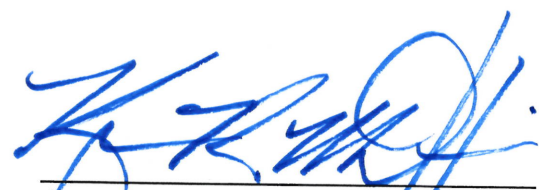


1   
2 Councilmember David Grosso

  
Councilmember Kenyan R. McDuffie

3  
4 A BILL  
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7  
8 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA  
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11

12 To establish a high technology investment authority to invest in and coordinate the growth of  
13 high technology sector businesses in the District.  
14

15 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may  
16 be cited as the "The High Technology Investment Authority Establishment Act of 2015."  
17

18 TITLE I. DEFINITIONS AND FINDINGS

19 Sec. 101. Definitions.

20 For the purposes of this act, the term:

21 (1) "Authority" means the High Technology Investment Authority established  
22 pursuant to section 201(a).

23 (2) "Qualified High Technology company" means "Qualified High Technology  
24 company as defined in D.C. Official Code § 47-8717.01(5).

25 Sec. 102. Findings.

26 The Council finds that:

27 (1) The District was the first city in the nation to establish a municipal 100  
28 gigabit per second capable network.

29 (2) The technology sector is expected to see continued national growth.

(3) Growing a strong high technology sector in the District is an important means of diversifying the District's economy and insulating the economy from declines in other sectors.

(4) The District faces strong regional competition for high technology firms.

(5) Investing in early-stage high technology companies that are near commercial viability is a cost efficient method of growing and retaining the high technology sector in the District.

(6) The District has large amounts of industrial land that can be adaptively re-used to foster innovation hubs.

(7) An independent authority, with subject matter experts, will allow the District to develop a comprehensive plan and policy for nurturing the high technology sector.

(8) Moreover, an independent authority will promote and foster a culture of innovation in the District.

(9) In view of these findings, the Council believes that the citizens of the District will benefit from the enactment of the High Technology Investment Authority Act of 2014.

## TITLE II. ESTABLISHMENT AND POWERS OF AUTHORITY

Sec. 201. Establishment of the High Technology Investment Authority; general purpose of the Authority.

(a) There is established, as an independent authority of the District government, the High Technology Investment Authority. The Authority shall be a corporate body, created to effect certain public purposes, that has a separate legal existence within the District government.

(b) Except as provided in section 210, the Authority shall be subject to all laws applicable to offices, agencies, departments, and instrumentalities of the District government, and shall be subject to the provisions of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 777; D.C. Code § 1-201 *passim*) (“Self-Government Act”).

(c) Notwithstanding any other provisions of this act, the general purpose of the Authority is to invest in, provide equity, provide access to infrastructure, provide access to hardware, provide assistance with raising capital, provide operating space, consult, and mentor qualified high technology companies

Sec 202. General Powers of the Authority.

The Authority shall possess the following powers:

(1) To sue and be sued;

(2) To have a seal and alter the seal at its pleasure;

(3) To make, adopt, and alter by-laws, rules, and regulations for the administration and regulation of its business and affairs;

(4) To elect, appoint, or hire officers, employees, or other agents of the Authority, except Board members, including experts and fiscal agents, define their duties, and fix their compensation;

(5) To acquire, by purchase, gift, lease, or otherwise, and to own, hold, improve, use, sell, convey, exchange, transfer, lease, sublease, and dispose of real and personal property of every kind and character, or any interest therein, for its corporate purposes;

(6) To issue regulations and establish policies for contracting and procurement which are consistent with principles of competitive procurement;

(7) To accept loans, gifts, or grants of money, materials, or property of any kind from the United States, or any agency or instrumentality thereof, or the District, upon terms and conditions as may be imposed upon the Authority to the extent that the terms and conditions are not inconsistent with the limitations and laws of the District and are otherwise within the powers of the Authority;

(8) To borrow money for any of its corporate purposes and to provide for the payment of the same, as may be permitted under the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 777; D.C. Code § 1-201 passim), and the laws of the District;

(9) To issue revenue bonds pursuant to section 208;

