WASHINGTON LAWYERS' COMMITTEE *file*

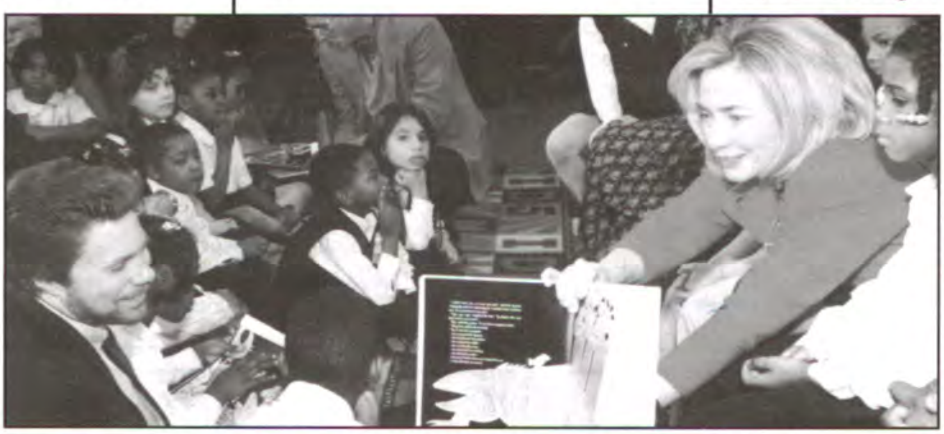
UPDATE

VOL. 3, NO. 1 FOR CIVIL RIGHTS AND URBAN AFFAIRS SPRING, 1997

HILLARY CLINTON URGES SUPPORT FOR COMMITTEE'S LAW FIRM/ D.C. SCHOOL PARTNERSHIP PROGRAM

DOZENS OF FIRMS RESPOND TO FIRST LADY'S APPEAL

"Lawyers who are possessed of so many skills, expertise and boundless energy can take a leadership role in this task of making Washington, D.C., the capital city it deserves to be," declared Hillary Rodham Clinton when she visited Cleveland Elementary School in February of this year. She visited the school to demonstrate the importance of law firm/ D.C. Public School partnerships. Joining her at Cleveland, were General Julius Becton, Chief Executive Officer of the D.C. Public Schools and lawyers and staff from Holland & Knight which has formed a partnership with the school. Participants in the Valentine's Day event also included representatives from other firms and law offices that have formed partnerships with city schools--Covington & Burling, Steptoe & Johnson and the District of Columbia Office of Corporation Counsel as well as the Washington Lawyers' Committee for Civil Rights and Urban Affairs and the D.C. Bar.



Hillary Clinton shares a book with Hank Brothers from Holland & Knight and second graders from Cleveland Elementary School.

"Washington law firms employ nearly 30,000 highly educated, disciplined and hard-working individuals," observed Mrs. Clinton, "and each of those employees can make a difference in our schools. Not only do the volunteers reap the personal rewards of working with children, they are also helping develop individuals who can very well become future colleagues. By helping students to read, to think creatively and to stay in school and follow their own dreams, the volunteers are preparing these young people to meet the challenges of working in the 21st century."

"So, I would like to challenge each and every single law firm in the District of Columbia to share its talents and resources with a school in this city. I challenge each managing partner to call the Washington Lawyers' Committee and volunteer to adopt a school,"

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Inside this issue . . .

Washington Lawyers' Committee For Civil Rights and Urban Affairs - Wiley A. Branton Annual Awards Luncheon

WASHINGTON LAWYERS' COMMITTEE
FOR
CIVIL RIGHTS AND URBAN AFFAIRS

Wiley A. Branton
Annual Awards Luncheon

Tuesday, the tenth of June, 1997
Capital Hilton Hotel
16th & K Streets, NW
Washington, DC 20005

FIRST LADY HILLARY RODHAM CLINTON
REMARKS TO THE WASHINGTON LAWYERS' COMMITTEE
FOR CIVIL RIGHTS AND URBAN AFFAIRS
WASHINGTON, DC
JUNE 10, 1997

[Acknowledgments: Iris Toyer [who will introduce you]; John Payton, Thomas Williamson, Laurence Hoffman, Rod Boggs, Delabian Rice-Thurston; Mrs. Richey; Judge Penn and the other distinguished members of our federal bench who are here today; Secretary of Transportation Rodney Slater, and General Becton]

I'm delighted to be with all of you to help celebrate the contributions and legacy of Wiley A. Branton, who was someone I greatly admired. Secretary Slater reminded me recently that Wiley Branton was not only instrumental in the integration of Central High School in Little Rock, but also was involved in the less-documented, less-publicized integration of the University of Arkansas Law School six years earlier -- in 1948. Both of these examples, as well as his lifelong commitment to civil rights, reflected his belief that through good relations among people and proper use of the law we can achieve social progress and move our nation forward. What a good reminder that is for all of us today.

I welcome this opportunity to think back on Wiley Branton's career and to reflect on the life and service of jurists like the late Judge Richey, who embodied our highest notions of legal justice and civil rights. And I also appreciate the chance to hear about the work of the law firms being honored today, whose efforts have broadened the scope of legal work in this community so that more of our citizens are fully protected under the law. I join in thanking the Washington Lawyers' Committee for its crucial role in these efforts.

Earlier this year, I had the chance to visit an elementary school in the Shaw neighborhood not far from here. It is called the Cleveland School and it serves 300 children kindergarten through third grade. It's one of those schools that has had to struggle with challenges and burdens all-too-familiar to schools in urban centers across our country.

And yet, despite these challenges, the Cleveland School is not falling apart. It's not failing it students. It's not an embarrassment to the city or its citizens.

If anything, it has become an anchor in its community. And it offers a compelling example of how we can make public education succeed even when the odds seem stacked against it.

Too often, we give in to a sense of futility. We forget that, with the right ingredients, we can create opportunities for our children that will prepare them for life and for responsible citizenship. And we forget that many of those ingredients do not involve vast sums of money, just a wealth of commitment.

The Cleveland School shows us that a successful school needs a dedicated principal, committed teachers and an active PTA. It needs community partners -- like the members of our armed services who volunteer as P.E. teachers at Cleveland and take children on field trips.

But it also needs the commitment of the larger community -- of people who might otherwise never go to Shaw, never drive through it, not even know where it is on the map.

Every week, lawyers and staff from Holland & Knight troop from the edge of Foggy Bottom to T Street to spend afternoons tutoring and reading to students. They give up their free time on weekends to repair school facilities. They even helped reclaim a neighborhood park and playground from local drug dealers.

The firm has donated computers, supplies and clothing to the school. Lawyers have helped parents with legal problems and represented neighborhood non-profit organizations *pro bono.*

And when I visited the school in February, teachers told me how these visits from lawyers had inspired the students to raise their expectations of themselves. Parents told me how the firm's interest in the school and the community generated a new can-do spirit among citizens. And some of the lawyers I met talked about the rewards they derived from their involvement in a community worlds apart from their own.

Fortunately, Holland & Knight isn't the only firm giving so generously of its time and resources. As you know, other larger and smaller firms have made similar commitments throughout the city.

But after visiting the Cleveland School, I wondered aloud how much good would come if every firm in the city were as eager to make a commitment to the public schools. And I challenged every single law firm in the District of Columbia to share its talents and resources with a school in the city. I challenged each managing partner to call up the Washington Lawyers' Committee and find a school whose needs his or her firm could answer.

So you can imagine how gratifying it has been for me to hear about new partnerships sprouting up just in the past few months, as more law firms have begun to establish relationships with schools to provide tutoring, seminars for parents, library projects and other activities.

We live and work in a city unique in the world. It's the nation's capital. A mecca for tourists. A leading center for biotechnology and medical research. A nerve center for international communications.

It is also home to nearly 30,000 legal professionals -- highly educated, disciplined, hard-working men and women who can make a difference to our schools and to children yearning for the chance to make more of their lives.

Everyone has a role to play in this effort -- from the federal government to churches to businesses to non-profit organizations. But lawyers can play a special role because of their special expertise. And because of the tradition of service that has found a place in this profession.

This is not a one-way street. It is not simply a sacrifice of time, money, clients, resources. It's not just about doing good here or there, once or twice to make ourselves feel less guilty about the privileges we enjoy.

It's about living up to our ideals of service and citizenship. It's about making a statement that, in a democracy such as ours, being a good citizen amounts to more than paying taxes, more than showing up for work, more than obeying the law, more than casting a vote. It is about putting into practice a belief that we are responsible for one another, that we do not meet our challenges alone but as a community working together.

Your efforts are an emblem of what citizenship and service can and do mean in America. You are providing lifelines to some of the neediest in our society. You are making a difference in ways that you probably can't even imagine. And you are perpetuating Wiley Branton's belief that through good relations among people -- even people who are very different -- and the proper use of the law, we will achieve greater equality and justice in our society.

Thank you very much.

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vCC: Melanne

file DC

THE DISTRICT OF COLUMBIA

WASHINGTON, D.C. 20001

MARION BARRY, JR.
Mayor

August 8, 1997

The First Lady
Hillary Rodham Clinton
The White House
Washington, D.C. 20500

Dear Mrs. Clinton:

Thank you so very much for taking the time to greet my Youth Leadership Institute. It was indeed an honor to have you as our guest speaker. As you addressed this year's theme "CHOICES AND DECISIONS," your insightful, encouraging and poignant message was well received. It was truly a wonderful opportunity for our city's young people to hear from such an outstanding role model as our nation's First Lady.

These are complex and challenging times for America's youth. Now, perhaps more than ever before, it is incumbent upon our elected leadership to nurture, cultivate, promote and support them. We must develop in them the leadership skills that they will need to take over the reigns of government, business, the arts and academia.

I thank you for your very personal contribution to this effort.

Sincerely,

Marion Barry

Marion Barry, Jr.
Mayor

file DC

MEMORANDUM OF UNDERSTANDING BETWEEN:

THE DISTRICT OF COLUMBIA

Marion Barry, Jr., Mayor

Marion Barry

Charlene Drew Jarvis,
Council Chairperson Pro Tempore
(January 2, 1997 - May 6, 1997)*

Charlene Drew Jarvis

Linda W. Cropp, Acting Chairman
(May 6, 1997 - August 1, 1997)*

Linda W. Cropp

*Pursuant to Council Resolution 12-116, the Memorandum of Understanding on the President's "National Capital Revitalization and Self-Government Improvement Plan" Emergency Resolution of 1997.

OFFICE OF MANAGEMENT AND BUDGET, EXECUTIVE OFFICE OF THE PRESIDENT

Franklin D. Raines
Chair
President's District of Columbia Task Force

Dated: May 14, 1997

SECTION I. PURPOSE

The parties respect the Home Rule Charter as the fundamental basis for governance in the District. The purpose of this memorandum is to strengthen Home Rule and to agree to work toward the revitalization of the District of Columbia. By providing for additional District government functions, the Federal government will enable the District to focus its resources on the functions that remain. In some cases, however, this memorandum provides for Federal assumption of not only funding for certain government functions, but Federal assumption of management of those functions as well. While this is appropriate in limited circumstances, the parties generally favor the principle of local management over District government functions, regardless of the source of funding for those programs. The parties also favor local control over locally raised revenues. The parties have agreed to disagree on whether the Federal Payment should continue after this program goes into effect.

This memorandum is intended only to improve the management of, and the relationship between, the District of Columbia and the Federal government, and is not intended to and does not create any right, benefit, trust or responsibility, substantive or procedural, enforceable at law or equity by a party against the United States or the District of Columbia, its agencies, its officers, or any person.

SECTION II. PUBLIC LAW 104-8, "THE DISTRICT OF COLUMBIA FINANCIAL RESPONSIBILITY AND MANAGEMENT ASSISTANCE ACT OF 1995"

The parties recognize the provisions of PL 104-8 and dedicate themselves to the cooperative implementation of these provisions. Among these are:

Finance.

- For each Fiscal Year for which the District is in a control period, the Mayor shall develop and submit to the Financial Responsibility and Management Assistance Authority (the "Authority") and District Council a Budget and Financial Plan for the applicable Fiscal Year and the next three Fiscal Years.

- Expenditures for the District government for each Fiscal Year, beginning in FY1999, may not exceed revenues for that Fiscal Year.

- During Fiscal Years 1996, 1997, and 1998, the District government shall make continuous, substantial progress toward equalizing its expenditures and revenues.

- The District may not borrow money during a control year unless the Authority provides prior certification that the borrowing is consistent with the financial plan and budget for the year.

- For the Secretary of the Treasury to make a short-term advance to the District: (1) the Mayor must submit, among other things, a requisition for an advance; (2) the Authority and the

Inspector General each must certify, among other things, that (a) the Authority has approved a Budget and Financial Plan for the District for the Fiscal Year in which the requisition is made, (b) the District is in compliance with the Authority-approved Budget and Financial Plan, and (c) the borrowing and repayment of the short-term advance is consistent with the Authority-approved Budget and Financial Plan; (3) the District and the Authority each must certify that the District lacks market access on reasonable terms; and (4) the Secretary must determine that the Treasury has reasonable assurance of being reimbursed.

Management.

- An Office of the Chief Financial Officer will be established in the Executive Branch of the District government, headed by the Chief Financial Officer, and including the Office of the Treasurer, Controller, Budget, Financial Information Services, and Finance and Revenue.

- An Office of the Inspector General will be established in the Executive Branch of the District government.

- During the control period, the Mayor shall submit proposed contracts and leases to the Authority for review, and cannot enter into a contract or a lease unless the Authority determines it is consistent with the Budget and Financial Plan.

- The Authority may submit recommendations to the Mayor, the Council, the President, and Congress on actions the District or Federal governments may take to ensure the District's compliance with a Budget and Financial Plan and promote its financial stability, management responsibility, and service delivery efficiency. The Mayor and the Council shall submit a statement to the Authority, President, and Congress providing notice as to whether the District will adopt the recommendations. An affirmative statement must include a written implementation plan, with performance measures and a schedule for audit compliance. If the statement rejects the recommendations, the Authority may vote to take what actions it deems appropriate, after consulting with the Senate Governmental Affairs Committee and the House Government Reform and Oversight Committee.

SECTION III. GENERAL PROVISION

Balanced Budget. PL 104-8 requires that the District balance its budget by FY1999. By this agreement, the District agrees to present and/or approve a balanced budget for the Fiscal Year beginning October 1, 1997.

SECTION IV. SUBMISSION OF LEGISLATION & FEDERALLY ASSUMED FUNCTIONS

As Chair of the President's District of Columbia Task Force, the Director of the Office of Management and Budget intends to recommend the submission of legislation to the Congress that is consistent with the National Capital Revitalization and Self Government Improvement Plan (the "Plan") announced by the President on January 14, 1997.

Once implemented, the Plan will provide the District substantial relief from its operating expenditures, relief which will grow over time. It will also invest considerable resources to improve the District's criminal justice systems and capital infrastructure. If this legislation is enacted, the Federal government will undertake the functions described below. The Federal government will not undertake a function until the District government meets the conditions for that function, described in Section V.

1. ***Medicaid***. The Federal government will increase its share of the District's Medicaid payments to 70 percent, thereby reducing the District's share to 30 percent. The Department of Health and Human Services will continue to provide more intensive technical assistance to help the District improve the management of its Medicaid program.

2. ***Pensions***. The Federal government will take financial and administrative responsibility for virtually all pension benefits accrued under the plans for all active and retired police and firefighters, and teachers, and will take full responsibility for the pensions of judges. The bulk of the assets of the retirement plans will be transferred to the Federal government and placed with a third party Trustee chosen by the Secretary of the Treasury. A significant amount of assets will be left with the District of Columbia to fund the benefits of participants in the District's plans and to reduce the District's annual contribution. The Trustee will invest funds, manage the existing plans, and make payments on behalf of beneficiaries. The Federal government will pledge its full faith and credit to meet its responsibilities to pay these benefits. Current retirees will have all their benefits paid by the Federal government. Retirement, death, and some disability benefits payable by the Federal government to current employees will be based on service earned as of the date the legislation is introduced. While the Federal government will not be responsible for benefits earned during future years of service by members of the current retirement programs (other than judges), these members will get the benefit of pay increases on the frozen benefits. Frozen benefits will continue to be subject to cost-of-living adjustments under the terms of the existing programs. All future employee contributions (except for judges) will be paid into the new plans.

3. ***Treasury Loans to Eliminate the Deficit***. The United States Treasury will provide loans of up to15-year terms to assist the District to eliminate its accumulated fund balance deficit and to manage its liquidity position. The combined amount of the Treasury loans may not exceed $500 million. The Treasury loans will have an interest rate equal to the prevailing yield on outstanding Treasury marketable securities of comparable maturity plus 1/8th of one percent. The Treasury may also provide intra-year loans for the purposes of seasonal cash-flow management.

4. ***Criminal Justice***. The Federal and District governments will develop and implement a transition plan which transfers responsibility over a three-to-five-year period for incarcerating felons. The Federal Bureau of Prisons (BOP) will house adult felons convicted

of D.C. Code violations and designated in the same manner as Federal inmates in correctional institutions operated or contracted by the BOP. This will occur after BOP's capacity has been increased through new construction at Lorton and other locations selected by BOP, and through renovation of existing facilities at Lorton, Virginia. After October 1, 2001, the BOP will also designate to Federal correctional institutions sentenced D.C. felons in the custody of the D.C. Department of Corrections, as the Director of BOP deems appropriate, in accordance with available capacity, until they have all been designated to Federal institutions. The BOP will accept employment applications from persons currently employed by the D.C. Department of Corrections for existing BOP vacancies, and will process such applications in accordance with existing Federal procedures and standards.

The Attorney General will select, after consultation with the Mayor, the D.C. City Council, and the Chair of the D.C. Financial Responsibility and Management Assistance Authority, a Trustee to oversee operations of the D.C. Department of Corrections until the BOP assumes responsibility for all incarcerated District felons.

The Federal and District governments will develop and implement a framework for changes to the D.C. sentencing system, including the abolition of parole, institution of determinate guideline sentencing and the enactment of the new mandatory minimum drug sentences, which are a prerequisite for the Federal government accepting responsibility for the incarceration of felons convicted of D.C. Code violations. The sentencing system will be enacted within 24 months, or the Federal government will not be required to obligate any funds appropriated for the purpose of incarcerating D.C. Code felons and will have no responsibility for housing such persons.

Consulting with representatives of the Federal and District judiciary, the Federal and District governments will also develop and implement a transition plan transferring responsibility for D.C. Code violation offender pretrial, public defender, parole, probation, and post-adjudication/post-conviction adult offender supervision from the District government to the Federal government over a three-to-five-year period. The United States Parole Commission will continue to assume responsibility for all D.C. felons housed in Federal Correctional Institutions who have sentences subject to provisions of parole.

The Federal government will take direct responsibility (in consultation with the D.C. judiciary) for funding the D.C. court system and related services (including plans relating to retirement benefits and other personnel matters), and establishing an independent budgetary, financial oversight, and administrative support system for the D.C. courts. The Courts will remain self-managed, and District involvement in the selection and review of D.C. judges will not be diminished.

5. *Economic Development*. The Federal government will assist the economic development of the District of Columbia in three ways:

First, a new economic development corporation (EDC) will be established as a public authority of the District of Columbia, with the mission of revitalizing the nation's capital city and benefitting the District's residents and businesses. The EDC will be governed by a board of directors consisting of nine voting members. Five of the board members will be appointed by the President in consultation with the Congress. Of those five, four will be selected from the for-profit business community, and one will be selected from a community-based organization. One of the board members will be appointed by the Mayor with the advice and consent of the Council, from the for-profit business community or from a community-based organization. All six of the appointed board members will be persons who either maintain a primary residence or have a primary place of business in the District. The remaining three board members will be ex officio members, one chosen by the President from the Federal government, a second who will be the Mayor or such alternates from the District government as the Mayor may from time to time designate to serve as the Mayor's representative, and a third who will be the Council Chairman or such alternates from the District government as the Council Chairman may from time to time designate to serve as the Council Chairman's representative. The EDC will be run by a Chief Executive Officer and served by a professional staff.

The Administration will seek an authorization of appropriations in fiscal year 1998 to carry-out economic development in the District of Columbia and to pay the expenses of the EDC. The EDC will evaluate existing economic development plans and will give expedited consideration to applications for financial assistance for projects contemplated by existing plans that the EDC adopts. The EDC will establish a comprehensive strategic plan for economic development and will consult with the rest of the District government in doing so. The EDC will provide financial assistance for economic development projects, directly or in participation with other sources of financing, by making loans, equity investments, and grants, but not guarantees; by leasing or conveying land; by allocating tax credits for qualified equity investments and loans; by issuing tax-exempt private activity bonds for certified qualified projects; and by issuing project revenue obligations for any economic development project that it approves. All EDC projects will be required to comply with applicable Federal and District law. The EDC will have limited powers to acquire property through condemnation by eminent domain in the name of the District of Columbia and furtherance of the EDC's statutory objectives. These provisions will be undertaken in a manner consistent with a legislative agreement being developed with the District.

