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June 24, 2010

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Council of the District of Columbia
The Honorable Vincent C. Gray

Executive Director
Marcel C. Acosta

The Honorable Vincent C. Gray and
Members of the Council of the
District of Columbia
John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, D.C. 20004

Dear Chairman Gray and Members of the
Council of the District of Columbia:

I am writing to express my concerns regarding Bill 18-823, the
Transportation Infrastructure Amendment Act of 2010.

As currently drafted, I find the bill deficient in the recognition of the
federal interest impacted by overhead streetcar wires and the role of the National
Capital Planning Commission in protecting that interest. I believe substantial
changes are required to ensure protection of federal property; federal buildings;
federal monuments, sculptures and fountains; federal infrastructure;
congressionally mandated historic districts; and the vistas integral to the avenues
and streets, and the spaces above these avenues and streets contained in the
L'Enfant Plan of the City of Washington listed on the National Register of
Historic Places. To protect these federal interests, I believe the Council, at a
minimum, needs to incorporate a meaningful role for NCPC consistent with its
statutory authorities relative to development and approval of the plans governing
use of aerial wires for street car lines beyond the H Street/Benning Road segment.

As you are aware, the National Capital Planning Act authorizes the
National Capital Planning Commission ("NCPC" or the "Commission") to
contribute to planning in the District of Columbia in a variety of ways. The
Commission:

- Prepares and adopts a comprehensive plan for federal activities in the national capital;
- Reviews the development programs of federal agencies for consistency with the comprehensive plan;

- Approves master plans and project plans for federal and District of Columbia public buildings, and the open space around them, in the District of Columbia; and
- Advises the Zoning Commission of the District of Columbia on concerns regarding the federal interest in proposed changes to the official zoning map or regulations.

The District of Columbia's Department of Transportation's (DDOT) Streetcar proposal is estimated to be more than 37 miles and will reach all quadrants of the city including the federal monumental core. NCPC is generally supportive of the development of a streetcar system as evidenced by NCPC staff's participation in interagency "visioning" sessions in 2004 and 2005, the NCPC Executive Director's attendance with DDOT staff to Portland, Oregon to review attributes of an operating streetcar system similar to the one planned for Washington, our ongoing consultation meetings with DDOT staff, and our formal Commission actions on H Street and the 11th Street Bridges.

To date, in each of its formal actions, the Commission noted concern about the potential use of an overhead wire system within the historic Washington City (L'Enfant City) and Georgetown. Such use would conflict with the 1888 and 1889 federal laws that prohibit use of overhead wires to maintain the unobstructed views to landmarks along city streets and avenues that are integral to the capital's unique character.

While the Commission understands that DDOT, in collaboration with the NCPC and others, will continue to evaluate the range of streetcar propulsion technologies, we remain very troubled about the overhead wire issue – especially given the Council's proposed Transportation Act, which would allow overhead wires on H Street.

In 1889, Congress enacted a law that prohibits use of overhead wires for streetcars in the L'Enfant City and Georgetown in the District of Columbia. 25 Stat. 793 at 797 (ch. 370, §2) (March 2, 1889). Streets in the L'Enfant City and Georgetown do not currently contain any overhead wires as a result of this and other federal legislation passed at the turn of the last century. Utilization of overhead wires would most definitely impact National Park Service properties and other federal property, federal buildings, federal monuments and streets and avenues contained in the L'Enfant Plan. If dual-propulsion vehicles were identified by DDOT as the preferred type of vehicle, and areas suitable for overhead wires identified in detailed consultation with NCPC, agreement could be reached on the location of overhead wires consistent with existing legislation.

The nature of Washington's street design – with its generously wide rights-of-way that combine streets with trees and open space – will make transit infrastructure more conspicuous and establish a characteristic to the historic city that has never existed. These areas involve vistas and corridors described within the National Register listing of the L'Enfant Plan for the City of Washington and include vistas that are deemed as contributing to the historic district and landmarks of Washington. Even during the earlier streetcar operations within the Washington metropolitan area in the 19th and 20th Centuries, no overhead wires for streetcars were constructed in the L'Enfant Plan area of the City or within Georgetown.

In addition to issues regarding overhead wires, there are other components of the streetcar planning process that are of concern to NCPC. These include identifying a process for engaging the public, addressing compliance with the National Environmental Policy Act where applicable, addressing compliance with the National Historic Preservation Act, and issues related to planning for infrastructure requirements.

To address these and other concerns, we recommend that the legislation require the Mayor to develop a plan for each segment of the streetcar system (“Streetcar System Segment Plan”) prior to initiating any construction. Each Streetcar System Segment Plan shall study among others, the potential use of aerial wires and other propulsion systems for streetcars. Each Streetcar System Segment Plan shall address, among others, the impact of the streetcar system on federal property; federal buildings; federal monuments, sculptures and fountains; federal infrastructure; congressionally mandated historic districts, and the vistas integral to the avenues and streets and the air space above these avenues and streets contained in the L'Enfant Plan of the City of Washington listed on the National Register of Historic Places. This Register is maintained by the United States Department of the Interior, National Park Service as authorized by The National Historic Preservation Act of 1966, 80 Stat. 915, 16 U.S.C. 470 *et. .*

We also recommend that prior to Council approval of the Segment Plan, each Streetcar System Segment Plan shall be submitted to the National Capital Planning Commission for review and approval to determine if a Streetcar System Segment Plan adversely impacts the federal interest.

Additionally, we recommend development and execution of a memorandum of agreement (“MOA”) between the Mayor and NCPC that will establish the general contents of and issues to be addressed in the Streetcar System Segment Plans and define the roles and responsibilities of the parties in derivation, review and implementation of the Streetcar System Segment Plans. We recommend that the MOA be signed no later than October 1, 2010, and upon execution, the MOA shall be binding upon the parties.

Finally, we recommend that prior to submission of the report detailed in the proposed legislation on the feasibility of converting to non-aerial power where aerial wiring has been installed, and due on January 1, 2014 to the Council, the Mayor submit the report to NCPC for review, comment and recommendations, and the Mayor incorporate NCPC's recommendations in the report.

NCPC urges Council to address the issues set forth in this letter and accept NCPC's recommendations. Failure to address these concerns may compel NCPC to pursue other measures that ensure protection of the federal interest.

If you have any questions concerning this important federal request, please contact Marcel Acosta, executive director of the National Capital Planning Commission at 202-482-7221. Thank you for your cooperation in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "L. Preston Bryant, Jr.", written in a cursive style.

L. Preston Bryant, Jr.
Chairman
National Capital Planning Commission