(10) To enter into contracts with the District, the United States, or their political subdivisions, other public entities, or private entities for goods and services as needed to achieve its purposes; provided, that prior to the Authority contracting out to a private entity, a service or activity performed by employees of the Authority, through established standards developed by rules and regulations, the Authority shall establish that the contracting out will achieve increased efficiencies and cost savings to the Authority; provided further, that any contractor who is awarded a contract that displaces any District government employee shall offer to any displaced employee a right-of-first-refusal to employment by the contractor, in a comparable available position for which the employee is qualified, for a least a 6-month period during which time the employee shall not be discharged without cause. If the employee's performance during the 6-month transition employment period is satisfactory, the new contractor shall offer the employee continued employment under the terms and conditions established by the new contractor. Any District government employee who is displaced as a result of a contract and is hired by the

contractor who was awarded the contract which displaced the employee shall be entitled to the benefits provided by the Service Contract Act of 1965 41 U.S.C. § 351 et seq., notwithstanding any exclusion of applicability of the Service Contract Act of 1965 to the employee.

(11) To establish, adjust, levy, collect, and abate charges for services, facilities, or commodities furnished or supplied by it;

(12) To refund overcharges for services, facilities, or commodities furnished or supplied by it;

(13) To undertake any public project, acquisition, construction, or any other act necessary to carry out its purposes;

(14) To engage in activities, programs, and projects on its own behalf or, with the concurrence of the Mayor, jointly with other public bodies or political divisions or subdivisions of the District of Columbia;

(15) To provide for the cost of activities, programs, and projects from grants, loans, the proceeds of bonds, or from other revenues available to the Authority for such purposes;

(16) To exercise any power usually possessed by public enterprises or private corporations performing similar functions that is not in conflict with the Self-Government Act, or the laws of the District;

(17) To invest in Qualified High Technology companies in the District;

(18) To provide facilities, and infrastructure to Qualified High Technology companies in the District;

(19) To develop policies related to fostering the growth and retention of Qualified High Technology companies in the District;

(20) To enter into contracts, including leases and lease-purchase agreements involving real property and personal property;

(21) To enter into a financing lease, a service agreement or other arrangement for contracted services; obligations with respect to credit facilities; and interest rate swaps, interest rate caps, interest rate floors and any other interest rate-related hedge agreements entered into by the Authority for the purpose of interest rate risk and asset management that may be, but need not be, entered into in conjunction with the issuance of bonds or notes by the Authority.

(22) To do all things necessary or convenient to carry out the powers expressly provided by this act.

#### Sec. 203. Establishment of a board of directors.

(a) (1) The Authority shall be governed by a board of directors ("Board") comprised of 9 members.

(2) Board members shall be appointed by the Mayor with the advice and consent of the Council, of which at least one member shall be a founder or president of a high technology company that has successfully secured over \$2 million in venture capital, one member shall be a board member, partner, or executive officer of a venture capital investment firm with a minimum of \$100 million of investments, two members shall be the president or his/her designee of institutions of higher education in the District, and one member shall be the director of the Office of the Chief Technology Officer or its successor agency. At least 5 members shall be District residents, and at no time may more than 3 board members be District employees or elected officials. The nomination of a Board member shall be submitted to the Council for a 30-day period of review excluding days of Council recess. The Council may approve or disapprove the nomination by resolution within 30 days of the date the nomination is transmitted to the Council.

If the Council does not adopt a resolution within the 30-day period, the nomination shall be deemed approved upon the expiration of the review period.

(4) The Mayor shall also appoint an alternate for each Board member, in the same manner as set forth for Board members in paragraph (2) of this subsection, who may attend all Board meetings but who may act only in the absence of the Board member for whom he or she has been appointed the alternate.

(b) Any Board member or alternate who is an employee of the District government including an elected official, shall be removed from the Board upon leaving the employment of the District government or elected office.

(c) Board members and alternates shall serve 4-year terms. Of the 9 Board members and alternates initially appointed to the Board, 4 members shall serve 4-year terms, 3 members shall serve 3-year terms, and 2 members shall serve 2-year terms.

(d) Any person appointed to fill a vacancy on the Board shall be appointed only for the unexpired term of the Board member whose vacancy is being filled. If any Board member or alternate is appointed to fill an unexpired term with more than 2 years remaining in the term, upon expiration of the term, that Board member or alternate shall be deemed to have served a full 4-year term. At the end of a term, a Board member or alternate shall continue to serve until a successor is appointed.

(e) The Mayor shall appoint a chairperson of the Board from among the 9 members, provided that a District government employee or elected official may not serve as chairperson.

(f) The Mayor shall remove any Board member or alternate from office for misconduct or neglect of duty, as defined by the Board in its By-laws, or for other good cause, after notice to the Board member and the Council.