Second, the Federal government will provide $250 million in tax incentives over five years to encourage business investment both downtown and in distressed communities, and to help businesses increase employment of residents of the District. There will be a new 40 percent tax credit on the first $10,000 of eligible wages in the first year of employment for employers in the District that hire certain residents of the District. Businesses that have a significant portion of their activities in higher poverty areas of the District and that have a work force at least 35 percent of which is made up of District residents will be eligible for expensing (rather than capitalizing) an additional $20,000 of business equipment and machinery acquired each year. The EDC will be authorized to issue tax-exempt private activity bonds to finance a broader range of business property than under existing District law if the business is located in a higher poverty area of the District and has a work force at least 35 percent of which is made up of District residents. The EDC will be authorized to allocate $95 million in tax credits for investors in, or lenders to, District businesses for up to 25 percent of the amount invested or loaned.

Third, the District government's revenue bond financing authority will be clarified and improved so that the District government will have legal capacity to finance projects comparable to other similar jurisdictions.

6. ***Infrastructure***. The Department of Transportation will assume responsibility for the funding and oversight of certain National Highway System (NHS) capital projects (including roads, bridges, and transit) and NHS operations and maintenance projects (excluding police authority, National Park Service roads, and transit) in consultation with the District. The District will select the NHS projects to be funded and the Secretary of Transportation will review the District's project selections in accordance with Title 23 planning procedures. Contract administration will be performed by the Federal Highway Administration. In addition, eligibility for Surface Transportation Program (STP) funds will be expanded to include local public roads. To support NHS projects, the National Capital Infrastructure Fund (NCIF) will be established in FY1998 with $108 million for road, bridge, and transit capital projects. An additional $17 million will be provided in FY1998-03 for NHS operations and maintenance. Federal-aid funds for the District's NHS, Interstate Maintenance, and Bridge programs will be transferred to the NCIF in FY1998-03. The Administration will propose that, subject to approval by the District government, the NCIF be authorized to accept contributions from other sources.

7. ***Personal Income Tax Administration***. At the request of, and at no cost to the District, the Internal Revenue Service will assume certain responsibilities from the District of Columbia for administering and/or enforcing D.C. individual income taxes, and the IRS may assume other responsibilities for the District on a reimbursable basis. The District government will maintain processing and collection responsibility for all other taxes. After 5 years the District and the IRS will undertake a study of the performance and benefits of the IRS' participation in District tax administration. In year six either party may terminate the arrangement. If neither party terminates the arrangement, it will continue. A new evaluation of the IRS' participation in District tax administration will be taken every subsequent five years, and both parties will retain the right to terminate the IRS participation in District tax administration.

Both during the drafting and upon enactment of the legislation to implement the Plan, the parties to the MOU will review the legislation and confer on whether any revisions to the MOU are necessary to ensure its consistency with the legislation.

SECTION V. DISTRICT CONDITIONS

The District government understands that it will be expected to undertake significant actions as part of the *National Capital Revitalization and Self-Government Improvement Plan* (the "Plan").

This section sets out the actions that the District government agrees to take as a condition of the Federal government actions under the legislation to carry out the Plan.

1. *Medicaid.* The District agrees to develop and implement plans satisfactory to the Secretary of Health and Human Services to accomplish each of the following:

1.1. To develop an effective system for the identification and collection of amounts owed by third parties for medical care and services furnished to individuals under the District's Medicaid plan.

1.2. To ensure the timely audit and settlement of cost reports of institutional providers (including hospitals, nursing facilities, and intermediate care facilities for the mentally retarded) under the District's Medicaid plan, including prompt elimination of the backlog of such audits and settlements.

1.3. To develop and implement, directly or under contract, a comprehensive health care management information system that will standardize data base development and management, and integrate health care delivery with a public health data system. Such a system shall at a minimum have the capacity to accomplish the following functions:

1.3.1. To assist with eligibility verification;

1.3.2. To create utilization and financial profiles of providers;

1.3.3. To identify services (including preventive services) received by program beneficiaries;

1.3.4. To monitor the claims processing and other Medicaid operations of the fiscal agent;

1.3.5. To monitor the quality of care provided under managed care contracts; and

1.3.6. To coordinate information management with respect to the District's Medicaid program and other public health programs and functions.

1.4. To develop a comprehensive behavioral managed health care system, which combines substance abuse and mental health grant programs. Development of such a plan shall include a pilot project for better evaluation of in-patient acute psychiatric patient admissions, and the purchase of a comprehensive, risk-based system for managed care of behavioral health which covers all eligible populations and services.

2. ***Pensions***. The District Government agrees: (see Appendix One for definitions)

2.1. <u>To establish a Replacement Plan for the current Retirement Program</u>

2.1.1. The Replacement Plan will cover all existing and new employees (except for judges) who are, or would be, covered by the Retirement Program, if the Retirement Program continued unchanged, and will be established by the date specified in legislation.

2.1.2. To the extent required by current law, the Replacement Plan will be established through collective bargaining.

2.1.3. After the Adoption Date, the Replacement Plan may not be amended in any manner that materially increases the cost of the Replacement Plan without provision of a mechanism for funding such increases, in accordance with Section 2.2.

2.2 <u>That the Replacement Plan will use appropriate funding methods and costs that do not exceed the sum available in the District of Columbia Budget and Financial Plan</u>.

2.2.1. The cost of any defined benefit plan will be determined in accordance with the measurement standards of Governmental Accounting Standards Board Statement No. 27 (GASB 27), with the following additional restrictions:

2.2.1.1. funding methods will be limited to *entry age, frozen entry age, or aggregate*; and

2.2.1.2. amortization of any unfunded actuarial liability is required over no more than 30 years on a *closed* basis.

2.2.2. The cost of any defined contribution plan is the employer contribution required under the provisions of the plan.

2.2.3. All costs of the Replacement Plan must be reflected in the D.C. Budget and Financial Plan in accordance with the standards described above.

2.2.4. All costs of the Replacement Plan must be paid in accordance with the D.C. Code 1981, Title 1, Chapter 7, subchapter III.

2.2.5. Contributions of all existing and new employees (except judges) will be paid into the Replacement Plan.

2.3. <u>To transfer copies of books and records of the Retirement Program and the Fund, including all necessary records of individual employees and to be financially responsible for errors and omissions</u>.

2.3.1. Copies of any books and records pertaining to the Retirement Program and the Fund required by the Secretary of the Treasury or the Trustee must be made available to the Secretary or Trustee within 30 days after the Secretary or Trustee requests them.

2.3.2. The District will reimburse the Trustee for all costs, including benefit payments, resulting from errors or omissions in the books and records pertaining to the Fund.

2.4. <u>To transfer assets from the Fund</u>

2.4.1. Any and all assets of the Fund required to be transferred to the Trustee shall be transferred on the Transfer Date in a form specified by the Trustee.

2.4.2. The District of Columbia Retirement Board will administer the retirement programs until the Trustee assumes these responsibilities. The District government will reimburse the Fund for any benefits paid out of the Fund between the Freeze Date and the transfer date that exceed payments that would have been the responsibility of the Federal government if the transfer had occurred simultaneously with the freeze.

2.4.3. A significant amount of assets will be left with the District government to fund the benefits of participants in the District's plans and to reduce the District's annual contribution.

3. ***Treasury Loans to Eliminate the Deficit.*** The District agrees that:

3.1. Any Treasury loan to eliminate the accumulated fund balance deficit would be for no more than 15 years, with an interest rate equal to the prevailing yield on outstanding Treasury marketable securities of comparable maturities plus 1/8 of one percent.

3.2. The combined amount of the Treasury loans to eliminate the accumulated fund balance deficit and to manage its liquidity position will not exceed the amount of $500 million, except for intra-year loans.

3.3. The Secretary of the Treasury may require early reimbursement if the District can obtain credit in the commercial market on reasonable terms for refinancing as determined by the Secretary.

3.4. Before any lending may occur, the District must provide a requisition for an advance of funds and a promissory note to reimburse the Treasury for the Advance, in forms satisfactory to the Secretary of the Treasury.

3.5. Before any lending may occur, the Treasury shall consider the impact of such lending on the District's obligations to District bond and note holders.

3.6. Before any lending may occur, the Secretary of the Treasury must receive certifications from the Financial Responsibility and Management Assistance Authority and the District of Columbia Inspector General that there is an approved Budget and Financial Plan in effect for the District for the Fiscal Year in which the requisition is made, that the District is in compliance with the Authority-approved Budget and Financial Plan, and that the borrowing and repayment of the loan is consistent with the Authority-approved Budget and Financial Plan.

3.7. Before any lending can occur, the Secretary of the Treasury must receive certifications from the District government and the Financial Responsibility and Management Assistance

Authority that the District is unable to obtain enough credit elsewhere to meet the District government's need for financing.

3.8. The Federal government will work with the District government to amend its general obligation debt limit provisions in order to allow implementation of the District's capital plan in an orderly and sustainable manner.

4. ***Criminal Justice.*** This subsection of the Memorandum of Understanding (MOU) between the Federal government and the District of Columbia government (D.C.) outlines the offer of the Federal government, conditioned wholly on appropriations and D.C.'s acceptance and satisfaction of all other conditions and predicates identified and described herein, to assist D.C. by assuming responsibility for certain traditionally State responsibilities and the conditions that D.C. must agree to and fulfill should it choose to accept that offer as it relates to criminal justice functions, including, but not limited to, certain defendant and offender services, corrections and the judiciary. The MOU sets forth the expectations and responsibilities relating to proposed changes and reforms in the D.C. criminal justice and judicial system and the procedures (including new statutory and regulatory provisions) the Federal government and D.C. will use to implement the MOU. In particular, the MOU is designed to:

4.i. provide a framework for changes to the D.C. sentencing system, including the abolition of parole, institution of determinate guideline sentencing and the enactment of the new mandatory minimum drug sentences, which are a prerequisite for the Federal government accepting responsibility for the incarceration of felons convicted of D.C. Code violations.

4.ii. ensure that such sentencing system is to be enacted within 24 months after funding has been provided, or the Federal government will not be required to obligate any funds appropriated for the purpose of incarcerating D.C. Code felons and will have no responsibility for housing such persons.

4.iii. ensure an appropriate transfer and transition of responsibility from D.C. to the Federal government for pretrial, public defender, parole, probation, and post-conviction supervision and services for adult D.C. Code defendants and offenders.

4.iv. ensure an appropriate transfer of responsibility from D.C. to the Federal government for the incarceration of sentenced felons convicted of D.C. Code violations, assuming sufficient resources are provided by Congress to develop necessary bed space to accommodate the resulting increase in the Federal Bureau of Prisons (BOP) population and D.C. Code violators are designated in the same manner as Federal inmates.

4.v. provide the basis for establishing an independent budgetary, financial oversight, and administrative support system for the D.C. courts.

4.vi. define the respective roles of the D.C. and Federal Governments in relation to lawsuits and resulting liability, as they may be affected by the reforms agreed to in this MOU.

4.vii. ensure the development by D.C. and the Federal Governments of transition plans

4.vii.a. (in consultation with the Federal and D.C. judiciaries) for transferring responsibility for pretrial, public defender, parole, probation, and post-conviction supervision and services for adult D.C. Code defendants and offenders over a transition period of one to three years from the enactment of the federal implementing legislation.

4.vii.b. for transferring responsibility for incarcerating sentenced felons convicted of D.C. code violations over a period of approximately three to five years.

4.vii.c. (in consultation with the D.C. judiciary) for transferring responsibility for funding the D.C. court system and related services, including plans relating to retirement benefits and other personnel matters.

4.vii.d. for transferring control of the property at Lorton, Virginia to the Federal Government.

4.1. <u>Administration of District of Columbia Pretrial, Parole, Probation, and Post-Conviction Offender Supervision, Housing, and Public Defender Services</u>

4.1.1. Federal Government Responsibilities

4.1.1.1. After consultation with the Mayor of D.C., representatives of the D.C. Council, the Chairman of the D.C. Financial Responsibility and Management Assistance Authority (Financial Authority), and members of the affected Federal and D.C. judiciaries, the Attorney General will select an Offender Supervision, Defender and Courts Services Trustee to:

a) assure the smooth transition and continued operations of D.C.'s Pretrial Services Agency and Public Defender Service;

b) implement an orderly shutdown of the D.C. Board of Parole in coordination with the U.S. Parole Commission and the Superior Court for the District of Columbia;

c) establish and operate a new D.C. Offender Supervision, Defender and Courts Services Agency; and

d) accomplish, without disruption of services, the transfer of the adult offender probation supervision functions of the D.C. Courts Social Services Division,

until the Federal government assumes responsibility for each of these functions.

4.1.1.2. During the transition period, under the general auspices of the Trustee, the D.C. Pretrial Services Agency will continue uninterrupted to provide services and support for both juvenile and adult D.C. Code and Federal defendants and offenders to the U.S. District Court for the District of Columbia, the U.S. Court of Appeals for the District of Columbia, the Superior Court for the District of Columbia, and the District of Columbia Court of Appeals. The Director of Pretrial Services may employ such personnel as shall be necessary pursuant to procedures and standards established by the Trustee to facilitate transition to Federal status.

4.1.1.3. Following the transition period, the D.C. Pretrial Services Agency and the D.C. Public Defender Service will be organizationally housed in a part of a new Federal D.C. Offender Supervision, Defender and Courts Services Agency.

4.1.1.4. The D.C. Board of Parole will be terminated after the Trustee establishes a transition agency with the capacity to provide adequate field supervision to adult D.C. offenders on parole, probation or supervised release, and the U.S. Parole Commission is capable of carrying out parole functions for D.C. Code felony offenders. Subject to appropriations, the D.C. Board of Parole's functions and jurisdiction *vis a vis* felon parolees will be assumed by the U.S. Parole Commission. Similarly, its functions and jurisdiction *vis a vis* misdemeanant parolees will be assumed by the D.C. court system. Substantive D.C. law will continue to apply to parole determinations for all D.C. Code offenders. The District of Columbia Superior Court Division of Social Services will continue to provide supervision to D.C. Code juvenile offenders and will assume responsibility for the supervision of misdemeanant parolees.

4.1.1.5. The Trustee will accept employment applications for new offender field supervision positions in the transition agency from persons who are currently employed by the District of Columbia Board of Parole or in offender supervision-related capacities by the District of Columbia Court System. Qualified, experienced personnel will be essential to an effective, timely transition and will receive priority consideration. Applications will be processed in accordance with procedures and standards established by the Trustee to facilitate transition to subsequent Federal law enforcement employment in the successor Offender Supervision, Defender, and Courts Services Agency. Positions will be advertised prior to hiring to assure notice to all interested D.C. agency personnel.

4.1.1.6. During the transition period, the Federal government will transfer funds for the Pretrial Services Agency, the Public Defender Service and the supervision of D.C. offenders to the Trustee. The head of any Federal department or agency may provide the services of any personnel on a reimbursable basis to the Trusteeship to assist in carrying out the Trustee's duties.

4.1.1.7. During the transition period, under the general auspices of the Trustee, the Public Defender Service will continue uninterrupted to provide services to D.C. Code defendants and the D.C. court system. The Director of the Public Defender Service may employ such personnel as shall be necessary pursuant to procedures and standards established by the Trustee to facilitate transition to Federal status.

4.1.1.8. During the transition period, the employees of and funds allocated to the Trustee and the agencies for which the Trustee is responsible shall not be counted against the personnel and budget ceilings imposed on D.C. by the Financial Authority or Congress.

4.1.1.9. The U.S. Marshals Service (USMS) will contract with D.C., at a mutually agreeable rate, to obtain space not needed by D.C. at D.C.'s Correctional Treatment Facility (CTF), to house persons in the custody of the USMS for whom the USMS requires bed space in the D.C. area.

4.1.1.10. Subject to appropriations, the Federal government will provide funds to support the D.C. Board of Parole functions during the one to three year transition period culminating in the termination of the D.C. Board of Parole.

4.1.2. District of Columbia Responsibilities

4.1.2.1. The District of Columbia will maintain responsibility for all D.C. Code juvenile offenders not prosecuted as adults.

4.1.2.2. The District of Columbia will have responsibility for housing and supervising persons charged with and/or convicted of misdemeanor violations in the Superior Court for the District of Columbia, both before and after sentencing.

4.1.2.3. The District of Columbia will continue to house persons charged with felonies under the D.C. Code and persons convicted of felonies under the D.C. Code but not yet sentenced, in the Superior Court for the District of Columbia. To the extent beds are available, D.C. will continue to house persons charged with felonies under the U.S. Code, and persons convicted of felonies under the U.S. Code but not yet sentenced in the U.S. District Court, and D.C. will continue to receive reimbursement, at a mutually negotiated rate, from the Federal government for the costs of housing such persons. "House" and "housing" include subsistence, transportation of persons to and from court appearances, revocation hearings, medical facilities, and the maintenance of necessary prisoner records.

4.1.2.4. The District of Columbia will continue to house persons sentenced by the Superior Court and detained pending a hearing for revocation of parole, probation, or supervised release, and will provide suitable facilities for such hearings. To the extent beds are available, D.C. will house persons sentenced by the U.S. District Court and detained pending a hearing for revocation of parole, probation, or supervised release, will provide suitable facilities for such hearings, and will continue to receive reimbursement by the Federal government at a mutually negotiated rate for the costs of housing such persons and for providing such facilities. "House" and "housing" include subsistence, transportation of persons to and from court appearances, revocation hearings, and medical facilities, and the maintenance of necessary prisoner records.

4.1.2.5. The Trustee will be an independent officer of the D.C. Government and can be removed by the Mayor only with the concurrence of the Attorney General. The Attorney General has authority to remove the Trustee only for misfeasance or malfeasance in office.

4.1.2.6. The Trustee will propose funding requests for offender supervision and services for inclusion in the President's budget for each Fiscal Year of the transition.

4.1.2.7. The Trustee will allocate funds for offender supervision (including adult felon parole and probation) in D.C., including funds for short term improvements, equipment contracts, and salary increases necessary to retain key personnel, maintain and enhance current levels of service, including offender drug testing, and provide for the safety and security of the community.

4.1.2.8. Upon receipt of funds identified by Congress or other entities for Pretrial Services, the Trustee will immediately transfer such funds to the Pretrial Services Agency.

4.1.2.9. Upon receipt of funds identified by Congress or other entities for the D.C. Public Defender Service, the Trustee will immediately transfer such funds to the Public Defender Service.

4.1.2.10. Effectively immediately and in view of the responsibility to be undertaken by the U.S. Parole Commission to carry out the functions of the D.C. Board of Parole pursuant to the parole laws and regulations of D.C., the D.C. Council will not enact legislation that changes or modifies parole laws and regulations as applicable to felony offenders without the concurrence of the Attorney General. D.C. will immediately take steps to modify parole as applicable to misdemeanants to provide for D.C. court supervision of D.C. misdemeanant parolees and the elimination of the D.C. Board of Parole.

4.1.2.11. It is expected that the transition period for these offender, defender and court services will end no sooner than one year but not later than three years after the enactment of the related legislation.

4.1.2.12. The D.C. Corporation Counsel will provide representation for the Trustee and Trustee supervised agencies. (see litigation and liability section)

4.2. Administration of District of Columbia and Federal Prisons

4.2.1. Federal Government Responsibilities

4.2.1.1. The Federal government will take administrative control of the nine parcels of land, collectively located at or in the vicinity of Lorton, Virginia ("the Lorton property"), and other appropriate sites. After the BOP's capacity has been increased through renovation of existing facilities and new construction at the corrections complex in Lorton and other locations selected by BOP, BOP will house felons who were convicted of D.C. Code violations and sentenced to terms of imprisonment. (A recently completed Congressionally mandated study of the D.C. Department of Corrections revealed that most of the institutions at Lorton have exceeded their useful lifespan and need major renovations or demolition.)

4.2.1.2. BOP will conduct a thorough preliminary assessment of the Lorton property to determine its environmental condition, including a study of the contamination on the property and an estimation of the costs associated with bringing the property into compliance with environmental and other applicable regulations. Based on preliminary information gathered pursuant to a review of the environmental conditions of a portion of the Lorton property, BOP could begin planning for renovation and construction immediately; actual physical renovations would not begin until Fiscal Year 1998. The estimated date for the completion of the preliminary environmental assessment process is March 21, 1998.

4.2.1.3. BOP will oversee the operation of community corrections centers in D.C. as necessary to provide an appropriate transition for inmates who are nearing release from Federal prisons, including those convicted of D.C. Code violations. BOP intends to use existing community corrections centers in D.C. to the extent practicable and will work with D.C. officials to identify prospective sites, as needed to establish new community corrections facilities.

4.2.1.4. D.C. Code offenders will be housed together with Federal offenders in facilities operated by BOP in Lorton, Virginia and elsewhere. Every effort will be made to house D.C. felons at facilities as close to D.C. as permitted by inmate program and security needs and BOP population management requirements. D.C. felons will be designated in the same manner as Federal inmates, and ordinarily initially assigned to institutions located within a 500-mile radius of their release residence. BOP anticipates that many of the initial designations for D.C. offenders will be within a significantly closer radius. BOP also will work with D.C. officials to identify sites for possible Federal correctional facility construction within D.C.

