



***District of Columbia***

**REGISTER**

**HIGHLIGHTS**

- DC Council schedules a public oversight roundtable on the District of Columbia zoning regulations review
- DC Council schedules a public oversight roundtable to receive the results of the review of the Human Rights Watch report on MPD's Handling of Sexual Assault Investigations
- Department of Consumer and Regulatory Affairs implements provisions of the Green Building Act of 2006
- Department of Motor Vehicles implements rules that allow third party examiners to administer road tests for driver's licenses
- Department of Health proposes perinatal HIV reporting rules
- Office on Asian and Pacific Islander Affairs announces funding availability for the FY2014 Community Grant
- Office of the Deputy Mayor for Planning and Economic Development announces funding availability for the Great Streets Small Business Capital Improvement program

# DISTRICT OF COLUMBIA REGISTER

## Publication Authority and Policy

The District of Columbia Office of Documents and Administrative Issuances (ODAI) publishes the *District of Columbia Register* (ISSN 0419-439X) (*D.C. Register*) every Friday under the authority of the *District of Columbia Documents Act*, D.C. Law 2-153, effective March 6, 1979 (25 DCR 6960). The policies which govern the publication of the *D.C. Register* are set forth in Title 1 of the District of Columbia Municipal Regulations, Chapter 3 (Rules of the Office of Documents and Administrative Issuances.) Copies of the Rules may be obtained from the Office of Documents and Administrative Issuances. Rulemaking documents are also subject to the requirements of the *District of Columbia Administrative Procedure Act*, District of Columbia Official Code, §§2-501 *et seq.*, as amended.

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## DISTRICT OF COLUMBIA OFFICE OF DOCUMENTS AND ADMINISTRATIVE ISSUANCES

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## COUNCIL OF THE DISTRICT OF COLUMBIA

## NOTICE

## D.C. LAW 19-232

**“Medicaid Fraud Enforcement and Recovery Amendment Act of 2012”**

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 19-224 on first and second readings October 16, 2012 and November 1, 2012, respectively. Following the signature of the Mayor on November 20, 2012, pursuant to Section 404(e) of the Charter, the bill became Act 19-549 and was published in the November 30, 2012 edition of the D.C. Register (Vol. 59, page 13632). Act 19-549 was transmitted to Congress on January 29, 2013 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 19-549 is now D.C. Law 19-232, effective March 19, 2013.



PHIL MENDELSON  
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

Jan. 29,30,31

Feb. 1,4,5,6,7,8,11,12,13,14,15,25,26,27,28

Mar. 1,4,5,6,7,8,11,12,13,14,15,18

## COUNCIL OF THE DISTRICT OF COLUMBIA

## NOTICE

## D.C. LAW 19-233

**"Judicial Adjudication of Parentage Act of 2012"**

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 19-615 on first and second readings October 16, 2012 and November 1, 2012, respectively. Following the signature of the Mayor on November 20, 2012, pursuant to Section 404(e) of the Charter, the bill became Act 19-550 and was published in the December 14, 2012 edition of the D.C. Register (Vol. 59, page 14769). Act 19-550 was transmitted to Congress on January 29, 2013 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 19-550 is now D.C. Law 19-233, effective March 19, 2013.



PHIL MENDELSON  
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

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Mar. 1,4,5,6,7,8,11,12,13,14,15,18

**COUNCIL OF THE DISTRICT OF COLUMBIA****NOTICE****D.C. LAW 19-234****“District Department of Transportation Bicycle  
Sharing Fund Amendment Act of 2012”**

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 19-856 on first and second readings November 1, 2012 and November 15, 2012, respectively. Following the signature of the Mayor on November 30, 2012, pursuant to Section 404(e) of the Charter, the bill became Act 19-551 and was published in the December 14, 2012 edition of the D.C. Register (Vol. 59, page 14772). Act 19-551 was transmitted to Congress on January 29, 2013 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 19-551 is now D.C. Law 19-234, effective March 19, 2013.



PHIL MENDELSON  
Chairman of the Council

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**COUNCIL OF THE DISTRICT OF COLUMBIA****NOTICE****D.C. LAW 19-235****"Public Vehicle-for-Hire Educational Services Temporary Act of 2012"**

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 19-1027 on first and second readings November 1, 2012 and November 15, 2012, respectively. Following the signature of the Mayor on November 30, 2012, pursuant to Section 404(e) of the Charter, the bill became Act 19-552 and was published in the December 14, 2012 edition of the D.C. Register (Vol. 59, page 14774). Act 19-552 was transmitted to Congress on January 29, 2013 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 19-552 is now D.C. Law 19-235, effective March 19, 2013.



PHIL MENDELSON  
Chairman of the Council

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**COUNCIL OF THE DISTRICT OF COLUMBIA****NOTICE****D.C. LAW 19-236****"Local Rent Supplement Program Voucher  
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Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 19-1029 on first and second readings November 1, 2012 and November 15, 2012, respectively. Following the signature of the Mayor on December 2, 2012, pursuant to Section 404(e) of the Charter, the bill became Act 19-553 and was published in the December 14, 2012 edition of the D.C. Register (Vol. 59, page 14776). Act 19-553 was transmitted to Congress on January 29, 2013 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 19-553 is now D.C. Law 19-236, effective March 19, 2013.



PHIL MENDELSON  
Chairman of the Council

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Jan. 29,30,31

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**COUNCIL OF THE DISTRICT OF COLUMBIA****NOTICE****D.C. LAW 19-237****"NoMA Residential Development Tax Abatement Act of 2012"**

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 19-670 on first and second readings November 1, 2012 and November 15, 2012, respectively. Following the signature of the Mayor on December 2, 2012, pursuant to Section 404(e) of the Charter, the bill became Act 19-554 and was published in the December 14, 2012 edition of the D.C. Register (Vol. 59, page 14778). Act 19-554 was transmitted to Congress on January 29, 2013 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 19-554 is now D.C. Law 19-237, effective March 19, 2013.



PHIL MENDELSON  
Chairman of the Council

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**COUNCIL OF THE DISTRICT OF COLUMBIA****NOTICE****D.C. LAW 19-238****“Closing of a Public Alley in Square N-515, S.O. 12-02073, Act of 2012”**

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 19-827 on first and second readings November 1, 2012 and November 15, 2012, respectively. Following the signature of the Mayor on December 2, 2012, pursuant to Section 404(e) of the Charter, the bill became Act 19-555 and was published in the December 14, 2012 edition of the D.C. Register (Vol. 59, page 14780). Act 19-555 was transmitted to Congress on January 29, 2013 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 19-555 is now D.C. Law 19-238, effective March 19, 2013.



PHIL MENDELSON  
Chairman of the Council

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Mar. 1,4,5,6,7,8,11,12,13,14,15,18

**COUNCIL OF THE DISTRICT OF COLUMBIA****NOTICE****D.C. LAW 19-239****"District of Columbia Flag Amendment Act of 2012"**

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 19-277 on first and second readings November 1, 2012 and November 15, 2012, respectively. Following the signature of the Mayor on December 2, 2012, pursuant to Section 404(e) of the Charter, the bill became Act 19-559 and was published in the December 14, 2012 edition of the D.C. Register (Vol. 59, page 14788). Act 19-559 was transmitted to Congress on January 29, 2013 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 19-559 is now D.C. Law 19-239, effective March 19, 2013.



PHIL MENDELSON  
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

Jan. 29,30,31

Feb. 1,4,5,6,7,8,11,12,13,14,15,25,26,27,28

Mar. 1,4,5,6,7,8,11,12,13,14,15,18

**COUNCIL OF THE DISTRICT OF COLUMBIA****NOTICE****D.C. LAW 19-240****"Water Quality Assurance Amendment Act of 2012"**

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 19-769 on first and second readings November 1, 2012 and November 15, 2012, respectively. Following the signature of the Mayor on December 4, 2012, pursuant to Section 404(e) of the Charter, the bill became Act 19-560 and was published in the December 14, 2012 edition of the D.C. Register (Vol. 59, page 14790). Act 19-560 was transmitted to Congress on January 29, 2013 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 19-560 is now D.C. Law 19-240, effective March 19, 2013.



PHIL MENDELSON  
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

Jan. 29,30,31

Feb. 1,4,5,6,7,8,11,12,13,14,15,25,26,27,28

Mar. 1,4,5,6,7,8,11,12,13,14,15,18

**COUNCIL OF THE DISTRICT OF COLUMBIA****NOTICE****D.C. LAW 19-241****“District Department of Transportation Accessible  
Vehicles Fund Amendment Act of 2012”**

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 19-952 on first and second readings November 1, 2012 and November 15, 2012, respectively. Following the signature of the Mayor on December 4, 2012, pursuant to Section 404(e) of the Charter, the bill became Act 19-561 and was published in the December 14, 2012 edition of the D.C. Register (Vol. 59, page 14794). Act 19-561 was transmitted to Congress on January 29, 2013 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 19-561 is now D.C. Law 19-241, effective March 19, 2013.



PHIL MENDELSON  
Chairman of the Council

**Days Counted During the 30-day Congressional Review Period:**

Jan. 29,30,31

Feb. 1,4,5,6,7,8,11,12,13,14,15,25,26,27,28

Mar. 1,4,5,6,7,8,11,12,13,14,15,18

**COUNCIL OF THE DISTRICT OF COLUMBIA****NOTICE****D.C. LAW 19-242****"Alternative Service of Process Amendment Act of 2012"**

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 19-752 on first and second readings November 1, 2012 and November 15, 2012, respectively. Following the signature of the Mayor on December 7, 2012, pursuant to Section 404(e) of the Charter, the bill became Act 19-563 and was published in the December 21, 2012 edition of the D.C. Register (Vol. 59, page 14936). Act 19-563 was transmitted to Congress on January 29, 2013 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 19-563 is now D.C. Law 19-242, effective March 19, 2013.



PHIL MENDELSON  
Chairman of the Council

**Days Counted During the 30-day Congressional Review Period:**

Jan. 29,30,31

Feb. 1,4,5,6,7,8,11,12,13,14,15,25,26,27,28

Mar. 1,4,5,6,7,8,11,12,13,14,15,18

**COUNCIL OF THE DISTRICT OF COLUMBIA****NOTICE****D.C. LAW 19-243****"Good Samaritan Overdose Prevention Amendment Act of 2012"**

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 19-754 on first and second readings November 1, 2012 and November 15, 2012, respectively. Following the signature of the Mayor on December 7, 2012, pursuant to Section 404(e) of the Charter, the bill became Act 19-564 and was published in the December 21, 2012 edition of the D.C. Register (Vol. 59, page 14938). Act 19-564 was transmitted to Congress on January 29, 2013 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 19-564 is now D.C. Law 19-243, effective March 19, 2013.



PHIL MENDELSON  
Chairman of the Council

**Days Counted During the 30-day Congressional Review Period:**

Jan. 29,30,31

Feb. 1,4,5,6,7,8,11,12,13,14,15,25,26,27,28

Mar. 1,4,5,6,7,8,11,12,13,14,15,18

**COUNCIL OF THE DISTRICT OF COLUMBIA****NOTICE****D.C. LAW 19-244****"Department of Motor Vehicles Reciprocity Amendment Act of 2012"**

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 19-783 on first and second readings November 1, 2012 and November 15, 2012, respectively. Following the signature of the Mayor on December 7, 2012, pursuant to Section 404(e) of the Charter, the bill became Act 19-565 and was published in the December 21, 2012 edition of the D.C. Register (Vol. 59, page 14942). Act 19-565 was transmitted to Congress on January 29, 2013 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 19-565 is now D.C. Law 19-244, effective March 19, 2013.



PHIL MENDELSON  
Chairman of the Council

**Days Counted During the 30-day Congressional Review Period:**

Jan. 29,30,31

Feb. 1,4,5,6,7,8,11,12,13,14,15,25,26,27,28

Mar. 1,4,5,6,7,8,11,12,13,14,15,18

## COUNCIL OF THE DISTRICT OF COLUMBIA

## NOTICE

## D.C. LAW 19-245

**"Parkside Parcel E and J Mixed-Income Apartments  
Tax Abatement Temporary Act of 2012"**

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 19-1049 on first and second readings November 15, 2012 and December 4, 2012, respectively. Following the signature of the Mayor on December 20, 2012, pursuant to Section 404(e) of the Charter, the bill became Act 19-573 and was published in the January 11, 2013 edition of the D.C. Register (Vol. 60, page 101). Act 19-573 was transmitted to Congress on January 29, 2013 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 19-573 is now D.C. Law 19-245, effective March 19, 2013.



PHIL MENDELSON  
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

Jan. 29,30,31

Feb. 1,4,5,6,7,8,11,12,13,14,15,25,26,27,28

Mar. 1,4,5,6,7,8,11,12,13,14,15,18

**COUNCIL OF THE DISTRICT OF COLUMBIA****NOTICE****D.C. LAW 19-246****“Streetscape Reconstruction Second Temporary Act of 2012”**

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 19-1051 on first and second readings November 15, 2012 and December 4, 2012, respectively. Following the signature of the Mayor on December 20, 2012, pursuant to Section 404(e) of the Charter, the bill became Act 19-574 and was published in the January 11, 2013 edition of the D.C. Register (Vol. 60, page 104). Act 19-574 was transmitted to Congress on January 29, 2013 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 19-574 is now D.C. Law 19-246, effective March 19, 2013.



PHIL MENDELSON  
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

Jan. 29,30,31

Feb. 1,4,5,6,7,8,11,12,13,14,15,25,26,27,28

Mar. 1,4,5,6,7,8,11,12,13,14,15,18

**COUNCIL OF THE DISTRICT OF COLUMBIA****NOTICE****D.C. LAW 19-247****"Phebbie Scott Way Designation Act of 2012"**

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 19-746 on first and second readings November 15, 2012 and December 4, 2012, respectively. Following the signature of the Mayor on December 20, 2012, pursuant to Section 404(e) of the Charter, the bill became Act 19-575 and was published in the January 11, 2013 edition of the D.C. Register (Vol. 60, page 106). Act 19-575 was transmitted to Congress on January 29, 2013 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 19-575 is now D.C. Law 19-247, effective March 19, 2013.



PHIL MENDELSON  
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

Jan. 29,30,31

Feb. 1,4,5,6,7,8,11,12,13,14,15,25,26,27,28

Mar. 1,4,5,6,7,8,11,12,13,14,15,18

**COUNCIL OF THE DISTRICT OF COLUMBIA****NOTICE****D.C. LAW 19-248****“911 Purity Amendment Act of 2012”**

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 19-139 on first and second readings November 15, 2012 and December 4, 2012, respectively. The legislation was deemed approved without the signature of the Mayor on December 25, 2012, pursuant to Section 404(e) of the Charter, the bill became Act 19-578 and was published in the January 11, 2013 edition of the D.C. Register (Vol. 60, page 112). Act 19-578 was transmitted to Congress on January 29, 2013 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 19-578 is now D.C. Law 19-248, effective March 19, 2013.