(g) Should a Board member or alternate be indicted for the commission of a felony, the Board member or alternate shall automatically be suspended from serving on the Board. Upon a final determination of guilt, the term of the Board member or alternate shall be automatically terminated. Upon a final determination of innocence or dismissal of the felony, the Mayor may reinstate the Board member or alternate.

(h) All Board meetings shall be subject to the provisions of section 742 of the Self-Government Act (D.C. Code § 1-1504).

(i) Before any meeting of the Board, Board members shall be notified of the meeting. Five Board members shall constitute a quorum for the transaction of business. The existence of a quorum and an affirmative vote of a majority of the members present, who are permitted to participate in the matter under consideration, shall be required to approve any Board action; except, that 6 affirmative votes shall be required for the approval of the Authority's budget and the selection of the Chief Executive Officer. No vacancy in membership shall impair the right of a quorum to exercise all rights and perform all duties of the Board.

(j) A Board member not otherwise compensated by the District shall be entitled to compensation by the Authority at the rate of \$50 per meeting, not to exceed \$4,000 per year.

#### Sec. 204. Duties of the Board

(a) The Board shall have the following general duties:

(1) Adopt and publish internal operating rules for the conduct of Board meetings;

(2) Develop policies to invest in, provide equity, provide access to infrastructure, provide access to hardware, provide assistance with raising capital, provide operating space, consult, and mentor qualified high technology companies;



(3) Develop and establish a personnel system with rules and regulations setting forth minimum standards for all employees including pay, contract terms, vacations, leave, retirement, residency requirements, health and life insurance, employee disability and death benefits. The personnel rules and regulations shall require that no employee shall engage in outside employment or private business activity or have any direct or indirect financial interest that conflicts, or would appear to conflict, with the fair, impartial, and objective performance of the employee's assigned duties and responsibilities;

(5) Select, employ, and fix the compensation for the Chief Executive Officer, and for the staff of the Board, as it deems necessary. All staff shall serve at the pleasure of the Board; and

(6) Delegate to the Chief Executive Officer by a majority vote of the Board, any authority granted to the Board under this subsection.

(b) The Board shall prepare and submit to the Mayor an operating budget and a request for funds to be used as investments for each fiscal year on the date that other District departments and agencies are required to submit their budgets to the Mayor. For the purposes of this subsection, the term "operating budget" shall include only funds for personnel, facilities, equipment, travel, development, marketing service contracts, and Board expenses.

(c) The Board shall include with its operating budget submission the following information:

(1) A list of any memoranda, agreements, and contracts in excess of \$25,000;

(2) A financing plan for at least the next 5 years showing the following:

(A) Projected income by source;

(B) Projected operating expenditures by object class and program;

(C) Capital expenditures and financing;

211 (D) Balances and changes in reserves; and  
212 (E) Debt service coverage.

213 (3) A list of all investments made and terms of any such investments.

214 (d) The Board shall submit, within 120 days after the end of each District government  
215 fiscal year, to the Mayor, the Council, and the Auditor of the District of Columbia, a detailed  
216 annual report setting forth a description of the Authority's operations and accomplishments  
217 during the year, including an objective evaluation of the degree of success attained, including:

218 (1) An analysis of qualified high technology firms in the District;  
219 (2) Income and expenditures of the Authority during the year in accordance with sources  
220 and object classes established by the financial management system, budgeted, and audited actual;  
221 (3) Audited actual capital expenditures and financing;  
222 (4) Audited asset, liability, and fund equity balances at the end of the fiscal year;  
223 (5) An analysis of work force;  
224 (6) Recommendations as to the future management and operation of Authority; and  
225 (7) Other information as shall be deemed pertinent by the Mayor, the Council, and the  
226 Auditor of the District of Columbia.

227 (e) The Board shall contract with the independent certified public accountant who  
228 annually audits the books and accounts of the District of Columbia to audit the books and  
229 accounts of the Authority and transmit the audit to the Mayor, the Council, and the Auditor of  
230 the District of Columbia within 120 days of the end of the District government fiscal year.

231 (f) The Board shall annually develop and adopt a multiyear financial plan no less than 90  
232 days prior to the beginning of each fiscal year. The Board shall transmit the multiyear financial

plan to the Mayor and Council within 10 days of its adoption. Each multiyear financial plan shall contain the following:

(1) A description of the Authority's revenues, expenditures, reserves, debt service, cash resources and uses, and capital-improvements expenditures and financing for at least the next 5 years;

(2) If the budget of the Authority for the upcoming fiscal year is not balanced, a statement of the means by which it will be brought into balance.

