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OFFICE OF THE
SECRETARY

MURIEL BOWSER
MAYOR

APR 25 2017

The Honorable Phil Mendelson
Chairman
Council of the District of Columbia
1350 Pennsylvania Ave., NW, Suite 504
Washington, D.C. 20004

Dear Chairman Mendelson:

Enclosed for consideration and approval by the Council of the District of Columbia is proposed legislation entitled the "District of Columbia Green Finance Authority Establishment Act of 2017". This legislation would establish a Green Bank in the District. Green Banks are a highly innovative and effective way for governments to meet their climate and sustainability goals and maximize limited public funding by leveraging private investment.

The legislation would create the District of Columbia Green Finance Authority ("DC Green Bank") to increase the availability of financing for energy efficiency, clean and renewable energy, clean transportation vehicles and infrastructure, stormwater management, sustainable projects and programs, water efficiency, and green infrastructure projects in the District.

I urge prompt consideration and approval of this measure.

Sincerely,

A handwritten signature in black ink, appearing to read "Muriel Bowser".

Muriel Bowser





Chairman Phil Mendelson
at the request of the Mayor

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To establish the District of Columbia Green Finance Authority as an instrumentality of the District government to effectuate certain public purposes by providing and assisting in the provision of public and private investment to increase the availability of funding for clean energy, clean transportation vehicles and infrastructure, clean water, stormwater management, energy efficiency, water efficiency, and green infrastructure projects in the District of Columbia, a fund to be used for these purposes, and a board of directors to manage the instrumentality, and to authorize the instrumentality to issue bonds.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “District of Columbia Green Finance Authority Establishment Act of 2017”.

TITLE I. DEFINITIONS AND PURPOSE

Sec. 101. Definitions.

For the purposes of this act the term:

(1) “Administrative costs” means the costs of operating the Green Finance Authority including the costs of personnel, services, supplies, information technology, and office space used by the Green Finance Authority to carry out its functions and the costs associated with acquiring any of the foregoing.

(2) “Board” means the District of Columbia Green Finance Authority Board.

30 (3) “Bonds” includes notes, debentures, interim certificates or other evidences of
31 financial indebtedness of the Green Finance Authority authorized to be issued under the
32 provisions of this act.

33 (4) “Capital base” means the total capitalization of the Green Finance Authority Fund,
34 including District funds, private funds, and federal funds, that are available at any given point in
35 time for the financing activities of the Green Finance Authority.

36 (5) “CFO” means the Chief Financial Officer of the District of Columbia.

37 (6) “Clean energy” means energy produced by solar photovoltaic panels, solar thermal,
38 geothermal, wind, ocean thermal, wave or tidal sources, fuel cells, biogas, landfill gas,
39 hydropower, hydrogen production and conversion technologies, and low emission advanced
40 biomass conversion technologies.

41 (7) “Clean infrastructure” means an infrastructure project that reduces greenhouse gas
42 emissions.

43 (8) “Clean transportation” means alternative fuel vehicles and related infrastructure such
44 as electric vehicle charging station infrastructure, and smart grid and battery storage.

45 (9) “District of Columbia Green Finance Authority Board” or “Board” means the Board
46 of Directors established under section 203 of the Act.

47 (10) “Department” means the Department of Energy and Environment.

48 (11) “Energy conservation measure” means an installed piece of equipment or system, or
49 modification of equipment, systems, or operations on end-use participant facilities that reduce
50 the total amount of electrical or thermal energy and capacity that would otherwise have been
51 needed to deliver an equivalent or improved level of end-use service.

52 (12) “Energy efficiency” means the use of less energy to provide the same or an
53 improved level of service to the energy consumer; or a reduction in the amount of energy needed
54 to accomplish a function, task, or result.

55 (13) “Energy efficiency project” means an installation or modification that is designed to
56 reduce energy or water utility costs of residential, commercial, or other building types.

57 (14) “Fund” means the Green Finance Authority Fund established by section 207.

58 (15) “Green Finance Authority” means the District of Columbia Green Finance Authority
59 established by section 201.

60 (16) “Green infrastructure” means an infrastructure project that captures rainfall, cools
61 buildings and pavement, and creates natural pathways for wildlife.

62 (17) “Green Finance Authority Loan” means a secured or unsecured obligation issued for
63 the purposes of financing sustainable programs or projects through private funds, public funds,
64 or funds which have been obtained from debt issued under the authority of section 490 of the
65 District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 809; D.C. Official
66 Code § 1-240.90).

67 (18) “Stormwater” means the flow of water that results from runoff, snow melt runoff,
68 and surface runoff and drainage.

69 (19) “Stormwater best management practice” means a structural or nonstructural practice
70 that minimizes the impact of stormwater runoff on receiving waterbodies and other
71 environmental resources, especially by reducing runoff volume and the pollutant loads carried in
72 that runoff.

73 (20) “Stormwater management” means a system to control stormwater runoff with a
74 stormwater best management practice or stormwater retention credit.

75 (21) “Stormwater retention credit” means one gallon of retention for one year, as certified
76 by the Department.

77 (22) “Sustainable projects and programs” means clean energy, clean infrastructure, clean
78 transportation, stormwater management, energy efficiency, water efficiency, or green
79 infrastructure projects and programs.

80 (23) “Water efficiency” means minimizing the amount of water used to accomplish a
81 function, task, or result.

82 Sec. 102. Declaration of public purpose.

83 (a) The Council hereby declares that a public purpose will be served through investment
84 in sustainable projects and programs that contribute to the health, education, safety, and welfare
85 of District residents by:

86 (1) Reducing the causes of climate change;

87 (2) Reducing air, water, and other pollution;

88 (3) Reducing energy costs in the District; and

89 (4) Achieving the objectives established in the Comprehensive Energy Plan,

90 developed by the Department pursuant to the District of Columbia Office of Energy Act of 1980,
91 effective March 4, 1981 (D.C. Law 3-132; D.C. Official Code § 8-171.04(e)(1)).