PHIL MENDELSON  
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

Jan. 29,30,31

Feb. 1,4,5,6,7,8,11,12,13,14,15,25,26,27,28

Mar. 1,4,5,6,7,8,11,12,13,14,15,18

**COUNCIL OF THE DISTRICT OF COLUMBIA****NOTICE****D.C. LAW 19-249****"Senator Charles H. Percy Plaza Act of 2012"**

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 19-697 on first and second readings November 15, 2012 and December 4, 2012, respectively. Following the signature of the Mayor on December 22, 2012, pursuant to Section 404(e) of the Charter, the bill became Act 19-579 and was published in the January 11, 2013 edition of the D.C. Register (Vol. 60, page 114). Act 19-579 was transmitted to Congress on January 29, 2013 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 19-579 is now D.C. Law 19-249, effective March 19, 2013.



PHIL MENDELSON  
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

Jan. 29,30,31

Feb. 1,4,5,6,7,8,11,12,13,14,15,25,26,27,28

Mar. 1,4,5,6,7,8,11,12,13,14,15,18

**COUNCIL OF THE DISTRICT OF COLUMBIA****NOTICE****D.C. LAW 19-250****“Albert “Butch” Hopkins Way Designation Act of 2012”**

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 19-780 on first and second readings November 15, 2012 and December 4, 2012, respectively. Following the signature of the Mayor on December 22, 2012, pursuant to Section 404(e) of the Charter, the bill became Act 19-580 and was published in the January 11, 2013 edition of the D.C. Register (Vol. 60, page 116). Act 19-580 was transmitted to Congress on January 29, 2013 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 19-580 is now D.C. Law 19-250, effective March 19, 2013.



PHIL MENDELSON  
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

Jan. 29,30,31

Feb. 1,4,5,6,7,8,11,12,13,14,15,25,26,27,28

Mar. 1,4,5,6,7,8,11,12,13,14,15,18

**COUNCIL OF THE DISTRICT OF COLUMBIA****NOTICE****D.C. LAW 19-251****"UDC Board Meeting Amendment Act of 2012"**

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 19-694 on first and second readings December 4, 2012 and December 18, 2012, respectively. Following the signature of the Mayor on January 7, 2013, pursuant to Section 404(e) of the Charter, the bill became Act 19-588 and was published in the February 1, 2013 edition of the D.C. Register (Vol. 60, page 980). Act 19-588 was transmitted to Congress on January 29, 2013 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 19-588 is now D.C. Law 19-251, effective March 19, 2013.



PHIL MENDELSON  
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

Jan. 29,30,31

Feb. 1,4,5,6,7,8,11,12,13,14,15,25,26,27,28

Mar. 1,4,5,6,7,8,11,12,13,14,15,18

**COUNCIL OF THE DISTRICT OF COLUMBIA****NOTICE****D.C. LAW 19-252****"Energy Innovation and Savings Amendment Act of 2012"**

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 19-749 on first and second readings November 1, 2012 and November 15, 2012, respectively. Following the signature of the Mayor on December 7, 2012, pursuant to Section 404(e) of the Charter, the bill became Act 19-562 and was published in the December 21, 2012 edition of the D.C. Register (Vol. 59, page 14932). Act 19-562 was transmitted to Congress on January 29, 2013 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 19-562 is now D.C. Law 19-252, effective March 19, 2013.



PHIL MENDELSON  
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

Jan. 29,30,31

Feb. 1,4,5,6,7,8,11,12,13,14,15,25,26,27,28

Mar. 1,4,5,6,7,8,11,12,13,14,15,18

**COUNCIL OF THE DISTRICT OF COLUMBIA****NOTICE****D.C. LAW 19-253****“The Elizabeth Ministry, Inc. Affordable Housing  
Initiative Real Property Tax Relief Act of 2012”**

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 19-443 on first and second readings December 4, 2012 and December 18, 2012, respectively. Following the signature of the Mayor on January 14, 2013, pursuant to Section 404(e) of the Charter, the bill became Act 19-589 and was published in the February 1, 2013 edition of the D.C. Register (Vol. 60, page 982). Act 19-589 was transmitted to Congress on February 26, 2013 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 19-589 is now D.C. Law 19-253, effective April 20, 2013.



PHIL MENDELSON  
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

Feb. 26,27,28

Mar. 1,4,5,6,7,8,11,12,13,14,15,18,19,20,21,22,25

Apr. 8,9,10,11,12,15,16,17,18,19

**COUNCIL OF THE DISTRICT OF COLUMBIA****NOTICE****D.C. LAW 19-254****“Neighborhood Contractor Daytime Parking Permit Act of 2012”**

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 19-607 on first and second readings December 4, 2012 and December 18, 2012, respectively. Following the signature of the Mayor on January 10, 2013, pursuant to Section 404(e) of the Charter, the bill became Act 19-590 and was published in the February 1, 2013 edition of the D.C. Register (Vol. 60, page 984). Act 19-590 was transmitted to Congress on February 26, 2013 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 19-590 is now D.C. Law 19-254, effective April 20, 2013.



PHIL MENDELSON  
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

Feb. 26,27,28

Mar. 1,4,5,6,7,8,11,12,13,14,15,18,19,20,21,22,25

Apr. 8,9,10,11,12,15,16,17,18,19

**COUNCIL OF THE DISTRICT OF COLUMBIA****NOTICE****D.C. LAW 19-255****“Parkside Parcel E and J Mixed-Income Apartments Tax Abatement Act of 2012”**

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 19-741 on first and second readings December 4, 2012 and December 18, 2012, respectively. Following the signature of the Mayor on January 12, 2013, pursuant to Section 404(e) of the Charter, the bill became Act 19-591 and was published in the February 1, 2013 edition of the D.C. Register (Vol. 60, page 987). Act 19-591 was transmitted to Congress on February 26, 2013 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 19-591 is now D.C. Law 19-255, effective April 20, 2013.



PHIL MENDELSON  
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

Feb. 26,27,28

Mar. 1,4,5,6,7,8,11,12,13,14,15,18,19,20,21,22,25

Apr. 8,9,10,11,12,15,16,17,18,19

**COUNCIL OF THE DISTRICT OF COLUMBIA****NOTICE****D.C. LAW 19-256****“Public Library Hours Expansion Act of 2012”**

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 19-863 on first and second readings December 4, 2012 and December 18, 2012, respectively. The legislation was deemed approved without the signature of the Mayor on January 17, 2013, pursuant to Section 404(e) of the Charter, the bill became Act 19-592 and was published in the February 1, 2013 edition of the D.C. Register (Vol. 60, page 990). Act 19-592 was transmitted to Congress on February 26, 2013 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 19-592 is now D.C. Law 19-256, effective April 20, 2013.



PHIL MENDELSON  
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

Feb. 26,27,28

Mar. 1,4,5,6,7,8,11,12,13,14,15,18,19,20,21,22,25

Apr. 8,9,10,11,12,15,16,17,18,19

## COUNCIL OF THE DISTRICT OF COLUMBIA

## NOTICE

## D.C. LAW 19-257

**“Howard Town Center Real Property Tax Abatement Act of 2012”**

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 19-1010 on first and second readings December 4, 2012 and December 18, 2012, respectively. The legislation was deemed approved without the signature of the Mayor on January 17, 2013, pursuant to Section 404(e) of the Charter, the bill became Act 19-593 and was published in the February 1, 2013 edition of the D.C. Register (Vol. 60, page 992). Act 19-593 was transmitted to Congress on February 26, 2013 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 19-593 is now D.C. Law 19-257, effective April 20, 2013.



PHIL MENDELSON  
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

Feb. 26,27,28

Mar. 1,4,5,6,7,8,11,12,13,14,15,18,19,20,21,22,25

Apr. 8,9,10,11,12,15,16,17,18,19

**COUNCIL OF THE DISTRICT OF COLUMBIA****NOTICE****D.C. LAW 19-258****“Ignition Interlock Amendment Act of 2012”**

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 19-673 on first and second readings December 4, 2012 and December 18, 2012, respectively. Following the signature of the Mayor on January 9, 2013, pursuant to Section 404(e) of the Charter, the bill became Act 19-610 and was published in the February 1, 2013 edition of the D.C. Register (Vol. 60, page 1080). Act 19-610 was transmitted to Congress on February 26, 2013 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 19-610 is now D.C. Law 19-258, effective April 20, 2013.



PHIL MENDELSON  
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

Feb. 26,27,28

Mar. 1,4,5,6,7,8,11,12,13,14,15,18,19,20,21,22,25

Apr. 8,9,10,11,12,15,16,17,18,19

**COUNCIL OF THE DISTRICT OF COLUMBIA****NOTICE****D.C. LAW 19-259****“Chuck Brown Park Designation Act of 2012”**

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 19-806 on first and second readings December 4, 2012 and December 18, 2012, respectively. Following the signature of the Mayor on January 10, 2013, pursuant to Section 404(e) of the Charter, the bill became Act 19-611 and was published in the February 1, 2013 edition of the D.C. Register (Vol. 60, page 1082). Act 19-611 was transmitted to Congress on February 26, 2013 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 19-611 is now D.C. Law 19-259, effective April 20, 2013.



PHIL MENDELSON  
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

Feb. 26,27,28

Mar. 1,4,5,6,7,8,11,12,13,14,15,18,19,20,21,22,25

Apr. 8,9,10,11,12,15,16,17,18,19

**COUNCIL OF THE DISTRICT OF COLUMBIA****NOTICE****D.C. LAW 19-260****“Breath Test Admissibility in Criminal Proceedings Amendment Act of 2012”**

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 19-828 on first and second readings December 4, 2012 and December 18, 2012, respectively. Following the signature of the Mayor on January 9, 2013, pursuant to Section 404(e) of the Charter, the bill became Act 19-612 and was published in the February 8, 2013 edition of the D.C. Register (Vol. 60, page 1292). Act 19-612 was transmitted to Congress on February 26, 2013 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 19-612 is now D.C. Law 19-260, effective April 20, 2013.



PHIL MENDELSON  
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

Feb. 26,27,28

Mar. 1,4,5,6,7,8,11,12,13,14,15,18,19,20,21,22,25

Apr. 8,9,10,11,12,15,16,17,18,19

**COUNCIL OF THE DISTRICT OF COLUMBIA****NOTICE****D.C. LAW 19-261****“Grandparent Caregivers Program Amendment Act of 2012”**

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 19-1000 on first and second readings December 4, 2012 and December 18, 2012, respectively. Following the signature of the Mayor on January 14, 2013, pursuant to Section 404(e) of the Charter, the bill became Act 19-613 and was published in the February 8, 2013 edition of the D.C. Register (Vol. 60, page 1296). Act 19-613 was transmitted to Congress on February 26, 2013 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 19-613 is now D.C. Law 19-261, effective April 20, 2013.



PHIL MENDELSON  
Chairman of the Council

**Days Counted During the 30-day Congressional Review Period:**

Feb. 26,27,28

Mar. 1,4,5,6,7,8,11,12,13,14,15,18,19,20,21,22,25

Apr. 8,9,10,11,12,15,16,17,18,19

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-77

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JUNE 14, 2013

To approve, on an emergency basis, Contract No. DCHT-2012-C-0016 and Modification Nos. M0001, M0002, M0003, and M0004 to Contract No. DCHT-2012-C-0016 to manage and administer the District's non-emergency transportation services program for the District's Medicaid eligible fee-for service recipients and to authorize payment for the services received and to be received under the contract.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Contract No. DCHT-2012-C-0016 and Modification Nos. M0001, M0002, M0003 and M0004 to Contract No. DCHT-2012-C-0016 Approval and Payment Authorization Emergency Act of 2013".

Sec. 2. Pursuant to section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51), and notwithstanding the requirements of section 202(a) of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-352.02(a)), the Council approves Contract No. DCHT-2012-C-0016 and Modification Nos. M0001, M0002, M0003, and M0004 to Contract No. DCHT-2012-C-0016 to manage and administer the District's non-emergency transportation services program for the District's Medicaid eligible fee-for service recipients and authorizes payment in the amount of \$11,474,704.00 for services received and to be received under the contract.

Sec. 3. Fiscal impact statement.

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

Sec. 4. Effective date.

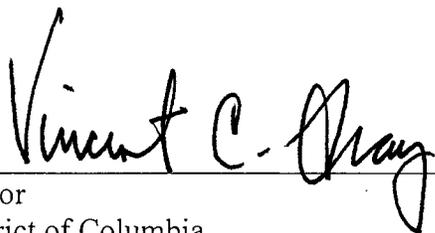
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in

ENROLLED ORIGINAL

section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).



Chairman  
Council of the District of Columbia



Mayor  
District of Columbia  
APPROVED  
June 14, 2013

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-78

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JUNE 14, 2013

To approve, on an emergency basis, Change Orders Nos. 1 and 2 and Change Directive No. 2 to Contract No. DCAM-12-M-1031J-FM between the District of Columbia government and Forney Enterprises, Inc., for design-build services for the Phase 1 Modernization of Simon Elementary School, and to authorize payment to Forney Enterprises, Inc., in the aggregate amount of \$2,737,274.22 for the goods and services received under these change orders and change directive.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Change Orders Nos. 1 and 2 and Change Directive No. 2 to Contract No. DCAM-12-M-1031J-FM Approval and Payment Authorization Emergency Act of 2013".

Sec. 2. Pursuant to section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51), and notwithstanding the requirements of section 202(a) of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-352.02(a)), the Council approves Change Orders Nos. 1 and 2 and Change Directive No. 2 to Contract No. DCAM-12-M-1031J-FM with Forney Enterprises, Inc., for design-build services, additional project scope, outstanding change requests, and the close-out of the Phase 1 project at Simon Elementary School and authorizes payment in the aggregate amount of \$2,737,274.22 for the goods and services received under these change orders and change directive.

Sec. 3. Fiscal impact statement.

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

Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days,

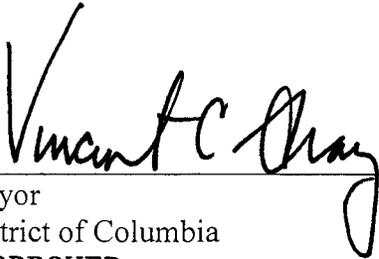
ENROLLED ORIGINAL

as provided for emergency acts of the Council of the District of Columbia in section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).