4.2.1.5. During the transition period, based upon assurances from D.C. that felons convicted of violating the D.C. Code will, in the future, receive sentences similar to those received by comparable offenders convicted of comparable Federal offenses, BOP will house those sentenced D.C. felons in the custody of the D.C. Department of Corrections as the Director of the BOP deems appropriate in accordance with available capacity. If such a new structure for sentencing under the D.C. Code is in place as of October 1, 2001, BOP will accept D.C. felons sentenced under the new sentencing structure in accordance with the capacity of BOP. By October 1, 2002, and assuming fulfillment of all requisite conditions, BOP will have assumed responsibility for incarcerating all sentenced D.C. felons.

4.2.1.6. BOP will accept employment applications from persons currently employed by the D.C. Department of Corrections for BOP vacancies and will make hiring selections in accordance with existing Federal procedures and standards. Qualified, experienced personnel will receive priority consideration. Positions for new BOP facilities will be advertised prior to hiring to assure notice to all interested D.C. agency personnel.

4.2.1.7. After consultation with the Mayor, representatives of the D.C. Council, the Chair of the Financial Authority, members of the judiciary and others, the Attorney General will select a Corrections Trustee to oversee expenditures of the D.C. Department of Corrections relating to sentenced, incarcerated felons, until BOP assumes responsibility for all incarcerated sentenced D.C. felons.

4.2.1.8. To the extent authorized by law, the Federal government will provide funds for the incarceration of sentenced D.C. felons through the Trustee to the D.C. Department of Corrections. The head of any Federal department or agency may provide on a reimbursable basis the services of any personnel to the Trustee to assist in carrying out the Trustee's duties.

4.2.1.9. Of the Federal funds received by the Trustee, the Trustee will reimburse BOP for those funds identified by Congress to be used for the construction of new facilities and the major renovation of existing facilities. BOP will be responsible and accountable for determining how these funds will be used, including the type, security level, and location of new facilities.

4.2.1.10. During the transition period, the employees of and appropriations allocated to the Trustee and the agencies for which the Trustee is responsible shall not be scored or counted against the personnel and budget ceilings imposed on D.C. by the Financial Authority or Congress.

4.2.2. District of Columbia Responsibilities

4.2.2.1. Offenders convicted of D.C. Code violations will be sentenced pursuant to a new D.C. sentencing system, described below. BOP shall not be required to obligate any funds appropriated for the absorption of D.C. Code felons into the Federal prison system and will have no responsibility to house any persons convicted of felony offenses, if the new sentencing system is not enacted within 24 months of the authorizing legislation's enactment.

4.2.2.2. D.C. will continue to house felons sentenced to terms of imprisonment by the Superior Court for the District of Columbia until such persons have been designated by BOP. To the extent beds are available, D.C. will continue to house felons sentenced to terms of imprisonment by the U.S. District Court until such persons have been designated by BOP and will continue to receive reimbursement by the Federal Government, at a mutually negotiated rate, for costs of housing such persons sentenced by the U.S. District Court.

4.2.2.3. The Trustee will be an independent officer of the D.C. government and can be removed by the Mayor only with the concurrence of the Attorney General. The Attorney General has authority to remove the Trustee only for misfeasance or malfeasance in office.

4.2.2.4. The Trustee will propose funding requests for the incarceration of sentenced D.C. felons, for inclusion in the budget submitted by the President to Congress for each Fiscal Year of the transition.

4.2.2.5. The Trustee will allocate funds to the D.C. Department of Corrections, including such sums as may be appropriated for short term improvements that are necessary for the safety and security of staff, inmates, and the community.

4.2.2.6. The D.C. Department of Corrections will implement the short term improvements in physical security identified in the "District of Columbia Department of Corrections Short-Term Improvements Plan (September, 1996)."

4.2.2.7. Upon receipt of Federal funds identified by Congress for constructing new prisons and making major renovations to existing facilities for the incarceration of D.C. felons, the Trustee will immediately reimburse BOP for such funds.

4.2.2.8. The D.C. Corporation Counsel will provide representation for the Trustee and Trustee supervised agencies. (see litigation and liability section)

4.2.2.9. During the transition, D.C. will transfer custody and control of the property at Lorton, Virginia to the Federal Government, though the D.C. Department of Corrections may continue to house D.C. felons at facilities located at Lorton until such time as BOP absorbs such offenders into the Federal prison system.

4.3. Sentencing. The District of Columbia understands and agrees that the D.C. sentencing system will be changed pursuant to proposed legislation in the following manner:

4.3.1. The D.C. Code will be amended to abolish parole for all persons convicted of D.C. felony offenses committed on or after three years from the enactment of the Federal authorizing legislation.

4.3.2. The D.C. Code will be amended so that good time calculations for all persons convicted of D.C. felony offenses committed on or after three years from the enactment of the Federal authorizing legislation will be made according to the Federal requirements.

4.3.3. Congress will establish a new D.C. Board of Criminal Sentences (the Board) as an independent body within the D.C. Government. All persons convicted of D.C. felonies committed on or after three years from the enactment of the Act will be sentenced according to a determinate sentencing system promulgated by the Board and transmitted by the Board to the D.C. Council no later than 18 months after enactment of the Federal authorizing legislation.

4.3.4. The Board will develop a sentencing system which shall include binding guidelines and may include such amendments or repeals of provisions in the D.C. Code relating to the maximum and minimum prison terms as are necessary to accomplish the purposes of the Act. Ninety days after the Board promulgates and transmits the sentencing system to the D.C. Council, the sentencing system, its guidelines, amendments and repeals will become effective unless disapproved in its entirety by an Act of Council.

4.3.5. The promulgated sentencing system will supersede any inconsistent provision of the D.C. Code.

4.3.6. Provisions of the D.C. Code that do not conform with the new sentencing system will be repealed or amended to conform with the new sentencing system.

4.3.7. D.C. Code Title 33, Section 541 will be amended to adopt certain mandatory penalties necessary to further the Superior Court of the District of Columbia's Drug Intervention Program and effective local law enforcement. The new sentencing system will incorporate these mandatory penalties, thereby excluding local narcotics offenses from the mandate that sentences be similar to those that would be imposed upon comparable offenders in the Federal system.

4.3.8. The Board will not have the authority to provide for capital punishment under any law applicable exclusively in D.C.

4.3.9. The Board will have seven voting members. All the members of the Board shall have knowledge and responsibilities with respect to criminal justice matters. The Attorney General (or the Attorney General's designee) will chair the Board. The other members will include two judges of the Superior Court for the District of Columbia and one representative each of the following entities: the D.C. Council, the Executive Branch of the D.C. Government, the D.C. Public Defender Service, and the U.S. Attorney for the District of Columbia. One representative each of the D.C. Corporation Counsel and BOP will serve as non-voting, ex officio members.

4.3.10. An affirmative vote of at least six Board members will be necessary to promulgate the sentencing system.

4.3.11. In developing the sentencing system, the Board will hold two or more public hearings, review other sentencing guideline system models, consult with sentencing reform experts, and solicit written comments from the public.

4.3.12. If the Board fails to promulgate a sentencing system within 18 months, the Board will terminate, and the Attorney General will develop a sentencing system to be transmitted to the D.C. Council for approval. Ninety days after the Attorney General transmits the sentencing system to the D.C. Council, the sentencing system, its guidelines, amendments, and repeals will become effective, unless an Act of the Council disapproves the system in its entirety.

4.3.13. The Board will have the mandate to ensure that the sentencing system it establishes, among other things:

4.3.13.1. will result in sentences for those convicted of D.C. felony offenses similar to those that would be imposed upon comparable offenders convicted of comparable offenses in the Federal system;

4.3.13.2. will result in sentences that reflect the seriousness of the offense and provide for just punishment, afford adequate deterrence to potential future criminal conduct of the offender and others, and provide the defendant with needed educational or vocational training, medical care, and other correctional treatment;

4.3.13.3. will provide certainty and fairness in meeting the purposes of sentencing, avoiding unwarranted sentencing disparities among similar defendants, while maintaining sufficient flexibility to permit individualized sentences;

4.3.13.4. will take into account the high volume of sentencing proceedings in the D.C. Superior Court as bearing upon the degree of complexity of the sentencing system; and

4.3.13.5. will ensure that the system is neutral as to the race, sex, marital status, ethnic origin, religious affiliation, national origin, creed, socioeconomic status, and sexual orientation of offenders, if not related to the commission of the offense.

4.3.14. As part of the sentencing system, the Board will develop binding guidelines for use in determining the sentence to be imposed upon convicted felons. The guidelines will specify:

4.3.14.1. when to impose a sentence of probation, a fine, or a term of imprisonment and the appropriate amount or length, thereof, as well as intermediate sanctions;

4.3.14.2. when to impose a term of supervised release following imprisonment, and the appropriate length, thereof; and

4.3.14.3. whether multiple sentences to terms of imprisonment should run concurrently or consecutively.

4.3.15. Ninety days after promulgation of the sentencing system, the Board shall terminate. There will be established a successor, Federally-funded agency. The successor agency shall be available to advise the Council regarding sentencing-related matters but will have no powers to revise the D.C. Code. The successor agency will recommend to the Council such changes to the D.C. Code as may be necessary to further the purpose of the Act. The D.C. Council will continue to have authority to enact D.C. Code revisions independent of the recommendations of the successor agency. The successor agency also may recommend to the D.C. Council amendments to the D.C. sentencing guidelines as necessary to achieve the purposes of the Act. Such amendments shall articulate sentencing adjustments or new guidelines subject to maximum sentences or ranges established by the D.C. Council in D.C. Code. Guideline amendments that pertain to established D.C. Code provisions will take effect unless disapproved by an Act of the Council that is in turn affirmed by the Congress. Guideline provisions related to proposed changes in the D.C. Code will only take effect under this procedure if the Code change is first adopted by the Council.

4.3.16. The Superior Court for the District of Columbia, D.C. Department of Corrections, and any other agency will submit information about convicted felons as required by the Board and the U.S. Department of Justice. This would permit an assessment of the extent to which sentences imposed by the Superior Court of the District of Columbia are similar to those imposed for comparable offenders in the Federal system. The results of this assessment would be used by the Board in developing the new sentencing system for D.C.

4.3.17. Four years after the enactment of the new sentencing system, there will be an evaluation to determine the extent to which the sentencing system has succeeded in accomplishing the goals set forth in the Act.

4.4. Liability and Litigation Responsibility and Authority

4.4.1. Federal Government Responsibilities

4.4.1.1. The Federal government will be responsible for the defense of any claim arising from any alleged act or failure to act on the part of the United States, its agencies and personnel, in connection with pretrial, defender, offender supervision, sentencing reform, corrections, probation and parole services, and for any resulting liability, after responsibility for these services has passed to the Federal government at the end of the transition period.

4.4.1.2. The Federal Government's assumption of responsibility for the defense of claims, and any resulting liability, set forth in paragraph 4.4.1.1. above shall include claims arising from any alleged act or failure to act of BOP, its agencies and personnel in connection with the demolition, repair, renovation, or construction of any building, structure, or other improvement of any kind at the Lorton, Virginia property.

4.4.1.3. At the discretion of the Attorney General, the Attorney General may direct any litigation involving the Trustees appointed pursuant to sections 4.1.1.1. and 4.2.1.7. above, pretrial services, offender supervision services, or sentencing reform during the transitional period, and may provide litigation services for the Trustees and the agencies responsible for pretrial services, offender supervision services, and sentencing reform during the transitional period in lieu of representation by D.C. The District shall as it deems appropriate petition the Attorney General for reimbursement for litigation costs and liability arising from actions of the Trustees.

4.4.2. District of Columbia Responsibilities and Liability

4.4.2.1. D.C. will be responsible for the defense of any claim that has arisen or may arise from any act or alleged failure to act by D.C., its agencies or personnel, in connection with D.C.'s pretrial, defender, offender supervision, sentencing reform, corrections, or probation and parole services, and for any resulting liability. D.C. will remain responsible for defending and bearing any liability resulting from any such claim even if responsibility for the pertinent service has passed to the Federal Government. D.C. will also be responsible for the defense of any claim arising from any activity of D.C., its agencies or personnel as a result of any action agreed to in this MOU, and for any resulting liability.

4.4.2.2. D.C. is, and will remain, responsible for the defense of any and all claims described in paragraph 4.4.2.1. above, including the defense of claims arising from any alleged act or failure to act of the Trustees (see sections 4.1.1.1. and 4.1.2.7.). Except as otherwise provided in this memorandum, the D.C. Corporation Counsel will provide litigation services as required to carry out this responsibility.

4.4.2.3. Notwithstanding paragraph 4.4.2.2. above, the Trustees and the agencies responsible for pretrial, defender, offender supervision services, and sentencing reform may choose not to utilize the Corporation Counsel and to engage other litigation services.

4.4.2.4. D.C. shall as it deems appropriate petition the Attorney General for reimbursement for litigation and liability costs arising from actions of the Trustees. Such a petition should include if appropriate documentation that such litigation resulted from actions of the Trustees and/or the extent to which D.C.'s liability may have been enlarged by actions of the Trustees.

4.5. <u>District of Columbia Courts</u>

4.5.1. The D.C. Code and other laws will be amended to terminate budgetary control of the D.C. Government in the finances and administration of the D.C. court system, including the Superior Court of the District of Columbia and the District of Columbia Court of Appeals.

4.5.2. The Joint Committee on Judicial Administration of the D.C. courts will prepare and submit the budget for the D.C. court system, in accordance with section 1105(b) of Title 31 of the U.S.C. Prior to submission to Congress, the budget for the D.C. court system shall be presented in a timely manner to the Mayor and the Council of the District of Columbia in order that they may develop recommendations on the budget to the Office of Management and Budget and the Congress. The budgetary requests of the D.C. courts system will not be subject to revision by the D.C. government or the Executive Branch of the Federal government.

4.5.3. The D.C. court system, through its Executive Office, will be authorized to contract with D.C. agencies, Federal agencies, and other public and private entities, for necessary supplies, equipment, and services.

4.5.4. Expenditures of the D.C. court system will be paid out of funds appropriated for those courts and credited to a Treasury account established for that purpose. Funds received by the D.C. court system will not be part of the funds or budget of D.C.

4.5.5. District involvement in the selection and review of D.C. judges will not be diminished.

5. ***Economic Development.*** The District government will:

5.1. Implement timely and efficient zoning, permitting, and licensing processes by the end of FY1998.

5.2. Offer personnel resources and fully cooperate with the Economic Development Corporation (EDC) in its review and evaluation of existing economic development plans, in the development of the EDC's strategic plan, and in subsequent implementation of the plan.

5.3. Give expedited consideration to the EDC's request for land transfers (including transfers from the Redevelopment Land Agency), zoning adjustments (including variances and special exceptions), and building and other permits and licenses for projects and activities as requested by the EDC.

5.4. Support legislation that:

5.4.1. allocates to the EDC 50 percent of the applicable State ceiling on the authority of the District government to issue private activity bonds in each calendar year after 1997 under section 146 of the Internal Revenue Code, and that any portion of the ceiling allocated to the EDC, but not identified within the calendar year allocated for specific projects by the EDC, reverts back to the District;

5.4.2. authorizes the EDC to acquire property in furtherance of its statutory objectives through its limited powers of eminent domain in the name of the District of Columbia; and

5.4.3. provides that all powers, rights, assets, duties, obligations, and liabilities of the EDC will transfer to the District government upon the EDC's dissolution.

6. Infrastructure.

6.1. Secretary of Transportation Responsibilities. The Secretary of Transportation (hereinafter in this section referred to as the Secretary) agrees that:

6.1.1. Beginning on October 1, 1997, the Secretary shall assume responsibility for the funding and oversight of certain National Highway System (NHS) capital projects that have been selected by the District of Columbia in accordance with 6.1.2 and shall assume responsibilities for funding operations and maintenance costs related to the NHS within the District of Columbia (exclusive of police authority and exclusive of funding those NHS routes currently under the jurisdiction of the National Park Service) with funds made available under the National Capital Revitalization and Self-Government Improvement Act of 1997, to be referred to henceforth in this section as the "Act."

6.1.2. The Secretary shall advance NHS projects through the Federal Highway Administration (FHWA) in consultation with the District of Columbia. Projects will be selected by the District of Columbia in accordance with the requirements of Title 23, United States Code, and in particular, the planning requirements of 23 U.S.C. 134 and 135. The Secretary shall fully exercise his current authorities under Title 23 to oversee, approve, and modify these plans and project selections. In reviewing the plans, the Secretary shall consider the District of Columbia Needs Assessment and Strategic Action and Investment Program currently being developed by the FHWA in cooperation with the District of Columbia Department of Public Works. The FHWA shall provide the District of Columbia with technical assistance to improve the planning process.

6.1.3. The Secretary, through the FHWA and in consultation with the District of Columbia, shall award and manage the contracts necessary to advance the NHS projects selected in accordance with sections 6.1.2 and 6.1.4.

6.1.4. Beginning on October 1, 1997, the District of Columbia shall continue to advance those NHS projects approved prior to that date that are not under construction or under a contract for such construction by October 1, 1997, unless the FHWA and the District of Columbia agree to vest responsibility for such project advancement with the FHWA. Such projects that are transferred under this section shall also be governed by the requirements contained in section 6.2.5.

6.1.5. The Secretary, in response to a request by the District of Columbia, may transfer National Capital Infrastructure Funds authorized under the Act and available for capital expenditures and NHS apportioned funds authorized to be transferred under the Act to other Federal-aid highway funding categories, consistent with Title 23, United States Code provisions governing the transfer of NHS funds. In addition, the Secretary must certify that performance measures related to the condition of and congestion on the NHS and any other performance measures, including safety, that may be established by the Secretary of Transportation are met before such transfers may occur.

6.1.6. Funds made available to the Secretary for obligation on NHS projects under this Act shall be administered by FHWA. From time to time as work progresses on a project, payments shall be made by FHWA for the costs of construction, operations, maintenance, and other eligible activities under this Act in accordance with applicable procedures under Title 23, United States Code, or as established by the Secretary.

6.1.7. For fiscal year 1998, the Administration will propose that $108 million be authorized to be appropriated to the National Capital Infrastructure Fund (NCIF) which shall be used for construction, reconstruction, and rehabilitation of the NHS in accordance with 23 U.S.C. 103 (i), including transit capital projects eligible for funding under section 103 (i).

6.1.8. In each of the fiscal years 1998 through 2003, the Secretary shall retain and deposit into the NCIF:

(a) 100 percent of the District of Columbia's apportionment for the NHS;

(b) 100 percent of the apportionments for Interstate Maintenance; and

(c) 75 percent of the apportionment for the Highway Bridge and Replacement for use consistent with 23 U.S.C. 103 (i).

6.1.9. In each of the fiscal years 1998 through 2003, the Administration will propose that $17 million be authorized to be appropriated to fund operations and maintenance of the NHS within the District of Columbia, exclusive of those NHS routes under the jurisdiction and control of the National Park Service.

6.1.10. The Secretary shall be responsible for funding those operations and maintenance activities and costs to the extent funds are appropriated in accordance with 6.1.9, excluding police services (except for those construction zone, incident management and other police activities that are eligible for Federal-aid highway reimbursement under Title 23, United States Code) associated with the management and operations of NHS highways including the following activities: routine maintenance of roadways and rights-of-way, road repair, snow removal, lighting, signage, and those utilities necessary for the NHS operations. Operating expenses for any transit activities shall not be eligible for funding under this Act.

6.1.11. The Secretary shall continue to provide oversight and technical assistance to the District of Columbia for all Federal-aid projects that remain the responsibility of the District of Columbia.

6.1.12. The Secretary, through the FHWA, will enter into any agreements or contracts with any entity to advance, construct, reconstruct, rehabilitate, repair, maintain, or operate the NHS control of the National Park Service, consistent with 23 U.S.C. 103 (I).

6.1.13. The Secretary shall encourage the hiring of local labor by contractors awarded contracts including welfare to work labor, on NHS projects financed under this Act to the maximum extent possible and consistent with federal law.

6.1.14. Unless reauthorized by Congress on, or prior to, September 30, 2003, the Secretary of Transportation's new responsibilities under this Act, other than the oversight of projects for which funding has been previously received through this Act, would cease and no new deposits of Federal funds would be made into the National Capital Infrastructure Fund after September 30, 2003.

6.1.15. The Secretary shall provide the District of Columbia with the technical assistance necessary to reassume its NHS responsibilities by September 30, 2003. The April 1996 findings of FHWA's review of the organizational capacity of the District of Columbia's Department of Public Works shall guide the assistance.

6.2. *District of Columbia Responsibilities*. The District of Columbia agrees that:

6.2.1. The District of Columbia shall retain its current responsibilities under Title 23, United States Code, for NHS project selection.

6.2.2. The District of Columbia shall continue to be responsible for providing police services on NHS highways (including, but not limited to civil police functions, crime prevention, investigations including traffic and accident investigation, and emergency traffic direction). The District shall continue to own the right-of-way of NHS highways that are located within the District of Columbia.

6.2.3. The District of Columbia will continue to be responsible for all utilities and utility work that are not necessary for operation of the NHS even if such utilities are located within the right-of-way of the NHS.

6.2.4. The District of Columbia shall continue to be responsible for non-NHS projects funded with Federal-aid highway funds. Surface Transportation Program (STP) funds will be made available to the District of Columbia for use on local streets, highways, and roadways (except alleys). This authority does not relieve the District of Columbia of the responsibility for the non-Federal matching share for STP funds. The use of other Federal-aid highway apportioned funds by the District of Columbia, other than as provided herein, also requires a non-Federal matching share.