92 (b) The Council declares that investing in sustainable projects and programs will:

93 (1) Reduce the impact of climate change in the District, including rising
94 temperatures, dangerous heatwaves, flooding, sea level rise, storm surge, and extreme weather
95 events;

96 (2) Reduce the negative impact of pollutants on the health of the citizens of the
97 District and health care costs;

98 (3) Reduce energy expenditures paid by the District government, residents, and
99 businesses; and

100 (4) Help to achieve the District’s greenhouse gas emissions targets through energy
101 innovation, efficiency, and resiliency.

102 (c) The Council declares that there is a critical shortage in the amount of public and
103 private investment made on sustainable projects and programs to address the effects of climate
104 change in the District because of the inability of financially viable projects to obtain financing on
105 economic terms, representing a market failure that must be addressed through legislation.

106 (d) The Council declares that a public purpose will be served by establishing an
107 instrumentality of the District to generate and use funds from private and public sources to
108 provide investment in sustainable projects and programs, including:

109 (1) Loans;

110 (2) Loan guarantees;

111 (3) Credit enhancements;

112 (4) Grants;

113 (5) Bonds issued pursuant to section 490 of the District Home Rule Act (D.C.
114 Official Code § 1-204.90) and lending or otherwise making available the proceeds to eligible
115 borrowers; and

116 (6) Other financing programs with terms designed to expand available capital and
117 improve financing terms for sustainable projects and programs.

118 (e) The Council hereby declares that the enactment of this act is in the public interest and
119 for the public benefit, and that the authority and powers conferred by this act and the expenditure
120 of monies pursuant to this act serve valid public purposes.

121 **TITLE II. ESTABLISHMENT OF THE GREEN FINANCE AUTHORITY**

122 Sec. 201. Creation; purpose.

123 (a) The District of Columbia Green Finance Authority is established as an instrumentality
124 of the District government created to effectuate certain public purposes that shall have a separate
125 legal existence within the District government.

126 (b) The primary purpose of the Green Finance Authority shall be to finance and promote
127 sustainable programs by issuing or establishing loans; loan guarantees; credit enhancements;
128 grants; bonds issued pursuant to section 490 of the District Home Rule Act, approved December
129 24, 1973 (87 Stat. 809; D.C. Official Code § 1-204.90), and lending or otherwise making
130 available the proceeds to eligible borrowers; and other financing programs with terms designed
131 to expand available capital and improve financing terms for sustainable projects and programs, in
132 accordance with the public purposes declared in section 102.

133 Sec. 202. General powers.

134 (a) The Green Finance Authority is hereby granted all powers necessary or convenient to
135 effectuate its purpose, including:

- 136 (1) To have perpetual succession;
- 137 (2) To sue and be sued in its own name;
- 138 (3) To have an official seal and power to alter that seal at will;
- 139 (4) To adopt, amend, and repeal bylaws and guidelines governing the manner in
140 which it may conduct its business and carry out its purposes under this act;
- 141 (5) To acquire (by purchase or otherwise), sell, construct, lease, improve,
142 rehabilitate, repair and otherwise maintain an office or offices at such places within the District

143 as the Green Finance Authority shall from time to time designate and to issue bonds or otherwise
144 provide financing for the acquisition of such offices;

145 (6) To procure insurance or self-insure against any loss in connection with its
146 property and other assets, including loans, in such amounts and from such insurers as it deems
147 desirable;

148 (7) To establish polices for contracting and procurement that are consistent with
149 the principles of competitive procurement and, subject to District law, make and execute
150 contracts, leases, and all other agreements or instruments necessary and appropriate for the
151 exercise of its powers and the fulfillment of its purposes, including contracts for or relating to the
152 promotion of the sustainable projects and programs;

153 (8) To enter into agreements with another organization, public or private, for
154 goods and services as needed for its purposes;

155 (9) To employ officers, executives, and management personnel who may
156 formulate or participate in the formulation of the plans, policies, and standards or who may
157 administer, manage, or operate the Green Finance Authority, fix their qualifications, and
158 prescribe their duties and other terms of employment, compensation, and benefits, and employ
159 other personnel as may be necessary;

160 (10) To retain or employ advisers, consultants, and agents, including, financial
161 advisers, appraisers, accountants, auditors, engineers, private consultants and legal counsel for
162 rendering professional, management, or technical services and advice, and to fix their
163 compensation;

164 (11) To serve as an administrator of the Energy Efficiency Loan program
165 authorized by the Energy Efficiency Financing Act of 2010, effective May 27, 2010 (D.C. Law
166 18-183; D.C. Official Code § 8-1778.01 *et seq.*);

167 (12) To originate and service loans or contracts for the origination and servicing
168 of loans;

169 (13) To charge reasonable interest, fees, and charges in connection with making
170 and servicing its loans, including bonds, and in connection with providing technical, consultative
171 and project assistance services;

172 (14) To issue bonds and to give security for any of its authorized purposes
173 pursuant to section 403 and as may be permitted under the District of Columbia Home Rule Act,
174 approved December 24, 1973 (87 Stat. 777; D.C. Official Code § 1-201.01 *et seq.*), and other
175 laws of the District; provided, that the Green Finance Authority's debts shall not be backed by
176 the full faith and credit of the District of Columbia;

177 (15) To provide for the payment of obligations as may be permitted under the
178 District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 777; D.C. Official
179 Code § 1-201.01 *et seq.*), and other laws of the District;

180 (16) Subject to the requirements of section 115 of the District of Columbia
181 Appropriations Act, 2003, approved February 20, 2003 (117 Stat. 123; D.C. Official Code § 1-
182 329.01), and section 446b of the District of Columbia Home Rule Act, approved October 16,
183 2006 (120 Stat. 2040; D.C. Official Code § 1-204.46b), to apply or contract for, and to receive,
184 contributions, gifts, grants, subsidies, real and personal property, labor, services, or other things
185 of value from any source to be used for the purpose of this act and subject to the conditions upon
186 which the contributions, gifts, grants, and subsidies;