Sec. 205. Appointment of Chief Executive Officer.

(a) The Board, by majority vote, shall employ a Chief Executive Officer to run the day-to-day affairs of the High Technology Investment Authority. The Chief Executive Officer shall be a resident of the District and shall remain a District resident for the duration of his or her employment by the Authority. Failure to maintain District residency shall result in a forfeiture of the position.

(b) The Chief Executive Officer shall perform the following duties and responsibilities:

(1) Assist in the preparation of the budgets and annual reports;

(2) Administer all operating policies, rules, and regulations adopted by the Board;

(3) Employ personnel;

(4) Perform such other duties as may be authorized by the Board for the effective and efficient management of the Authority and its facilities.

(c) The termination of the Chief Executive Officer shall require the concurrence of a majority of the Board.

Sec. 206. High Technology Authority Fund.

(a) There is established as a non-lapsing fund the High Technology Investment Fund, to be maintained by the Authority.

(b) (1) There shall be deposited into the High Technology Investment Fund all monies, all revenues of the Authority derived from investments in qualified high technology companies, all revenues of the Authority derived from other activities of the Authority, all interest earned on money in the Fund, and all other monies deposited pursuant to the laws of the District.

(2) All funds deposited into the Fund, and any interest earned on those funds, shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time, but shall be continually available for the uses and purposes set forth in subsection (c) of this section without regard to fiscal year limitation, subject to the authorization by Congress.

(c) Monies in the High Technology Investment Authority Fund shall be used to pay for the operating expenses of the Authority, including expenses for infrastructure, operating space, those incurred through contracts, and for investments in qualified high technology companies in the District.

#### Sec. 207. Delegation of Council Authority to Issue Bonds.

The Council delegates to the Authority the power of the Council under § 1-204.90, as amended by section 11508 of the National Capital Revitalization and Self-Government Improvement Act of 1997, approved August 5, 1997 (P.L. 105-33; 111 Stat. 773), to issue revenue bonds, notes, and other obligations to finance, refinance, or assist in the financing or refinancing of any undertakings of the High Technology Investment Authority.

#### Sec. 208. Power of the Authority to Issue Bonds.

(a) The Authority may at any time, and from time to time, issue bonds and notes or other obligations, by resolution, in 1 or more series to finance projects related to its activities. The resolution shall name the Chief Financial Officer of the District as the authorized delegate to execute all documents related to the bond financings or refinancings. In addition, the Authority may issue notes to renew notes and bonds to pay notes, including the interest thereon. Whenever expedient, the Authority may refund bonds by the issuance of new bonds.

(b) Bonds of the Authority are obligations payable from revenues of the Authority from whatever source derived, including certain designated taxes, lease payments, earnings on certain funds or investments, and any other funds available to the Authority which may lawfully be used for these purposes.

(c) Regardless of their form or character, bonds of the Authority are negotiable instruments for all purposes of Title 28, subject only to the provisions of the bonds and notes for registration.

(d) No official, employee, or agent of the Authority shall be held personally liable solely because a bond or note is issued.

(e) The issuance and performance of bonds, notes, and other obligations by the Authority as contemplated in this chapter and the adoption of resolutions authorizing such bonds, notes, and other obligations shall be done in compliance with the requirements of this chapter, but shall not be subject to Chapter 5 of Title 2.

(f) The Authority shall have the power to borrow money and to issue revenue bonds regardless of whether or not the interest payable by the Authority incident to such loans or revenue bonds or the income derived by the holders of the evidence of such indebtedness or revenue bonds is, for the purposes of federal taxation, includable in the taxable income of the

recipients of these payments or is otherwise not exempt from the imposition of taxation on the recipients.

(g) The Authority shall have the power to contract with the holders of its notes or bonds as to the custody, collection, securing, investment, and payment of any monies of the Authority and of any monies held in trust or otherwise for the payment of notes or bonds.

Sec. 209. Terms for sale of bonds; additional bond and note provisions

(a) The Authority may stipulate by resolution the terms for sale of its bonds in accordance with this chapter, including the following:

(1) The date a note or bond bears;

(2) The date a bond or note matures, provided that notes shall not mature later than 10 years from the date of original issuance and bonds shall not mature later than 34 years from the date of original issuance;

(3) Whether bonds are issued as serial bonds, as term bonds, or a combination of the two;

(4) The denomination;

(5) Any interest rate or rates, or variable rate or rates changing from time to time, or premium or discount applicable;

(6) The registration privileges;

(7) The medium and method for payment; and

(8) The terms of redemption.