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Chairman  
Council of the District of Columbia



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Mayor  
District of Columbia  
APPROVED  
June 14, 2013

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-79

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JUNE 14, 2013

To approve, on an emergency basis, Change Order No. 2 to Contract No. DCAM-12-M-1031F-FM between the District of Columbia government and Forney Enterprises, Inc., for design-build services, additional project scope, outstanding change requests, and the close-out of the Phase 1 modernization of Leckie Elementary School, and to authorize payment to Forney Enterprises, Inc. in the amount of \$1,833,339.67 for the goods and services received under this change order.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Change Order No. 2 to Contract No. DCAM-12-M-1031F-FM Approval and Payment Authorization Emergency Act of 2013".

Sec. 2. Pursuant to section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51), and notwithstanding the requirements of section 202(a) of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-352.02(a)), the Council approves Change Order No. 2 to Contract No. DCAM-12-M-1031F-FM with Forney Enterprises, Inc., for design-build services, additional project scope, outstanding change requests, and the close-out of the Phase 1 project at Leckie Elementary School and authorizes payment in the aggregate amount of \$1,833,339.67 for the goods and services received under this change order.

Sec. 3. Fiscal impact statement.

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

Sec. 4. Effective date.

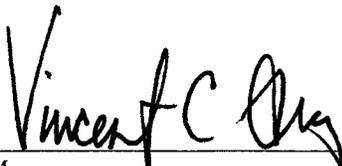
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in

ENROLLED ORIGINAL

section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).



Chairman  
Council of the District of Columbia



Mayor  
District of Columbia  
APPROVED  
June 14, 2013

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-80

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JUNE 14, 2013

To approve, on an emergency basis, Change Orders No. 005 through No. 009 to the Contract for design-build services for the new Dunbar Senior High School between the District of Columbia government and Smoot/Gilbane, A Joint Venture, Contract No. GM-11-M-0531-FM, and to authorize payment to Smoot/Gilbane, A Joint Venture, in the aggregate amount of \$5,357,569.14 for the goods and services to be received under these change orders.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Change Orders No. 005 through No. 009 to Contract No. GM-11-M-0531-FM Approval and Payment Authorization Emergency Act of 2013".

Sec. 2. Pursuant to section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51), and notwithstanding the requirements of section 202(a) of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-352.02(a)), the Council approves Change Orders No. 005 through No. 009 to Contract No. GM-11-M-0531-FM with Smoot/Gilbane, A Joint Venture, for design-build services and additional project scope at the new Dunbar Senior High School and authorizes payment in the aggregate amount of \$5,357,569.14 for the goods and services to be received under these change orders.

Sec. 3. Fiscal impact statement.

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

Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in

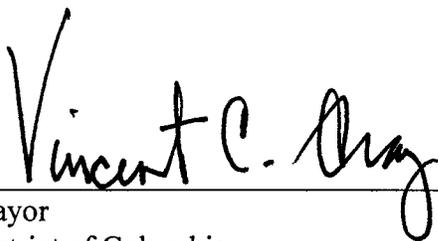
ENROLLED ORIGINAL

section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).



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Chairman  
Council of the District of Columbia



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Mayor  
District of Columbia  
APPROVED  
June 14, 2013

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-81

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JUNE 14, 2013

To approve, on an emergency basis, Change Orders Nos. 1 through 3 to Contract No. DCAM-12-M-1031G-FM between the District of Columbia government and Forrester Construction Company, for design-build services for the Phase 1 Modernization of Nalle Elementary School, and to authorize payment to Forrester Construction Company in the amount of \$1,815,828.23 for the goods and services received under these change orders.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Change Orders Nos. 1 through 3 to Contract No. DCAM-12-M-1031G-FM Approval and Payment Authorization Emergency Act of 2013".

Sec. 2. Pursuant to section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51), and notwithstanding the requirements of section 202(a) of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-352.02(a)), the Council approves Change Orders Nos. 1 through 3 to Contract No. DCAM-12-M-1031G-FM with Forrester Construction Company for design-build services, additional project scope, outstanding change requests, and the close-out of the Phase 1 project at Nalle Elementary School and authorizes payment in the aggregate amount of \$1,815,828.23 for the goods and services received under these change orders.

Sec. 3. Fiscal impact statement.

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

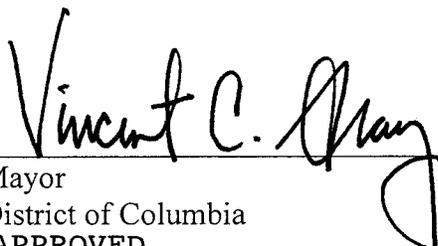
Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in

ENROLLED ORIGINAL

section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).

  
\_\_\_\_\_  
Chairman  
Council of the District of Columbia

  
\_\_\_\_\_  
Mayor  
District of Columbia  
APPROVED  
June 14, 2013

## ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-82

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JUNE 14, 2013

To approve, on an emergency basis, modifications to Contract No. DCEB-DMPED-11-C-0023 to provide development management services to the Office of the Deputy Mayor for Planning and Economic Development and to authorize payment to Vision McMillan Partners, LLC, for services received and to be received under the contract.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Contract No. DCEB-DMPED-11-C-0023 Approval and Payment Authorization Emergency Act of 2013".

Sec. 2. Pursuant to section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51), and notwithstanding the requirements of section 202 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-352.02), the Council approves Contract No. DCEB-DMPED-11-C-0023 to provide development management services to the Office of the Deputy Mayor for Planning and Economic Development and authorizes payment to Vision McMillan Partners, LLC, in an amount not to exceed \$1,340,000.00 for services received and to be received under the Fiscal Year 2013 base contract modifications.

Sec. 3. Fiscal impact statement.

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

Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section

ENROLLED ORIGINAL

412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788;  
D.C. Official Code § 1-204.12(a)).



Chairman  
Council of the District of Columbia



Mayor  
District of Columbia

APPROVED

June 14, 2013

## ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-83

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JUNE 14, 2013

To amend, on an emergency basis, the Retail Electric Competition and Consumer Protection Act of 1999 to prohibit the electric company from disconnecting residential electric service when the heat index is forecasted to be 95 degrees Fahrenheit or above.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Heat Wave Safety Emergency Amendment Act of 2013".

Sec. 2. The Retail Electric Competition and Consumer Protection Act of 1999, effective May 9, 2000 (D.C. Law 13-107; D.C. Official Code § 34-1501 *et seq.*), is amended by adding a new section 106a to read as follows:

"Sec. 106a. Disconnection of service in extreme temperature prohibited.

"(a) For the purposes of this section, the term "forecast of extreme temperature" means a National Weather Service forecast that the heat index for the District of Columbia will be 95 degrees Fahrenheit or above at any time during a day.

"(b) The electric company shall not disconnect residential electric service during the day preceding, and the day of, a forecast of extreme temperature. If the forecast of extreme temperature precedes a holiday or weekend day, the electric company shall not disconnect residential electric service on any day during the holiday or weekend."

Sec. 3. Fiscal impact statement.

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

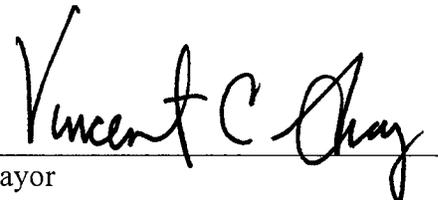
Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section

ENROLLED ORIGINAL

412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).

  
\_\_\_\_\_  
Chairman  
Council of the District of Columbia

  
\_\_\_\_\_  
Mayor  
District of Columbia  
APPROVED  
June 14, 2013

**Council of the District of Columbia  
Committee on the Judiciary and Public Safety  
Notice of Public Hearing  
1350 Pennsylvania Avenue, NW, Washington, D.C. 20004**

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REVISED

**COUNCILMEMBER TOMMY WELLS, CHAIRPERSON  
COMMITTEE ON THE JUDICIARY AND PUBLIC SAFETY**

**ANNOUNCES A PUBLIC HEARING ON**

**BILL 20-9, THE “EMERGENCY MEDICAL SERVICES AMENDMENT ACT OF 2013”**

**AND**

**BILL 20-48, THE “CIVIL ASSET FORFEITURE AMENDMENT ACT OF 2013”**

**Thursday, July 11, 2013**

**10:00 a.m.**

**Room 120 John A. Wilson Building  
1350 Pennsylvania Avenue, NW  
Washington, D.C. 20004**

Councilmember Tommy Wells, Chairperson of the Committee on the Judiciary and Public Safety, will convene a public hearing on Bill 20-9, the “Emergency Medical Services Amendment Act of 2013”; and Bill 20-48, the “Civil Asset Forfeiture Amendment Act of 2013”. The hearing will be held on Thursday, July 11, 2013, beginning at 10:00 a.m. in Room 120, of the John A. Wilson Building, 1350 Pennsylvania Avenue, NW, Washington, D.C. 20004. **This revised notice reflects the addition of Bill 20-48, the “Civil Asset Forfeiture Amendment Act of 2013”.**

Bill 20-9 would clarify the ability to allow civilian, single-role emergency medical service providers to participate in the Police Officers' and Fire Fighters' Retirement Program and establish a District of Columbia Advisory Paramedic Review Board.

Bill 20-48 would ensure property owners are promptly notified after their property is seized and held for a civil forfeiture proceeding; ensure that all property seized for purposes of a civil forfeiture proceeding is inventoried and cataloged by the Metropolitan Police Department; eliminate the bond requirement as a prerequisite to a civil forfeiture proceeding; and ensures that property owners have a preliminary hearing to contest the seizure of their property. The bill also removes the burden of proof on property owners to show that their property is not subject to forfeiture.

The Committee invites the public to testify. Individuals and representatives of organizations who wish to testify should contact Tawanna Shuford at 724-7808 or [tshuford@dccouncil.us](mailto:tshuford@dccouncil.us), and furnish their name, address, telephone number, and organizational affiliation, if any, by 5:00 p.m. on Tuesday, July 9, 2013. Witnesses should bring 15 copies of their testimony. Testimony may be limited to 3 minutes for individuals and 5 minutes for those representing organizations or groups.

If you are unable to testify at the public hearing, written statements are encouraged and will be made part of the official record. Written statements should be submitted by 5:00 pm Thursday, July 25, 2013 to Ms. Shuford, Committee on the Judiciary and Public Safety, Room 109, 1350 Pennsylvania Avenue, NW, Washington, D.C., 20004, or via email at [tshuford@dccouncil.us](mailto:tshuford@dccouncil.us).

**COUNCIL OF THE DISTRICT OF COLUMBIA  
COMMITTEE OF THE WHOLE  
NOTICE OF JOINT PUBLIC HEARING  
1350 Pennsylvania Avenue, NW, Washington, DC 20004**

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**CHAIRMAN PHIL MENDELSON  
COMMITTEE OF THE WHOLE  
AND  
COUNCILMEMBER MARION BARRY  
COMMITTEE ON WORKFORCE AND COMMUNITY AFFAIRS  
ANNOUNCE A JOINT PUBLIC HEARING**

on

**Bill 20-46, Jobs Training Act of 2013**

on

**Friday, July 12, 2013  
1:00 p.m., Council Chamber, John A. Wilson Building  
1350 Pennsylvania Avenue, NW  
Washington, DC 20004**

Council Chairman Phil Mendelson and Councilmember Marion Barry announce a joint public hearing of the Committee of the Whole and the Committee on Workforce and Community Affairs on Bill 20-46, the “Jobs Training Act of 2013.” The public hearing will be held Friday, July 12, 2013, at 1:00 p.m. in the Council Chamber of the John A. Wilson Building, 1350 Pennsylvania Avenue, NW.

Bill 20-46 requires the University of the District of Columbia Community College to reassess its job training curriculum and mandates that developers in a public-private relationship with the District government develop a training program for jobs expected to be produced from existing, future, and proposed development projects in the District. Additionally, Bill 20-46 establishes penalties for developers who fail to comply with the bill, creates new certification requirements for entities trying to obtain job training funding from the District, and requires the Department of Employment Services and the Workforce Investment Council to track and monitor the progress of individuals in job training programs.

Those who wish to testify are asked to telephone the Committee of the Whole, at (202) 724-8196, or e-mail Christina Setlow, Legislative Counsel, at [csetlow@dccouncil.us](mailto:csetlow@dccouncil.us) and provide their name, address, telephone number, and organizational affiliation, if any, by the close of business Wednesday, July 10, 2013. Persons wishing to testify are encouraged, but not required, to submit 15 copies of written testimony. If submitted by the close of business on July 10, 2013, the testimony will be distributed to Councilmembers before the hearing. Witnesses should limit their testimony to five minutes; less time will be allowed if there are a large number of witnesses.

If you are unable to testify at the hearing, written statements are encouraged and will be made a part of the official record. Copies of written statements should be submitted to the Committee of the Whole, Council of the District of Columbia, Suite 410 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004. The record will close at 5:00 p.m. on Friday, July 26, 2013.

**Council of the District of Columbia  
COMMITTEE ON GOVERNMENT OPERATIONS  
NOTICE OF PUBLIC HEARING  
1350 Pennsylvania Avenue, NW, Washington, DC 20004**

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**COUNCILMEMBER KENYAN R. MCDUFFIE, CHAIRPERSON  
COMMITTEE ON GOVERNMENT OPERATIONS**

**ANNOUNCES A PUBLIC HEARING ON**

**B20-0059 THE “DC RESIDENT POINT PREFERENCE AMENDMENT ACT OF 2013”**

**B20-0116 THE “BOARD OF ETHICS AND GOVERNMENT ACCOUNTABILITY AMENDMENT ACT OF 2013”**

**B20-0117 THE “PROHIBITION ON GOVERNMENT EMPLOYEE ENGAGEMENT IN POLITICAL ACTIVITY  
AMENDMENT ACT OF 2013”**

**B20-0235 THE “FUNERAL AND MEMORIAL SERVICE LEAVE AMENDMENT ACT OF 2013”**

**B20-0251 THE “GOVERNMENT MANAGERS ACCOUNTABILITY AMENDMENT ACT OF 2013”**

**AND**

**PR20-0182 THE “OFFICE OF EMPLOYEE APPEALS VERA ABBOTT CONFIRMATION RESOLUTION OF 2012”**

**July, 8 2013, 10:00 AM  
Room 120 John A. Wilson Building  
1350 Pennsylvania Ave., NW  
Washington, D.C. 20004**

On July 8, 2013, Councilmember Kenyan R. McDuffie, Chairperson of the Committee on Government Operations, will convene a public hearing on B20-0059 The “DC Resident Point Preference Amendment Act of 2013,” B20-0116 The “Board of Ethics and Government Accountability Amendment Act of 2013,” B20-0117 The “Prohibition on Government Employee Engagement in Political Activity Amendment Act of 2013,” B20-0235 the “Funeral and Memorial Service Leave Amendment Act of 2013,” B20-0251 the “Government Managers Accountability Amendment Act of 2013,” and PR20-0182 the “Office of Employee Appeals Vera Abbott Confirmation Resolution of 2012.” This public hearing will be held in Room 123 of the John A. Wilson Building, 1350 Pennsylvania Ave, NW at 10:00 AM.

