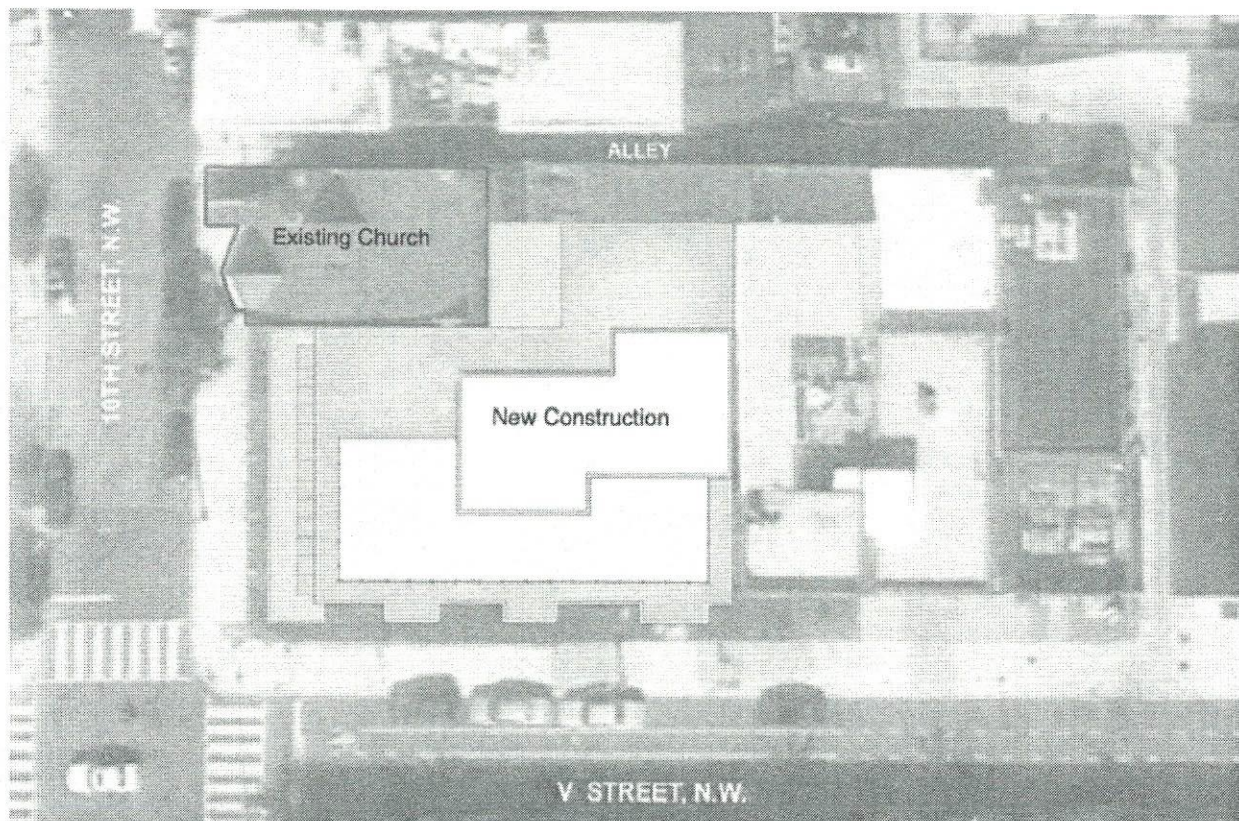
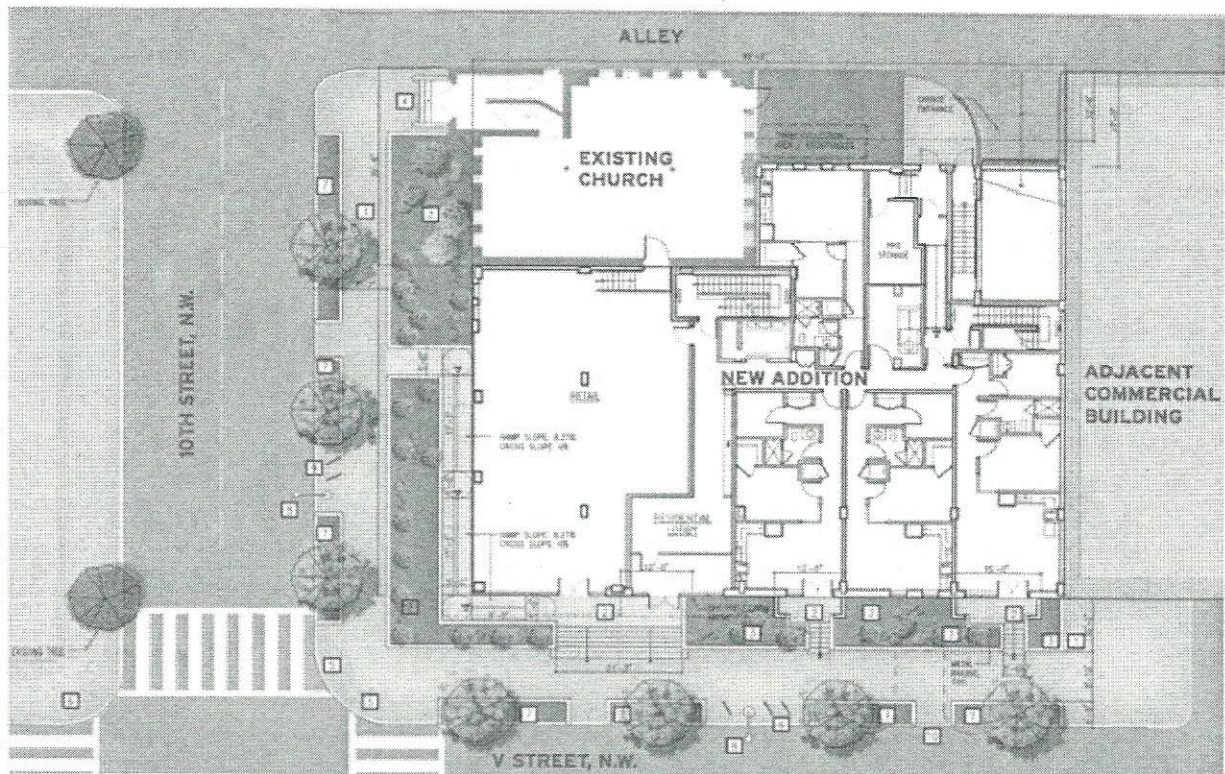
- Playground & recreation space
- Computer lab for residents
- Common dining area
- Ongoing support services & programming for families