187 (17) To enter into contracts, memorandums of understanding, and other financing
188 agreements with any department, agency or instrumentality of the United States or the District
189 and private parties for the purpose of planning, regulating and providing for the financing and
190 refinancing for the promotion of sustainable projects and programs, with the assistance of the
191 Green Finance Authority under this act;

192 (18) To proceed with collection action, to take assignments of assets, to acquire
193 property in lieu of collection;

194 (19) To own, lease, clear, reconstruct, rehabilitate, improve, repair, maintain,
195 manage, operate, assign, encumber, or sell or otherwise dispose of any real or personal property
196 if the property was obtained by the Green Finance Authority due to the default of any obligation
197 held by the Green Finance Authority;

198 (20) To make recommendations to the CFO regarding investment of the Green
199 Finance Authority's funds and provide advice regarding limitations on such investments
200 contained in any Green Finance Authority financing documents;

201 (21) To provide technical assistance to profit and nonprofit entities in the
202 development or operation of sustainable projects and programs and to gather and distribute data
203 and information concerning the need in the District for sustainable projects and programs;

204 (22) To the extent permitted under its contracts with bond holders of the Green
205 Finance Authority, consent to any modification with respect to rate of interest, time and payment
206 of any installment of principal or interest, security or any other term of any contract, loan, loan
207 commitment, or contract or agreement of any kind to which the Green Finance Authority is a
208 party;

209 (23) To sell, at public or private sale any real or personal property of the Green
210 Finance Authority pursuant to guidelines issued by the Green Finance Authority and any
211 applicable debt covenants;

212 (24) To sell, at public or private sale, with or without public bidding, any loan or
213 other obligation held by the Green Finance Authority pursuant to guidelines issued by the Green
214 Finance Authority and, if subject to any applicable debt covenants, in consultation with the CFO;

215 (25) To make grants, or to convert loans to grants (in consultation with the CFO
216 and subject to applicable loan covenants and obligations to repay loans) or to forgive loans (in
217 consultation with the CFO and subject to applicable loan covenants and obligations to repay
218 loans), to make loans, either directly or through lenders (provided that the transaction does not
219 create an obligation of the Green Finance Authority which would become subject to the
220 limitation on the annual aggregate limit on debt of the District under section 603(b) of the
221 District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 814; D.C. Official
222 Code § 1-206.03(b)), for the purpose of assisting in developing, acquiring, constructing,
223 rehabilitating or improving any sustainable project program under this act;

224 (26) To establish funds and reserves to provide additional security for loans
225 provided for sustainable projects and programs;

226 (27) Engage in a joint venture and participate in a network, alliance, consortium
227 pool, or other cooperative arrangement with a public or private entity to accomplish the public
228 purposes of the Green Finance Authority;

229 (28) To establish such supportive programs as provided in section 202; and

230 (29) To do any act necessary or convenient to the exercise of the powers granted
231 by or reasonably implied from this act.

232 (b) Financial assistance provided by participating lending institutions pursuant to this act
233 shall be subject to the following terms:

234 (1) Eligible energy conservation measures and energy efficiency projects shall
235 meet cost effectiveness standards adopted by the Green Finance Authority;

236 (2) Green Finance Authority Loans shall be at interest rates determined by the
237 Green Finance Authority to be no higher than necessary to secure the participation of lending
238 institutions in the Green Finance Authority programs or Green Finance Authority-financed
239 projects; and

240 (3) The amount of a fee paid for an energy audit conducted pursuant to a Green
241 Finance Authority program may be added to the amount of a loan to finance the cost of an
242 eligible project undertaken in response to such energy audit. In such cases, the amount of the fee
243 may be reimbursed from the loan proceeds to the borrower.

244 (c) Administrative costs of the Green Finance Authority in a given fiscal year:

245 (1) Shall not exceed the higher of:

246 (A) \$750,000 in the Green Finance Authority's first year of operation; the
247 amount under this subparagraph shall increase by 3% in each subsequent year;

248 (B) Two percent of the projected capital base of the Green Finance
249 Authority for that year; or

250 (C) Ten percent of the projected revenues generated by the Green Finance
251 Authority for that year.

252 Sec. 203. Green Finance Authority Board.

253 (a) There is hereby established a District of Columbia Green Finance Authority Board
254 that shall govern the Green Finance Authority.

255 (b) The Board shall be comprised of 11 members as follows:

256 (1) One member, appointed by the Mayor, with experience in the clean energy
257 finance industry;

258 (2) The Director of the Department of Energy and Environment, or his or her
259 designee, who shall serve as vice chair of the Board;

260 (3) The Deputy Mayor for Planning and Economic Development, or his or her
261 designee;

262 (4) The Executive Director of the Office of Public-Private Partnerships, or his or
263 her designee;

264 (5) The Chief Financial Officer of the District of Columbia, or his or her
265 designee;

266 (6) Two members, appointed by the Mayor, with experience at a District-based
267 financial institution;

268 (7) Two members, appointed by the Mayor, with expertise in financing clean
269 energy, clean infrastructure, clean transportation, stormwater management, or green
270 infrastructure; and

271 (8) Two members, appointed by the Mayor, with experience at a non-profit or
272 non-profit foundation with experience in sustainable projects and programs;

273 (c) The members appointed by the Mayor shall be appointed with the advice and consent
274 of the Council, in accordance with section 2 of the Confirmation Act of 1978, effective March 3,
275 1979 (D.C. Law 2-142; District of Columbia Official Code § 1-523.01).

276 (d) The Mayor shall appoint the chairperson of the Board, who shall serve at the pleasure
277 of the Mayor.

278 (e) A member appointed to fill a vacancy for an unexpired term shall serve only for the
279 unexpired portion of the term.

280 (f) Except as provided in subsections (d) and (i) of this section, each individual appointed
281 to serve as a member of the Board shall serve a 3-year term; provided, of the initial appointments
282 of the 6 public members of the Board, 2 shall be appointed by the Mayor for terms of 2 years, 2
283 shall be appointed by the Mayor for terms of 3 years, and 2 shall be appointed by the Mayor for
284 terms of 4 years.