The purpose of this hearing is to give the public the opportunity to comment on these measures. The following is an outline of the stated purpose of each bill scheduled to be considered at this hearing:

- The stated purpose of the “DC Resident Point Preference Amendment Act of 2013” is to amend the Jobs for D.C. Residents Amendment Act of 2007 to require that all agencies and instrumentalities give qualified District resident applicants a 20-point preference over qualified non-District resident applicants.

- The stated purpose of the “Board of Ethics and Government Accountability Amendment Act of 2013” is to amend the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011 to allow the Board of Ethics and Government Accountability to issue advisory opinions upon its own initiative; and expand the range of penalties that may be imposed for a violation of the Code of Official Conduct of the Council of the District of Columbia.
- The stated purpose of the “Prohibition on Government Employee Engagement in Political Activity Amendment Act of 2013” is to amend the Prohibition on Government Employee Engagement in Political Activity Act of 2010 to add definitions, clarify that the Board of Ethics and Government Accountability shall enforce its provisions, to address non-District elections, and to provide enforcement of the act through the Code of Conduct.
- The stated purpose of the “Funeral and Memorial Service Leave Amendment Act of 2013” is to amend the District of Columbia Municipal Regulations and the District of Columbia Government Comprehensive Merit Personnel Act of 1978 to permit government employees to take three days of leave without loss of pay to make arrangements for, or attend the funeral or memorial service of, an immediate relative.
- The stated purpose of the “Government Managers Accountability Amendment Act of 2013” is to amend, the District of Columbia Government Comprehensive Merit Personnel Act of 1978 to revise the definition for management employee to clarify that any individual whose functions include the responsibility for program or project management with or without supervision of staff are considered management employees.
- Finally, the stated purpose the “Office of Employee Appeals Vera Abbott Confirmation Resolution of 2012” is to confirm the reappointment of Vera Abbott to the Office of Employee Appeals.

The Committee invites the public to testify or to submit written testimony, which will be made a part of the official record. Anyone wishing to testify at the hearing should contact Mr. Ronan Gulstone, Committee Director at (202) 724-8028, or via e-mail at [rgulstone@dccouncil.us](mailto:rgulstone@dccouncil.us), and provide their name, address, telephone number, organizational affiliation and title (if any) by close of business Wednesday July, 3 2013. Representatives of organizations will be allowed a maximum of five (5) minutes for oral presentation and individuals will be allowed a maximum of three (3) minutes for oral presentation. Witnesses should bring 10 copies of their written testimony and if possible submit a copy of their testimony electronically to [rgulstone@dccouncil.us](mailto:rgulstone@dccouncil.us).

If you are unable to testify at the hearing, written statements are encouraged and will be made a part of the official record. Copies of written statements should be submitted either to the Committee, or to Ms. Nyasha Smith, Secretary to the Council,

1350 Pennsylvania Avenue, N.W., Suite 5, Washington, D.C. 20004. The record will close at the end of the business day on July 23, 2013.

**Council of the District of Columbia  
Committee on the Judiciary and Public Safety  
Notice of Public Hearing**

1350 Pennsylvania Avenue, NW, Washington, D.C. 20004

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REVISED

**COUNCILMEMBER TOMMY WELLS, CHAIRPERSON  
COMMITTEE ON THE JUDICIARY AND PUBLIC SAFETY**

**ANNOUNCES A PUBLIC HEARING ON**

**BILL 20-107, THE “CHARLES AND HILDA MASON’S ELDER ABUSE  
CLARIFICATION ACT OF 2013”**

**Monday, July 8, 2013**

**11:30 a.m.**

**Room 500, John A. Wilson Building**

**1350 Pennsylvania Avenue, NW**

**Washington, D.C. 20004**

Councilmember Tommy Wells, Chairperson of the Committee on the Judiciary and Public Safety, will convene a public hearing on Bill-20 107, the “Charles And Hilda Mason’s Elder Abuse Clarification Act of 2013”. The hearing will be held on Monday, July 8, 2013, beginning at 11:30 a.m. in Room 500, of the John A. Wilson Building, 1350 Pennsylvania Avenue, NW, Washington, D.C. 20004. **The revised notice reflects the removal of Bill 20-48, the “Civil Asset Forfeiture Amendment Act of 2013”, which has been rescheduled to Thursday, July 11, 2013, at 10:00 a.m., in Room 120.**

Bill 20-107 would establish stricter penalties for elder abuse or failure to report abuse, create more autonomy for elders, increase criminal penalties for elder abuse, establish financial abuse as a form of elder abuse, and prevent a convicted abuser from inheriting from their victims.

The Committee invites the public to testify. Individuals and representatives of organizations who wish to testify should contact Tawanna Shuford at 724-7808 or tshuford@dccouncil.us, and furnish their name, address, telephone number, and organizational affiliation, if any, by 5:00 p.m. on Wednesday, July 3, 2013. Witnesses should bring 15 copies of their testimony. Testimony may be limited to 3 minutes for individuals and 5 minutes for those representing organizations or groups.

If you are unable to testify at the public hearing, written statements are encouraged and will be made part of the official record. Written statements should be submitted by 5:00 p.m. on Friday, July 19, 2013, to Ms. Shuford, Committee on the Judiciary and Public Safety, Room 109, 1350 Pennsylvania Avenue, NW, Washington, D.C., 20004, or via email at tshuford@dccouncil.us.

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**REVISED/ABBREVIATED**

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**COUNCIL OF THE DISTRICT OF COLUMBIA  
COMMITTEE ON EDUCATION  
AND THE COMMITTEE ON  
THE JUDICIARY AND PUBLIC SAFETY  
NOTICE OF JOINT PUBLIC HEARING**

1350 Pennsylvania Avenue, NW, Suite 119, Washington, DC 20004

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**COUNCILMEMBER DAVID A. CATANIA  
CHAIRMAN, COMMITTEE ON EDUCATION**

**And**

**COUNCILMEMBER TOMMY WELLS  
CHAIRMAN, COMMITTEE ON THE JUDICIARY AND PUBLIC SAFETY  
ANNOUNCE A JOINT PUBLIC HEARING**

on

**Bill 20-123 “CARDIOPULMONARY RESUSCITATION AND AUTOMATED EXTERNAL  
DEFIBRILLATOR REQUIREMENTS AMENDMENT ACT OF 2013”**

on

**Monday, July 1, 2013 at 11:00 a.m.  
Hearing Room 120, John A. Wilson Building  
1350 Pennsylvania Avenue, NW  
Washington, DC 20004**

Councilmember David A. Catania, Chairman of the Committee on Education and Councilmember Tommy Wells, Chairman of the committee on the Judiciary and Public Safety, announce the scheduling of a Joint Public Hearing by the Committee on Education on Bill 20-123, the Cardiopulmonary Resuscitation and Automated External Defibrillator Requirements Amendment Act of 2013. The public hearing will take place on Monday July 1, 2013 at 11:00 a.m. in room 120 of the John A. Wilson Building. This abbreviated notice has been revised to reflect that the hearing will be held jointly by the two Committees.

The purpose of the hearing is to provide the public and government witnesses an opportunity to testify on the bill which would amend the Public Access to Automated External Defibrillator Act of 2000 to require the Mayor to develop and implement a Cardiopulmonary Resuscitation and Automated External Defibrillator program for District schools.

Those who wish to testify are asked to contact Mr. Jamaal Jordan with the Committee on Education at (202) 724-8061 or via email at [JJordan@dccouncil.us](mailto:JJordan@dccouncil.us) and furnish their name, address, telephone number, and organizational affiliation, if any, by the close of business on Thursday, June 28, 2013. Persons wishing to testify are encouraged, but not required, to submit 15 copies of written testimony. If you are unable to testify at the hearing, written statements are encouraged and will be made a part of the official record. Copies of written statements should be submitted to the Committee on Education, Council of the District of Columbia, Suite 119 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004. The record will close at 5:00 p.m. on Friday, July 7, 2013.

**COUNCIL OF THE DISTRICT OF COLUMBIA  
COMMITTEE OF THE WHOLE  
NOTICE OF PUBLIC OVERSIGHT ROUNDTABLE**  
1350 Pennsylvania Avenue, NW, Washington, DC 20004

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**CHAIRMAN PHIL MENDELSON  
COMMITTEE OF THE WHOLE  
ANNOUNCES A PUBLIC OVERSIGHT ROUNDTABLE**

on

**District of Columbia Zoning Regulations Review**

on

**Tuesday, July 2, 2013  
10:30 a.m., Council Chamber, John A. Wilson Building  
1350 Pennsylvania Avenue, NW  
Washington, DC 20004**

Council Chairman Phil Mendelson announces a public oversight roundtable of the Committee of the Whole on the District of Columbia Zoning Regulations Review. The public oversight roundtable will be held Tuesday, July 2, 2013, at 10:30 a.m., or immediately following the public roundtable on PR 20-327 and PR 20-330, in the Council Chamber of the John A. Wilson Building, 1350 Pennsylvania Avenue, NW.

The purpose of the oversight roundtable is to receive testimony from both public and government witnesses on the status of the District's Zoning Regulations Review (ZRR). The ZRR has been a comprehensive, 5-year process of review of and revision to the District's zoning regulations that is nearing completion for submission to the Zoning Commission. The process has involved various District agencies and substantial community outreach. The Office of Planning is currently reviewing the revised regulations with the Zoning Review Task Force, with plans for proposing set down of the text by the Zoning Commission by July 2013. There has been significant public interest in, and concern with, several of the proposed revisions, and a similar hearing was held by the Committee on this issue on October 5, 2012. The Committee again invites testimony regarding the pending ZRR, including an update on the status of the ZRR, community concerns surrounding the proposals, and the government's response to those concerns.

Those who wish to testify are asked to telephone the Committee of the Whole, at (202) 724-8196, or e-mail Jessica Jacobs, Legislative Counsel, at [jjacobs@dccouncil.us](mailto:jjacobs@dccouncil.us) and provide their name, address, telephone number, and organizational affiliation, if any, by the close of business Friday, June 28, 2013. Persons wishing to testify are encouraged, but not required, to submit 15 copies of written testimony. If submitted by the close of business on June 28, 2013, the testimony will be distributed to Councilmembers before the roundtable. Witnesses should limit their testimony to five minutes; less time will be allowed if there are a large number of witnesses.

If you are unable to testify at the roundtable, written statements are encouraged and will be made a part of the official record. Copies of written statements should be submitted to the Committee of the Whole, Council of the District of Columbia, Suite 410 of the John A. Wilson Building, 1350 Pennsylvania Avenue, NW, Washington, D.C. 20004. The record will close at 5:00 p.m. on Tuesday, July 16, 2013.

**Council of the District of Columbia  
Committee on the Judiciary and Public Safety  
Notice of Public Oversight Roundtable  
1350 Pennsylvania Avenue, NW, Washington, D.C. 20004**

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**COUNCILMEMBER TOMMY WELLS, CHAIRPERSON  
COMMITTEE ON THE JUDICIARY AND PUBLIC SAFETY**

**ANNOUNCES A PUBLIC OVERSIGHT ROUNDTABLE**

“To Receive the Results and Recommendations of Crowell & Moring LLP on its pro bono review of the Human Rights Watch report on MPD’s Handling of Sexual Assault Investigations”

**Thursday, June 27, 2013**

**11:00 a.m.**

**Room 412, John A. Wilson Building**

**1350 Pennsylvania Avenue, NW**

**Washington, D.C. 20004**

Councilmember Tommy Wells, Chairperson of the Committee on the Judiciary and Public Safety, will convene a public oversight roundtable, “To Receive the Results and Recommendations of Crowell & Moring LLP on its pro bono review of the Human Rights Watch report on MPD’s Handling of Sexual Assault Investigations.” The oversight roundtable will be held on Thursday, June 27, 2013, beginning at 11:00 a.m. in Room 412 of the John A. Wilson Building, 1350 Pennsylvania Avenue, NW, Washington, D.C. 20004. **Please note that the oversight roundtable on “The Metropolitan Police Department’s Strategic Services Bureau” that was originally scheduled for this time will be rescheduled.**

The purpose of this oversight roundtable is for the Committee to discuss the review Crowell & Moring’s team conducted regarding the Human Rights Watch report “*Capitol Offense: Police Mishandling of Sexual Assault Cases in the District of Columbia*” (January 2013) and the Metropolitan Police Department’s response to that report. The discussion will include the law firm’s recommendations for further action. No public testimony will be received at this oversight roundtable.

**COUNCIL OF THE DISTRICT OF COLUMBIA  
COMMITTEE OF THE WHOLE  
NOTICE OF PUBLIC ROUNDTABLE**  
1350 Pennsylvania Avenue, NW, Washington, DC 20004

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**CHAIRMAN PHIL MENDELSON  
COMMITTEE OF THE WHOLE  
ANNOUNCES A PUBLIC ROUNDTABLE**

on

**PR 20-327, Washington Teachers' Union Voluntary Employee Beneficiary Association Fund  
Emergency Approval Resolution of 2013**

**&**

**PR 20-330, Compensation Agreement between the District of Columbia and Compensation  
Unit 33 Emergency Approval Resolution of 2013**

on

**Tuesday, July 2, 2013  
9:30 a.m., Council Chamber, John A. Wilson Building  
1350 Pennsylvania Avenue, NW  
Washington, DC 20004**

Council Chairman Phil Mendelson announces the scheduling of a public roundtable of the Committee of the Whole on PR 20-327, Washington Teachers' Union Voluntary Employee Beneficiary Association Fund Emergency Approval Resolution of 2013 and PR 20-330, Compensation Agreement between the District of Columbia and Compensation Unit 33 Emergency Approval Resolution of 2013. The roundtable will be held at 9:30 a.m. on Tuesday, July 2, 2013 in Council Chamber of the John A. Wilson Building.

The stated purpose of PR 20-327 is to approve a Memorandum of Understanding (MOU) between the District of Columbia Public Schools and the Washington Teachers' Union, in which supplemental unemployment benefits will be made available to certain teachers who were excessed in spring 2012. These benefits will also be available to certain teachers excessed in the following five school years, including fiscal year 2018. The stated purpose of PR 20-330 is to approve a compensation agreement between the District and Compensation Unit 33, which encompasses attorneys employed by the Office of the Attorney General. The purpose of this roundtable is to receive testimony regarding the suitability of the MOU and the compensation agreement.