6.2.5. Beginning on October 1, 1997, the District of Columbia is relieved of the responsibility to provide the non-Federal match for NHS projects that are funded by the Secretary with monies made available through the NCIF for NHS projects under this Act. The relief from providing the non-Federal match shall not include those projects that were approved by FHWA prior to October 1, 1997 for which Federal-aid highway funds have been obligated. The District of Columbia is responsible for providing the non-Federal match, the Federal-aid funds, and any obligation authority for any such projects transferred to the Secretary for project administration, oversight, or contracting.

6.2.6. The District of Columbia shall continue to be responsible for any liability incurred on the basis of the activities of the District of Columbia, its agencies, or personnel as a result of any acts or omissions in carrying out this Act. The United States, its agencies, and personnel will not incur any liability for any such acts or omissions.

6.2.7. The District of Columbia shall cooperate with the FHWA in its technical assistance efforts in order to assure that the District of Columbia can reassume its NHS responsibilities by September 30, 2003. The goal of the effort shall be to satisfy the April 1996 findings of FHWA's review of the organizational capacity of the District of Columbia's Department of Public Works.

7. ***Personal Income Tax Administration*** The District agrees that:

7.1. The District and the Executive Branch will agree to develop a mutually acceptable legislative proposal consistent with the intent of Section IV.7.

Appendix One

DEFINITIONS FOR THE PENSIONS SECTION OF THE MOU

"Adoption Date" means the date the Replacement Plan is adopted by the District government or, if later, one year from the date of enactment of legislation, or such later time as the Secretary of the Treasury may prescribe.

"District Government" means, as appropriate, the "District government" as defined by section 305(5) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995 (Pub. L 104-8) or the District of Columbia Retirement Board as defined in section 102(5) of the Reform Act.

"Freeze Date" means the date of introduction of the Revitalization Act.

"Fund" means the District of Columbia Police Officers and Fire Fighters' Retirement Fund, the District of Columbia Teachers' Retirement Fund, and the District of Columbia Judges' Retirement Fund as defined in section 102(10) of the Reform Act.

"Reform Act" means the District of Columbia Retirement Reform Act (Pub. L. 96-122).

"Replacement Plan" means the plan or plans described under Title I of the Revitalization Act.

"Retirement Program" means any of the retirement programs as described in section 102(7) of the Reform Act as in effect on the day before the freeze date.

"Revitalization Act" means the "District of Columbia Revitalization Act of 1997."

"Secretary" means the Secretary of the Treasury or the Secretary's designee.

"Transfer Date" means the date on which the assets and obligations of the Fund are transferred to the Trust.

"Trust" means the District of Columbia Retirement Trust created under Title I of the Revitalization Act.

"Trustee" means the firm designated by the Secretary of the Treasury under Title I of the Revitalization Act.

ENROLLED ORIGINAL

A RESOLUTION

12-116

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

May 9, 1997

To authorize, on an emergency basis, Acting Chairman Cropp and Councilmember Jarvis to sign, on behalf of the Council, the Memorandum of Understanding on the President's National Capital Revitalization and Self-Government Improvement Plan ("MOU"), with the caveat that the Council remains opposed to any elimination or reduction of the annual Federal payment to the District, and that other major concerns with certain terms and conditions of the MOU shall be transmitted to the signatories of the MOU and to the Congress.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Memorandum of Understanding on the President's National Capital Revitalization and Self-Government Improvement Plan Emergency Resolution of 1997".

Sec. 2. Except for the concerns set forth in section 3 of this resolution, the Council concurs with the draft Memorandum of Understanding on the President's National Capital Revitalization and Self-Government Improvement Plan ("MOU") dated May 8, 1997. Acting Chairman Linda W. Cropp and Councilmember Charlene Drew Jarvis are each authorized to sign the MOU on behalf of the Council, with the caveat that this resolution shall be referenced in the MOU and transmitted to the other signatories of the MOU and to the Congress.

Sec. 3. It is the sense of the Council that:

(1) The President's National Capital Revitalization and Self-Government Improvement Plan ("President's Proposal") provides a historic opportunity to address the city's financial crisis in a way that begins to address fundamental inequities which have long existed in the relationship between the District of Columbia and the Federal government.

(2) Although the District government under the 1973 Home Rule Act has attempted to perform state functions and to provide state-like services, the District has done so without the revenue base of a state, which has been constrained severely and primarily by the

Federal presence or by Congressionally imposed restrictions.

(3) Recognizing the unique status of the District as the National Capital and the financial constraints uniquely applicable to the District, the President has proposed that the Federal government increase its budgetary responsibility for the following very costly District operations which are either state-like functions which virtually no other city in the nation performs, or which are burdens that the Federal government itself created and unfairly transferred to the District government as part of the home rule deal:

(A) The Council strongly supports an increase in the Federal share of Medicaid costs from the current level of 50% to not less than 70% (section V.1 of the MOU), because most cities in the nation do not pay anything directly for Medicaid costs. Because no city currently pays more than 25%, the Council urges consideration of an increased Federal share of Medicaid costs to not less than 75%. The same rationale justifies a similar increase in the Federal share of the Temporary Assistance for Needy Families program in the District. Further, consideration should be given to providing Federal budgetary support for Saint Elizabeths Hospital, because this inpatient mental health facility, which was funded and operated by the Federal government until the last decade, fits into the category of governmental functions that are usually funded and operated by states rather than cities throughout the nation.

(B) The Council also strongly supports Federal reassumption of the unfunded liability that the Federal government alone created in the pension plans for District police officers, firefighters, teachers, and judges (section V.2 of the MOU), and appreciates the MOU's recognition that a significant amount of assets in the pension fund must be left with the District of Columbia to fund the benefits of participants in the District's pension plans and to reduce the District's annual contribution.

(C) The Council supports U.S. Treasury loans of up to $500 million to eliminate the District's accumulated deficit (section V.3 of the MOU); provided, that the existence of any outstanding debt for the Treasury financing obtained pursuant to this proposal shall not by itself cause the existence of a control period under the District of Columbia Financial Responsibility and Management Assistance Act of 1995 (Public Law 104-8). The Council appreciates the MOU's recognition that such financing must not jeopardize the District's ability to receive additional Treasury financing to maintain sufficient intra-year and inter-year liquidity, and that such financing will require an amendment to the Home Rule Act's debt limit to enable the District to obtain additional financing for its future capital needs.

(D)(i) The Council supports the transfer of the budgetary and management responsibility for incarcerating District felons from the District government to the Federal government (section V.4 of the MOU), and the Council supports the transfer of the budgetary responsibility for the District's judiciary to the Federal government (section V.4 of the MOU) and appreciates the MOU's recognition that the courts will remain self-managed and that District involvement in the selection and review of D.C. judges will not be diminished.

However, the Council strongly opposes that, as a prerequisite to such transfers, the Council must endorse significant changes to the District's sentencing system regarding felonies, including the abolition of parole, the establishment of determinate guideline sentencing, and the enactment of new mandatory minimum drug sentences.

(ii) The Council is opposed to this prerequisite, which is set forth in section V.4 of the MOU, because requiring such changes to the District's sentencing system substantially infringes upon the authority of the legislative and judicial branches of the District government and thereby runs counter to the stated purpose of the MOU to "strengthen Home Rule" and "respect the Home Rule Charter", and because requiring changes to the sentencing system is not necessary to provide Federal budgetary and management support to the District's criminal justice system.

(iii) As an alternative to the conditions set forth in the MOU for Federal budgetary and management assistance to the District's criminal justice system, the Council generally supports the Federal establishment of an independent corrections authority, along the lines set forth in the document entitled "Proposal for the Establishment of the District of Columbia Corrections Authority" dated April 11, 1997, which is based on a long-term study and recommendations by the National Council on Crime and Delinquency dated January 31, 1997. This alternative criminal justice proposal would not require the District government to relinquish any of its authority to amend the criminal code nor require the implementation in the District of determinate sentencing, mandatory minimum sentencing, or the abolition of parole. The Council at this time opposes the component of this alternative criminal justice proposal that would transfer responsibility for detained and committed juvenile offenders to a Federal independent corrections authority.

(E) The Council supports the establishment of an economic development corporation ("EDC") (section V.5 of the MOU), which would be capitalized initially with substantial Federal funds and Federal real property assets, and which would have broad authority to spur private development, including the use of substantial Federal tax credits both for hiring District residents and for business loans and investments, the use of tax-exempt private activity and revenue bonds, and limited authority to acquire property by eminent domain in furtherance of its statutory objectives. The Council also strongly supports the MOU's endorsement of amendments to the Home Rule Act to provide the District government with the same legal capacity to finance economic development projects as other jurisdictions. The Council requests increased District representation on the board of directors of the EDC. Also, recognizing the substantial economic benefit to the District and the region of a new and larger convention center in the nation's capital, and recognizing that most of the nation's convention centers have needed external support to develop these facilities, the Council requests Federal assistance to complete the financing of the planned new convention center.

(F) The Council supports the establishment of a National Capital

Infrastructure Fund with substantial Federal seed money in Fiscal Year 1998 (section V.6 of the MOU), which should be available not only for National Highway System projects as proposed by the MOU, but also for other approved Federal aid highway and bridge projects and for local roads in the District. The Council requests that the District be relieved of providing the non-Federal match for all National Highway System and other approved Federal highway and bridge projects. The Council also requests that the District be allowed to retain Federal interstate allocations, previously designated for projects that the District has chosen not to proceed to construct, for other local road maintenance and construction, or for local mass transit purposes in the District. The Council further requests that credit enhancement, project loans, and other advantages of the state infrastructure banks that the Federal Highway Administration is helping states to develop be available to the District out of the Fund, for projects that meet criteria to be jointly developed by the District of Columbia Department of Public Works and the Federal Highway Administration.

(G) The Council supports assistance by the Internal Revenue Service ("IRS") with the local enforcement of and compliance with the District's individual income taxes (section V.7 of the MOU), if requested by the District and at no cost to the District, pursuant to legislation to be developed which is mutually acceptable to both the District government and the Federal government.

(4) The most fundamental inequity that continues to exist in the relationship between the Federal and District governments is not addressed by the President's Proposal, and that is the lack of voting representation of District of Columbia residents in the United States House of Representatives and the United States Senate. This denial of the most basic of democratic rights of District residents will be exacerbated if the Federal government assumes management of certain District government functions, because the District will not be able to participate fully in decisions made at the Congressional level with regard to these functions.

(5) In addition to addressing inequities in the relationship between the District and Federal governments and in the relationship between the District and its surrounding jurisdictions, the primary structural goal of the Council is to increase the accountability of the District government and reinforce the Council's oversight responsibility for improving the delivery of essential and basic public services, for restoring the District's financial solvency, and for revitalizing the local economy. To this end, the Council, working together with the Mayor, the Chief Financial Officer, and the District of Columbia Financial Responsibility and Management Assistance Authority, assumed a leadership role in the effort to enact a balanced budget for Fiscal Year 1998 (section III of the MOU) , which is one year earlier than required by the Congressionally approved financial plan for the District (Public Law 104-8).

(6) (A) Although not referenced within the MOU, the most troubling component of the President's Proposal is the proposed elimination of the annual Federal payment to the District of Columbia, the underlying purpose of which is to compensate the District for the costs

associated with the District's unique role as the seat of the Federal government and for the revenues foregone as a result of Federal restrictions on the District's ability to raise revenue.

(B) The elimination of the Federal payment would have a severe negative fiscal impact on the District's cash flow until the accumulated deficit has been financed and other long term cost containment measures have been implemented.

(C) The District relies on the Federal payment to repay debt from the prior fiscal year.

(D) The Federal payment is included as a source of revenue in the calculation of the debt limit established for the District in the Home Rule Charter, and, without the Federal payment, the District's debt service as a percentage of revenues would exceed the current debt limit.

(E) The Federal payment has been made available for debt service and referenced in the security documents, and, if the District does not have the Federal payment, investors may require higher interest rates on future debt obligations.

(F) Federal legislation has not been enacted to remove restrictions on the District's revenue raising capability, particularly the ability to have reciprocal taxation upon income at its source. Federal legislation also has not been enacted along the lines of Congresswoman Norton's District of Columbia Economic Recovery Act, which would provide the jolt that is desperately needed to expand the District's revenue base by reversing the hemorraghing of residents and jobs from the District. Therefore, the provision of an adequate Federal payment to the District is even more important and essential to the financial stability of the District of Columbia.

(G) The Federal payment should be determined outside of the annual Congressional appropriations process and be based on a formula that takes into account the combined value of the following components, as set forth in the Brookings Institution revenue plan for the District of Columbia entitled "The Orphaned Capital" and authored by Carol O'Cleireacain ("Brookings plan"):

(i) A payment in lieu of taxes to compensate the District for the reduction of its tax base by the presence of an extraordinary amount of federally-related tax-exempt property and by the imposition of a building height limit;

(ii) State-type aid in an amount that is comparable to the support received by cities of similar size from their state governments; and

(iii) Compensation for the District's continuing budgetary responsibility for providing state-type services.

(H) If the Federal Payment to the District were calculated on the basis of the formula proposed by the Brookings plan, the District government would be able to afford the local tax relief for residents and businesses also proposed by the Brookings plan, and the Council would enact legislation to put such local tax relief into effect simultaneously with the receipt of such adequate annual Federal payment, as part of a comprehensive effort to restore health and competitiveness to the economy of the nation's capital.

Sec. 4. The Secretary to the Council shall transmit a copy of this resolution, upon its adoption, each to the President of the United States, the Director of the Office of Management and Budget ("OMB"), the Executive Director of the District of Columbia Task Force at OMB, the District of Columbia Delegate to the United States House of Representatives, the Speaker of the United States House of Representatives, the President Pro Tempore of the United States Senate, the chairpersons of the House and Senate committees and subcommittees with budgetary and legislative oversight responsibility for the District of Columbia, the Mayor of the District of Columbia, the Chief Financial Officer of the District of Columbia, and the Chairman of the District of Columbia Financial Responsibility and Management Assistance Authority.

Sec. 5. This resolution shall take effect immediately.

District of Columbia Financial Responsibility and Management Assistance Authority
Washington, D.C.

May 13, 1997

The Honorable Franklin Raines
Director
Office of Management and Budget
Old Executive Office Building
Washington, D.C.

Dear Mr. Raines:

I am writing with respect to the National Capital Revitalization and Self-Government Improvement Plan, which was announced by President Clinton on January 14, 1997. As you requested, the District of Columbia Financial Responsibility and Management Assistance Authority (Authority) is pleased to submit this assessment of the President's Plan and its impact on the District of Columbia.

On March 13, 1997, in testimony before the Subcommittee on the District of Columbia of the House of Representatives, the Authority communicated to the Congress its overall support for the Plan. This letter confirms that earlier support for the Plan and, additionally, outlines some recommendations for making even more effective the Plan's impact on the Nation's Capital. For your convenience, this letter is accompanied by several charts and tables which illustrate the specifics of the President's Plan and its potential impact on the District's budget.

Briefly, the Authority's views are as follows:

The Authority's Strategic Plan, released in December, 1996, concluded that one of the most basic reasons for the District's continued financial problems is the fact that the Nation's Capital is not supported - as is every other city in the United States - by a state. Throughout the country, states relieve some of the burdens on their cities in numerous ways for which the District has no recourse. The Federal Government is logically - and by default - the District's state. The burden and costs that other states bear for their cities need to be borne for the Nation's Capital by the Federal Government. The Authority believes that a more equitable structure to support public services must be developed. Our Strategic Plan highlighted for inclusion in such a structure the areas of prisons, Medicaid, mental health care, roads and bridges maintenance, and several other items.

Medicaid. The first area which remains principally a state function is Medicaid. The Authority, in its Strategic Plan, concluded that Medicaid is treated uniformly throughout the country. To my knowledge, in fact, only the City of New York - out of all cities -- pays any significant share of Medicaid costs. All other cities pay either nothing at all, or some small portion. In a report the Authority released in April, *Toward a More Equitable Structure*, we concluded that the District of Columbia, as a city, should be treated no differently by the Federal Government than any other city is treated by its respective state. The District currently pays 50 per cent of Medicaid expenses. The President's Plan proposes to increase the Federal share of District Medicaid expenses to 70 per cent. However, this outcome would allow the Federal Government still to treat the District worse than the way states treat their cities. In fiscal year 1997, total Medicaid expenditures are estimated to be $797 million. Under the current formula, the District is responsible for $395.6 million. Under the President's Plan, the District would still be required to pay $239.1 million. Therefore, we recommend the Federal Government assume responsibility for 100 percent of medicaid costs.

Courts and Corrections. The operations and maintenance of major prison systems, as the Authority has noted in its Strategic Plan and elsewhere, is not the responsibility of cities. Municipalities certainly take care of local city jails, but states almost universally are responsible for large-scale correctional facilities. The District of Columbia currently spends approximately $190 million annually on the Lorton Correctional Facility, where 6,000 inmates reside. The sheer size and complexity of Lorton dictate that this prison is not appropriately the province of the District of Columbia - but of the Federal Government. The District will retain responsibility for the city jail and the Correctional Treatment Facility. In taking over the responsibility for sentenced felons, the Federal Government estimates that it will spend $756 million in the next four years. Additionally, under the plan, the Federal Government expects to allocate $900 million over five years in capital spending on renovation and construction at Lorton. Clearly, the assumption of these responsibilities by the Federal Government, in the context of state functions, would lift considerable budgetary pressure from the District.

Similarly, although not directly discussed in our Strategic Plan, the President's Plan would take over the operations of the court system, including the Court of Appeals and the Superior Court. The District currently spends some $120 million annually on judicial functions, and the costs are rising each year. The operations for pre-trial services, probation and parole, and the Corporation Counsel's juvenile and misdemeanor branches are now expected to be transferred to Federal jurisdiction. This is a desirable step. These services are frequently provided by states and counties instead of cities. The cost of those services provided by the District - but for which the Federal Government is the more appropriate party -- is estimated at nearly $20 million annually.

Pension Liability. Although the District faces numerous financial challenges, none may be greater than the massive unfunded pension liability that looms over the District. In 1979, the Federal government transferred the pension plans for police officers, firefighters, and teachers (later adding local judges), and a $2 billion unfunded liability to the District. Under current law, in the year 2004, the District will incur the full responsibility and total liabilities for these unfunded pension plans, at a time when the unfunded liability is estimated to expand from the current $4.8 billion to over $6 billion. Additionally, the annual pension costs to the City are projected to rise from about $307 million in fiscal 1997 to roughly $470 million in 2004. A substantial portion of these costs represents excess payments made by the District toward the unfunded liability. In fact, total excess payments made to date approximate $2 billion. As the Authority concluded in its Strategic Plan, without some changes in the law, the impact of the liability on the District's operating budget will be catastrophic. Furthermore, without any change, the pension liability will severely hamper efforts by the District to regain fully financial solvency, as Wall Street remains hesitant of providing favorable lending conditions to the City so long as the unfunded pension liability overhang looms.

As the unfunded pension liability has always been the responsibility of the Federal Government, the Authority is pleased that the President's Plan calls for the assumption of a substantial portion of the liability, in exchange for most of the plan's assets (which currently total about \$3.6 billion). In addition to taking over the majority of the \$4.3 billion of liability, the Federal Government would also assume responsibility for payments to current beneficiaries from the assets remaining in the funds.

Transportation and Infrastructure. The Authority's Strategic Plan envisions the Federal Government assuming state-like functions with regard to transportation. Under such an arrangement, responsibility for the Federal-aid routes, which comprise 40 per cent of the District's roadways, would be assumed entirely by the Federal Government. Justification for this new responsibility is based on the fact that, in most states, local transportation needs are financed by motor vehicle fees, fuel taxes, and general fund revenues collected on a state-wide basis and then distributed to local jurisdictions by the state. These revenues are often used by jurisdictions to fund the local matching requirements of Federal grants - as well as the capital, operating, and maintenance costs for transportation infrastructure. The District's only source of funding both the local matching requirements for Federal grants and local roads is its diminishing "state" motor fuel and vehicle taxes. In fiscal 1997, the motor vehicle fuel tax for the District will generate \$29 million.

As estimated in the Authority's Strategic Plan, the costs to the Federal Government of funding and administering the transportation infrastructure needs (including maintenance costs) over four years would be \$1.4 billion. The first-year costs are \$340 million. These costs include (1) the District's local match; (2) the cost of administration that DPW currently incurs; and (3) annual costs of carrying out the Federal-aid construction program. These costs do not include the costs of snow removal on the Federal-aid routes. In most states, the state pays for snow removal on state roadways. The first-year costs of the President's Plan to assume transportation functions would be \$179 million; the four-year cost would be \$284 million.

Mental Health Services. One major difference between the President's Plan and the Authority's Strategic Plan is the responsibility for mental health services. Few cities are obligated to carry the costs of all mental health programs for their citizens without the assistance of the state. The District of Columbia currently spends \$114 million annually to support mental health facilities, including the costs of St. Elizabeth's Hospital, a facility received in considerable disrepair from the Federal Government. As with so many other health care costs, mental health care is also rising, placing an ever-increasing burden of state functions on the District. Thus, the cost of these programs is expected to approximate \$456.5 million in four years.