285 (g) The Mayor may remove a member of the Board for inefficiency, neglect of duty or
286 misconduct in office, or for other good cause, after notice to the Board member and the Board
287 and after giving the member a copy of the charges against him and an opportunity to be heard in
288 person or by counsel in his defense upon not less than 10 days' notice.

289 (h) Any member shall be eligible for reappointment.

290 (i) A Mayoral appointee serving as a Board member whose term has expired may
291 continue to serve until his or her replacement is appointed.

292 (j) An individual who serves on the Board by virtue of his or her position as Chief
293 Financial Officer of the District of Columbia or as the director of an agency shall, as of the date
294 on which he or she ceases to hold that position, cease to be a member of the Board. Any Board
295 member who serves on the Board as the designee of the Chief Financial Officer of the District of
296 Columbia or the director of an agency may be removed and replaced by the Chief Financial
297 Officer of the District of Columbia or the director of the agency respectively at any time.

298 (k) A Board member shall not be entitled to compensation but may be reimbursed for
299 actual and necessary expenses, consistent with the requirements of section 204(j), incurred for
300 performing his or her official duties.

301 (l) Unless prohibited by law, a Board member may engage in private employment, a
302 profession, or a business, subject to his or her compliance with section 206.

303 (m) A Board member shall not be held personally liable for an action taken in good faith
304 during the course of his or her official duties and responsibilities which he or she reasonably
305 believed to be lawful and in the best interests of the Green Finance Authority.

306 Sec. 204. Operations of the Green Finance Authority Board.

307 (a) The powers of the Green Finance Authority shall be vested in and exercised by the
308 Board. The Board may take action at a meeting held at a time and place fixed by the bylaws.

309 (b) Within 60 days after 2/3 of the Board members have been appointed, the Board shall
310 adopt bylaws, guidelines, and procedures governing its meetings and decision-making processes.
311 The procedures shall include a formal means for members of the Board to submit their dissent
312 from any decision of the Board.

313 (c) The presence of a majority of voting Board members, excluding vacancies, shall
314 constitute a quorum of the Board for the transaction of business. A majority vote of the members
315 present for a quorum shall be necessary for the Board to take any official action, except as
316 provided in subsection (h) of this section. No vacancy in the membership of the Board shall
317 impair the right of a quorum to exercise all rights and perform all duties of the Green Finance
318 Authority.

319 (d) The Board shall hold an annual meeting to inform the public of its plans and
320 programs. The Board shall provide notice of the meeting by publishing notice in the District of
321 Columbia Register.

322 (e) The Board shall meet at least 6 times each year.

323 (f) The Board may convene any subcommittees and working groups it considers

324 appropriate without any limitation as to the membership of such groups.

325 (g) The Green Finance Authority's fiscal year shall coincide with the fiscal year of the
326 District government.

327 (h) Provided that a quorum is present, decisions of the Board shall require a majority
328 vote of the members present at the meeting, except the following decisions shall require the
329 approval of 2/3 of the members:

330 (1) An increase or decrease in the capital base of the Green Finance Authority;

331 (2) The appointment of the Executive Director of the Green Finance Authority;

332 (3) A project that includes a grant award by the Green Finance Authority; and

333 (4) The forgiveness of any debt or other obligation owed to the Green Finance

334 Authority by a borrower, provided that such action would not create a default on or violate a

335 covenant contained in any debt issued by the District or the Green Finance Authority.

336 (i) The Green Finance Authority shall provide staff resources to the Board and

337 coordinate the involvement of staff from the Department and Office of the Chief Financial

338 Officer, and any other appropriate agency or organization, as necessary.

339 (j) A member of the Board may be reimbursed for actual and necessary expenses incurred

340 while engaged in services for the Green Finance Authority, including transportation, parking,

341 mileage expenses, and conference admission fees incurred in the performance of official duties

342 of the Board. The reimbursement shall be limited to \$8,000 per board member per year.

343 (k) The Board shall have access to all records of the Green Finance Authority and the

344 Green Finance Authority Fund.

345 Sec. 205. Executive director; powers and duties; service as secretary of board; other

346 necessary employees; rights and privileges of employees.

347 (a) The Board shall appoint an executive director who shall be an employee of the Green
348 Finance Authority, but who shall not be a member of the Board, and who shall serve at the
349 pleasure of the Board and receive such compensation as shall be fixed by the Board. The
350 Executive Director shall be appointed by the Board. The Executive Director shall administer,
351 manage and direct the affairs and activities of the Green Finance Authority in accordance with
352 the policies, control and direction of the Board.

353 (b) The Executive Director shall be a District resident throughout his or her term or shall
354 become a District resident within 180 days of his or her appointment as Executive Director and
355 remain a District resident throughout his or her term. His or her failure to maintain District
356 residency shall result in a forfeiture of the position.

357 (c) The Executive Director shall be Secretary to the Board. He or she shall attend the
358 meetings of the Board, shall keep a record of the proceedings of the Board, and shall maintain
359 and be custodian of all books, documents and papers filed with the Board, of the minutes book or
360 journal of the Board, and of its official seal.

361 (d) The Executive Director may employ on a permanent or temporary basis such
362 employees, including technical advisors, financial advisors, accountants, legal counsel,
363 appraisers, underwriters, and such other officers, agents and employees deemed necessary to
364 operate the Green Finance Authority efficiently, and shall determine their qualifications, duties,
365 and compensation.

366 (e)(1) The Green Finance Authority shall have independent personnel authority,
367 including the authority to establish its own personnel system, and shall not be subject to the
368 District of Columbia Government Comprehensive Merit Personnel Act, effective March 3, 1979

369 (D.C. Law 2-139; D.C. Official Code § 1-601.01 *et seq.*) (CMPA), or its implementing
370 regulations.

371 (2) Within 6 months of its first meeting, the Board shall create policies, practices,
372 and procedures (i) for hiring employees, which shall include a preference for hiring District
373 residents (or individuals who become District residents within 180 days of their becoming an
374 employee of the Green Finance Authority) that is comparable to the degree of preference
375 established in the CMPA, and (ii) establishing the terms and conditions of employment for
376 personnel employed by the Green Finance Authority.