Those who wish to testify should contact Ms. Christina Setlow, Legislative Counsel, at (202) 724-8196, or via e-mail at [csetlow@dccouncil.us](mailto:csetlow@dccouncil.us), and provide their name, address, telephone number, organizational affiliation and title (if any) by close of business Friday, June 28, 2013. Persons wishing to testify are encouraged, but not required, to submit 15 copies of written testimony. If submitted by the close of business on Friday, June 28, 2013 the testimony will be distributed to Councilmembers before the roundtable. Witnesses should limit their testimony to five minutes; less time will be allowed if there are a large number of witnesses. A copy of the PRs can be obtained through the Legislative Services Division of the Secretary of the Council's office or on <http://dcclims1.dccouncil.us/lims>.

If you are unable to testify at the roundtable, written statements are encouraged and will be made a part of the official record. Copies of written statements should be submitted to the Committee of the Whole, Council of the District of Columbia, Suite 410 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004. The record will close at noon on July 8, 2013.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF PUBLIC HEARINGS  
CALENDAR

WEDNESDAY, JUNE 26, 2013  
2000 14<sup>TH</sup> STREET, N.W., SUITE 400S,  
WASHINGTON, D.C. 20009

Ruthanne Miller, Chairperson  
Members:

Nick Alberti, Donald Brooks, Herman Jones, Mike Silverstein

- Show Cause Hearing (Status)** **9:30 AM**  
**Case # 13-AUD-00020;** Top Chef, Inc., t/a Wok and Roll, 604 H Street NW  
License #60447, Retailer CR, ANC 2C  
**Failed to File Quarterly Statements (3rd Quarter 2012)**
- Show Cause Hearing (Status)** **9:30 AM**  
**Case # 13-AUD-00025;** The Cheesecake Factory Restaurants, Inc., t/a The  
Cheesecake Factory, 5345 Wisconsin Ave NW, License #14760, Retailer CR  
ANC 3E  
**Failed to File Quarterly Statements (3rd Quarter 2012)**
- Show Cause Hearing (Status)** **9:30 AM**  
**Case # 12-CMP-00677;** Tanger Corporation, t/a Tangier Lounge, 2305 18th  
Street NW, License #87902, Retailer CR, ANC 1C  
**Operating after Hours, Violation of Settlement Agreement**
- Show Cause Hearing (Status)** **9:30 AM**  
**Case # 13-CMP-00013;** DJ Zion, LLC, t/a Secret Restaurant & Lounge, 1414  
9th Street NW, License #90210, Retailer CT, ANC 2F  
**Operating After Hours**
- Show Cause Hearing (Status)** **9:30 AM**  
**Case # 12-CMP-00643;** DJ Zion, LLC, t/a Secret Restaurant & Lounge, 1414  
9th Street NW, License #90210, Retailer CT, ANC 2F  
**Failed to Obtain a Cover Charge Endorsement, Failed to Obtain a Dancing  
Endorsement**
- Show Cause Hearing (Status)** **9:30 AM**  
**Case # 13-AUD-00008;** Les Deux Garcons, LLC, t/a Bistrot Le Zinc, 3712  
Macomb Street NW, License #86355, Retailer CR, ANC 3C  
**Failed to File Quarterly Statements (3rd Quarter 2012)**

**Show Cause Hearing (Status)** **9:30 AM**  
**Case # 12-CMP-00634;** Biergarten Haus, Inc., t/a Biergarten Haus, Inc., 1355 H Street NE, License #83695, Retailer CT, ANC 6A  
**Permitted Patrons to Take Alcoholic Beverages Off of the Premises**

**Show Cause Hearing (Status)** **9:30 AM**  
**Case # 13-CMP-00144;** Restaurant Seki, LLC, t/a Izakay Seki, 1117 V Street NW, License #88274, Retailer CR, ANC 1B  
**Failed to File Quarterly Statements (1st Quarter 2013)**

**Fact Finding Hearing** **9:30 AM**  
Kang Young J. & Kang In S., t/a Family Market, 1309 5th Street NE, License #10660, Retailer B, ANC 5D  
**License in Safekeeping**

**Show Cause Hearing** **10:00 AM**  
**Case # 12-CMP-00694;** Dangerously Delicious DC, LLC, t/a Dangerously Delicious, 1339 H Street NE, License #87422, Retailer CR, ANC 6A  
**Violation of Settlement Agreement**

**Show Cause Hearing** **11:00 AM**  
**Case # 12-CMP-00692;** Raso Corporation, t/a Sahra Hooka Lounge, 1200 H Street NE, License #87558, Retailer CT, ANC 6A  
**No ABC Manager on Duty, Failed to Obtain an Entertainment Endorsement, Violation of Settlement Agreement**

**BOARD RECESS AT 12:00 PM**  
**ADMINISTRATIVE AGENDA**  
**1:00 PM**

**Show Cause Hearing** **1:30 PM**  
**Case # 12-CMP-00678;** Meseret Ali & Yonas Chere, t/a Merkato Ethiopian Restaurant, 1909 9th Street NW, License #89019, Retailer CR, ANC 1B  
**Operating After Hours**

**Show Cause Hearing** **2:30 PM**  
**Case # 12-AUD-00051(a),** Ping Pong One, LLC., t/a Ping Pong, 900 7th Street NW, License #82097, Retailer CR, ANC 2C  
**Failed to File Quarterly Statements (2nd Quarter 2012)**

**Fact Finding Hearing** **3:30 PM**  
Wagshal's 3201, LLC, t/a Wagshal's, 3201 New Mexico Ave NW, License, #92187, Retailer B, ANC 3D  
**New Application**

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: June 21, 2013
Petition Date: August 05, 2013
Roll Call Hearing Date: August 19, 2013

License No.: ABRA-092028
Licensee: Asia 54 Group, LLC
Trade Name: Asia 54
License Class: Retailer's Class "D" Tavern
Address: 2122 P Street NW
Contact: Michael Fonseca 201-625-7700

WARD 2

2B

2B02

Notice is hereby given that this applicant has applied for a substantial change to its license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the Roll Call Hearing Date at 10:00 am, 4th Floor, 2000 14th Street, N.W., Washington, DC 20009. Petitions and/or requests to appear before the Board must be filed on or before the Petition Date.

NATURE OF SUBSTANTIAL CHANGE:

Request is for a class change from "D" Tavern to a "C" Restaurant

APPROVED HOURS OF OPERATION AND SALES/SERVICE/CONSUMPTION FOR PREMISES:

Sunday 5 pm - 9:30 pm Monday through Thursday 11 am - 10 pm Friday 11 am - 11 pm and Saturday 1 pm - 11 pm

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: April 12, 2013
Petition Date: May 28, 2013
Roll Call Hearing Date: June 10, 2013
Protest Hearing Date: July 31, 2013

License No.: ABRA-
Licensee: Gebtri Inc.
Trade Name: Cedar Hill Bar & Grill
License Class: Retailer's Class "C" Restaurant
Address: 2200 Martin Luther King Jr. Ave. SE
Contact: David Jonathan Taylor, Owner 202-669-1132

WARD 8 ANC 8A SMD 8A06

Notice is hereby given that this applicant has applied for a license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the Roll Call Hearing Date at 10:00 am, 4th Floor, 2000 14th Street, N.W., Washington, DC 20009. Petitions and/or requests to appear before the Board must be filed on or before the Petition Date. The Protest Hearing Date is scheduled for July 31, 2013 at 1:30 pm.

NATURE OF OPERATION

This is a request for a Grill w/Tavern style menu. Recorded music and television provided with live entertainment periodically.

PROPOSED HOURS OF OPERATION/ SALES/SERVICE/CONSUMPTION FOR PREMISES:

Sunday through Thursday 11:00 am – 2:00 am; Friday and Saturday 11:00 am – 3:00 am.

PROPOSED ENTERTAINMENT HOURS:

Sunday 10:00 am – 10:00 pm; Monday through Thursday 4:00 pm – 11:00pm, Friday 4:00 pm – 1:00am and Saturday 10:00 am – 1:00 am.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: June 21, 2013
Petition Date: August 05, 2013
Roll Call Hearing Date: August 19, 2013
Protest Hearing Date: October 09, 2013

License No.: ABRA-092452
Licensee: Hill Country DC, LLC.
Trade Name: Hill Country Home Stand
License Class: Retailer's Class "C" Tavern
Address: 101 Tingey St., SE
Contact: Stephen J. O'Brien, Esquire 202-625-7700

WARD 6 ANC 6D SMD 6D07

Notice is hereby given that this applicant has applied for a license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the Roll Call Hearing Date at 10:00 am, 4th Floor, 2000 14th Street, N.W., Washington, DC 20009. Petitions and/or requests to appear before the Board must be filed on or before the Petition Date. The Protest Hearing Date is scheduled for 1:30 pm on October 09, 2013.

NATURE OF OPERATION

Seasonal Outdoor Tavern at Tingey Plaza South East Federal Center serving barbecue food and beverages with Live Entertainment, no Nude Performances.

Seating Capacity : 299

Total Occupancy load: 499

PROPOSED HOURS OF OPERATION FOR AND SALES/SERVICE/CONSUMPTION FOR PREMISES:

Monday through Sunday 11:00 am – 12:00 am.

PROPOSED HOURS OF ENTERTAINMENT:

Sunday through Thursday 6:30 pm – 11:30 pm, Friday and Saturday 11:00am – 12:00am.

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
NOTICE OF PUBLIC HEARING**

Posting Date: June 21, 2013  
Petition Date: August 05, 2013  
Hearing Date: August 19, 2013  
Protest Hearing Date: October 09, 2013

License No.: ABRA-092095  
Licensee: S & H, Inc.  
Trade Name: Natural Market  
License Class: Retailer’s Class “B” Retailer  
Address: 2400 14<sup>th</sup> Street, N.W.  
Contact: Kevin Lee, 703-941-3133

WARD 1            ANC 1B            SMD 1B05

Notice is hereby given that this applicant has applied for a license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such license on the Hearing Date at 10:00 am, 2000 14<sup>th</sup> Street, N.W., 400 South, Washington, DC 20009. Petitions and/or requests to appear before the Board must be filed on or before the Petition Date. The Protest Hearing Date is scheduled for 1:30pm on October 09, 2013.

**NATURE OF OPERATION**

New grocery store with organic and locally grown produce, meats, nutritious foods, and eco household products. Their food court will serve as a bakery, deli and sushi bar. 25% or less Alcohol Sales.

**HOURS OF OPERATION**

Sunday through Saturday 8:00 am – 10:00 pm

**HOURS OF SALES/SERVICE/CONSUMPTION**

Sunday through Saturday 9:00 am – 10:00 pm

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: June 21, 2013
Petition Date: August 5, 2013
Roll Call Hearing Date: August 19, 2013
Protest Hearing Date: October 09, 2013

License No.: ABRA-092503
Licensee: Hundal Inc
Trade Name: t/a Petworth Liquors
License Class: Retailer's Class "A"
Address: 3210 Georgia Avenue, NW
Contact: Chrissie Chang, 703-992-3994

WARD 1 ANC 1A SMD 1A09

Notice is hereby given that this applicant has applied for a license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the Roll Call Hearing Date at 10:00 am, 4th Floor, 2000 14th Street, N.W., Washington, DC 20009. Petitions and/or requests to appear before the Board must be filed on or before the Petition Date. The Protest Hearing Date is scheduled for 1:30pm on October 09, 2013.

NATURE OF OPERATION

Licensee transferring from 3210 Georgia Avenue NW to the new location at 3213 Georgia Avenue, NW.

HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES/SERVICE

Sunday 11am- 7pm; Monday through Thursday 9am-10pm and Friday & Saturday 9am-12am

\*CORRECTION\*

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: June 14, 2013  
Petition Date: July 29, 2013  
Roll Call Hearing Date: August 12, 2013  
Protest Hearing Date: October 2, 2013

License No.: ABRA-092357  
Licensee: Right Proper, LLC.  
Trade Name: TBD  
License Class: Retailer's Class "C" Tavern  
Address: 624 T. St., NW  
Contact: John Snedden, Esquire 202-244-9106

WARD 1

ANC 1B

SMD 1B01

Notice is hereby given that this applicant has applied for a license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the Roll Call Hearing Date at 10:00 am, 4th Floor, 2000 14<sup>th</sup> Street, N.W., Washington, DC 20009. Petitions and/or requests to appear before the Board must be filed on or before the Petition Date. The Protest Hearing Date is scheduled for 1:30 pm on October 2, 2013.

**NATURE OF OPERATION**

Full Service Tavern with a Brew Pub serving pub fare and house made beer with a full service food menu in a family friendly environment.

**Seating Capacity : 115**

**Total Occupancy load: 155**

**PROPOSED HOURS OF OPERATION FOR PREMISES:**

Monday through Sunday 11:30 am – 1:00 am.

**PROPOSED HOURS OF SALES/SERVICE/CONSUMPTION FOR PREMISES:**

Monday through Sunday 11:30 am – 12:00 am.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: June 21, 2013
Petition Date: August 5, 2013
Hearing Date: August 19, 2013
Protest Date: October 09, 2013

License No.: ABRA-092423
Licensee: Simple Bar and Grill, LLC
Trade Name: Simple Bar and Grill
License Class: Retailer's Class "C" Tavern
Address: 5828 Georgia Ave., NW
Contact: Wilfredo Guzman (202) 957-7848

WARD 4 ANC 4C SMD 4C01

Notice is hereby given that this applicant has applied for a license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the hearing date at 10:00 am, 4th Floor, 2000 14th Street, N.W., Washington, DC 20009. Petition and/or request to appear before the Board must be filed on or before the petition date. The Protest Hearing Date is scheduled for 1:30 pm on October 09, 2013.

NATURE OF OPERATION

Tavern serving American burgers, wings, mix of Mexican and Italian fare with seating capacity for 95 patrons and total occupancy load of 95. Sidewalk café with 8 seats.

HOURS OF OPERATION AND ALCOHOLIC BEVERAGES SALES/SERVICE/CONSUMPTION

Sunday 9 am – 12 am, Monday through Wednesday 9 am – 2 am and Friday & Saturday 9 am – 3 am

HOURS OF OPERATION AND ALCOHOLIC BEVERAGES SALES/SERVICE/CONSUMPTION ON SIDEWALK CAFE

Sunday 9 am – 12 am, Monday through Wednesday 9 am – 2 am and Friday & Saturday 9 am – 3 am

HOURS OF ENTERTAINMENT

Sunday 9 am – 12 am, Monday through Wednesday 6 pm – 2 am and Friday & Saturday 6 pm – 3 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: June 21, 2013
Petition Date: August 05, 2013
Roll Call Hearing Date: August 19, 2013

License No.: ABRA-091618
Licensee: 8th Street LLC.
Trade Name: Tree House Lounge
License Class: Retailer's Class "C" Tavern
Address: 1006 Florida Avenue NE
Contact: Khalid Hossainkhail 703-785-1192

WARD 5

5B

5B06

Notice is hereby given that this applicant has applied for a substantial change to its license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the Roll Call Hearing Date at 10:00 am, 4th Floor, 2000 14th Street, N.W., Washington, DC 20009. Petitions and/or requests to appear before the Board must be filed on or before the Petition Date.