(b) The Authority may sell its bonds at public or private sale and may determine the price for sale.

(c) A resolution authorizing the sale of bonds may contain any of the following provisions, in which case these provisions shall be made part of the contract with holders of the bonds:

(1) The custody, security, expenditure, or application of proceeds of the sale of bonds or notes of the Authority ("proceeds"), a pledge of the proceeds to secure payment, and the rank or priority of the pledge, subject to preexisting agreements with holders of the bonds;

(2) A pledge of Authority revenues to secure payment and the rank or priority of the pledge, subject to preexisting agreements with holders of the bonds;

(3) A pledge of assets of the Authority, including mortgages and obligations securing mortgages, to secure payment, and the rank or priority of the pledge, subject to preexisting agreements with holders of the bonds;

(4) The proposed use of gross income from any mortgages owned by the Authority and payment of principal of mortgages owned by the Authority;

(5) The proposed use of reserves or sinking funds;

(6) The proposed use of proceeds from the sale of bonds or notes and a pledge of proceeds to secure payment;

(7) Any limitations on the issuance of bonds or notes, including terms of issuance and security, and the refunding of outstanding or other bonds;

(8) Procedures for amendment or abrogation of a contract with holders of the bonds, the amount of bonds or notes, the holders of which must consent to the amendment, and the manner in which consent may be given;

(9) Any vesting in a trustee property, power and duties, which may include the power and duties of a trustee appointed by holders of the bonds;

(10) Limitations or abrogations of the right of holders of the bonds to appoint a trustee;

(11) A defining of the nature of default in the obligations of the Authority to the holders of the bonds and providing the rights and remedies of holders of the bonds in the event of default, including the right to the appointment of a receiver, in accordance with the general laws of the District and this chapter; and

(12) Any other provisions of like or different character which affect the security of holders of the bonds.

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

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

(f) The Authority may secure bonds by a trust indenture between the Authority and a corporate trustee which has trust company powers within the District.

(g) A trust indenture of the Authority may contain provisions for protecting and enforcing the rights and remedies of holders of the bonds in accordance with the provisions of the resolution authorizing the sale of bonds.

(h) Subject to preexisting agreements with the holders of the bonds or notes, the Authority may purchase its own bonds which may then be cancelled. The price the Authority pays in purchasing its own bonds cannot exceed the following limits:



(1) If the bonds are redeemable, the price cannot exceed the redemption price then applicable plus accrued interest to the next interest payment; or

(2) If the bonds are not redeemable, the price cannot exceed the redemption price applicable on the first date after the purchase upon which the bonds or notes become subject to redemption plus accrued interest to that date.

(i) The Authority may establish special or reserve funds in furtherance of its authority under this chapter. Notwithstanding other applicable District law, and subject to agreements with holders of the bonds, the Authority shall manage its own funds, and may invest funds not required for disbursement in a manner the Authority determines to be prudent.

(j) The bonds of the Authority are legal instruments in which public officers and public bodies of the District, insurance companies, insurance company associations, and other persons carrying on an insurance business, banks, bankers, banking institutions including savings and loan associations, building and loan associations, trust companies, savings banks, savings associations, investment companies, and other persons carrying on a banking business, administrators, guardians, executors, trustees, and other fiduciaries, and other persons authorized to invest in bonds or in other obligations of the District, may legally invest funds, including capital, in their control. The bonds are also securities which legally may be deposited with and received by public officers and public bodies of the District or any agency of the District for any purpose for which the deposit of bonds or other obligations of the District is authorized by law.

(k) Obligations issued under the provisions of this chapter do not constitute an obligation of the District, but are payable solely from the revenues or assets of the Authority. Each obligation issued under this chapter must contain on its face a statement that the Authority is not obligated to pay principal or interest except from the revenues or assets pledged and that neither

the faith and credit nor the taxing power of the District is pledged to the payment of the principal or interest on an obligation.

(l) All property, assets, and income of the Authority shall be exempt from District taxation and from any special assessments imposed by the District.

(m) Bonds issued by the Authority, their transfer, and the interest on the bonds shall be exempt from District taxation, except for estate, inheritance, and gift taxation.

Sec. 210. Merit personnel system inapplicable.

Chapter 6 of Title 1 shall not apply to employees of the Authority; except, that subchapters V and XVII of Chapter 6 of Title 1 shall apply.

### TITLE III. GENERAL PROVISIONS

Sec. 301. Fiscal Impact Statement.

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

Sec. 302. Effective Date.

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