Since a review of other major cities indicates that mental health hospitals, their operations, and funding are exclusively the function of states, the Authority is concerned that the President's Plan makes no provision for the assumption or funding of mental health programs. Therefore, the Authority recommends that the President consider, in the context of the Federal Government assuming state functions, providing support to the District for mental health services. The Authority also recommends that the District and the Federal Government revisit issues associated with the operations and ownership of St. Elizabeth's Hospital.

Economic Development. The President has also announced, as part of his plans for the District, a proposal to create a new Economic Development Corporation, along with various tax incentives and credits, to assist the City in attracting and retaining businesses. The new corporation would be capitalized by the Federal Government with a one-time investment of $50 million. The Plan also would provide for $250 million in tax incentives, $79 million in investment tax credits; $2 million in private activity bonds; job credits worth $133 million available to District businesses that hire low or moderate income residents; and $20 million in additional expense allowances for certain small businesses.

The Authority welcomes this plan as a much-needed stimulus to the District's economic development. Without a state to absorb costs and provide various incentives, the District has long been at a disadvantage when it comes to creating a meaningful economic development program. The President's Plan, therefore, is a very good start. I would note, however, that there are many other issues with which the District must contend, such as the obstacles inherent in excessive regulations, that stymie economic growth. I would also note that it will not be sufficient merely to create job growth. Rather, the focus of such growth ought primarily to benefit District's residents and businesses.

Accumulated Deficit. The Authority noted in its Strategic Plan that years of improper financial and budgetary management have left the District with a massive and ever-increasing accumulated deficit. New York, Philadelphia, and other cities with Control Boards quickly determined, and effectively implemented, long-term plans to pay down similar, often larger, deficits. Future financial solvency of the District greatly depends on implementing a long-term financing plan for the District's accumulated deficit. The Authority advocated in its Strategic Plan that the District undertake a long-term borrowing, and we are pleased that the President's Plan also calls for such a borrowing and proposes that the U.S. Treasury provide the financing. The President has indicated that he will propose legislation providing for financing of the District's accumulated deficit, estimated at between $400 and $500 million. While the Authority supports the President's proposal to address the accumulated deficit, it is important to recognize the impact that such a borrowing will have on the District's remaining capacity to fund its multi-year capital program in light of the current debt limitation. The long-term funding of the accumulated deficit will also necessitate relief from the District's current debt cap or require an increase in the District's debt limitation. The Administration has pledged to work with the District Government to accommodate this borrowing, as well as an orderly and sustainable capital improvement plan.

Concluding Observations. Finally, I would mention that, in the context of state functions, there are a number of areas that the President's Plan does not address. Our report, *Toward A More Equitable Structure,* concludes that counties typically provide at least some level of assistance for services such as Unemployment Compensation, Supplemental Security Income Management, Welfare Management, operating and capital assistance to local school districts, regulatory and inspection functions, as well as certain taxing powers. However, the larger share of costs remains with the state. To the extent that the President's Plan does not include these services, the Authority urges the Administration to consider them carefully as part of the state-like functions the Federal Government assumes.

One area in which the Authority continues to have concerns is the proposed elimination of the Federal Payment. As we have discussed previously, projections of revenues from District sources - composed mainly of property, sales, and income taxes - show little or no growth through fiscal year 2002. Between fiscal year 1997 and fiscal year 2002, in fact, these sources are projected to rise by just 2 per cent, unadjusted for inflation. At the same time, however, District expenditures for functions not assumed by the Federal Government under the President's Plan are anticipated to rise by 10 percent over the same period. It is important to note that, of all of the District's current revenue sources, the Federal Payment of $660 million is the second largest. Absent the Federal Payment, our projections show that the District will experience the return of a small deficit situation in the out years, principally due to the structural imbalance exacerbated by the absent Federal Payment. Therefore, we recommend that the Federal Payment be maintained.

Furthermore, assuming that the President's Plan is implemented, the District, quite frankly, would not be out of the woods. The reason is that those state programs—which the Federal Government is not assuming under the President's Plan—must still be funded. Not only must we address the issue of underfunding in essential programs as they relate to service provision (such as public secondary education), but we must recognize that the demand for some services is growing rapidly. The Authority believes that the District cannot fund these programs at the local level. Current projections indicate that the needed tax revenue will not be available. Without continued structural change, it is unreasonable to assume that the District will be able to avoid a period of sustained deficits in the near future.

I would note that one additional element relates to the cash flow deficiencies experienced by the District when funding its operations on a daily basis. Under the current statute, the amount of the District's short-term borrowings is tied to the level of the following fiscal year's Federal Payment. If the Federal Payment is ultimately eliminated through implementation of the President's Plan, some other mechanism for supporting borrowing must be devised.

I hope that these views have been helpful in clarifying the Authority's position with respect to the President's Plan. Based on our review of the Plan, and our recommendations, the Authority looks forward to the implementation of this important legislation, and to the positive impact that it promises for the Nation's Capital. We look forward to working with you in the coming months to implement an effective plan for restructuring the District of Columbia.

Sincerely yours,

Andrew F. Brimmer

Andrew F. Brimmer
Chairman

Attachments:
Tables 1A, 1, and 2
Chart A

TABLE 1A

Impact On Current Financial Plan and Budget
(Source: FY 1998 Financial Plan and Budget w/ Modifications to Medicaid and Pension Estimates)

	FY 1996	FY 1997	FY 1998	FY 1999	FY 2000	FY 2001
Estimated Savings To District Due To President's Plan:						
Medicaid (1)	$153.64	$158.24	$168.56	$172.88	$178.81	$183.05
Pension (2)	200.00	196.00	250.00	268.70	290.10	312.20
Prison	164.05	211.78	188.00	189.16	190.35	188.68
Courts						
Court of Appeals	5.77	6.02	6.02	6.06	6.09	6.09
Superior Court	74.88	72.28	70.21	70.70	71.20	71.08
DC Court System	33.04	35.46	33.45	34.32	35.22	35.22
Pretrial Services	4.23	3.74	3.89	3.90	3.92	3.91
Board of Parole	5.21	5.96	5.72	5.73	5.73	5.69
Public Defender Service	7.70	7.80	7.80	7.99	8.19	8.19
National Highways System	1.29	1.33	1.37	1.42	1.47	1.51
Sub-Total Savings	**$649.81**	**$698.61**	**$735.02**	**$760.86**	**$791.08**	**$815.62**
Less:						
Net Debt Service Cost – Interest Borrowing (3)	0	0	(15.34)	(15.34)	(15.34)	(15.34)
Federal Payment	(660.00)	(660.00)	(660.00)	(660.00)	(660.00)	(660.00)
Loss Interest Earnings – Fed. Payment	(2.30)	(2.30)	(2.30)	(2.30)	(2.30)	(2.30)
Net Impact On District's Operating Budget	($12.49)	$ 36.31	$ 57.38	$ 83.22	$113.44	$137.98

***Notes**:

1. Assumes adjusted Medicaid estimates provided by the District's Commission on Health Care Finance that were provided to OMB on 2/11/97. The FY 1998-2001 estimated savings using these figures total $703.30 million.

2. Assumes sufficient amount of Pension Assets is left behind for the District's benefit to offset cost of new Pension program needed to achieve $60 million savings in FY 98. Milliman and Robertson, Inc. (District's actuary) estimates required assets to be $1.275 billion.

3. Assumes District borrows $500 million in FY 98. Borrowing amortized over 15 years, no principal amortization until FY 2004, interest rate of 7.0% (see Mayor's Proposed Budget, March 18, 1997).

Revised Table 1

FY 98 Financial Plan and Budget w/ Modifications to Medicaid Estimates

CATEGORY	1996	1997	1998	1999	2000	2001	Data Source
Revenue:							Financial Plan & Budget-3/18/97,
Non-Tax	178.34	174.74	176.90	178.30	177.90	177.30	
Transfers in (Lottery)	75.25	75.80	74.20	74.60	76.00	76.00	
Additional Policies Executed	-	-	12.90	13.90	16.20	16.25	
SUB TOTAL	$ 2,656.11	$ 2,586.05	$ 2,657.90	$ 2,687.90	$ 2,729.00	$ 2,782.45	
Federal Payment	$ 660.00	$ 665.70	$ 660.00	$ 660.00	$ 660.00	$ 665.90	
Other Revenue	$ 1,036.96	$ 1,144.30	$ 1,146.04	$ 1,122.64	$ 1,112.88	$ 1,096.55	
TOTAL REVENUE	$ 4,353.07	$ 4,396.05	$ 4,463.94	$ 4,470.54	$ 4,501.88	$ 4,544.90	
Asset Sales	-	24.00	21.50	21.50	21.50	21.50	
Treasury Borrowings	-	636.87	317.00	317.00	317.00	317.00	
TRANS	-	-	200.00	200.00	200.00	200.00	
Total Income	$ 4,353.07	$ 5,056.93	$ 5,002.44	$ 5,009.04	$ 5,040.38	$ 5,083.40	
Expenditures:							Financial Plan & Budget-3/18/97
Medicaid -Federal Share	$409.53	$401.40	430.61	441.48	456.40	467.10	CHCF 2/11/97; provided by the OCFO on 4/23/97
Medicaid - District Share	384.09	395.60	430.61	441.48	456.58	467.10	CHCF 2/11/97; provided by the OCFO on 4/23/97
Pension Fund	336.50	321.10	307.40	330.80	357.10	384.40	Milliman & Robertson, Inc.
Prisons	164.05	211.78	188.00	189.16	190.35	188.68	Page J-76
DC Jail and CTF	77.00	48.75	52.10	53.55	55.05	56.59	
Courts							
Court of Appeals	5.77	6.02	6.02	6.06	6.09	6.09	Page J-36
Superior Court	74.88	72.28	70.21	70.70	71.20	71.08	Page J-43
DC Court System	33.04	35.46	33.45	34.32	35.22	35.22	Page J-50
Pretrial Services	4.23	3.74	3.89	3.90	3.92	3.91	Page J-69
Board of Parole	5.21	5.96	5.72	5.73	5.73	5.69	Page J-82
Public Defender Service	7.70	7.80	7.80	7.99	8.19	8.19	Page J-65
National Highway System	1.29	1.33	1.37	1.42	1.47	1.51	Based on Agency/Controller Data
SUB TOTAL	$ 1,503.29	$ 1,511.21	$ 1,537.17	$ 1,586.60	$ 1,647.31	$ 1,695.57	
Other Expenditures	$ 2,933.94	$ 2,961.34	$ 2,921.61	$ 2,954.26	$ 2,958.58	$ 2,982.71	
Total Expenditures	$ 4,437.23	$ 4,472.55	$ 4,458.78	$ 4,540.86	$ 4,605.89	$ 4,678.28	
Less: Other Uses	-	658.37	578.28	588.95	599.61	610.26	
(DEFICIT)/SURPLUS (-or +)	(84.14)	(74.00)	(34.62)	(120.77)	(165.11)	(205.14)	
FY 1997 Initiatives			-	53.40	77.27	43.95	

Revised Table 2
President's Plan --with
FY 98 Financial Plan and Budget w/ Modifications Restated

CATEGORY	1996	1997	1998	1999	2000	2001	Data Source
Revenue:							Financial Plan & Budget-3/18/97,
Taxes	$ 2,402.52	$ 2,335.51	$2,393.90	$2,421.10	$ 2,458.90	$ 2,512.90	Page A-8
Non-Tax	178.34	174.74	176.90	178.30	177.90	177.30	
Transfers in (Lottery)	75.25	75.80	74.20	74.60	76.00	76.00	
Additional Policies Executed	-	-	12.90	13.90	16.20	16.25	
SUB TOTAL	$ 2,656.11	$ 2,586.05	$2,657.90	$2,687.90	$ 2,729.00	$ 2,782.45	
Federal Payment	$ 660.00	$ 665.70	$0.00	$0.00	$0.00	$0.00	Assumes no federal payment, FY 98
Other Revenue	$ 1,036.96	$ 1,144.30	$1,314.60	$1,295.52	$ 1,291.69	$ 1,285.50	
Add'tl Medicaid Revenue			$ 168.56	$ 172.88	$ 178.81	$ 183.05	Federal reimbursement 50% to 70%
TOTAL REVENUE	$ 4,353.07	$ 4,396.05	$3,972.50	$3,983.42	$ 4,020.69	$ 4,067.95	
Asset Sales	-	24.00	21.50	21.50	21.50	21.50	
Treasury Borrowings	-	636.87	500.00	-	-	-	Assumes deficit borrowing, FY 98
TRANS	-	-	-	-	-	-	Assumes no short-term borrowings
Total Income	$ 4,353.07	$ 5,056.93	$4,494.00	$4,004.92	$ 4,042.19	$ 4,089.45	
Expenditures:							Financial Plan & Budget-3/18/97
Medicaid -Federal Share	409.53	401.40	599.17	614.36	635.21	650.15	CHCF 2/11/97; provided by the OCFO on 4/23/97
Medicaid - District Share	384.09	395.60	262.04	268.60	277.59	284.05	CHCF 2/11/97; provided by the OCFO on 4/23/97
Pension Fund	336.50	321.10	57.40	62.10	67.00	72.20	Milliman & Robertson, Inc.
Prisons	164.05	211.78	0.00	0.00	0.00	0.00	Page J-76
DC Jail and CTF	77.00	48.75	52.10	53.55	55.05	56.59	
Courts							
Court of Appeals	5.77	6.02	0.00	0.00	0.00	0.00	Page J-36
Superior Court	74.88	72.28	0.00	0.00	0.00	0.00	Page J-43
DC Court System	33.04	35.46	0.00	0.00	0.00	0.00	Page J-50
Pretrial Services	4.23	3.74	0.00	0.00	0.00	0.00	Page J-69
Board of Parole	5.21	5.96	0.00	0.00	0.00	0.00	Page J-82
Public Defender Service	7.70	7.80	0.00	0.00	0.00	0.00	Page J-65
National Highway System	1.29	1.33	0.00	0.00	0.00	0.00	Based on Agency/Controller Data
SUB TOTAL	1,503.29	1,511.21	970.71	998.61	1,034.85	1,062.99	
Other Expenditures	2,933.94	2,961.34	2,921.61	2,954.26	2,958.58	2,982.71	
Total Expenditures	4,437.23	4,472.55	3,892.32	3,952.87	3,993.43	4,045.70	
Less: Other Uses	-	658.37	77.09	55.94	55.94	55.94	
(DEFICIT)/SURPLUS (-or +)	(84.14)	(74.00)	524.59	(3.90)	(7.18)	(12.19)	
FY 1997 Initiatives			-	53.40	77.27	43.95	

CHART A

(Revised May, 1997)

PLANS TO REVITALIZE THE NATION'S CAPITAL

Federal Government Assumption of State-like Functions

Authority's Strategic Plan	President's Plan
1. Unfunded Pension Liability	1. Unfunded Pension Liability
Liability $4,800 million First-year cost: $307 million Four-year cost: $1,380 million	Liability: $4,800 million First-year cost: $250 million Four-year cost: $1,121 million
2. Medicaid	2. Medicaid
Percent of Cost: 100% First-year cost: $430 million Four-year cost: $1,796 million	Percent of Cost: 70% First-year cost: $169 million Four-year cost: $703 million
3. Prisons	3. Prisons
Operating Costs: First-year cost: $188 million Four-year cost: $756 million	Operating Costs: First-year cost: $188 million Four-year cost: $756 million Capital Costs: First-year cost: $300 million Four-year cost: $900 million
4. District of Columbia Court System	4. District of Columbia Court System
No specific provision.	First-year cost: $109 million Four-year cost: $446 million
5. Pretrial Services	5. Pretrial Services
No specific provision.	First-year cost: $ 4 million Four-year cost: $ 16 million
6. Parole	6. Parole
No specific provision.	First-year cost: $ 6 million Four-year cost: $ 23 million
7. Public Defender	7. Public Defender
No specific provision.	First-year cost: $ 8 million Four-year cost: $ 32 million

CHART A

(Revised May, 1997)

PLANS TO REVITALIZE THE NATION'S CAPITAL

Federal Government Assumption of State-like Functions

8. Transportation/Infrastructure	8. Transportation/Infrastructure
General Fund: No specific provision.	General Fund: First-year cost: $ 1 million Four-year cost: $ 6 million
Capital: First-year cost: $340 million (average) Four-year cost: $1,360 million	Capital: First-year cost: $179 million Four-year cost: $284 million
9. Mental Health	9. Mental Health
First-year cost: $114 million (average) Four-year cost: $456 million	No provision.
10. Economic Development	10. Economic Development
The Authority will examine the barriers to economic development & issue a report by 6/30/97.	First-year cost: $ 50 million Four-year cost: $300 million* * includes $250 million in Federal tax incentives and credits
11. Financing of Accumulated Deficit	11. Financing of Accumulated Deficit
Long-term financing of approximately $400 to $500 million	Long-term financing of approximately $400 to $500 million

file DC

PRESIDENT CLINTON'S NATIONAL CAPITAL REVITALIZATION AND SELF-GOVERNMENT IMPROVEMENT PLAN

THE PLAN RESTRUCTURES THE RELATIONSHIP BETWEEN THE FEDERAL GOVERNMENT AND THE DISTRICT OF COLUMBIA. The Federal government will assume responsibility for certain functions traditionally undertaken by state governments. The plan will also invest almost $4 billion in the District, while ending the annual Federal payment. The President's proposal to facilitate economic development efforts in the District should be viewed in the context of this plan, which will:

- ✓ **Increase the Federal share of the District's Medicaid reimbursements.**
- ✓ **Improve the District's Infrastructure with a new National Capital Infrastructure Commission.**
- ✓ **Assume the District's Unfunded Pension Liability.**
- ✓ **Improve the Criminal Justice System.**
- ✓ **Provide Financing for the District's Accumulated Deficit.**
- ✓ **Enhance the District's Performance through Cooperative Efforts with Federal Agencies.**

****

ECONOMIC DEVELOPMENT IN THE NATION'S CAPITAL

The President's plan will give the District a new economic development vehicle whose mission is to spur economic development in the Nation's Capital, and will provide the District with about $300 million in grants and tax incentives, as well as other tools to make development happen. These tools will facilitate the realization of economic development plans currently being discussed in the city, including plans for downtown and for major commercial corridors and in neighborhoods across the city.

A NEW ECONOMIC DEVELOPMENT CORPORATION

The President's plan creates a new Economic Development Corporation (EDC), a non-Federal public-private corporation. The EDC would be governed by a nine member Board of Directors, seven of whom would be appointed by the President, one by the Mayor, and one by the City Council. A majority of the Board will be drawn from District private sector business and community leaders. The EDC would be run by a Chief Executive Officer and served by a professional staff. Prudently invested, the EDC's initial $50 million capitalization and $97 million of allocable tax incentives could leverage over $1.5 billion in private capital investments.

- **Strategic Planning and Project Development.** Building on work done by a number of District groups, the EDC would develop an economic development strategy for the District, coordinate the implementation of large-scale development projects, support efforts to create jobs and business opportunities for distressed neighborhoods and low-income District residents, and connect District development efforts to regional growth.

- **Federal Capitalization.** The EDC would be capitalized by the Federal government with a one-time investment of $50 million. The EDC would use these funds for planning, project development, and operating costs. Of this amount, $20 million would be available to non-profit entities in the District, to be used in a manner similar to the D.C. Job Credit for profit-making entities.

- **Tax Credits and Revenue Bonds to Spur Development.** The EDC would be given the authority to spur development with Federal tax credits for loans and investment -- the D.C. Capital Credit -- and would have the authority to finance projects in the market by issuing project revenue bonds (including tax-exempt private activity bonds).

- **Expedited Processing.** The EDC would also have a number of other important powers, including eminent domain, the ability to seek expedited review by the District government of development projects, and the ability to acquire and dispose of land and interests in land. As part of the Memorandum of Understanding with the Federal government, the District government will commit to achieve reforms with respect to permitting, licensing and zoning and to cooperate fully with the EDC, including determination of the appropriate coordination with existing economic development entities in the city.

- **National Capital Challenge Committee.** Business and community leaders will be able to participate in this economic development effort by joining a National Capital Challenge Committee. The Committee will bring the District, regional and national communities together behind the President's plan and build the consensus necessary to make the new Economic Development Corporation work effectively. The Committee will report to the President in 60 days on its progress.

