July 17, 2020

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

Dear Chairman Mendelson:

By this correspondence, the DC Commission on the Arts and Humanities respectfully transmits, for the Council’s consideration and enactment, the Commission on the Arts and Humanities’ (“CAH”): (1) proposed emergency legislation entitled the “Arts and Humanities Omnibus Emergency Amendment Act of 2020”; (2) proposed and related “Resolution”; (3) “Temporary” and “Permanent” versions of the above-referenced CAH emergency bill; and (4) related Fiscal Impact Statement and Legal Sufficiency Certification. The purpose of this legislation is to revise the Commission on the Arts and Humanities Act of 1975, as amended, in a manner that revises some of the formulas used to allocate CAH’s grant awards.

On January 31, 2020, the federal Department of Health and Human Services (“DHHS”) declared a public health emergency for the United States, for the purpose of aiding the nation’s health care community in responding to the worldwide COVID-19 pandemic (“Pandemic”). In response to the Pandemic, the World Health Organization and the United States’ Center for Disease Control both declared COVID-19 to be a “public health emergency of international concern.” In response to the Pandemic and in accordance with the DHHS’ above-referenced public health emergency declaration, the Mayor of the District of Columbia issued, on March 11, 2020, Mayor’s Order 2020-045 and Mayor’s Order 2020-046 (both of which are captioned “Declaration of Public Health Emergency: Coronavirus (COVID-19)”).

Our Commission has learned that many in our local arts and humanities communities are struggling to survive during this ongoing worldwide Pandemic. If enacted, the proposed and accompanying “Arts and Humanities Omnibus Emergency Amendment Act of 2020” will authorize the Commission to lawfully award certain grants to organizations, the proceeds of which may be used by a grantee to pay, among other expenses, the respective grantee’s mortgage and/or rent obligations that are directly related to their art-making and/or humanities work-related space.

Accordingly, we respectfully urge the Council to act favorably and expeditiously on the above-referenced legislation. Thank you for your time and consideration.

Sincerely,

Kay Kendall  
On behalf of the DC Commission on the Arts and Humanities
A PROPOSED RESOLUTION

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To declare the existence of an emergency with respect to the need to revise the formulas used to allocate the Commission on the Arts and Humanities' annual budget.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Arts and Humanities Emergency Declaration Resolution of 2020”.

Sec. 2. (a) On January 31, 2020, the federal Department of Health and Human Services (“DHHS”) declared a public health emergency for the United States, for the purpose of aiding the nation’s health care community in responding to the worldwide COVID-19 pandemic (“Pandemic”). In response to the Pandemic, the World Health Organization and the United States’ Center for Disease Control both declared COVID-19 to be a “public health emergency of international concern.” On March 11, 2020, the World Health Organization declared COVID-19 to be a pandemic.

(b) In response to the Pandemic and in accordance with the DHHS’ above-referenced public health emergency declaration, the Mayor of the District of Columbia issued, on March
11, 2020, Mayor's Order 2020-045 and Mayor's Order 2020-046 (both of which are captioned “Declaration of Public Health Emergency: Coronavirus (COVID-19”).

(c) On April 6, 2020, the Mayor of the District of Columbia issued Mayor's Order 2020-057. Mayor's Order 2020-057, which regards hiring and spending freezes implemented in response to the Pandemic, referenced the Pandemic-related economic devastation that is being experienced by the District of Columbia and its residents, including members of the District of Columbia's arts and humanities communities. As has been discussed in numerous news articles and government reports, District of Columbia-based artists, scholars, arts organizations and humanities organizations continue to suffer devastating economic harm related to the Pandemic (e.g., job losses, the loss of live artistic performance opportunities, the loss of art studio space, etc.). For far too many District residents, Pandemic-related harm has resulted in these residents' inability to pay, among other expenses, their mortgage or rent obligations. Included in this group of adversely affected District residents and businesses are local artists, arts organizations, scholars and humanities professionals.

(d) Although D.C. Official §§ 39-204 and 39-205 authorize the DC Commission on the Arts and Humanities ("Commission") to award arts- and/or humanities-related grants, no existing District of Columbia statute or regulation explicitly authorizes the Commission to make grant awards that can lawfully be used by recipients to pay arts- and/or humanities-related mortgage and/or rent obligations. The Commission's award of grants that can be used as discussed herein will, in accordance with the mandates of D.C. Official Code § 39-204, advance the District's arts- and humanities-related interests by enabling as many local artists, arts organizations, scholars and humanities organizations as possible to continue thrive in the District and
collaborate with the Commission to present new arts and humanities-related work to the District
and its residents.