NATURE OF SUBSTANTIAL CHANGE

Request is for an expansion to increase capacity load from 49 to 162 seating and standing/ adding Summer Garden Endorsement with 21 seats/ requesting operating/alcohol sales/entertainment hours change.

APPROVED HOURS OF OPERATION AND ALCOHOL BEVERAGE SALES AND CONSUMPTION:

Sunday through Thursday 12 pm -1:30 am, Friday and Saturday 11 am – 2 am

APPROVED HOURS OF ENTERTAINMENT

Sunday through Thursday: 6pm – 12am, Friday and Saturday: 6pm – 1am

SUMMER GARDEN PROPOSED OPERATING AND ALCOHOL BEVERAGE SALES AND CONSUMPTION

Sunday through Thursday: 12pm – 1:30am. Friday and Saturday:11am - 2am

PROPOSED ENTERTAINMENT ENDORSEMENT HOURS

Sunday through Thursday: 6pm – 2am, Friday: 6pm – 3am, Saturday: 6pm – 3am

PROPOSED OPERATING AND ALCOHOL BEVERAGE SALES AND CONSUMPTION HOURS

Sunday through Thursday: 12pm – 2am, Friday and Saturday: 11am – 3am

**DISTRICT DEPARTMENT OF THE ENVIRONMENT****NOTICE OF PUBLIC HEARING****Proposed Rulemaking on Stormwater Management and  
Soil Erosion and Sediment Control****Monday, July 8, 2013 5:00 pm**District Department of the Environment  
1200 First Street, NE, 7<sup>th</sup> Floor Conference Room 718  
NoMa-Gallaudet University Metro Stop, Washington, D.C.

The Director of the District Department of the Environment (DDOE) invites the public to present its views and comments on DDOE's proposed rulemaking on stormwater management and soil erosion and sediment control at the public hearing identified above. This rulemaking would amend chapter 5 (Water Quality and Pollution) of title 21 (Water and Sanitation) of the District of Columbia Municipal Regulations (DCMR), comprehensively amending the stormwater regulations and the soil erosion and sediment control regulations. Specifically, these amendments repeal and replace §§ 500 to 545 and 599, and add §§ 546, 547, and 552. This notice refers to this rulemaking as the "second proposed rule."

The second proposed rule and a discussion of the process and background of this rulemaking are available via <http://ddoe.dc.gov/proposedstormwaterrule> and at 60 DCR 8493 (June 7, 2013).

The Director of DDOE also invites the public to present its views and comments on the current draft of the Stormwater Management Guidebook (SWMG), which provides guidance on complying with the second proposed rule. DDOE refers to this version of SWMG as the "second proposed SWMG." The second proposed SWMG is available via <http://ddoe.dc.gov/proposedstormwaterrule>.

DDOE will consider oral statements provided at the public hearing. A person need not attend the public hearing in order to submit comments on the second proposed rulemaking or second proposed SWMG. Instructions for submitting written comments are presented at 60 DCR 8493 (June 7, 2013). However, for the accuracy of the record, DDOE requests that all comments also be submitted in writing. DDOE will accept written comments on both the second proposed rule and the second proposed SWMG throughout the comment period, which runs through July 8, 2013.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT**

*Notice of Public Hearing on the*

*“Final Draft Fiscal Year 2014 Consolidated Annual Action Plan for the District of Columbia” and the  
2014 Proposed Citizen Participation Plan*

The Department of Housing and Community Development (DHCD) announces the release of the draft of these documents, available to the public June 21, 2013, in order to receive public comments on the Plan and budgets to be submitted to the U.S. Dept of Housing and Urban Development (HUD) for the following federal entitlement programs:

- **Community Development Block Grant Program (CDBG)**
- **HOME Investment Partnerships Program (HOME)**
- **Emergency Shelter Grant Program (ESG)**
- **Housing Opportunities for Persons with AIDS Program (HOPWA)**

Both documents will be available for review on the Department’s website [www.dhcd.dc.gov](http://www.dhcd.dc.gov), on June 21, 2013, and in hard copy at the Department’s office at 1800 MLK Jr. Ave., SE, Washington, DC 20020 in the Housing Resource Center, 1<sup>st</sup> Floor. Additionally, copies will be available at public library branches, ANC offices, and the following community-based organizations:

Housing Counseling Services, Inc.  
2410 17th Street, NW  
Suite 100 - (202) 667-7006

Lydia’s House  
3939 South Capitol St., SW  
(202) 373-1050

Central American Resources Center  
1460 Columbia Road, NW  
(202) 328-9799

University Legal Services  
220 I Street, NE  
Suite 130 - (202) 547-4747

Latino Economic Dev. Corp  
2316 18<sup>th</sup> Street, NW  
(202) 588-5102

The Department has scheduled a public hearing on **Wednesday, July 10, 2013 at 6:30 p.m.**, at our headquarters located at 1800 MLK Jr., Ave. SE, inside the first floor conference room.

District of Columbia residents who would like to present oral testimony are encouraged to register in advance either by e-mail at [dhcd.events@dc.gov](mailto:dhcd.events@dc.gov) or by calling 202-442-7251. Please provide your name, address, telephone number, and organization affiliation, if any.

If you wish to provide comment for the record, please do so by mail or email by close of business Monday, July 19, 2013. Written statements should be mailed to: Michael P. Kelly, Director, DHCD, Attention: Consolidated Annual Action Plan Comments, 1800 MLK Jr., Ave., SE, Washington, DC 20020. Emailed comments should be submitted to [DHCDEVENTS@DC.GOV](mailto:DHCDEVENTS@DC.GOV) with a subject line “Consolidated Annual Action Plan comments.”

Telecommunications Device for the Deaf (TDD) relay service is available by calling (800) 201-7165. A sign language interpreter will be provided upon request by calling (202) 442-7251 five days prior to the hearing date.

Residents who require language interpretation should specify which language (Spanish, Vietnamese, Chinese-Mandarin/Cantonese, Amharic, or French). Interpretation services will be provided to pre-registered persons only. Deadline for requesting services of an interpreter is five days prior to the hearing date. Bilingual staff will provide services on an availability basis to walk-ins without registration.

All comments received during the comment period will be responded to in the final draft of the FY2014 Action Plan, to be submitted to the U.S. Dept of Housing and Urban Development (HUD) by August 15, 2013. Contact Pamela Hillsman at [Pamela.Hillsman@dc.gov](mailto:Pamela.Hillsman@dc.gov) or by phone at (202) 442-7251, for additional information.

**DISTRICT OF COLUMBIA PUBLIC CHARTER SCHOOL BOARD****NOTICE OF PUBLIC HEARING**

The District of Columbia Public Charter School Board (PCSB) hereby gives notice of a public hearing to be held on proposed amendments to the charter of Perry Street Public Charter School to adopt PCSB's Performance Management Framework in place of their charter goals.

Additionally, there will be a public hearing on application guidelines for opening a new charter school in the District of Columbia for the 2013-14 application cycle, to be held on Monday, June 24 at 7:00 PM at The Arc located at 1901 Mississippi Ave, SE. Immediately following the public hearing the PCSB Board will begin their regular monthly meeting. An agenda for that meeting can be found here: <http://www.livebinders.com/play/play?id=898314>

For further information, please contact Mustafa Nusraty at (202) 328-2660 or [mnusraty@dpcsb.org](mailto:mnusraty@dpcsb.org).

**PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA  
1333 H STREET, N.W., 2<sup>nd</sup> FLOOR, WEST TOWER  
WASHINGTON, D.C. 20005**

**NOTICE OF COMMISSION HEARING**

**GENERAL DOCKET NO. 117, IN THE MATTER OF THE PETITION OF THE  
OFFICE OF THE PEOPLE'S COUNSEL FOR AN INVESTIGATION INTO THE  
BUSINESS PRACTICES OF ALTERNATIVE ENERGY SUPPLIERS IN THE  
DISTRICT OF COLUMBIA**

The Public Service Commission of the District of Columbia ("Commission") announces a public hearing on July 12, 2013 at 10 a.m. at the Commission's office to receive information and comment on a number of issues related to the marketing and sales practices of retail suppliers, marketers and brokers serving residential and commercial electricity and natural gas customers in the District.

Pursuant to the Retail Electric Competition and Consumer Protection Act of 1999 and the Retail Natural Gas Supplier Licensing and Consumer Protection Act of 2004, the Commission has an obligation to facilitate the development of competitive electricity and natural gas supply markets in the District of Columbia. Under these laws customers may choose the supplier from whom they purchase electricity and natural gas. There are currently 117 electricity suppliers, marketers and brokers and 51 natural gas suppliers, marketers and brokers that are licensed by the Commission to sell electricity and/or natural gas in the District. The Commission does not regulate the prices charged by the retail electricity or natural gas suppliers. However, in implementing customer choice of energy supplier, the Commission has, pursuant to law, promulgated regulations regarding the licensing of retail suppliers, marketers and brokers; their business practices; and consumer protection.

The Commission has recently received a significant increase in questions, comments, and complaints, primarily from residential customers, about the marketing and sales practices of some retail energy suppliers, marketers and brokers. The Commission has also received a petition from the Office of the People's Counsel requesting that the Commission open an investigation into the business practices of retail energy suppliers. Before ruling on OPC's petition, the Commission is holding this public hearing to receive further information and comments from the Office of the People's Counsel, the retail energy supply industry, and business and residential customers regarding the following areas of interest:

- The recent experiences of consumers with alternative energy suppliers, marketers and brokers who are soliciting their business, including, but not limited to;
  - The marketing techniques that have been used to solicit their business that have generated consumer concerns;

- Their experience when changing from an existing supplier to a new supplier or when changing from a new supplier back to a former supplier;
  - Billing practices or contract terms that have been used or offered that have generated any consumer concerns; and
  - The effectiveness of the dispute resolution process that has been offered if any disputes have arisen with respect to any transaction with an alternative energy supplier, marketer, or broker.
- Practices and steps taken by retail energy suppliers, marketers and brokers licensed in the District of Columbia to ensure that prospective and existing customers receive:
    - Energy product materials in a clear and understandable language (including, where appropriate, in multi-lingual languages);
    - Accurate price and usage information that is expressed in simple and straightforward terms;
    - Terms and conditions written in plain language that set forth contractual obligations for both the customer and the retail energy supplier, marketer, or broker;
    - Specific and verifiable information about monthly bill savings claimed in any offer;
    - Clear and understandable information about how they may terminate a service contract and any early termination charges or other consequences of such action;
    - Advance specific notification of the end of a contract term and price changes or other changes in terms and conditions associated with automatic renewal of a contract;
    - Accurate information on the prices and terms and conditions for any alternative options offered by the energy supplier, marketer, or broker to customers with expiring contracts;
    - Clear written identification from the energy supplier, marketer, or broker that it is independent of the public utility delivering electricity or natural gas;
    - Clear and understandable information about the billing and service complaint resolution process; and
    - Educational materials about energy efficiency, energy conservation and other means to manage their energy usage
  - Explanation of enrollment processes, verification methods, and record retention for customers' acceptance of a product offer, contract renewal, and contract revisions that are being used in the District of Columbia.

- Voluntary efforts and best practices by retail energy suppliers, marketers and brokers to protect consumer rights.
- Suggested revisions to the Commission's existing consumer protection regulations (15 DCMR §§ 327.1 - 327.54 (2008): Customer Protection Standards Applicable to Energy Suppliers) that will improve customer protection and which may facilitate greater public availability and understanding of competitive energy supply options;

The public hearing will convene at 10:00 A.M., on July 12, 2013 in the Commission's Hearing Room. Persons wishing to testify at the hearing should have their names placed on the witness list by contacting the Office of the Commission Secretary by telephone at (202) 626-5150, or in writing at the above address by no later than June 28, 2013.

**BOARD OF ZONING ADJUSTMENT  
PUBLIC HEARING NOTICE  
TUESDAY, SEPTEMBER 17, 2013  
441 4<sup>TH</sup> STREET, N.W.  
JERRILY R. KRESS MEMORIAL HEARING ROOM, SUITE 220-SOUTH  
WASHINGTON, D.C. 20001**

**TO CONSIDER THE FOLLOWING:** The Board of Zoning Adjustment will adhere to the following schedule, but reserves the right to hear items on the agenda out of turn.

**9:30 A.M. MORNING HEARING SESSION**

**A.M.**

**WARD TWO**

18605            **Application of The American Enterprise Institute**, pursuant to 11  
ANC-2B           DCMR §§ 3104.1 and 3103.2, for a special exception from the roof  
                         structure provisions under sections 411.2, 411.5 and 537.1, a variance  
                         from the floor area ratio requirements under subsection 531.1, and a  
                         variance from the height requirements under subsection 530.1, to allow the  
                         renovation of and addition to an existing historic landmark office building  
                         in the DC/SP-2 District at premises 1758 Massachusetts Avenue, N.W.  
                         (Square 157, Lot 112).

**WARD ONE**

18606            **Application of The Family Place**, pursuant to 11 DCMR § 3104.1, for a  
ANC-1A           special exception for a community service center under section 334, (last  
                         approved by BZA Order No. 17728) in the R-5-B District at premises  
                         3309 16<sup>th</sup> Street, N.W. (Square 2676, Lot 469).

**WARD SIX**

18608            **Application of Sheldon P. Schuman**, pursuant to 11 DCMR § 3104.1, for  
ANC-6B           a special exception to establish a new fast food establishment within a  
                         grocery store under section 733, in the C-2-A District at premises 1500  
                         Independence Avenue, S.E. (Square 1072, Lot 5).

**WARD THREE**

18609            **Application of Ronald Kaplan**, pursuant to 11 DCMR § 3103.2, for a  
ANC-3E           variance from lot occupancy requirements under section 403, a variance  
                         from the side yard requirements under subsection 405.9, and a variance  
                         from the nonconforming structure provisions under subsection 2001.3, to

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allow an addition to a one-family dwelling in the R-1-B District at premises 4916 Belt Road, N.W. (Square 1757, Lot 27).