Following is an architect's rendering of what the site may look like. Exact design specifications are subject to change as development moves forward.

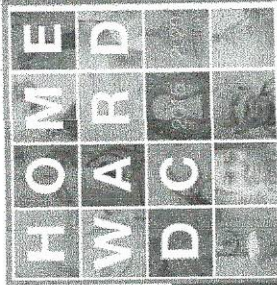


We expect construction of the facility to be completed by 2018.

Short-Term Family Housing in Ward 1

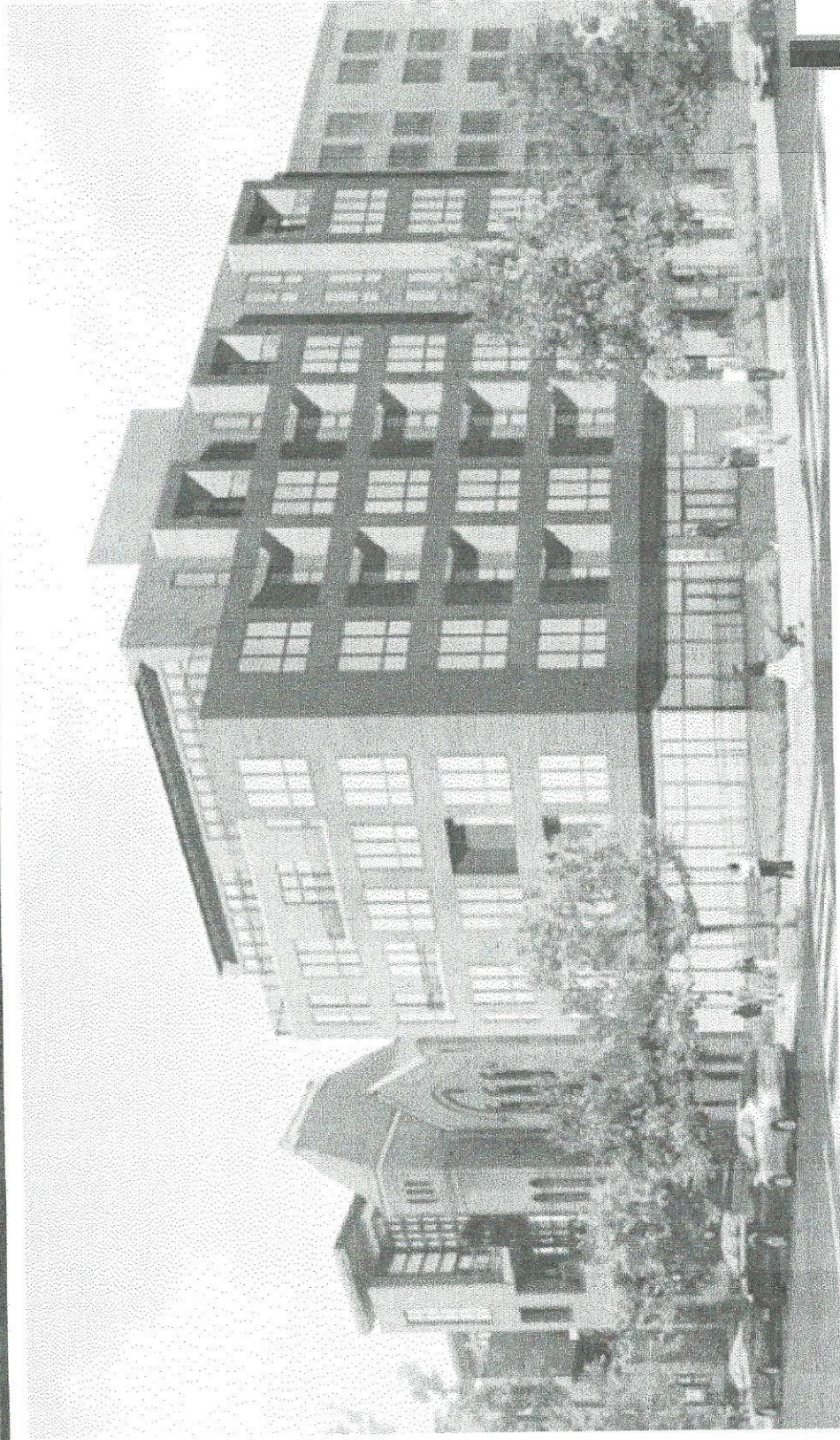


For more information, please visit mayor.dc.gov/homewarddc.