NEW FEDERAL TAX INCENTIVES FOR JOBS AND INVESTMENTS

In addition to the $50 million capitalization grant to the EDC, the plan provides the District with $250 million of tax incentives (costing the Federal government approximately $235 million) to encourage business investment both downtown and in distressed communities, and to help businesses increase employment of District residents. **Total Federal cost: $285 million.**

- **A new "D.C. Capital Credit."** The plan would authorize the EDC to allocate $95 million in tax credits for investors in, or lenders to, District businesses for up to 25 percent of the amount invested or loaned. Investors and lenders would compete for the credits. The EDC would base its decisions on such factors as contribution to the District's revitalization, private funds leveraged, and provision of jobs for District residents. **Total Federal cost: 79 million.**

- **Private Activity Bonds.** The plan provides for the new EDC to issue tax-exempt private activity bonds to finance businesses located in distressed areas in the District. Eligible businesses, including commercial and retail facilities, must be located in census tracts with a poverty rate of at least 15 percent, and have a workforce at least 35 percent of which is made up of District residents. **Total Federal cost: $2 million.**

- **A new "D.C. Jobs Credit."** The plan would provide a 40 percent tax credit on the first $10,000 of eligible wages in the first year of employment, including employer-provided health care, dependent care, and educational assistance. The D.C. Jobs Credit would be available to District businesses that hire low or moderate income residents. Over 78,000 jobs could benefit from the D.C. Jobs Credit between now and 2002. **Total Federal cost: $133 million.**

- **Additional Expensing**. The plan provides tax incentives to encourage the creation or expansion of small businesses in distressed areas. Eligible small businesses would be permitted to deduct up to $20,000 in additional expenses per year for certain equipment costs. **Total Federal cost: $20 million.**

File DC

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release **January 14, 1997**

THE PRESIDENT'S NATIONAL CAPITAL REVITALIZATION AND SELF-GOVERNMENT IMPROVEMENT PLAN:

FACT SHEET

- The plan has two goals:
  - -- To revitalize Washington D.C. as the Nation's capital, and
  - -- To improve prospects for "home rule" to succeed.
- The plan will:
  - -- Relieve the District government of major financial and managerial responsibilities -- including certain pension plans and parts of the criminal justice system -- that are beyond its financial capacity, and resolve the city's cash shortfall that stems from its accumulated deficit;
  - -- Invest considerable resources to improve the city's criminal justice system and capital infrastructure;
  - -- Strengthen the District's economic base; and
  - -- Draw on the Federal government's technical expertise to help make the city government effective in such areas as income tax collection, education and training, housing, transportation, and health care delivery.
- Over five years, this plan will invest $3.9 billion of Federal budgetary resources in the Nation's capital. Among other things, the plan provides:
  - -- $885 million for new capital spending on prison renovation and construction;
  - -- $891 million to operate prison facilities;
  - -- $681 million to operate the court system;

- $125 million in 1998 to begin rebuilding the city's transportation infrastructure;
- $117 million to improve District tax collection;
- $917 million to increase the Federal share of D.C.'s Medicaid payments; and
- grant and tax incentives for economic development in the District.

* In exchange, the plan will end the yearly Federal appropriation and other payments to the District, saving $3.56 billion over five years.

* Thus, the **net Federal costs of the plan come to $339 million over five years**.

* The plan also proposes that the Federal government assume responsibility for the District's existing pension plans for law enforcement officers, firefighters, teachers, and judges.

  - Upon their transfer to the Federal Government, the plans would close (that is, they would accrue no new liability).

    - The existing pension assets would pay the beneficiaries.

    - Starting in 2007, the Federal government would pay off, over an extended period of time, the $4.3 billion in unfunded liability associated with these plans -- much of which was transferred from the Federal government to the District in 1979.

  - The District would establish new plans for current employees.

* **Over five years, the plan would save the District about $770 million**.

  - Federal budget costs will be less than District budget savings in part because pension assets, rather than Federal budget resources, will be used to pay beneficiaries until 2007.

* **The proposed Federal spending is all dependent on the District government taking certain actions to improve its performance** -- as outlined in a Memorandum of Understanding that will be reached between the Federal government, the District government, and the Financial Authority.

* The plan will benefit the city, the region, and the Nation:

  - It benefits District residents by reducing their government's financial burdens, improving the delivery of city services, and investing in the criminal justice system, economic development, and transportation.

-- It benefits the region because of the city's economic recovery; the financial support given to the police, fire, teachers, and judges pension funds; the rebuilding of the District prison system; and the improvement of a key component of the regional transportation infrastructure.

-- It benefits the Nation because it begins to create a capital city that we can all be proud of, improves its transportation system, and helps ensure the safety of residents and visitors.

Addendum:

Details of the Plan

I. Functions assumed by the Federal government

- The Federal Government would assume financial and administrative responsibility for the District's pension plans for police and firefighters, teachers, and judges.

  -- Beginning in Fiscal Year 1998, the pension system would be closed (i.e., no new benefits would accrue) upon transfer to the Federal government. The District would transfer to the Federal government or its designee existing pension assets, estimated to be worth over $3.3 billion, leaving the Federal government to take on the remaining $4.3 billion in unfunded liability. A third-party Trustee would be appointed by the Federal government to administer the plan and invest pension assets.

  -- This action would be conditioned on the District signing a Memorandum of Understanding with the Federal government requiring that the existing pension plans be closed; the District would have to set up new plans for its current and future employees; the District would be responsible for current employees who are not yet vested under the existing system; the District would have to provide adequate employment records to the third-party trustee; and assets would need to be transferred to a Trustee.

- The Federal Government would take direct responsibility only for **funding** the District Court System. The Courts would remain self-managed.

  -- The court system works well, and courts would continue to be self-managed. The funding would be requested for the Federal Judiciary and would cost $129 million in the first year and $685 million over a five year period. The D.C. court system would be funded through the Judiciary's Administrative Office of the U.S. Courts. There are no conditions for implementation because the District court system is deemed to work well.

- The Federal Government would assume financial and administrative responsibility for the District's prison system, including substantial capital investment in modernizing the facilities.

  -- The Federal government would take responsibility for the District's sentenced prisoners (but not presentenced prisoners), a responsibility that is elsewhere borne by the States. During the transition, funding for the incarceration of the District's felons would be provided by the Federal government to a receiver responsible to the Control Board. Funding would include capital for both construction of new facilities and renovations of the existing facilities; Lorton would continue to be used as a prison facility.

-- A receiver would be appointed to oversee the D.C. Department of Corrections operations related to incarcerated D.C. felons for a period of three to five years, after which the Bureau of Prisons would assume responsibility; prison facilities at Lorton would be repaired and expanded.

-- The Federal government would accept all current prisoners. The Federal government would accept new prisoners only if they are sentenced in accordance with Federal standards. The Bureau of Prisons (BOP) would have flexibility in transferring D.C. inmates elsewhere in the Federal Prison System if needed to manage the inmate population. Current D.C. prisons staff would be required to meet Federal standards and reapply for their positions. Finally, the Federal government would assume responsibility after the transition period for the District's parole system and community corrections program.

- <u>The Federal Government will increase its share of the District's Medicaid payments to 70%:</u>

  -- The Administration proposes to pay both the Federal and "State" share of the District's Medicaid costs, thereby reducing the District's share to 30 percent (the maximum amount that can be paid by localities in States that benefit from a 50 percent Federal match). The District will receive an estimated $156 million in FY 1998 for this. The Department of Health and Human Services will provide more intensive technical assistance to help the District improve the management of its Medicaid program and assure that Federal funds are not mismanaged. The increased Medicaid funding will be conditioned on the District following various HHS suggestions for programmatic improvements.

- <u>Intermediate term financing of the accumulated deficit.</u>

  -- The Administration will propose legislation to have the Federal Government provide intermediate term (ten to fifteen year) financing for all or part of the District's accumulated deficit, which is estimated to be between $400 - $500 million. The terms and conditions for such loans will be determined later, but it is envisioned that:

    - Treasury interest rates would be charged.

    - The District could refinance the Treasury loan at some later time after the District's credit picture improves.

II New investments in infrastructure

- <u>The Federal Government will establish a National Capital Infrastructure Fund</u>:

  -- In FY98, the Administration proposes providing $125 million in seed money from the Federal Highway Trust Fund to establish the NCIF. The NCIF will fund transportation infrastructure projects in the District which benefit residents and commuters alike. This includes the construction of local roads and bridges, the local match for federal-aid road and bridge projects, and capital expenditures for the Washington Metropolitan Area Transit Authority (WMATA). These funds will be available only for capital projects; routine maintenance projects would not be eligible.

  -- The NCIF will be authorized to accept contributions from other sources, e.g., payments in lieu of taxes from tax-exempt organizations such as universities and hospitals.

III. Economic Development

- The Administration proposes to establish an economic development corporation (EDC) as a non-Federal public authority. The EDC would be funded, in part, with Federal funds, with an increasing local and private sector match.

IV. Technical assistance to District government

- <u>Tax Collection:</u> IRS would assume responsibility from the District of Columbia for collecting D.C. individual income taxes and payroll taxes, funded by an addition to the IRS appropriation for that purpose. Expected costs are $15 million in 1998 for startup and phase in, and $25 million in FY 1999 and after for operations.

  -- As a condition: specific authorizing legislation setting out the functions and timing will be required; IRS will be responsible for enforcement and will use its current enforcement powers; IRS will be responsible for management, tax return and refund processing, customer service, compliance, and computer operations.

- <u>Other Executive Branch Agencies</u> will work with the District to identify areas in which the Federal government might provide technical assistance to help the District government improve the efficiency with which it delivers services.

file D.C

A Vision And Action Plan To Revitalize The Heart Of Washington, D.C.

Interactive Downtown Task Force

The Washington Post

THURSDAY, DECEMBER 12, 1996 FRONT PAGE A1

Task Force Calls for New Downtown

By Margaret Webb Pressler
Washington Post Staff Writer

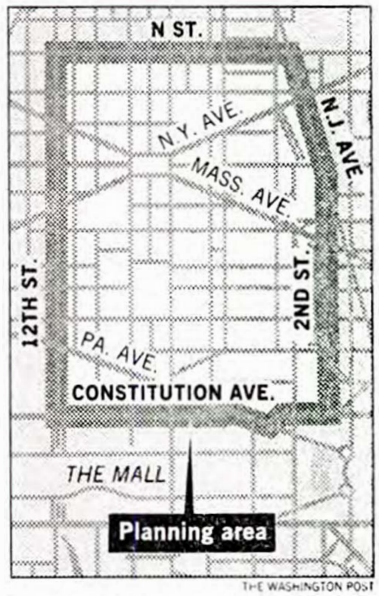
Interactive museums, top-tier retail developments and world class entertainment, serviced by a pedestrian walkway, underground parking and a street-level trolley system would form the cornerstones of a new downtown Washington.

A task force of District and federal government leaders, the Smithsonian Institution, private-sector developers and retailers will present this proposal for the revitalization of downtown at a news conference this afternoon.

The task force, commissioned by Mayor Marion Barry last spring, also has the support of the D.C. Financial Control Board.

Under the plan, the financing to turn downtown Washington into a safer and more exciting place to live, work and visit would come from private investment and from the establishment of special taxing districts. Some of the taxation proposals would require federal legislation, but similar efforts have been successful elsewhere to spur growth and investment in beleaguered inner cities.

While the task force's report is only a framework for a plan, it is building on elements already underway downtown, including



For detailed map, see Page A23.

the MCI Arena, a new convention center, an opera house in the former Woodward & Lothrop building and popular national retailers such as Hard Rock Cafe and Planet Hollywood.

The group calls for creating museums for sports, arts, children and music, to be sponsored by private retailers and public institutions such as the Smithsonian or the Capital Children's Museum. The plan includes housing and emphasizes historic preservation. It would be geared to pedestrians and designed to draw tourists off the Mall.

Barry said yesterday he will set up a public-private governing body to oversee the development of the plan and the financing vehicles to help pay for its realization.

"These are action items that are meaningful, that you can see and touch and feel," Barry said

See DOWNTOWN, A23, Col. 1

Developer Herbert S. Miller, chairman of the task force, contacted retailers to interest them in the downtown proposal.

Task Force Envisions A Revitalized City

DOWNTOWN, From A1

yesterday. "Plus I'm committed to it. Unequivocally committed to it, and when I get unequivocally committed to something, like the MCI Arena, it happens."

Developers, retailers and community leaders stressed, however, that the task force's proposal is just a blueprint that will require a tremendous amount of work over the next decade to bring to fruition. All have seen task forces come and go to no effect, and they warn that even though many people support this proposal, a range of public and private participants in the nation's capital—at the federal, local and civic level—would need to cooperate.

"It is a huge, complicated, bold plan and it will take a lot of time," said Bob di Romualdo, chairman and chief executive of Borders Books and Music. "It has so many pieces and it's asking a lot of people to get funding and step up to the plate."

Di Romualdo, along with many of the nation's hottest retailers, was contacted by Herbert S. Miller, the local developer who built the Georgetown Park and Potomac Mills malls and who is chairman of the task force. Despite his skepticism, di Romualdo was immediately interested. "Downtown D.C. clearly has tremendous potential, and it's obviously a downtown area that we'd be very interested in," he said.

That kind of interest in the District is representative of the new attitude many retailers and major entertainment companies have about urban development. In San Francisco, New York and Chicago, movie studios and retailers have created major retail/entertainment districts that have been wildly popular with tourists, suburban residents and aging baby boomers tired of the same old shopping malls.

In virtually every instance, they have been public-private partnerships in which cities and states have worked with corporations to revitalize distressed downtowns, said Rich Bradley, president of the International Downtown Association and a member of the task force.

"A lot of this plan is based on the fact that this is working in other places," Bradley said. "I think there's a recognition that the economy of the city is dependent on this kind of development."

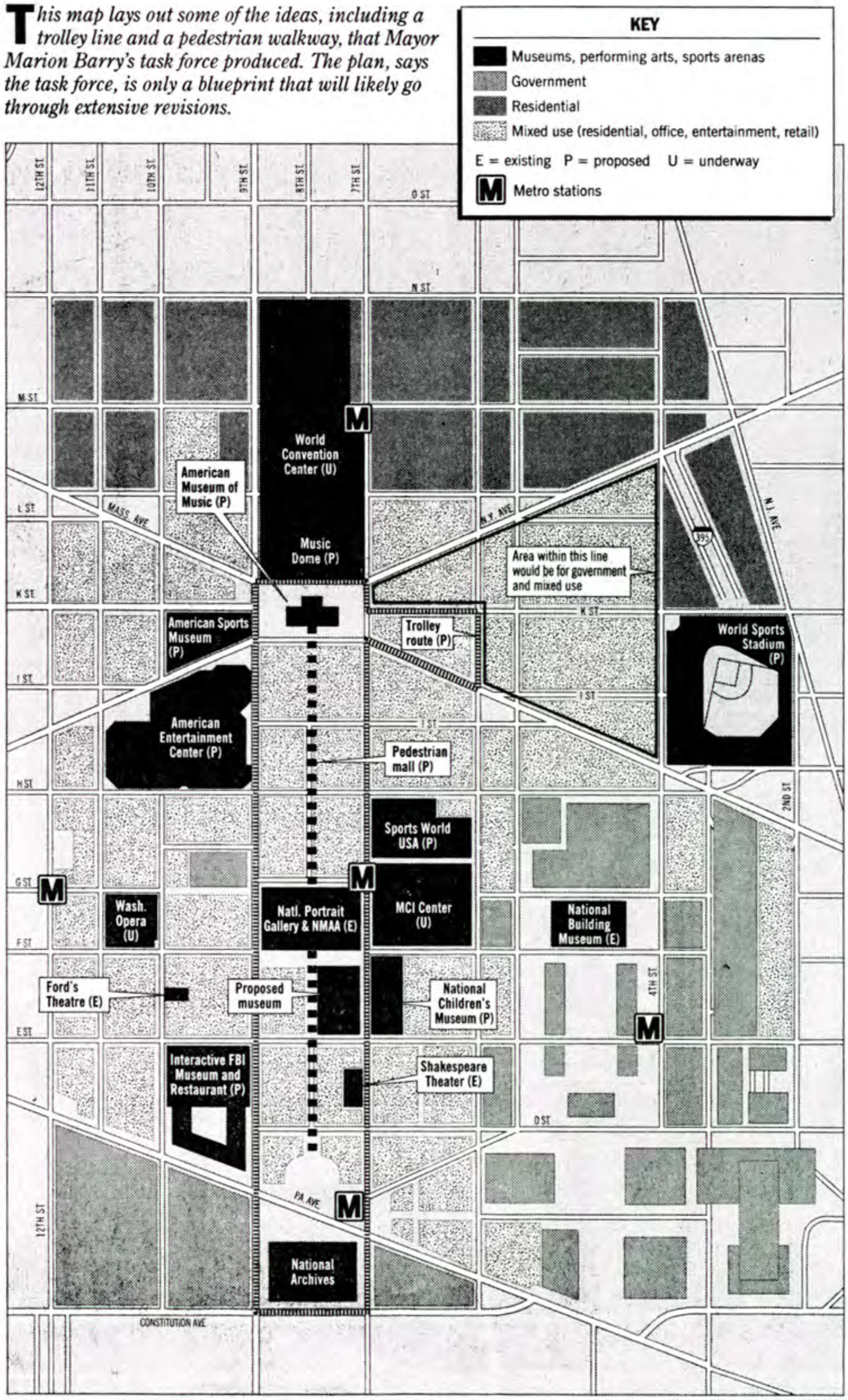
Perhaps the best sign that the task force's efforts are happening at the right time is the strong interest expressed in Washington by major entertainment conglomerates and movie studios. Sony Corp., Time Warner Inc. and Universal Studios have all held meetings with task force leaders and are actively considering downtown Washington for retail development.

"I think the principal thing here is the role the private sector is expected to play and is contemplating playing," said Derek Q. Johnson, vice president of Time Warner, who is working on the company's efforts to create retail/entertainment developments in urban centers.

Michael Swinney, president of Sony development, said the task force has provided the "cohesion and vision" that Sony looks for when considering building massive complexes that combine the electronics and entertainment sides of the giant company.

THE BEGINNING OF A PLAN

This map lays out some of the ideas, including a trolley line and a pedestrian walkway, that Mayor Marion Barry's task force produced. The plan, says the task force, is only a blueprint that will likely go through extensive revisions.



BY DAVE COOK—THE WASHINGTON POST

The Washington Post

AN INDEPENDENT NEWSPAPER

A Grand New Downtown: Do It

YES, THERE'S yet another "bold plan" to remake the core of Washington—and, yes again, local historians can tick off a long list of grandiose proposals that for an even longer list of reasons have died here. But the vision for downtown Washington that a quite-special task force has been assembling has exceptional talent, money and interests behind it—enough to make this massive undertaking a serious venture. Building on what already is in the works to revive downtown—a new arena/entertainment/sports complex, a new convention center, an opera house—this plan would fill the streets with the best museums, retail showcases, entertainment facilities, international activities and eateries that global and hometown private money could buy.

The initial driving force behind the plans has been developer Herbert S. Miller, whose deep local roots, experience (Georgetown Park, Potomac Mills) and contacts have attracted an unusually broad array of interests who see Washington as a natural center for business, governments of the world and hometown flavor. The business representatives—from huge international corporations to small city retailers—are not talking fantasies here; they are looking at a market that could draw city and suburban residents as well as tourists to Washington year-around.

Obviously, the District today is no position to pay for much of anything and is undergoing complex changes in its local management. Nevertheless, the task force participants—many of whom have developed or are now working on downtown revival projects in other cities—say Washington already has the basic urban design, transportation, cultural activities and international flavor to blossom dramatically.

The task force, commissioned by Mayor Barry last spring and supported by the control board, has had the resources to engage top urban/commercial planners. Members already include experts who are aware, for example, of the importance of answering practical needs: parking, walkways, trolleys, tax incentives, tourist attractions with activities for all ages.

Mr. Miller and the task force members emphasize that what they have produced at this point is merely a draft that will need reworking over perhaps a decade before significant physical change can sprout. But let the venture proceed, with the blessings, creativity and money that this coalition can muster and mobilize.