377 (3) This section shall not to be construed to limit the right of the Board to
378 reorganize, restructure, reclassify, or eliminate positions.

379 (4) The personnel system developed by the Board shall include guidelines
380 implementing section 206.

381 Sec. 206. Conflict of interest; disclosure; waiver of bar against participation by interested
382 party.

383 In addition to the provisions of the Government Ethics Act of 2011, effective April 27,
384 2012 (D.C. Law 19-124; D.C. Official Code § 1-1162.01 *et seq.*); the Code of Conduct as
385 defined in D.C. Official Code § 1-1161.01(7); and the ethics provisions set forth in Chapter 18 of
386 Title 6B of the District of Columbia Municipal Regulations, the following provisions shall apply
387 to the Green Finance Authority:

388 (a) Any Board member, officer, or employee of the Green Finance Authority who is
389 interested either directly or indirectly, or who is an officer or employee of, or has an ownership
390 interest in any entity or agency interested directly or indirectly in any transaction with the Green
391 Finance Authority including any loan to any sponsor, building owner, project developer,

392 manager, builder, or developer, shall disclose this interest to the Green Finance Authority. This
393 interest shall be set forth in the minutes of the Board.

394 (b) At least 5 business days prior to each Board meeting, the Board shall forward
395 information on all transactions to be considered by the Board at the meeting to the Department
396 for a determination on potential conflicts. Such information shall include disclosure of the
397 financial interest of each Board member or his or her employer in any of the transactions to be
398 considered by the Board.

399 (c) A member of the Board with a financial interest in a particular Green Finance
400 Authority transaction shall recuse himself or herself from participating in the Board's
401 consideration, authorization, or implementation of any such transaction, and shall not vote on
402 any such transaction. A Board member's financial interest shall include the interests of his or her
403 immediate family members and his or her employer. The Board by unanimous vote, exclusive of
404 the conflicted member, may allow a waiver of a member's, officer's, or employee's inability to
405 participate in circumstances where the interest falls within guidelines adopted by the Board.

406 (d) Neither the Executive Director nor any employee shall have any interest, direct or
407 indirect, as principal, surety, or otherwise in any contract or other agreement, where the expense
408 or consideration of the contract is payable from Green Finance Authority funds or otherwise
409 provided by the Green Finance Authority.

410 (e) No Board member, officer, or employee of the Green Finance Authority shall have a
411 direct or indirect financial interest that conflicts with, or would appear to conflict with, the fair,
412 impartial, and objective performance of the assigned duties and responsibilities of the Board
413 member, officer, or employee.

414 (f)(1) A Board member, officer, or employee of the Green Finance Authority shall report
415 actual or apparent conflicts of interest and credible violations of the District Code of Conduct
416 and immediately upon discovery to the Board, the Board of Ethics and Government
417 Accountability, or the appropriate authorities.

418 (2) Upon receiving the report of an actual or apparent conflict of interest or
419 credible violation of the District Code of Conduct, the Board shall take steps to avoid, mitigate or
420 correct the issue.

421 Sec. 207. Green Finance Authority Fund.

422 (a) There is established as a special fund, the Green Finance Authority Fund, which shall
423 be held by the Chief Financial Officer of the District of Columbia in accordance with this
424 section, which may include accounts and sub accounts as needed.

425 (b) The Green Finance Authority Fund shall be initially funded by a transfer of at least \$7
426 million from the Renewable Energy Development Fund, established in section 8 of the
427 Renewable Energy Portfolio Standard Act of 2004, effective April 12, 2005 (D.C. Law 15-340;
428 D.C. Official Code § 34-1436), in each of the following fiscal years, in which such transfer is
429 included in an approved budget and financial plan: Fiscal Year 2018, 2019, 2020, 2021, and
430 2022.

431 (c) The Green Finance Authority Fund may also be funded by any other source of
432 funding properly made available to the Green Finance Authority, including:

433 (1) Appropriated amounts;

434 (2) Other District funds;

435 (3) Federal funds;

436 (4) Pursuant to section 401, grants, fees, donations, or gifts from public or private
437 sources, subject to approval by the Board;

438 (5) Proceeds from any proceeding, settlement, or contract in which the District is
439 a party and the funds have been assigned to the Green Finance Authority;

440 (6) Repayments of principal and interest on loans provided from the Green
441 Finance Authority Fund;

442 (7) Interest earned from the deposit or investment of monies from the Green
443 Finance Authority Fund; and

444 (8) All revenues, receipts, and fees of whatever source derived from the operation
445 of the Green Finance Authority Fund.

446 (d) The Mayor may direct the Chief Financial Officer of the District of Columbia to
447 deposit in the Fund any and all other funds received by or on behalf of the Green Finance
448 Authority for the purpose of operating or capitalizing the Green Finance Authority.

449 (e) Disbursements from the Fund shall be used for all purposes related to the mission and
450 operation of the Green Finance Authority. Sustainable projects and sustainable programs
451 financed with funds received from the Renewable Energy Development Fund shall include
452 support for the creation of new solar energy sources in the District.

453 (f) All funds deposited into the Fund shall not revert to the unrestricted fund balance of
454 the General Fund of the District of Columbia at the end of a fiscal year, or at any other time, but
455 shall be continually available for the uses and purposes set forth in this act without regard to
456 fiscal year limitation, subject to authorization in an approved budget and financial plan.

457 **TITLE III. OPERATIONS OF THE GREEN FINANCE AUTHORITY.**

458 Sec. 301. Financing sustainable program and projects.

459 (a) The Green Finance Authority may use funds obtained from the issue of debt under
460 section 490 of the Home Rule Act, approved December 24, 1973 (87 Stat. 809; D.C. Official
461 Code § 1-204.90) to make, issue commitments for, or participate in making loans, loan
462 guarantees, or other forms of financing for the financing of sustainable programs and projects.