**WARD TWO**

18610            **Application of Back Alley LLC and Ellsworth T. Simpson Trust,**  
ANC-2E           pursuant to 11 DCMR § 3103.2, for a variance from the nonresidential  
floor area ratio restrictions under subsection 931.2, to subdivide and use  
all of the existing buildings on the property for nonresidential uses  
permitted in the W-1 District at premises 1063 Wisconsin Avenue, N.W.  
(Square 1199, Lot 48).

**WARD THREE**

18612            **Appeal of Terry Hopkins,** pursuant to 11 DCMR §§ 3100 and 3101,  
ANC-3E           from an April 5, 2013, decision by the Department of Consumer and  
Regulatory Affairs to issue a retaining wall permit (# RW1300056) in the  
R-2 District at premises 4201 River Road, N.W. (Square 1674, Lot 805).

**PLEASE NOTE:**

Failure of an applicant or appellant to appear at the public hearing will subject the application or appeal to dismissal at the discretion of the Board.

Failure of an applicant or appellant to be adequately prepared to present the application or appeal to the Board, and address the required standards of proof for the application or appeal, may subject the application or appeal to postponement, dismissal or denial. The public hearing in these cases will be conducted in accordance with the provisions of Chapter 31 of the District of Columbia Municipal Regulations, Title 11, and Zoning. Pursuant to Subsection 3117.4, of the Regulations, the Board will impose time limits on the testimony of all individuals. Individuals and organizations interested in any application may testify at the public hearing or submit written comments to the Board.

Except for the affected ANC, any person who desires to participate as a party in this case must clearly demonstrate that the person's interests would likely be more significantly, distinctly, or uniquely affected by the proposed zoning action than other persons in the general public. **Persons seeking party status shall file with the Board, not less than 14 days prior to the date set for the hearing, a Form 140 – Party Status Application Form.** This form may be obtained from the Office of Zoning at the address stated below or downloaded from the Office of Zoning's website at: [www.dcoz.dc.gov](http://www.dcoz.dc.gov). All requests and comments should be submitted to the Board through the Director, Office of Zoning, 441 4<sup>th</sup> Street, NW, Suite 210, Washington, D.C. 20001. Please include the case number on all correspondence.

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FOR FURTHER INFORMATION, CONTACT THE OFFICE OF ZONING AT (202)  
727-6311.

**LLOYD J. JORDAN, CHAIRMAN, S. KATHRYN ALLEN, JEFFREY L. HINKLE  
AND A MEMBER OF THE ZONING COMMISSION ----- BOARD OF  
ZONING ADJUSTMENT, CLIFFORD W. MOY, SECRETARY TO THE BZA,  
SARA A. BARDIN, DIRECTOR, OFFICE OF ZONING.**

**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS  
CONSTRUCTION CODES COORDINATING BOARD**

**NOTICE OF FINAL RULEMAKING**

The Chairperson of the Construction Codes Coordinating Board (Chairperson), pursuant to the authority set forth in Section 10 of the Construction Codes Approval and Amendments Act of 1986 (“Act”), effective March 21, 1987 (D.C. Law 6-216; D.C. Official Code § 6-1409 (2008 Repl.)) and Mayor’s Order 2009-22, dated February 25, 2009, and the Director of the Department of Consumer and Regulatory Affairs (Director), pursuant to the authority set forth in Section 12 of the Green Building Act of 2006, effective March 8, 2007 (D.C. Law 16-234; D.C. Official Code § 6-1451.11 (2008 Repl. & 2012 Supp.)) as amended (“Green Building Act”), Mayor’s Order 2007-206, dated September 21, 2007, and Mayor’s Order 2010-1, dated January 5, 2010, hereby gives notice of the adoption of the following rulemaking amending Subtitle A (Building Code Supplement) of Title 12 ( District of Columbia Construction Codes Supplement of 2008) of the District of Columbia Municipal Regulations.

A notice of emergency and proposed rulemaking was previously published in the *D.C. Register* on November 30, 2012 (59 DCR 13942). Pursuant to Section 10(a) of the Act and Section 12(a) of the Green Building Act, a proposed resolution to approve the notice of emergency and proposed rulemaking, the District of Columbia Building Code Supplement Amendment Resolution of 2013 (P.R. 20-113), was submitted to the Council of the District of Columbia for a forty-five (45) day period of review. The proposed resolution was deemed approved by the Council on May 17, 2013.

No substantive changes were made to the proposed rulemaking, although minor changes were made to clarify three definitions: (1) The phrase “(For Chapter 13A)” was added to the term “Project” and the phrase “The construction of” was deleted; (2) The definition of “Floor area, gross (For Chapter 13A)” was revised to clearly refer to the same definition in the Zoning Regulations; and (3) The phrase “(For Chapter 13A)” was added to the term “Gross floor area”.

The Chairperson took final action on these rules on June 3, 2013. These final rules will be effective upon publication of this notice in the *D.C. Register*.

**Subtitle A (Building Code Supplement) of Title 12 (D.C. Construction Codes Supplement of 2008) of the District of Columbia Municipal Regulations is amended as follows:**

**Chapter 2A (Definitions) is amended as follows:**

*Insert the following new definitions in Section 202A of the Building Code to read as follows:*

**PROJECT (For Chapter 13A).** A single or multiple buildings that are part of one development scheme, built at one time or in phases.

**DISTRICT FINANCED.** (1) Financing of a project or contract where funds or resources to be used for construction and development costs, excluding ongoing operational costs, are received

from the District, or funds or resources which, in accordance with a federal grant or otherwise, the District administers, including a contract, grant, loan, tax abatement or exemption, land transfer, land disposition and development agreement, or tax increment financing, or any combination thereof, provided, that federal funds may be applied to the financing percentage only if permitted by federal law and grant conditions; or (2) Financing whose stated purpose is, in whole or in part, to provide for the new construction or substantial rehabilitation of affordable housing.

**DISTRICT INSTRUMENTALITY FINANCED.** See *District financed*.

**FLOOR AREA, GROSS (For Chapter 13A).** *Gross floor area* shall have the same meaning as in the Zoning Regulations, 11 DCMR § 199, and as interpreted by the Zoning Administrator.

**GROSS FLOOR AREA (For Chapter 13A).** See *Floor area, gross (For Chapter 13A)*.

**Chapter 13A (Green Building Promotion) is amended to read as follows:**

## **CHAPTER 13A GREEN BUILDING ACT REQUIREMENTS**

*Strike Chapter 13A of the International Building Code (2006) in its entirety and insert new Chapter 13A in the Building Code in its place to read as follows:*

1301A General

### **1301A GENERAL**

**1301.1 Green Building Act of 2006 requirements.** An applicant for permits subject to Section 1301.1.1 or Section 1301.1.2 shall comply with Sections 1301.1.3 through 1301.1.11 and the Green Building Act of 2006, effective March 8, 2007 (D.C. Law 16-234; D.C. Official Code §§ 6-1451.01 *et seq.* (2008 Repl. & 2012 Supp.)), as amended (“Green Building Act” or “GBA”). Other components of the Green Building Act are administered by other District of Columbia agencies. The applicant shall have the option of requesting a Green Building Act Preliminary Design Review Meeting (“GBA PDRM”) with the Department, at the discretion of the applicant.

**1301.1.1 Publicly-owned or publicly financed projects.** This section shall apply to each *project* that is new construction or where the scope of work at the *project* is equivalent to Level 3 *alterations* as defined in the *Existing Building Code*; and is either:

1. A District-owned or District instrumentality-owned *project*; or
2. A *District financed* or *District instrumentality financed project*, where the financing represents at least 15 percent of the *project’s* total cost.

**1301.1.1.1 Energy Star Target Finder Tool.** Each *project* of 10,000 square feet (929 m<sup>2</sup>) or more of *gross floor area* shall be designed and constructed to achieve a minimum score of 75 points on the Energy Star Target Finder Tool. The

applicant shall provide plans and supporting documents in sufficient detail and clarity to enable the *code official* to verify compliance with this section.

**Exceptions:**

1. Building occupancies for which the Energy Star tool is not available.
2. Alterations.

**1301.1.1.2 Non-residential projects.** A *project* which does not contain Residential Group R occupancies that equal or exceed 50 percent of the gross floor area of the *project*, including allocable area of common space, shall be deemed a non-residential *project* and shall be designed and constructed so as to achieve no less than the applicable LEED standard listed in Section 1301.1.3, at the Silver level or higher. The applicant shall provide plans and supporting documents in sufficient detail and clarity to enable the *code official* to verify compliance with this section.

**Exceptions:**

1. Educational Group E (covered by Section 1301.1.1.3).
2. Space designed and occupied for Residential Group R occupancies in a non-residential *project* (covered by Section 1301.1.1.4),
3. Space designed and occupied for non-residential uses located in a Residential Group R occupancy *project* (covered by Section 1301.1.1.5).
4. Space designed and occupied for non-residential uses located in a District-owned or a District instrumentality-owned building (covered by either Section 1301.1.1.6 or Section 1301.1.1.7 as applicable).

**1301.1.1.3 Educational Group E.** A *project* of Educational Group E occupancy owned, operated or maintained by the D.C. Public Schools (DCPS), or a public charter school, shall be designed and constructed to meet the LEED standard for Schools, at the Gold level or higher. The applicant shall provide plans and supporting documents in sufficient detail and clarity to enable the *code official* to verify compliance with this section.

**Exceptions:**

1. Where sufficient funding is not available to meet the applicable LEED standard for Schools at the Gold level, then the *project* shall meet the LEED standard for Schools at no less than the Certified Level of LEED standard for Schools. For the purpose of determining the applicability of this exception, “sufficient funding” shall mean the lack of committed

public funds in an approved District budget to fund the LEED standard for Schools at the Gold level.

2. Where a *project* for Educational Group E occupancy is located in only a portion of a building, then only that portion of the building that is the subject of the *project* shall comply with this Section 1301.1.1.3.

**1301.1.1.4 Project containing Residential Group R occupancies.** Where a *project* contains 10,000 square feet (929 m<sup>2</sup>) or more of *gross floor area* for Residential Group R occupancies, including the allocable area of common space, then the residential occupancies of the *project* shall be designed and constructed to meet or exceed the Enterprise Green Communities standard, or a substantially equivalent standard as determined by the *code official*. This self-certification checklist shall be submitted to the *code official* with the application for the certificate of occupancy of the residential component of the *project*. The residential component of the *project* shall not be required to meet a LEED standard.

**1301.1.1.5 Interior construction of a mixed use space in a Residential Group R project.** Where Residential Group R occupancies exceed 50 percent of the *gross floor area* of the *project*, including allocable area of common space, and the *project* contains at least 50,000 contiguous square feet (4645 m<sup>2</sup>) of *gross floor area*, exclusive of common space of the non-residential occupancies, then the space designated for non-residential occupancies shall be designed and constructed to meet or exceed one or more of the applicable LEED standards listed in Section 1301.1.3 at the Certified Level. The applicant shall provide plans and supporting documents in sufficient detail and clarity to enable the *code official* to verify compliance with this section.

**1301.1.1.6 Interior tenant fit-out alteration in a District-Owned or a District Instrumentality-Owned Project.** Where a *project* in a District-owned or a District instrumentality-owned building involves the alteration of 30,000 square feet (2787 m<sup>2</sup>) or more of *gross floor area* for a single non-residential occupancy, exclusive of common space, for which space a certificate of occupancy for non-residential use has been or would be issued, and the scope of work is equivalent to Level 3 *alterations* as defined in the *Existing Building Code*, then the portion of the *project* subject to alteration shall be designed and constructed to meet or exceed one or more of the LEED standards listed in Section 1301.1.3 at the Certified Level. The applicant shall provide plans and supporting documents in sufficient detail and clarity to enable the *code official* to verify compliance with this section.

**1301.1.1.7 Interior tenant fit-out in new construction.** Where a *project* in a District-owned or a District-instrumentality-owned building involves the fit-out for tenant occupancy of shell space or spaces of 30,000 square feet (2787 m<sup>2</sup>) or more of *gross floor area* for a single non-residential occupancy, exclusive of

common space, for which space a certificate of occupancy would be issued, the portion of the *project* subject to tenant fit-out shall be designed and constructed to meet or exceed one or more of the applicable LEED standards listed in Section 1301.1.3 at the Certified Level. The applicant shall provide plans and supporting documents in sufficient detail and clarity to enable the *code official* to verify compliance with this section.

**1301.1.2 Privately-owned projects.** This section shall apply to a *project* that is privately-owned and is either new construction or an alteration where the scope of work is equivalent to Level 3 *alterations* as defined in the *Existing Building Code*. This category includes a *project* involving improved and unimproved real property acquired by sale from the District or a District instrumentality to a private entity, unimproved real property leased from the District or a District instrumentality to a private entity, and any *project* where less than 15 percent of the *project's* total *project* cost is *District financed* or *District instrumentality financed*.

**1301.1.2.1 Energy Star Target Finder Tool.** Each *project* of 50,000 square feet (4645 m<sup>2</sup>) or more of *gross floor area* shall estimate the *project's* energy performance using the Energy Star Target Finder Tool and submit this data to the *code official* with the permit application.

**Exception:** Building occupancies for which the Energy Star tool is not available.

**1301.1.2.2 Privately-owned non-residential projects.** In addition to compliance with Section 1301.1.2.1, each non-residential *project* of 50,000 square feet (4645 m<sup>2</sup>) or more of *gross floor area* shall be designed and constructed to meet or exceed one or more of the LEED standards listed in Section 1301.1.3 at the Certified Level. A “non-residential *project*” shall mean a *project* where 50 percent or more of the *gross floor area*, including allocable area of common space, is occupied or intended for occupancy for uses that are not Residential Group R occupancies. The applicant shall provide plans and supporting documents in sufficient detail and clarity to enable the *code official* to verify compliance with this section.

**1301.1.2.3 Interior construction of mixed use space in a Residential Group R project.** Where Residential Group R occupancies exceed 50 percent of the *gross floor area* of the *project*, including allocable area of common space, and the *project* contains at least 50,000 contiguous square feet (4645 m<sup>2</sup>) of *gross floor area*, exclusive of common space of the non-residential occupancies, then the space designated for non-residential occupancies shall be designed and constructed to meet or exceed one or more of the applicable LEED standards listed in Section 1301.1.3 at the Certified Level. The applicant shall provide plans and supporting documents in sufficient detail and clarity to enable the *code official* to verify compliance with this section.