Burson-Marsteller
DC February A Quorum Questions
n=1008
Margin of Error = ± 3.1 percentage points

1. As the capital of the United States, how favorable of an image does Washington, DC present to the rest of the world? Would you say…

   <u>59% Total Favorable</u>
   15% Very favorable
   44% Somewhat favorable

   <u>34% Total Unfavorable</u>
   23% Not very favorable
   11% Not at all favorable

   3% Neutral (DO NOT READ)
   4% Don't know/refused (DO NOT READ)

2. Do you think it is important for our nation's capital to be viewed positively?

   94% Yes
   3% No
   3% Don't Know/Refused (DO NOT READ)

3. How important is it to you that we revitalize our nation's capital? Would you say…

<u>88% Total Important</u>
57% Very important
31% Somewhat important

<u>7% Total Not Important</u>
5% Not very important
2% Not at all important

1% Neutral (DO NOT READ)
3% Don't know/refused (DO NOT READ)

4. Do you think the revitalization of our nation's capital should be a priority for the United States Congress?

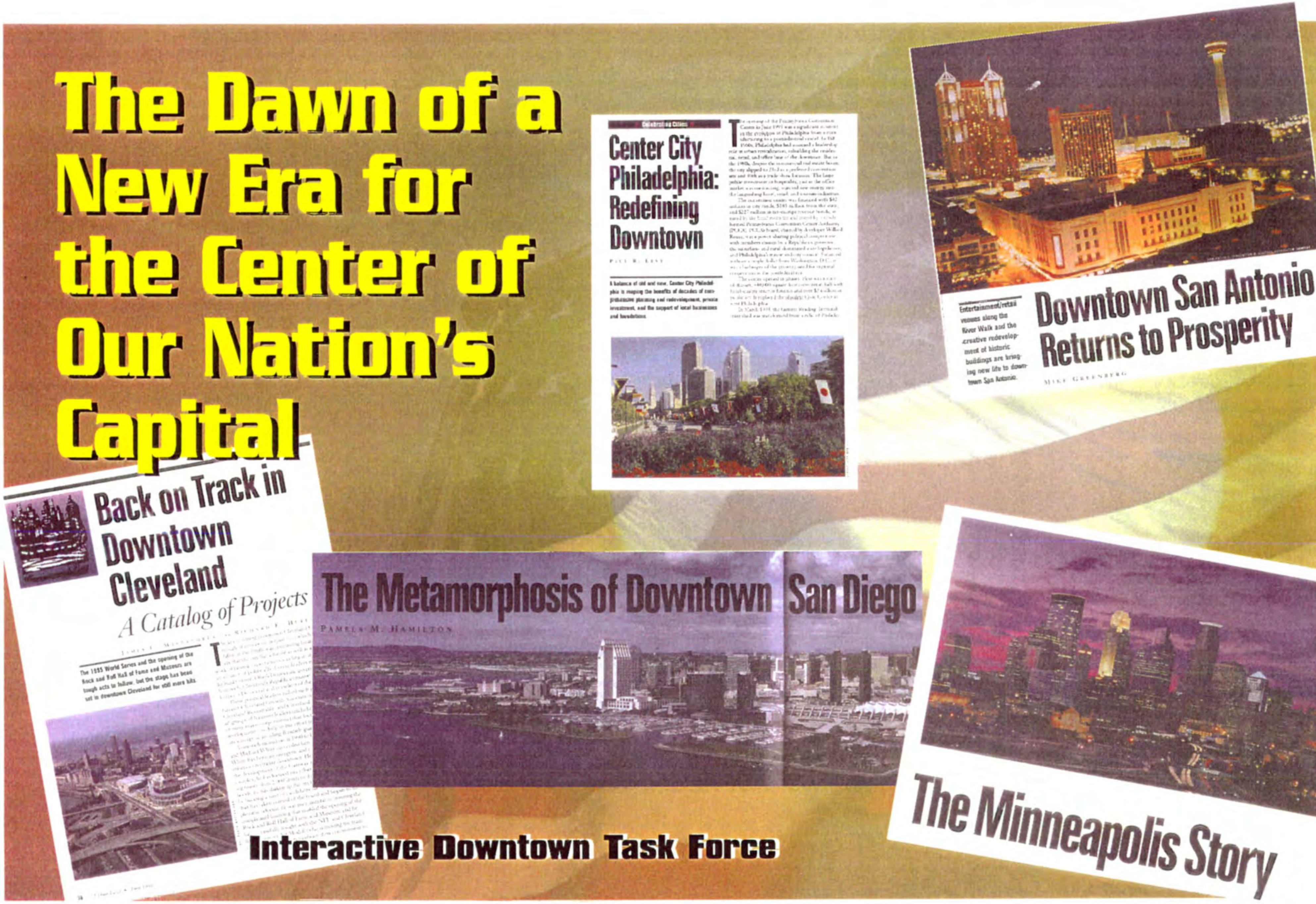
61% Yes
31% No
8% Don't Know/Refused (DO NOT READ)

5. Would you join an effort as a ... volunteer... or... contribute to an effort ... to revitalize and improve the image of our nation's capital?

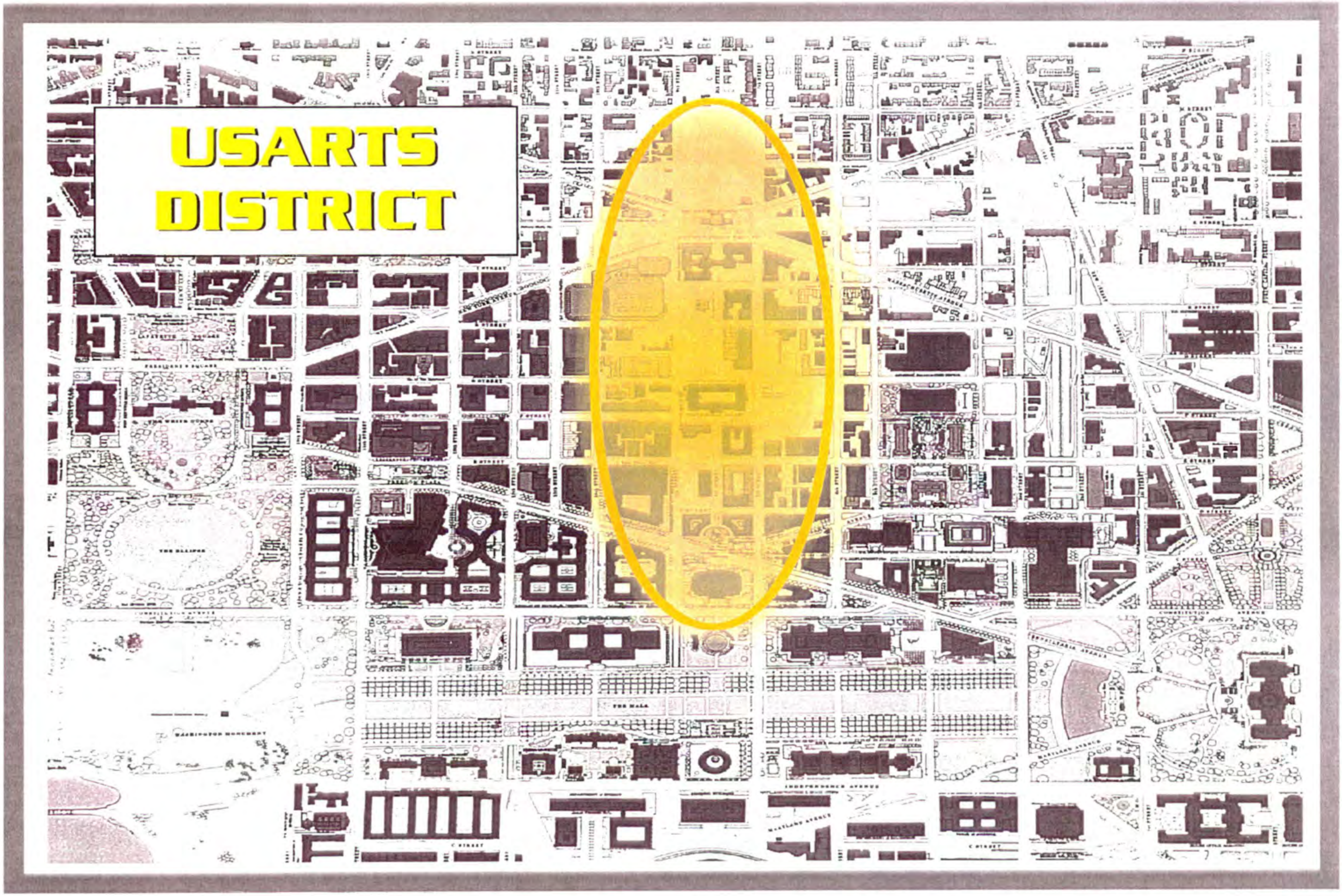
<u>42% Total Yes</u>
19% Yes, Volunteer
11% Yes, Contribute to an effort
13% Yes, Both

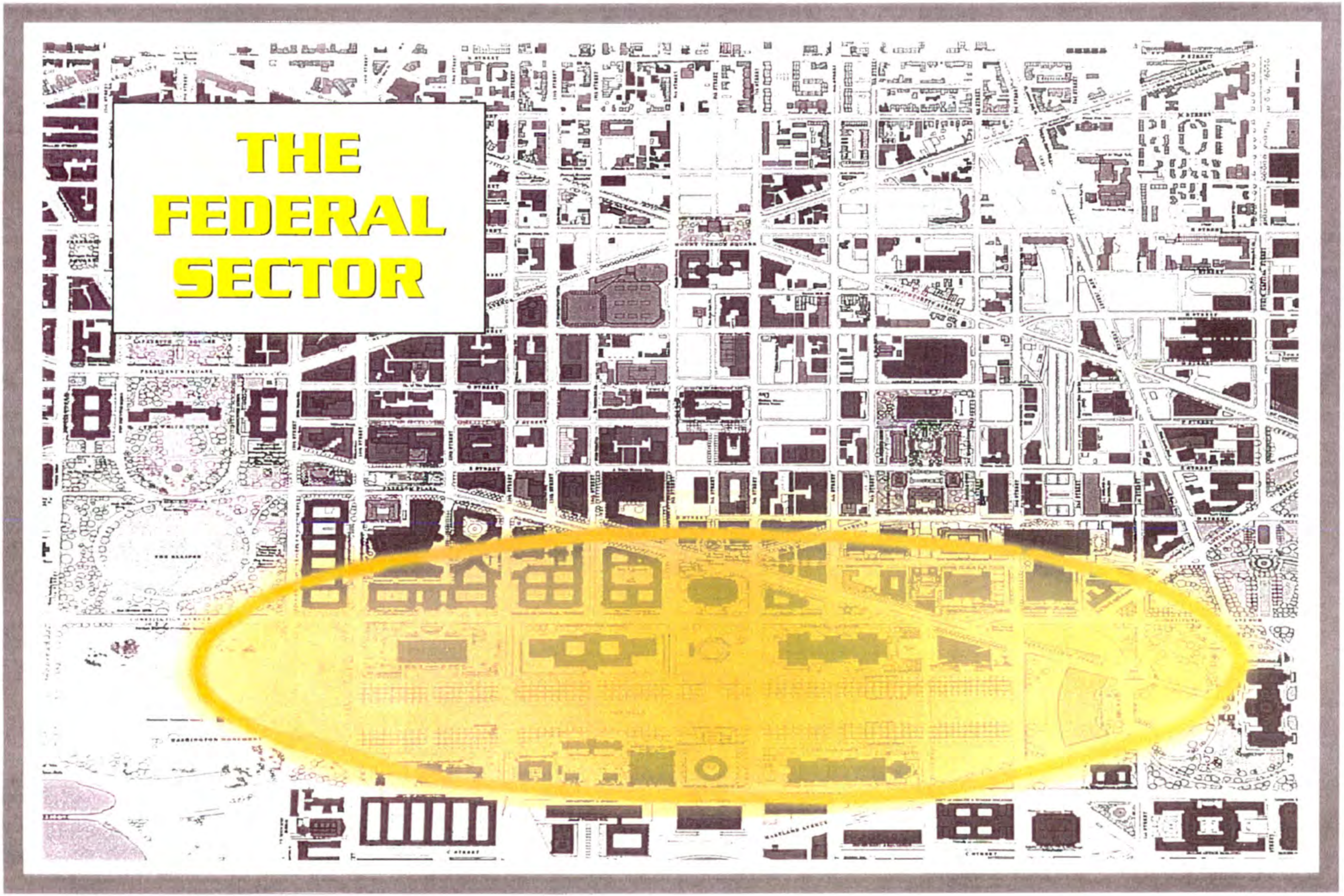
47% Neither
10% Don't Know/Refused (DO NOT READ)

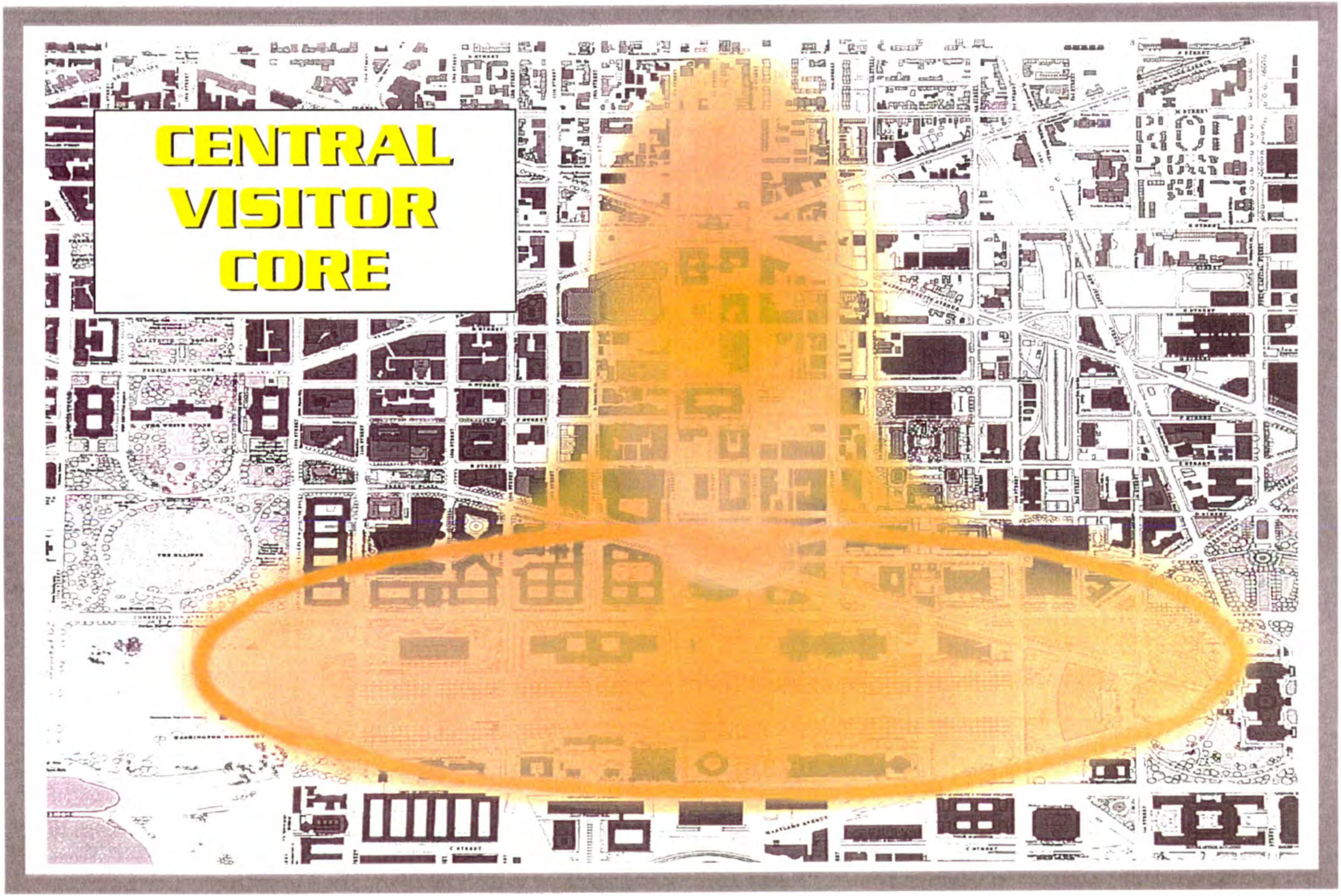
The Dawn of a New Era for the Center of Our Nation's Capital