463 (b) The Green Finance Authority may invest in, purchase, make commitments to
464 purchase, take assignments from lenders, originate, and service loans, loan guarantees, or other
465 forms of financing issued pursuant to section 301, either directly or through lenders, pursuant to
466 criteria established by the Green Finance Authority, for its sustainable projects and programs.

467 (c) The Green Finance Authority shall establish a financing plan for the Capital Base of
468 the Green Finance Authority.

469 (d) The Green Finance Authority shall establish performance targets for its sustainable
470 projects and programs.

471 (e) The Green Finance Authority shall ensure that the sustainable programs and projects
472 established and implemented pursuant to this act align with existing and future District
473 sustainable programs and projects.

474 Sec. 302. Technical assistance, loans, grants, and consultant services.

475 The Green Finance Authority may provide eligible persons, sponsors or such individual,
476 private or public corporation, association, group, organization, or any other entity with technical
477 assistance, loans, grants or consultant services consistent with the authority of and limitations
478 contained in this act.

479 Sec. 303. Guidelines and procedures.

480 (a) The Green Finance Authority may issue guidelines and procedures to effectuate the
481 purposes of this act.

482 (b) Before making any loan, loan guarantee, or such other form of financing support or
483 risk management for a sustainable project or sustainable program, the Green Finance Authority
484 shall develop standards to govern the administration of the Green Finance Authority through
485 guidelines, policies, and procedures that specify borrower eligibility, terms and conditions of
486 support, and other relevant criteria, standards or procedures.

487 **TITLE IV. FINANCIAL AFFAIRS OF THE GREEN FINANCE AUTHORITY.**

488 Sec. 401. Receipt of funds; disposition thereof.

489 In connection with the exercise of its powers under this act and subject to the
490 requirements of section 202(14), the Green Finance Authority may receive gifts, grants,
491 appropriations, loans, bond proceeds, other funds, property or assets, or any other type of
492 financial assistance from any federal, District, private, or other source and may utilize such funds
493 in a manner consistent with this act and consistent with guidelines issued by the Board. Such
494 guidelines shall also govern the establishment of, administration of, and expenditure from, the
495 capital base of the Green Finance Authority. The source of such funds and the use thereof shall
496 be a part of the annual reporting requirement of section 502. The guidelines shall be transmitted
497 for publication to the District of Columbia Register.

498 Sec. 402. Repayment of funds.

499 The Green Finance Authority shall not be required to repay moneys provided to it by the
500 District government (including accrued interest thereon) during fiscal years 2018 through 2022.

501 Sec. 403. Issuance of bonds; renewals and refunds; deemed obligations of Green Finance
502 Authority; negotiable instruments; director, employer, or agent not personally liable.

503 (a) The Green Finance Authority is authorized by the Council pursuant to section
504 490(a)(6) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat.

505 809; D.C. Official Code § 1-204.90(a)(6)), to incur debt by the issuance of revenue bonds, to
506 borrow or lend money to finance or assist in the financing of undertakings authorized by this act,
507 to carry out the authorized purposes of the Green Finance Authority.

508 (b) No project or program shall be financed in whole or in part with the proceeds of
509 bonds issued by the Green Finance Authority unless the Board determines that the project or
510 program meets the requirements of this act and section 490 of the District of Columbia Home
511 Rule Act, approved December 24, 1973 (87 Stat. 809; D.C. Official Code § 1-204.90), and
512 approves a resolution setting out this determination.

513 (c) Regardless of their form or character, bonds and other debt instruments of the Green
514 Finance Authority are negotiable instruments for all purposes of the Uniform Commercial Code
515 of the District of Columbia (§ 28:1-101 *et seq.*), subject only to the provisions of the bonds for
516 registration.

517 (d) No director, employee or agent of the Green Finance Authority shall be personally
518 liable for any payment required to be made under any bond issued by the Green Finance
519 Authority.

520 (e) The issuance and performance of bonds by the Green Finance Authority as
521 contemplated in this act and the adoption of resolutions authorizing such issuance and
522 performance shall be done in compliance with the requirements of this act. No notice (except as
523 provided in this section), proceeding, consent, or approval shall be required for the issuance or
524 performance of any bond of the Green Finance Authority or the execution of any instrument
525 relating thereto or to the security therefor, except as provided in this act or in guidelines issued
526 by the Green Finance Authority.

527 (f) The Green Finance Authority may stipulate by resolution the terms for sale of its
528 bonds in accordance with this act, including the following:

- 529 (1) The date a bond bears;
- 530 (2) The date a bond matures;
- 531 (3) Whether bonds are issued as serial bonds, as term bonds, or as a combination
532 of the two;
- 533 (4) The denomination;
- 534 (5) The interest rate or rates, or variable rate or rates changing from time to time
535 in accordance with a base or formula;
- 536 (6) The registration privileges;
- 537 (7) The medium and method for payment; and
- 538 (8) The terms of redemption.

539 (g) The Green Finance Authority may sell its bonds at public or private sale and may
540 determine the price for sale.

541 (h) A pledge of the Green Finance Authority is binding from the time it is made. Any
542 funds or property pledged are subject to the lien of a pledge without physical delivery. The lien
543 of a pledge is binding as against parties having any tort, contract or other claim against the Green
544 Finance Authority regardless of notice. Neither the resolution nor any other instrument creating a
545 pledge need be recorded.

546 (i) The signature of any officer of the Green Finance Authority which appears on a bond
547 remains valid if that person ceases to hold that office.

548 Sec. 404. Trust indenture to secure bonds; provisions protecting holders; expenses treated
549 as operating expenses.

550 (a) The Green Finance Authority may secure bonds by a trust indenture between the
551 Green Finance Authority and a corporate trustee which has the authority to exercise corporate
552 trust powers within the District.

553 (b) A trust indenture of the Green Finance Authority may contain provisions for
554 protecting and enforcing the rights and remedies of holders of bonds in accordance with the
555 provisions of the resolution authorizing the sale of bonds.

