VINCENT C. GRAY
MAYOR

July 11, 2014

The Honorable Phil Mendelson
Chairman
Council of the District of Columbia
John A. Wilson Building, Suite 504
1350 Pennsylvania Avenue, N.W.
Washington, DC 20004

Re: Fiscal Year 2015 Budget

Dear Chairman Mendelson:

Today, I am vetoing Bill 20-849, the "Fiscal Year 2015 Budget Support Emergency Act of 2014," and returning Bill 20-749, the "Fiscal Year 2015 Budget Request Act of 2014," to you with three line-item vetoes. As you know, I have previously expressed my strong reservations about actions taken in the Fiscal Year 2015 budget and I remain concerned that many of these actions are not widely understood. I am vetoing these bills and ask that the Council defer its recess for up to 30 days so that the Executive and the Council can work together to craft a stronger compromise budget on which we can all agree and that is in the best interest of District residents.

Veto #1 – Bill 20-849, the "Fiscal Year 2015 Budget Support Emergency Act of 2014"

I have numerous concerns with Bill 20-849, the "Fiscal Year 2015 Budget Support Emergency Act of 2014". I ask that the Council sustain my veto and collaborate with me on a reasonable compromise. The Council could then reconsider the permanent version of the Budget Support Act (Bill 20-750) and incorporate the agreed-upon changes into that bill on a third reading.

The concerns I have with the emergency version of the Budget Support Act are as follows:

1. **Defunding of District Senior Property Tax Relief**
   (Subtitle VII-F – Senior Property Tax Relief)

   I was delighted to fund senior property tax relief in my proposed budget. In an effort to keep the District an affordable place to live for longtime low- and moderate-income seniors, legislation was approved to exempt long-standing residents, 70 years of age and older, from paying real property taxes on their primary residence if they have maintained D.C. residency for at least 20 years, have a household adjusted gross income of less than $60,000, and maintain total assets of $250,000 or less, excluding residence.

This legislation, championed by Councilmember Bonds and introduced by Councilmembers Alexander, Barry, Bowser, Cheh, Evans, Graham, Grosso, McDuffie, and Orange, received overwhelming support from the Council. During my budget town hall meetings in all eight wards of the city, funding senior property tax relief was one of the most popular components of my proposed budget wherever I presented it, including at a special town hall meeting at Kennedy Recreation Center that attracted hundreds of seniors.

The Budget Support Act defunds this popular legislation. Instead, $4.8 million of the $8.5 million I proposed to fund the legislation was redirected to tax deferrals and a Schedule H expansion for seniors. The remaining $3.7 million appears to have been redirected entirely from tax relief for seniors.

The senior property tax relief proposed in Councilmember Bonds' legislation is particularly important for seniors who live on fixed incomes in the District and are often faced with an annual 10 percent increase in property taxes. The diluted tax relief in the Schedule H and tax-deferral subtitles does not adequately address the gentrification pressures that are pushing our low-income senior homeowners out of their homes and city. It is vital we keep the funding for this bill in place so the senior citizens, who stuck with the District of Columbia during tough times, are not now priced out of their homes as a result of the District's recent success.

2. **Tax Increases for District Seniors**
(Subtitle VII-B – Tax Revision Commission Implementation)

The Budget Support Act increases income taxes for seniors by repealing the long-term-care insurance tax deduction and the government pension exclusion.

The government pension exclusion affects approximately 15,000 retirees in the District of Columbia and is a significant tax increase to our seniors who are already living on a fixed income and are trying to make ends meet in a city that is becoming increasingly more expensive in which to live. This tax increase generates $3 million annually, increasing the annual tax bill of each senior by approximately $200. At a time when we seek to preserve the District's economic diversity, this proposal does exactly the opposite by making it more expensive for our seniors, both homeowners and renters, to continue to call the District of Columbia their home.

Additionally, the Budget Support Act repeals the District's tax credit for long-term-care insurance. This is antithetical to the District's goal of helping District seniors remain in their homes and age in place. Some seniors purchased these policies anticipating this credit. Further, this repeal generates only $225,000 in additional revenue annually. It is an inconsequential amount of funding for the District's overall budget, and sends an unfortunate message to our seniors that this is not an age-friendly place to live.