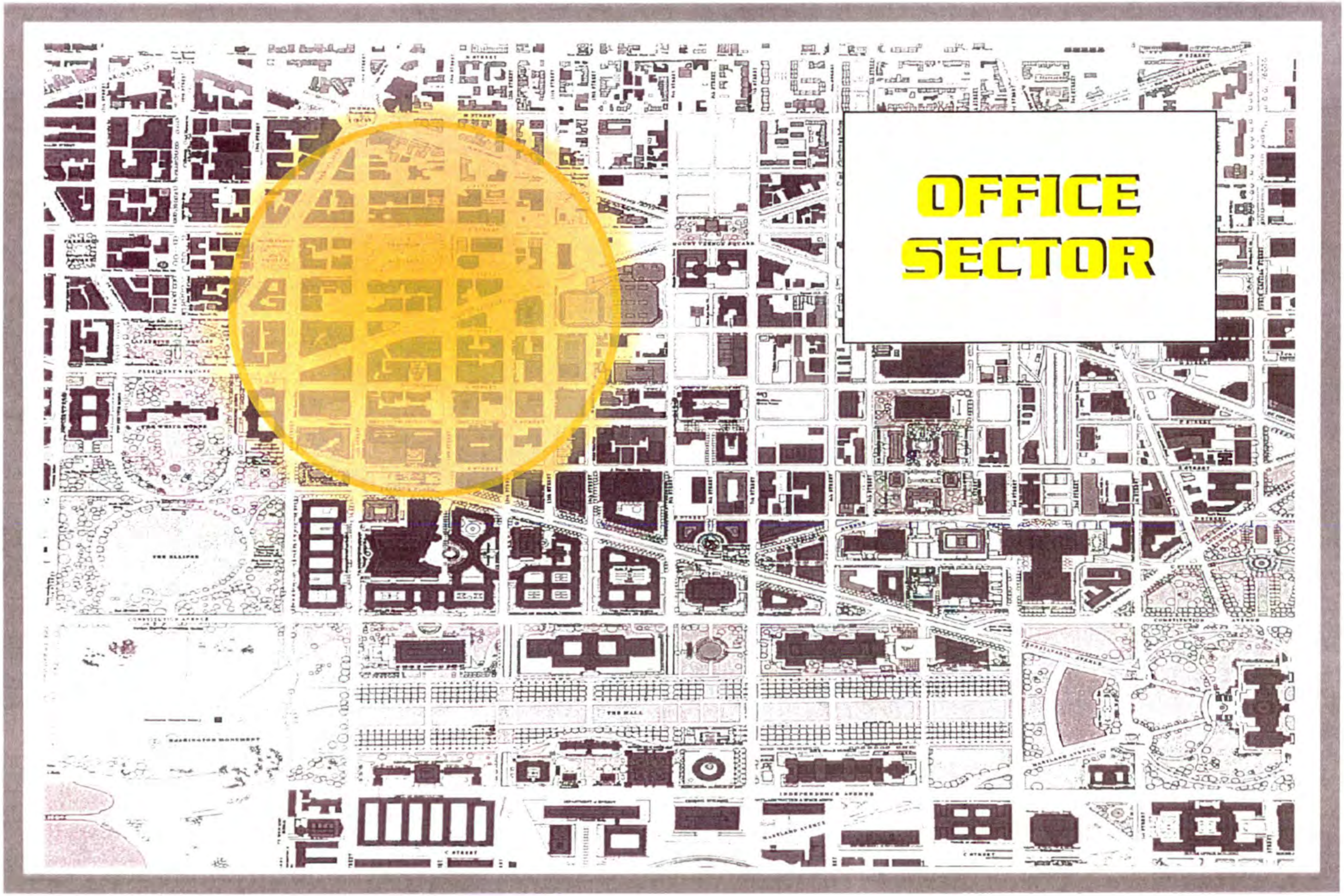


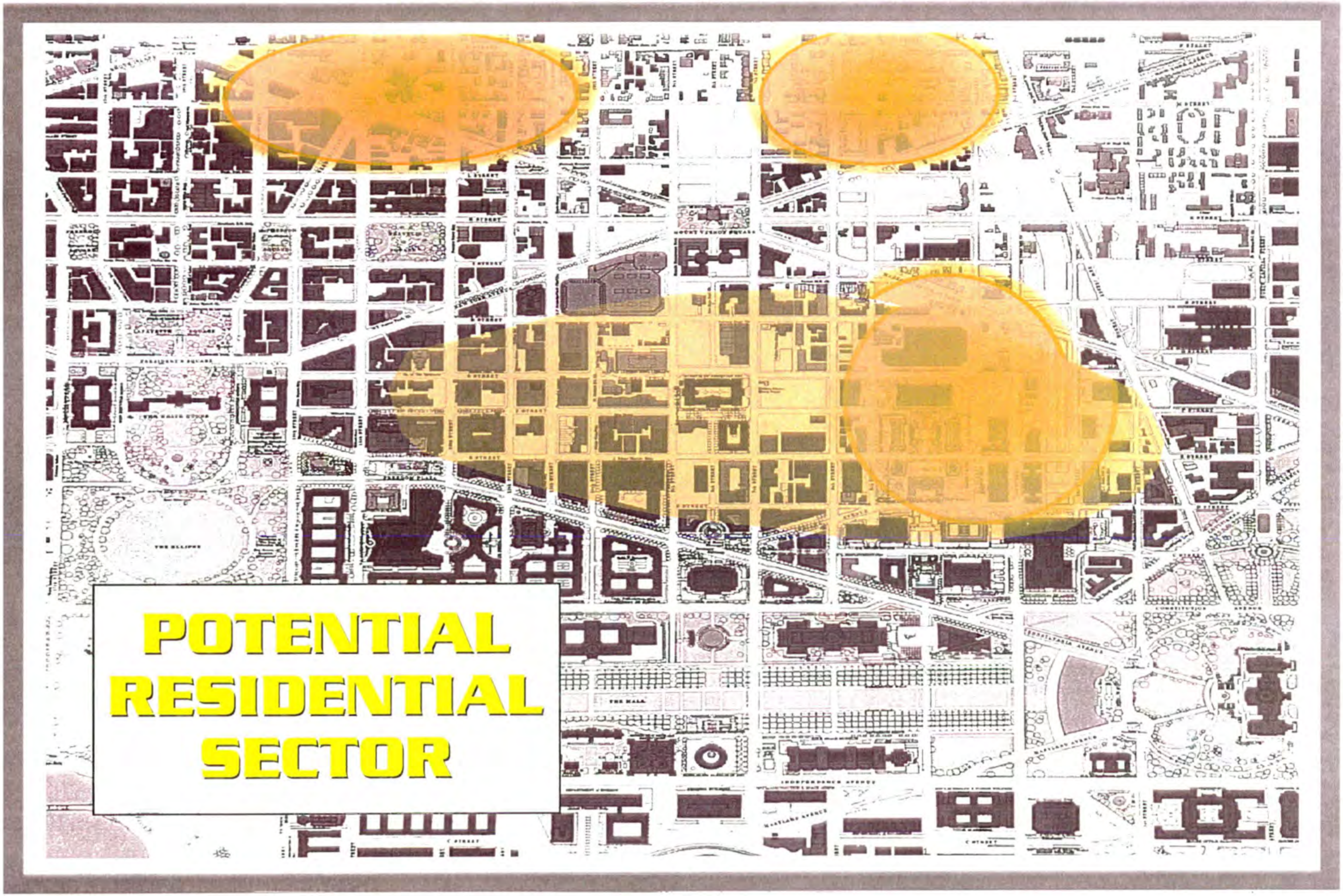
Interactive Downtown Task Force

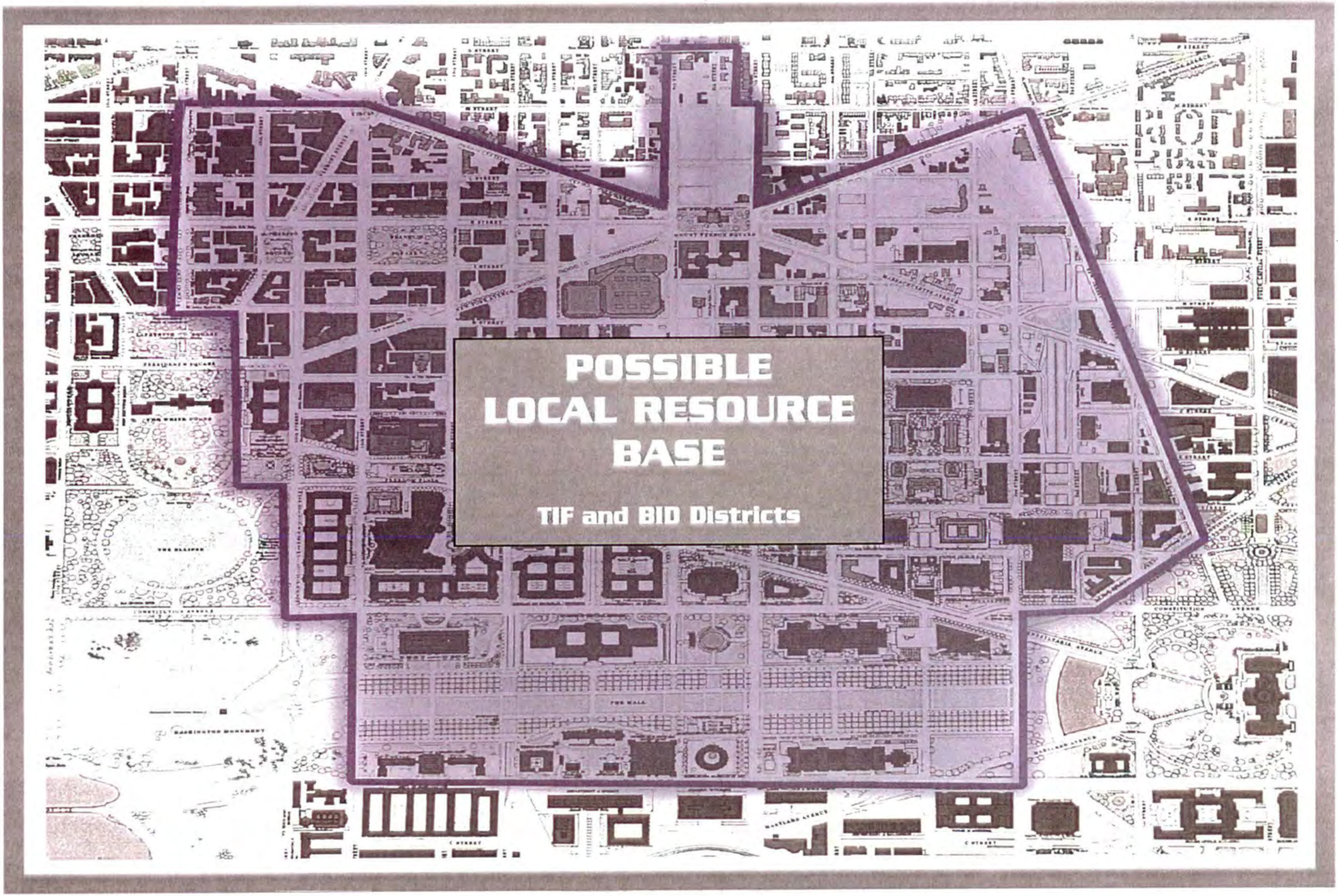

USARTS
DISTRICT

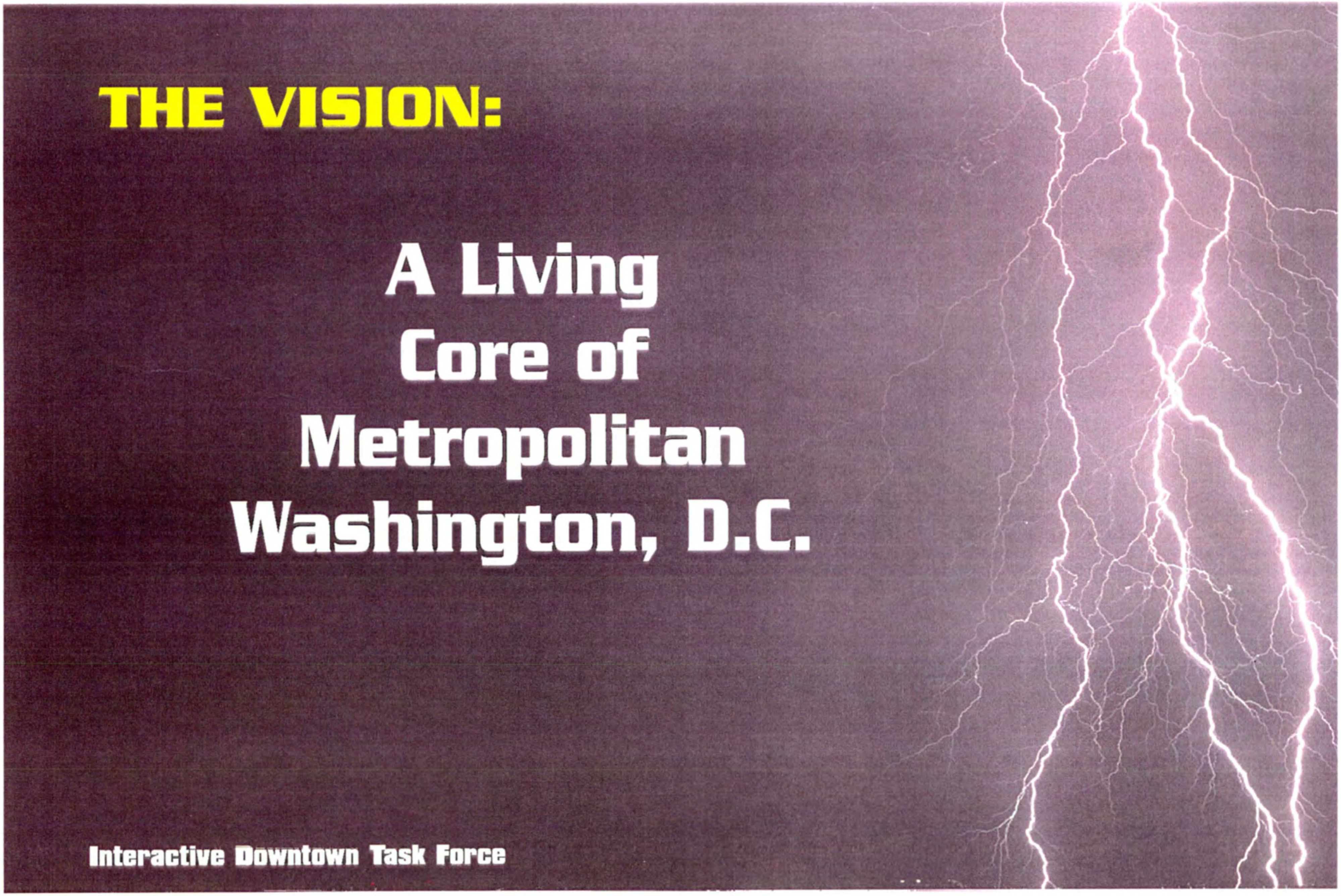

THE
FEDERAL
SECTOR

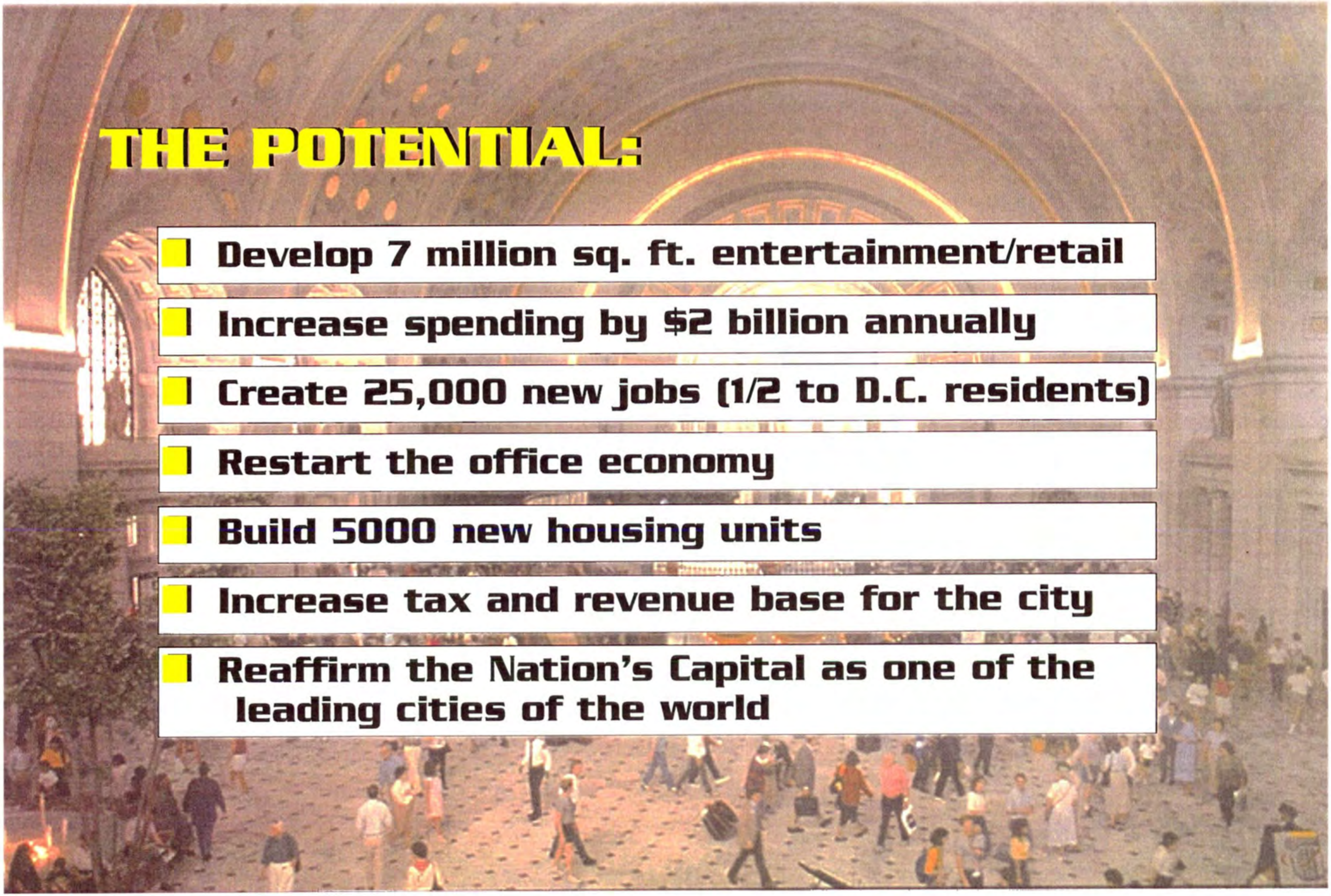

CENTRAL
VISITOR
CORE


OFFICE SECTOR


POTENTIAL RESIDENTIAL SECTOR


POSSIBLE
LOCAL RESOURCE
BASE
TIF and BID Districts


THE VISION:
A Living
Core of
Metropolitan
Washington, D.C.
Interactive Downtown Task Force



THE POTENTIAL:

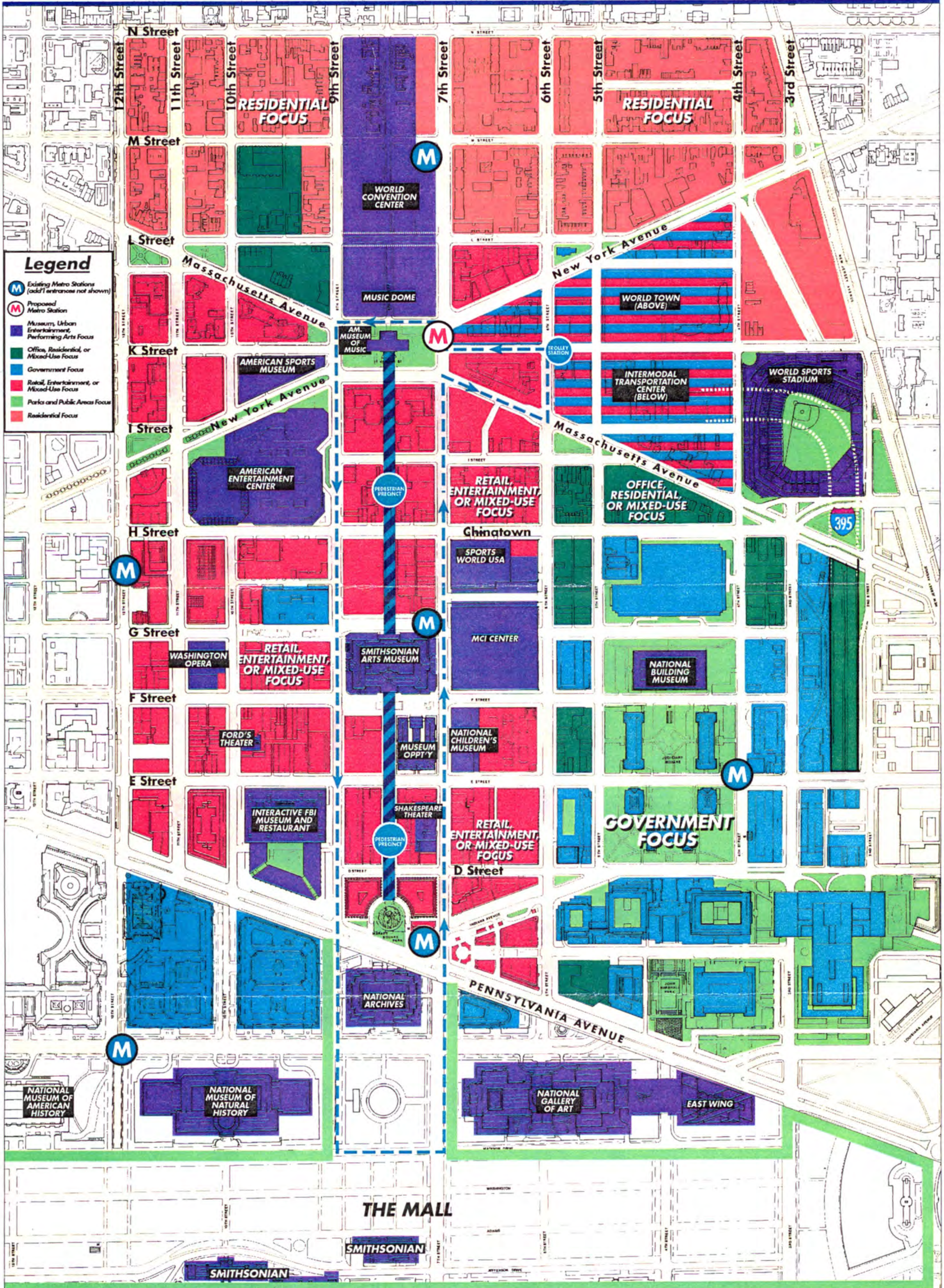
- Develop 7 million sq. ft. entertainment/retail
- Increase spending by $2 billion annually
- Create 25,000 new jobs (1/2 to D.C. residents)
- Restart the office economy
- Build 5000 new housing units
- Increase tax and revenue base for the city
- Reaffirm the Nation's Capital as one of the leading cities of the world

Interactive Downtown Task Force

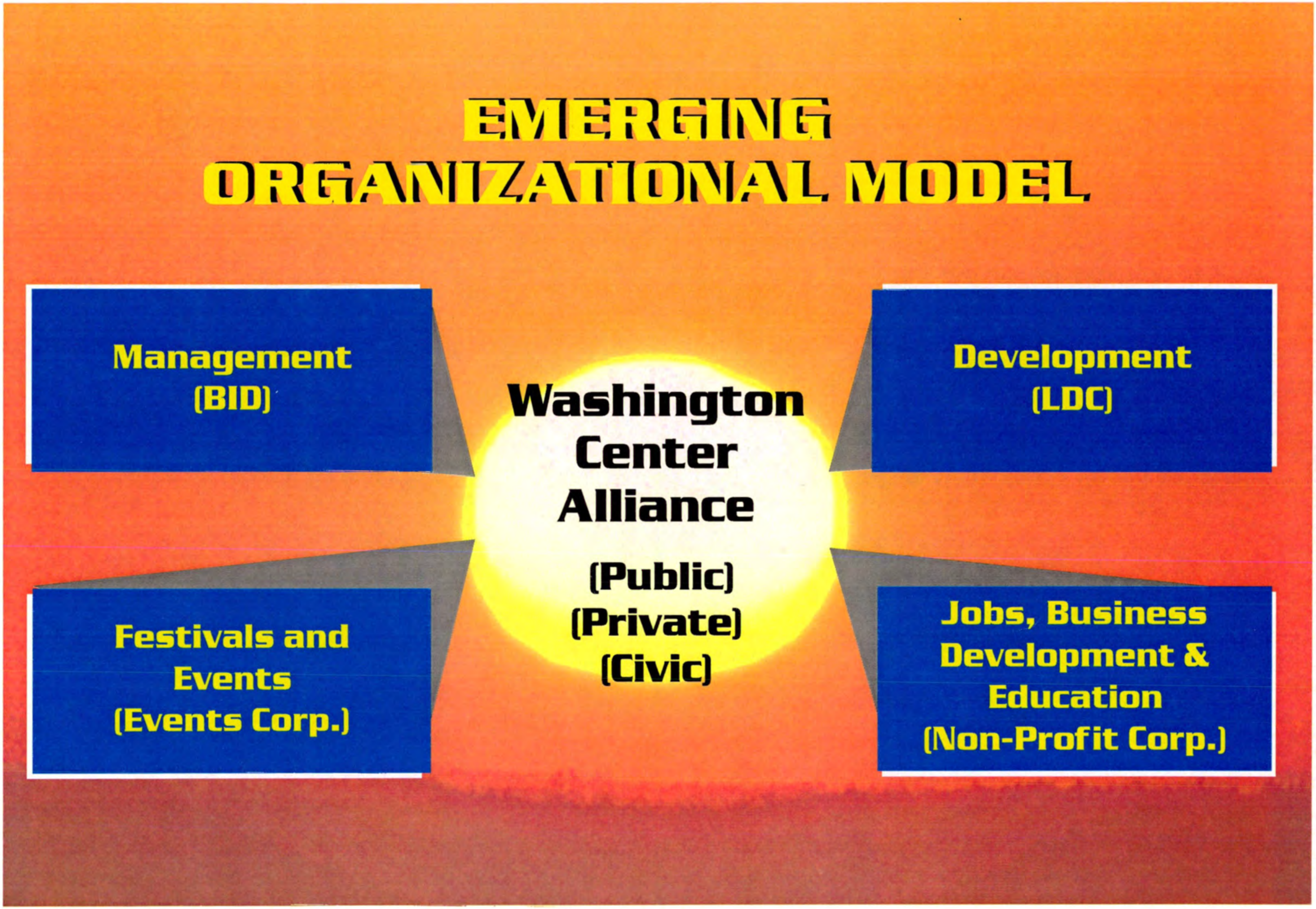
PRODUCTS OF THE PLANNING PROCESS:

- Strategic Land Use and Master Plan
- Economic Plan
- Marketing Events and Festival Plan
- "Smart Downtown" Plan
- World Town Plan

THE PLANNING CONCEPT



DEVELOPMENT **DESIGN GROUP** INCORPORATED


EMERGING
ORGANIZATIONAL MODEL
Management
(BID)
Development
(LDC)
Washington
Center
Alliance
(Public)
(Private)
(Civic)
Festivals and
Events
(Events Corp.)
Jobs, Business
Development &
Education
(Non-Profit Corp.)

WHERE THE MODEL IS WORKING:

New York

Denver

Dallas

Houston

Baltimore

Portland

Atlanta

Richmond

San Diego

Seattle

Minneapolis