556 (c) The Green Finance Authority may treat expenses incurred in carrying out a trust
557 indenture as operating expenses.

558 Sec. 405. No limitation, alteration, or impairment of rights and remedies of bondholders.

559 The District pledges to the holders of any bonds issued under this act that the District will
560 not limit or alter rights vested in the Green Finance Authority to fulfill agreements made with the
561 holders thereof, or in any way impair the rights and remedies of such holders until the bonds,
562 together with the interest thereon, with interest on any unpaid installments of interest, and all
563 costs and expenses in connection with any action or proceedings by or on behalf of such holders
564 are fully met and discharged. The Green Finance Authority is authorized to include this pledge of
565 the District in any agreement with the holders of bonds.

566 Sec. 406. Faith and credit and taxing power of District not pledged on obligation;
567 statement thereto; limitation on issuance of Green Finance Authority obligations.

568 Bonds issued under the provisions of this act do not constitute an obligation of the
569 District, but are payable solely from the revenues or assets of the Green Finance Authority. Each
570 bond issued under this act must contain on its face a statement that the Green Finance Authority
571 is not obligated to pay principal or interest except from the revenues or assets pledged and that

572 neither the faith and credit nor the taxing power of the District is pledged to the payment of the
573 principal or interest on a bond.

574 Sec. 407. Bonds as legal investments and securities.

575 The bonds of the Green Finance Authority are legal investments in which public officers
576 and public bodies of the District, insurance companies and associations and other persons
577 carrying on an insurance business, banks, bankers, banking institutions including savings and
578 loan associations, building and loan associations, trust companies, savings banks and savings
579 associations, investment companies and other persons carrying on a banking business,
580 administrators, guardians, executors, trustees, and other fiduciaries and other persons authorized
581 to invest in bonds or in other obligations of the District, may legally invest funds, including
582 capital, in their control. The bonds are also securities which legally may be deposited with and
583 received by public officers and public bodies of the District or any agency of the District for any
584 purpose for which the deposit of bonds or other obligations of the District is authorized by law.

585 Sec. 408. District tax exemptions; payments in lieu; exceptions.

586 (a) Assets and income of the Green Finance Authority are exempt from District taxation.

587 (b) Bonds issued by the Green Finance Authority and the interest thereon are exempt
588 from District taxation except estate, inheritance, and gift taxes.

589 Sec. 409. Deposits; payments out of accounts; contracts involving monies held in trust or
590 otherwise for payment of bonds.

591 All monies of the Green Finance Authority, except as otherwise authorized in this act,
592 shall be deposited as soon as practicable in one or more separate accounts administered by the
593 Chief Financial Officer of the District of Columbia in financial institutions regulated or insured
594 by a federal or District agency.

595 **TITLE V. PUBLIC ACCOUNTABILITY**

596 Sec. 501. Advisory committees.

597 The Green Finance Authority, from time to time, may establish advisory committees or
598 groups to advise the Green Finance Authority with respect to matters the Green Finance
599 Authority shall designate and may appoint persons to serve on such advisory committees or
600 groups as the Green Finance Authority may deem necessary consistent with the provisions of this
601 act. The function of such committees or groups shall be solely advisory in nature, and no such
602 committee or group shall have authority to act for, or on behalf, of the Green Finance Authority.

603 Sec. 502. Annual report and 5-year assessment; contents.

604 (a) The Green Finance Authority shall, within 90 days of the end of each fiscal year,
605 submit an annual report of its activities for the preceding year to the Mayor and the Council, and
606 shall make this document available to the public on its website. The report shall set forth a
607 complete operating financial statement of the Green Finance Authority during the fiscal year it
608 covers, its sustainable projects and programs operations and accomplishments, the names of all
609 new employees and their pay schedules, titles, and place of residence, its plans for the
610 succeeding fiscal year, and its recommendations for needed action on the part of the Mayor or
611 Council with respect to the purposes of the Green Finance Authority.

612 (b) The Green Finance Authority shall, 6 years after the effective date of this act, conduct
613 an assessment of its activities in its first 5 years of operation and provide a report to the Mayor
614 and Council that includes recommendations on whether there is a need for additional public
615 capital for the Green Finance Authority.

616 Sec. 503. Audits.

617 (a) The Green Finance Authority shall contract at least once each year with an
618 independent certified public accountant to audit its books and accounts. The Green Finance
619 Authority shall transmit the audit to the Mayor and Council, and shall make the audit available to
620 the public on its website, within 10 days of receipt.

621 (b) Any entity that receives financing for a sustainable project from the Green Finance
622 Authority shall provide the Board an annual statement, certified as correct by the chief financial
623 officer of the recipient of such financing, setting forth all sources and uses of funds in such detail
624 as may be required by the Green Finance Authority for such project. The Green Finance
625 Authority shall maintain any such statements for not less than 5 years.

626 Sec. 504. Public records.

627 (a) The Green Finance Authority shall make available the following documents to the
628 public on its website:

- 629 (1) The financial plan for the capital base;
630 (2) Board meeting minutes and records;
631 (3) Any conflicts and recusals required under section 206; and
632 (4) Any guidelines and procedures issued under section 303.

633 **TITLE VI. MISCELLANEOUS PROVISIONS**

634 Sec. 601. Liberal construction of act.

635 The provisions of this act shall be liberally construed so as to effectuate those powers
636 which are specifically enumerated.

637 Sec. 602. Applicability of certain laws.

638 (a) The District of Columbia Procurement Practices Act of 1985, effective February 21,
639 1986 (D.C. Law 6-85; D.C. Official Code § 2-301.01 *et seq.*), and its implementing regulations

640 shall not apply to the Green Finance Authority; except, that the Green Finance Authority shall
641 comply with the requirements regarding multiyear contracts and contracts in excess of \$1 million
642 during a 12-month period pursuant to section 451 of the District of Columbia Home Rule Act,
643 approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51), and section 105a of
644 the District of Columbia Procurement Practices Act of 1985, effective March 8, 1991 (D.C. Law
645 8257; D.C. Official Code § 2-301.05a).