(e) The Commission's proposed and accompanying "Arts and Humanities Omnibus
Emergency Amendment Act of 2020" will, if enacted into law, authorize the Commission to
lawfully award grants, the proceeds of which may be used to pay, among other expenses, the
respective grantee's arts- and/or humanities-related mortgage and/or rent obligations.

Specifically with regard to a grant recipient's payment of rent and/or mortgage obligations, the
Commission's Arts and Humanities Omnibus Emergency Amendment Act, once enacted, shall
only authorize the Commission's grant recipients to use Commission grant awards to pay rent
and/or mortgage obligations that are directly related to the respective grantee's art-making and/or
humanities work-related space (e.g., an artist's home office, art studio space, etc.).

Sec. 3. The Council of the District of Columbia determines that the circumstances
enumerated in section 2 constitute emergency circumstances making it necessary that the Arts
and Humanities Omnibus Emergency Amendment Act of 2020 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.
MEMORANDUM

TO: J. Carl Wilson
   General Counsel
   Commission on Arts and Humanities (DCCAH)

FROM: Brian K. Flowers
       Deputy Attorney General
       Legal Counsel Division

DATE: July 7, 2020

RE: Arts and Humanities Omnibus Emergency, Temporary and Permanent Amendment Act of 2020 and an Accompanying Emergency Declaration Resolution (AE-20-492)

This responds to an email request we received from your office by which you transmitted proposed legislation entitled the “Arts and Humanities Omnibus Emergency Amendment Act of 2020” (Emergency Act), substantively identical temporary and permanent versions of the draft legislation, and an accompanying emergency declaration resolution (Resolution) on the same subject to our Office for a legal sufficiency review (together, the Legislation).

The Legislation will amend, on an emergency, temporary and permanent basis, Chapter 2 of Title 39 of the District of Columbia Official Code to revise the formula used to allocate the Commission on the Arts and Humanities’ annual budget. In substantive part, it provides that the DCCAH may allocate up to:

... 17% for grants to fund grant recipients’ operations-related expenses and, exclusively during the District’s Fiscal Year 2021, certain arts- and/or humanities-related mortgage and/or rent obligations including, but not necessarily limited to: (i) expenses related to the operation of a grant recipient’s United States Internal Revenue Service-recognized and arts- and/or humanities-related home-based office; and (ii) expenses related to a grant recipient’s rental of District-based space that is used to produce and/or publicly present arts- and/or humanities-related work.

Further, the Legislation provides that the balance of any unused grant funds must be returned to the DCCAH no later than the last day of the fiscal year of the award for deposit into the Arts and Humanities revolving fund established by D.C. Official Code § 39-205.01.

1 This Office suggested several clarifying changes that the DCCAH accepted and incorporated into revised versions of the Legislation.
The Resolution establishes the emergency circumstances leading to the need for the emergency version of the Legislation.

This Office has reviewed the Legislation and determined that it is legally sufficient. I have attached a Certificate of Legal Sufficiency for your use. In addition, please be reminded that you must secure a fiscal impact statement from the Office of the Chief Financial Officer to accompany the Legislation. If you have any questions about this memorandum, please contact either Anne R. Hollander, Senior Assistant Attorney General, at 724-5560, or me at 724-5524.

BKF/arh

Attachment
MEMORANDUM

TO: Ronan Gulstone  
   Director  
   Office of Policy and Legislative Affairs

FROM: Brian K. Flowers  
       Deputy Attorney General  
       Legal Counsel Division

DATE: July 7, 2020

RE: Arts and Humanities Omnibus Emergency, Temporary and Permanent Amendment Act of 2020 and an Accompanying Emergency Declaration Resolution (AE-20-492)

This is to Certify that this Office has reviewed the legislation entitled the “Arts and Humanities Omnibus Emergency Amendment Act of 2020”, substantively identical temporary and permanent versions of the draft legislation, and an accompanying emergency declaration resolution on the same subject, and determined that the legislation and resolution are legally sufficient. If you have any questions, please do not hesitate to call me at 724-5524.

Brian K. Flowers

Brian K. Flowers