3. **<u>Imposition of a Tax on Wellness</u>**
(Subtitle VII-B – Tax Revision Commission Implementation)

The District of Columbia is working hard to encourage residents to adopt healthier lifestyles. This has allowed us to make progress in addressing some of our city's still-very-troubling health indicators. I do not support a tax on healthier living. Whatever modest amount of additional revenue this tax might generate in the short term, we will end up paying far more in the long run if we tax fitness. We should be doing everything possible to encourage our residents to live more healthfully, and we should reflect these priorities in the tax code. Why disincentivize residents by imposing additional costs on healthy practices that could lower the cost of health care by reducing illness?

4. **<u>Limiting the Ability of the Executive Branch to Effectively Operate</u>**

Several subtitles in the Budget Support Act place unnecessary constraints on the Executive Branch of the District government. Even though these changes are likely to have little direct impact on my administration, I oppose them from an institutional perspective because they will needlessly impair the ability of future mayors to be able to make thoughtful, responsible decisions about funding priorities.

A. <u>Tax Cut Wish List is Placed Above Any Other Future Mayoral/Council Priorities</u>
(Subtitle VII-A – Subject to Appropriations Amendments, Subtitle VII-B – Tax Revision Commission Implementation, and Subtitle VII-E – Fiscal Year 2014 Budget Support Act Amendments)

The Budget Support Act places $93.5 million of unfunded tax relief on a wish list above all other priorities. I proposed my own wish list in my initial budget that said if revenue went up in the June 2014 revenue estimate (which it did not), additional spending or tax relief might be triggered. However, instead of basing the contingent funding on one revenue estimate, the wish list of tax reductions is ongoing and limits any future Mayor from making any proposals contrary to this list until the series of tax cuts is fully funded.

In short, it will be impossible for future administrations to make investments in education, public safety, and affordable housing that the Council and public have traditionally prioritized. Our city is growing, and we must anticipate the needs of our residents and businesses. Future mayors must have the ability to determine what the budget priorities are at the time they propose future budgets. The Council should have the same ability to determine the priorities as they make changes to and approve the budget.

Also of real concern is how the Budget Support Act proposes to pay for tax relief for income earned between $40,000-$60,000 and the increase to the standard deduction. It is paid for through targeted tax increases on seniors and wellness described above. District seniors pay an additional $6.7 million in property and income taxes through the changes made to this Budget Support Act. Further, $16 million of the ongoing tax relief is not really funded at all; it is paid for out of one-time carryover funds that were transferred from FY 2014. This amounts to an undesignated cut of $16 million that the next mayor will be forced to make during next year's Fiscal Year 2016 budget formulation process.

B. Limitation on Reprogramming Authority
(Subtitle I-E – Capital Policy and Reserve Account)

This subtitle prohibits the Executive Branch from reprogramming any funds from debt-service savings to other needs within the city, without the active approval of the Council. As you know, current law permits such reprogrammings with the Council's passive review – meaning that the Council already has the power to disapprove if it has concerns. There is absolutely no reason to take this extraordinary action to limit the Executive's flexibility to manage funds. This action would even prohibit the Executive from using one debt-service account to balance another without active Council approval.

In managing a $12.6 billion budget, some programs will come in slightly under budget while others will come in slightly over budget. The mayor needs the flexibility to move funding within the government to keep the budget in balance. People are elected to these positions to manage the city and its resource needs. Why tie the hands of a future executive in this way? A budget is a plan, and there must be reasonable flexibility in how that financial plan is managed.

C. Anacostia River Clean-Up Record of Decision Requirement
(Subtitle VI-J – Anacostia River Toxics Remediation)

The District of Columbia has made great strides and dedicated significant funding to cleaning up the Anacostia River. There can be no question regarding the District's commitment. This subtitle needlessly requires the District to adopt and publish a record of decision choosing the remedy for remediation of contaminated sediment. This locks future administrations into this determination and creates the likelihood of expensive litigation if the District does not meet its plan despite its best efforts.