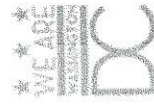
★ ★ ★ GOVERNMENT OF THE DISTRICT OF COLUMBIA
★ ★ ★ **MURIEL BOWSER, MAYOR**

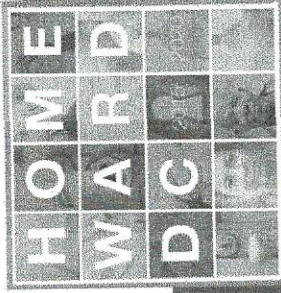
A FRESH START TO ENDING FAMILY HOMELESSNESS



Short -Term Family Housing Design Overview
April 2016

2105-2107 10th Street, NW | Washington DC 20001
Ward 1





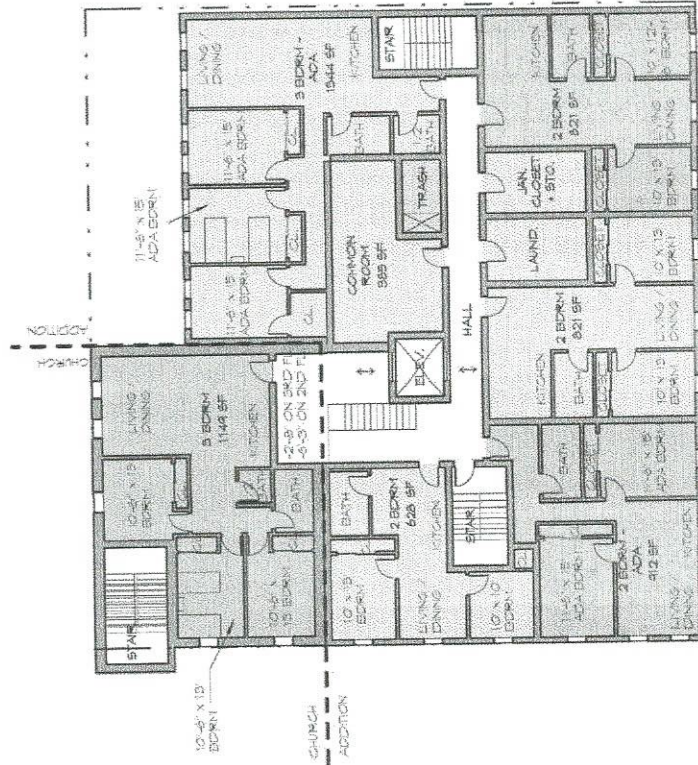
★ ★ ★ GOVERNMENT OF THE DISTRICT OF COLUMBIA
★ ★ ★ **MURIEL BOWSER, MAYOR**

A FRESH START TO ENDING FAMILY HOMELESSNESS

Typical Floor Plan (Floors 2-3)

Per Floor Requirements

- Monitoring Station
- Common Room
- Laundry Room
- Trash Room
- Janitors Closet



Key

- Administrative / Bldg. Services
- Apartment
- Apartment
- Circulation / Lobby
- Resident Common Spaces

SCALE: 1" = 16'-0"



CUNNINGHAM | QUILL ARCHITECTS

DRAFT COMMITTEE PRINT
Committee of the Whole
May 17, 2016

A BILL

21-620

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To authorize the Mayor to use designated funds, appropriated for the purpose of developing replacement shelter facilities for the D.C. General Family Shelter and for the apartments used for temporary shelter at 1433 and 1435 Spring Road, N.W., to acquire specified parcels of land, including through the use of eminent domain, and to construct 7 new facilities, in Wards 1, 3, 4, 5, 6, 7, and 8, to provide temporary shelter for families experiencing homelessness.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Homeless Shelter Replacement Act of 2016".

Sec. 2. The Council finds that:

(1) On a given night in the District, more than 7,000 men, women, and children experience homelessness.

(2) Each day, the DC General Family Shelter houses approximately 250 families experiencing homelessness.

(3) The DC General Family Shelter is antiquated and inadequate, and its current conditions limit the District's ability to provide necessary services and support to families experiencing homelessness.

60 containing DC General Family Shelter replacement units, as defined in section 2(11A) of the
61 Homeless Services Reform Act of 2005, effective October 22, 2005 (D.C. Law 16-25; D.C.
62 Official Code § 4-751.01(11A)), to replace the D.C. General Family Shelter, and construction of
63 1 facility containing apartment-style units, as defined in section 2(3) of the Homeless Services
64 Reform Act of 2005, effective October 22, 2005 (D.C. Law 16-25; D.C. Official Code § 4-
65 751.01(3)) as follows:

66 (1) The Mayor is authorized to use funds appropriated for capital project
67 “XXXX-Ward 1 Homeless Shelter,” to:

68 (A) Acquire parcels of land located at 2105 and 2107 10th Street, N.W.,
69 and 933 V Street, N.W., Square 358, Lots 5, 6, and 802, including, if necessary, through the
70 exercise of eminent domain in accordance with the procedures set forth in subchapter II of
71 Chapter 13 of Title 16 of the District of Columbia Official Code; and

72 (B) Construct a facility to provide temporary shelter for families
73 experiencing homelessness containing 29 2- and 3-bedroom apartment-style units on land to be
74 acquired by the District pursuant to subparagraph (A) of this paragraph; provided, that the
75 contract for the construction of the facility shall be awarded pursuant to a request for proposals to
76 be issued by the Department of General Services;

77 (2) The Mayor is authorized to use funds appropriated for capital project
78 “XXXX-Ward 3 Homeless Shelter,” to construct a facility to provide temporary shelter for
79 families experiencing homelessness containing 38 DC General Family Shelter replacement units
80 on District-owned land at 3320 Idaho Avenue, N.W., Square 1818, Lot 0849; provided, that the
81 contract for the construction of the facility shall be awarded pursuant to a request for proposals to
82 be issued by the Department of General Services;