646 (b) The Open Meetings Act, effective March 31, 2011 (D.C. Law 18-350; D.C. Official
647 Code § 2-571 *et seq.*) (“Open Meetings Act”) shall apply to the Green Finance Authority;
648 provided, the Board may meet in a closed executive session to review, consider, or discuss with
649 staff, consultants, or agents, confidential, proprietary, competitively sensitive, or other private
650 information, and for any other purpose described in section 405(b) of the Open Meetings Act
651 (D.C. Official Code § 2-575(b)).

652 (c) The Green Finance Authority shall be exempt from sections 4 through 11 of the
653 District of Columbia Administrative Procedure Act (D.C. Official Code §§ 2-503-510). and the
654 regulations implementing those provisions.

655 (d) The Small and Certified Business Enterprise Development and Assistance Act of
656 2005, effective October 20, 2005 (D.C. Law 16-33; D.C. Official Code § 2-218.01 *et seq.*) and
657 its implementing regulations shall not apply to the Green Finance Authority.

658 (e) The First Source Employment Contract Act of 1984, effective June 29, 1984 (D.C.
659 Law 5-93; D.C. Official Code § 2-219.01 *et seq.*) shall not apply to the Green Finance Authority.

660 (f) The officers and employees of the Green Finance Authority shall not be considered
661 District government employees for purposes of the District of Columbia Employee Non-liability
662 Act, approved July 14, 1960 (74 Stat. 519; D.C. Official Code § 2-411 *et seq.*), and the District

663 of Columbia shall not be liable for any acts or occurrences of the Green Finance Authority
664 regardless of whether the Green Finance Authority purchases insurance or whether purchased
665 insurance covers any act or omission of an act.

666 Sec. 603. Legal representation.

667 (a) The District may, upon request by the Green Finance Authority and at the discretion
668 of the Attorney General for the District of Columbia, provide representation through the Office
669 of the Attorney General to the Green Finance Authority and its officers and employees for legal
670 matters related to their official duties.

671 (b) The Green Finance Authority may retain outside counsel, other than the Attorney
672 General for the District of Columbia, at its own expense to provide representation for the Green
673 Finance Authority and its officers and employees in actual or anticipated litigation related to
674 their official duties and functions or in any other legal proceeding, lawsuit, grievance, or
675 arbitration filed against the Green Finance Authority or against its officers or employees for or
676 related to their official duties and acts.

677 (c) The District and its officers and employees shall not be liable for and may not be
678 made a party to any lawsuits or claims arising from the operation of the Green Finance
679 Authority.

680 (d) The Green Finance Authority may have a General Counsel who shall:

681 (1) Be appointed by the Executive Director;

682 (2) Be an attorney admitted in good-standing to the practice of law in the District
683 of Columbia;

684 (3) Be qualified by experience and training to advise the Green Finance Authority
685 with respect to legal issues related to its powers and duties;

- 686 (4) Have an attorney-client relationship with the Green Finance Authority; and
687 (5) With the consent of the Executive Director, employ staff attorneys and other
688 personnel.

689 Sec. 604. Authority of the Chief Financial Officer of the District of Columbia.

690 The Chief Financial Officer of the District of Columbia shall exercise authority over the
691 Green Finance Authority consistent with section 424 of the District of Columbia Home Rule Act,
692 approved April 17, 1995 (109 Stat. 142; D.C. Official Code §§ 1-204.24a, 1-204.24b, 1-204.24c,
693 1-204.24d, 1-204.24e, and 1-204.24f).

694 Sec. 605. Conforming amendments.

695 (a) Section 2(f) of the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-
696 142; D.C. Official Code § 1-523.01(f)), is amended as follows:

697 (1) Paragraph (53) is amended by striking the word “and” at the end.

698 (2) Paragraph (54) is amended by striking the period at the end and inserting the
699 phrase “; and” in its place.

700 (3) A new paragraph (55) is added to read as follows:

701 “(55) The District of Columbia Green Finance Authority.”.

702 (b) Section 105(c) of the Procurement Practices Reform Act of 2010, effective April 8,
703 2011 (D.C. Law 18-371; D.C. Official Code § 2-351.05(c)), is amended as follows:

704 (1) Paragraph (18) is amended by striking the word “and” at the end.

705 (2) Paragraph (19) is amended by striking the period at the end and inserting the
706 phrase “; and” in its place.

707 (3) A new paragraph (20) is added to read as follows:

708 “(20) The District of Columbia Green Finance Authority.”.

709 **TITLE VII. APPLICABILITY**

710 Sec. 701. Applicability.

711 (a) This act shall apply upon the date of inclusion of its fiscal effect in an approved
712 budget and financial plan.

713 (b) The Chief Financial Officer of the District of Columbia shall certify the date of the
714 inclusion of the fiscal effect in an approved budget and financial plan, and provide notice to the
715 Budget Director of the Council of the certification.

716 **TITLE VIII. FISCAL IMPACT STATEMENT AND EFFECTIVE DATE**

717 Sec. 801. Fiscal impact statement.

718 The Council adopts the fiscal impact statement contained in the committee report as the
719 fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act,
720 approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

721 Sec. 802. Effective date.

722 This act shall take effect after approval by the Mayor (or in the event of veto by the
723 Mayor, action by the Council to override the veto), a 30-day period of Congressional review as
724 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
725 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
726 Columbia Register.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Attorney General



ATTORNEY GENERAL
KARL A. RACINE

Legal Counsel Division

MEMORANDUM

TO: Lolita S. Alston
Deputy Director
Office of Legislative Support

FROM: Janet M. Robins
Deputy Attorney General
Legal Counsel Division

DATE: March 6, 2017

SUBJECT: Legal Sufficiency Review of Draft Bill, the "District of Columbia Green Finance Authority Establishment Act of 2017"
(AE-16-723-C)

This is to Certify that this Office has reviewed the above-referenced draft bill and found it to be legally sufficient. If you have any questions in this regard, please do not hesitate to call me at 724-5524.



Janet M. Robins