If the District had not consistently shown its commitment to cleaning up the river, there might be a need for such a subtitle. However, since we have demonstrated this commitment, there is no reason to pass a subtitle that will create liability for the District for which District taxpayers would be responsible.

5. **Removal of First-Time-Homebuyer Credit**
(Subtitle VII-B – Tax Revision Commission Implementation)

The Budget Support Act needlessly repeals the first-time-homebuyer credit for District government employees. We have encouraged District employees to be District residents. This is important for many reasons. First, our employees will be more connected to the fabric of the communities they serve. Second, it allows the District to retain the income taxes paid by our employees. Repealing the first-time-homebuyer credit for District government employees sends exactly the wrong message and generates only $124,000 in revenue annually. If anything, instead of abolishing the only credit we have that encourages District residency for our employees, we should be looking for ways to creatively expand the program so it reaches even more employees. The District is experiencing an increase in resident employment. Why remove an incentive that induces our municipal employees to reside here?

6. **Restoration of Dedicated Funding for Streetcar**
(Subtitle I-E – Capital Policy and Reserve Account and Subtitle VI-D – Integrated Premium Transit System Amendment)

If my amendment to the Budget Request Act is sustained, which would restore the funding to the 22-mile streetcar system, we should make a conforming amendment that restores the dedication of the funding as well. This will allow the District to attract an accomplished private firm to enter into a design-build-operate-maintain contract that would allow the 22-mile streetcar system to be built out by 2024. Just as the streetcar project is finally developing momentum, we should not take steps that dramatically slow it down and drive up costs.

Veto #2 – Restoration of Streetcar Funding
(Two line-items in Bill 20-749, the "Fiscal Year 2015 Budget Request Act of 2014")

The cuts to the dedicated pay-as-you-go capital funding of the streetcar program have serious negative consequences for the timeline and cost of this critical transportation and economic development project. To complete the construction of the 22-mile streetcar system over the next 10 years, the Executive was moving forward with a request for qualifications (RFQ) for a design-build-operate-maintain contract with some of the leading transportation firms in the world. If the Council's cuts to the streetcar system stand, our independent consultants have concluded that the 22-mile system will not be built out for 31 years (or 2045). This is primarily because the District will be unable to attract a firm with the necessary experience and expertise to take on building the project in a piecemeal fashion and on such an extended timeframe. It is also projected that the longer timeline will increase the cost by more than 50 percent – from $1.3 billion to at least $2.0 billion. Furthermore, the extended schedule would also mean lost District revenue that would otherwise be generated from increased economic development along a fixed-rail public transportation system.

The two maps depicted in Attachment A illustrate the impact of the cuts on the development of the District's streetcar system. These maps make clear the impact cuts will have on the streetcar network by 2024. My plan will complete the 22-mile network. Comparatively, with the reduced funding level, at best there will be two incomplete isolated streetcar lines by 2024. Our population is growing more than any major metropolitan area of similar size in the country. Our current public transit network is nearing capacity. We need to invest now in a public transit system that meets the future needs of our growing city. If we wait to start building a true streetcar system until after the District's streets are gridlocked, it will be too late. It will be a lost opportunity for transportation purposes and as a way of further spurring economic development, especially in areas where additional catalytic action is needed. One need only look at Portland, Oregon to observe what development opportunities a robust streetcar system can bring.

The cuts to the dedicated streetcar capital funding were said to be needed to fund a sizable tax-relief package. That tax-relief package was not certified by the Chief Financial Officer (CFO), and thus there is no reason not to restore funding for this critical investment in our future.

In the Budget Request Act, I am exercising two line-item vetoes that work in tandem to restore the streetcar funding while keeping the budget balanced. Both the Office of the Attorney General and the Office of the Chief Financial Officer (OCFO) have agreed that if the vetoes are sustained, the budget for a vetoed agency will revert to the Mayor's proposed budget and financial plan for the affected agencies; it will not be eliminated entirely.

The first line item involves the Pay-As-You-Go Capital Fund where the streetcar funds were originally budgeted. This results in a net increase of $6,136,000 to the Fiscal Year 2015 budget. The second line item to the Office of the Deputy Mayor for Planning and Economic Development (DMPED) offsets this increase, by reducing the budget of DMPED by $6,334,937. Of this $6.3 million, the Executive has already reprogrammed the $5 million to move ahead with the property acquisition for the Washington Humane Society in Fiscal Year 2014, so this project will not be delayed; in fact, it will be accelerated. I commit to working with the Council to find the $1.3 million of funding for smaller initiatives as Fiscal Year 2015 gets underway.

I ask that the Council sustain the two line-item vetoes to both the Pay-As-You-Go Capital Fund and Deputy Mayor for Planning and Economic Development. This will restore the funding to the streetcar program for Fiscal Year 2015 and the six-year capital plan.

Veto #3 – Contingency Cash Reserve Fund Restrictions
(One line-item in Bill 20-749, the "Fiscal Year 2015 Budget Request Act of 2014")

The third line-item veto I am making to the Budget Request Act involves new restrictions on the Contingency Cash Reserve Fund that the Council's budget added. This seemingly innocuous legislative change would prevent the Executive from being able to act in a timely matter to solve problems and protect the health or well-being of our residents. There are certain situations where an unforeseeable problem that imposes a recurring cost on the District could arise during the Council's recess.

In 2008, when I was Council Chairman, I supported identical legislation to change the allowable use of the Contingency Cash Reserve Fund. My concerns stemmed from trying to curb significant cost increases to the Summer Youth Employment Program that had spiraled out of control. Having served as Mayor, I now realize that this position was a mistake, because I was trying to correct a discrete problem by instituting a structural change that would unnecessarily limit the ability of the Executive Branch to respond quickly to unforeseen circumstances.

Fortunately, this legislative change to the Home Rule Act was not included in the Congressional Budget Submission after I proposed it last time. I ask the Council to sustain this line-item veto to the Budget Request Act today, and maintain the necessary financial flexibility that the District's Charter created for the Executive Branch of government. This will allow future mayors to manage government operations and respond quickly to unforeseen circumstances using the Contingency Cash Reserve.

Conclusion

I respectfully ask that the Council vote to sustain each of the three vetoes I am making today and delay its recess by up to 30 days. We can then all come to the table and agree on changes to the Budget Support Act (Bill 20-750) that will address areas of expressed concern. This additional effort will make this a substantially stronger budget that is in the best interest of all District residents. However, regardless of what the Council chooses to do, I cannot in good conscience support this budget as submitted. Although I will not be in office when the majority of this budget is implemented, I cannot turn a blind eye to the impact that it will have on the next administration and District residents.

Sincerely,

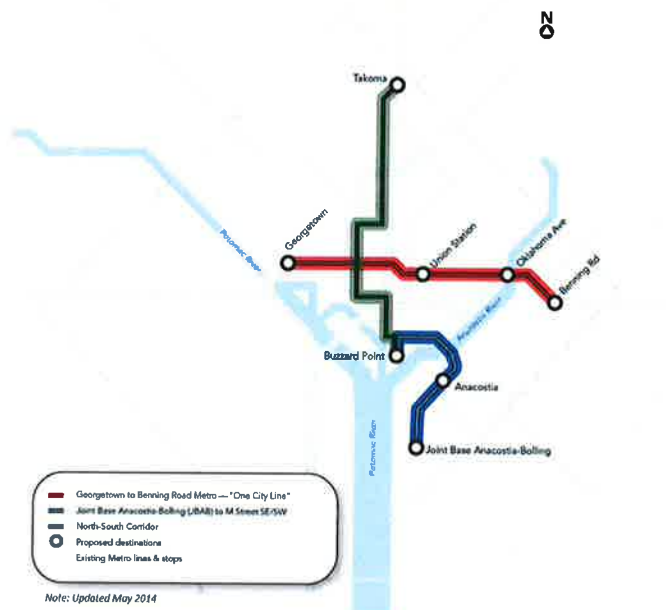
Vincent C. Gray

Vincent C. Gray
Mayor

cc: Councilmembers of the District of Columbia
Irvin B. Nathan, Esq., Attorney General
Jeffery S. Dewitt, Chief Financial Officer

Attachment A

2024 Streetcar System Constructed under Mayor's Budget



2024 Streetcar System Constructed under Council's Budget