**1301.1.3 LEED standards.** Applicants, in consultation with the U.S. Green Building Council (USGBC) listed in Chapter 35, shall utilize one or more of the following LEED standards as appropriate for the type of *project* or occupancy:

1. New Construction & Major Renovations
2. Commercial Interiors
3. Core & Shell
4. Healthcare
5. Retail: Commercial Interiors
6. Retail: New Construction & Major Renovations
7. Schools

**1301.1.3.1 LEED version.** An applicant for permits subject to Sections 1301.1.1.2 through 1301.1.1.7 or Sections 1301.1.2.2 through 1301.1.2.3 shall register the *project* with the USGBC or shall meet the LEED requirements without USGBC registration. If the applicant chooses to meet the LEED requirements without USGBC registration, the earliest version of the appropriate LEED standard that shall be used is the version with USGBC open registration in effect one year prior to whichever of the following interactions of the applicant with the District of Columbia came first:

1. The approval of a land disposition agreement;
2. The submission of an application to the Board of Zoning Adjustment for a variance or special exception relief;
3. The submission of an application to the Zoning Commission for a planned unit development or other approval requiring Zoning Commission action;
4. The submission of an application to the Historic Preservation Review Board or Mayor's Agent for the Historic Preservation Review Board;
5. The filing of a building permit application for the primary scope of work of the *project*, which shall not include applications for raze, sheeting and shoring, foundation or specialty, miscellaneous or supplemental permits; or
6. Other substantial land-use interactions with the District as

determined by the *code official*.

**1301.1.4 Verification.** Evidence that a *project* meets or exceeds the LEED standard required by Sections 1301.1.1.2 through 1301.1.1.7 or Sections 1301.1.2.2 through 1301.1.2.3 shall be submitted to the *code official* within 24 calendar months after the *project's* receipt of the first certificate of occupancy issued for occupiable space in a *story above grade plane*.

**1301.1.4.1 Evidence required.** For purposes of this section, verification of compliance shall be established by the following:

1. A certification by the USGBC that the *project* meets or exceeds the applicable LEED standard required by Sections 1301.1.1.2 through 1301.1.1.7 or Sections 1301.1.2.2 through 1301.1.2.3; or
2. A determination by the *code official* that the *project* meets or exceeds the LEED standard required by Sections 1301.1.1.2 through 1301.1.1.7 or Sections 1301.1.2.2 through 1301.1.2.3; or
3. A certification by an *approved agency* or *approved source* that the *project* meets or exceeds the LEED standard required by Sections 1301.1.1.2 through 1301.1.1.7 or Sections 1301.1.2.2 through 1301.1.2.3.

**1301.1.4.2 Extension.** The *code official*, for good cause and upon written request, is authorized to extend the period for verification of compliance for up to three consecutive one year periods.

**1301.1.5 Financial security.** Before issuance of the first certificate of occupancy for occupiable space in a *story above grade plane* of a privately-owned *project* subject to the provisions of Sections 1301.1.2.2 through 1301.1.2.3, the applicant shall provide to the *code official* evidence of financial security to cover the amount of fine that would be imposed under the Green Building Act for non-compliance with the provisions of Sections 1301.1.2.2 through 1301.1.2.3.

**1301.1.5.1 Amount of financial security.** The amount of the potential fine on a *project*, and thus the amount of financial security, shall be as follows:

1. \$7.50 per square foot of *gross floor area* of construction if the *project* is less than 100,000 square feet (9290 m<sup>2</sup>) of *gross floor area* of the *project*.
2. \$10.00 per square foot of *gross floor area* of construction if the *project* is equal to or greater than 100,000 square feet (9290 m<sup>2</sup>) of *gross floor area* of the *project*.

The amount of a fine for non-compliance under this sub-section, and thus the amount of security, shall not exceed \$3,000,000. When applying the provisions of this Section 1301.1.5 to interior construction of a mixed use space in a Residential Group R *project* covered by Section 1301.1.2.3, the *gross floor area* of the *project* shall be deemed to mean the contiguous *gross floor area*, exclusive of common space, of the non-residential occupancies. The amount of this fine shall be subject to modification based upon the form of security for performance as provided for in Sections 1301.1.5.2.1 through 1301.1.5.2.3.

**1301.1.5.2 Security for performance/form of delivery.** The financial security requirement shall be met through one of the following four methods.

**1301.1.5.2.1 Cash.** If this option is elected, cash shall be deposited in an escrow account in a financial institution in the District in the names of the applicant and the District. A copy of a binding escrow agreement of the financial institution shall be submitted to the *code official* in a form satisfactory to the Office of the Attorney General, which provides that the funds can be released upon direction of the District where remitted pursuant to Section 1301.1.6. If cash is used as the financial security, the amount of the financial security posted shall be discounted by 20 percent.

**1301.1.5.2.2 Irrevocable letter of credit.** If this option is elected, an irrevocable letter of credit benefitting the District shall be submitted to the *code official* in a form satisfactory to the Office of the Attorney General from a financial institution authorized to do business in the District. The irrevocable letter of credit, issued by the financial institution, shall comply with applicable regulatory requirements. If an irrevocable letter of credit is used as the financial security, the amount of the financial security posted shall be discounted by 20 percent.

**1301.1.5.2.3 Bond.** If this option is elected, a bond benefitting the District, which complies with applicable regulatory requirements, shall be submitted to the *code official* in a form satisfactory to the Office of the Attorney General. If a bond is used as the financial security, the amount of the financial security posted shall be discounted by 20 percent.

**1301.1.5.2.4 Binding pledge.** If this option is elected, a binding pledge shall be submitted to the *code official* in a form approved by the Office of the Attorney General. The binding pledge shall be recorded as a covenant in the land records of the District against legal title to the land in which the *project* is located and shall bind the *owner* and any successors in title to pay any fines levied under Section 1301.1.6.1.

**1301.1.6 Enforcement.** Where a *project* fails to provide pursuant to Section 1301.1.4 satisfactory verification of the *project's* compliance with the requirements of Sections 1301.1.2.2 through 1301.1.2.3 within the prescribed time frame and any extensions

thereof granted by the *code official* pursuant to Section 1301.1.4.2, the *code official* is authorized to draw down on the financial security submitted as cash, irrevocable letter of credit or bond, by submission by the District of the original security documentation, provided that where a binding pledge has been provided, to enforce such pledge agreement pursuant to its terms. The amounts thus drawn down from the financial security shall be deposited in the Green Building Fund set up under the Green Building Act.

**1301.1.6.1 Financial security drawdowns.** If a *project* fails to provide satisfactory verification of compliance, the drawdowns of the financial security in the form of cash, irrevocable letter of credit, or bond shall be as follows:

1. Failure to provide proof of compliance within 24 calendar months after the *project's* receipt of the first certificate of occupancy for occupiable space in a *story above grade plane*: 100 percent drawdown; or
2. Miss up to three LEED points in the applicable LEED standard: 50 percent drawdown; or
3. Miss more than three LEED points in the applicable LEED standard: 100 percent drawdown.

**1301.1.6.2 Binding pledge fines.** If a *project* fails to provide satisfactory verification of compliance within 24 calendar months after the *project's* receipt of the first certificate of occupancy for occupiable space in a *story above grade plane* and a binding pledge is used as the form of financial security, one or more fines shall be due and payable per the amounts set out in 1301.1.5.1 as may be modified pursuant to Section 1301.1.6.1.

**1301.1.7 Release of financial security.** If, within 24 calendar months following the issuance of the first certificate of occupancy for occupiable space in a *story above grade plane*, the *project* fulfills the requirements of Section 1301.1.4, the financial security shall be released by the District of Columbia and, as applicable, returned.

**1301.1.8 Remediation.** If within 24 months after receipt of the first certificate of occupancy for occupiable space in a *story above grade plane*, or within the extension periods granted to the *project* per Section 1301.1.4.2, the *project* does not meet the requirements of Section 1301.1.4, the *project owner* shall, at its own cost, design and renovate the *project* to meet or exceed the current edition of the LEED standard for Existing Buildings: Operations & Maintenance at the Certified Level. The *project owner* shall submit sufficient data to the *code official* to verify compliance with this section. The *project owner* shall provide to the *code official* certification, by the *owner's registered design professional* or an *approved agency or an approved source* that the *project* complies with this section.

**1301.1.9 Additional fine.** If within 48 calendar months after receipt of the first certificate of occupancy for occupiable space in a *story above grade plane*, a *project*, subject to Section 1301.1.3 fails to provide satisfactory verification in accordance with the provisions of Section 1301.1.4 or Section 1301.1.8, the *project owner* shall pay a monthly fine of \$0.02 per square foot of *gross floor area* of the *project* to the District of Columbia. The fine shall be a civil penalty, due and payable annually. The fine shall be in addition to any fines issued under Section 1301.1.6 and shall not be subject to the \$3,000,000 limit under Section 1301.1.5.1.

**1301.1.10 Appeals.** Determinations made by the *code official* under Sections 1301.1.1 through 1301.1.9 may be appealed pursuant to Section 112 of the *Building Code*.

**1301.1.11 Exemptions.** A request for an exemption from application of the Green Building Act to any *project* may be made to DDOE pursuant to the provisions of Chapter 35 (Green Building Requirements) of DCMR Title 20 (Environment).

**Chapter 35A (Referenced Standards) is amended as follows:**

*Insert a new referenced standard to read as follows:*

	Enterprise 10 G Washington, D.C. 20002	Community Street, NE,	Partners, Suite	Inc. 450
Standard reference number	Title			Referenced in code section number
2011	Enterprise Green Communities On- Line Certification			1301.1.1.4

*Insert a new referenced standard under subheading “US EPA” to read as follows:*

<b>US EPA</b>	Environmental Ariel 1200 Washington, D.C. 20460	Protection Rios Pennsylvania Avenue,	Agency Building NW
Standard reference number	Title		Referenced in code section number
ENERGY STAR	Energy Star Target Finder Tool		1301.1.2.1

*Strike the subheading “USGBC” in its entirety and insert a new subheading “USGBC” in its place to read as follows:*

<b>USGBC</b>	U.S. Green Building Council 2101 L Street, NW, Suite 500 Washington, D.C. 20037	
Standard reference number	Title	Referenced in code section number
LEED-NC 2009	New Construction & Major Renovations	1301.1.3
LEED-CI 2009	Commercial Interiors	1301.1.3
LEED-CS 2009	Core & Shell	1301.1.3
LEED 2009	Healthcare	1301.1.3
LEED 2009	Retail: Commercial Interiors	1301.1.3
LEED 2009	Retail: New Construction & Major Renovations	1301.1.3
LEED 2009	Schools	1301.1.3
LEED-EB 2009	Existing Buildings: Operations & Maintenance	1301.1.8

**OFFICE OF CONTRACTING AND PROCUREMENT****NOTICE OF FINAL RULEMAKING**

The Chief Procurement Officer of the District of Columbia (“CPO”), pursuant to the authority set forth in Sections 204 and 1106 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code §§ 2-352.04 and 2-361.06) (2011 Repl.) (Act), hereby gives notice of the intent to adopt final rulemaking to replace Chapter 9 (Surplus Property), of Title 27 (Contracts and Procurement), of the District of Columbia Municipal Regulations (DCMR) and to rescind all of Part II, Sections 2630-2634, of the District of Columbia’s Materiel Management Manual (MMM).

The rulemaking updates and consolidates the regulations, and implements the provisions in the Act that apply to the distribution of surplus personal property.

The CPO gave notice of his intent to adopt these rules on March 20, 2013, and the proposed rules were published in the *D.C. Register* on April 12, 2013, at 60 DCR 5660. No changes have been made to the text of the rules as published. The CPO took final action to adopt these rules on May 17, 2013.

The rulemaking will become effective upon publication in the *D.C. Register*.

**Chapter 9, SURPLUS PROPERTY, of Title 27, CONTRACTS AND PROCUREMENTS, of the DCMR is amended as follows:**

**Section 900, GENERAL PROVISIONS, is amended to read as follows:**

**900 GENERAL PROVISIONS**

- 900.1 The District of Columbia State Agency for Surplus Property (D.C. SASP) is responsible for effecting the fair and equitable distribution of federal surplus personal property, whether by sale, donation, or transfer, in accordance with the Federal Property and Administrative Services Act.
- 900.2 The Office of Contracting and Procurement Surplus Property Division (SPD) is responsible for effecting the fair and equitable distribution of District surplus personal property, whether by sale, donation, or transfer.
- 900.3 The Office of Contracting and Procurement (OCP) shall publish on the OCP website all forms used for the purpose of disposing of federal and District surplus property.
- 900.4 OCP shall publish on the OCP website records of all transfers of federal and District surplus property.

**Section 901, AUTHORITY, is repealed and replaced with:**

**901 RESPONSIBILITIES OF THE CHIEF PROPERTY DISPOSAL OFFICER**

901.1 The Director shall delegate to the Chief Property Disposal Officer (CPDO) specific responsibilities that include:

- (a) Acting as the District of Columbia State Agent (State Agent) for purposes of disposing of federal surplus personal property. The State Agent shall be the Chief of D.C. SASP, and may make charges, assess fees, and distribute surplus personal property in accordance with all federal laws and regulations governing the donation and transfer of federal surplus property;
- (b) Acting as the Chief of the SPD for purposes of disposing of District surplus personal property in accordance with District law and regulations governing the sale, donation, and transfer of District surplus property;
- (c) Maximizing the investment recovery value of surplus personal property and effective oversight and management of personal property utilization;
- (d) Maintaining office and warehouse facilities for requesting, receiving, staging, displaying, storing, and shipping all categories of surplus personal property;
- (e) Examining the property records of each agency to determine the adequacy and accuracy of the property records; and
- (f) Determining who shall be authorized to enter the District’s warehouse to select property.

**Section 902, RESERVED, is repealed and replaced with:**

**902 INVENTORY CONTROL**

902.1 Each District agency is responsible for all personal property in its custody whether purchased from appropriations or other authorized funds, or acquired by transfer, donation, or other authorized means. Each District agency shall ensure that the personal property is properly utilized and managed in the best interest of the District government.

902.2 Each District agency director shall designate in writing to the CPDO:

- (a) An administrative employee who shall serve as an Accountable Property Officer (APO); and
- (b) An administrative employee who shall serve as an alternate APO.

- 902.3 The APO shall be responsible for:
  - (a) Maintaining records that reflect accountability of property assigned to the agency;
  - (b) Ensuring the proper utilization and care of all property assigned to the agency;
  - (c) Reconciling physical inventories with property records and inventory databases; and
  - (d) Approving transfers of, accounting for, and reporting dispositions of agency personal property to SPD by utilizing the property disposal action form.

- 902.4 The D.C. SASP and the SPD shall maintain a shared electronic inventory control system to monitor all federal and District surplus personal property in their possession. The system shall contain the following information for each item of surplus personal property:
  - (a) The date of receipt of property;
  - (b) The agency from which the property was received;
  - (c) A description of the property, including quantity and condition;
  - (d) A photograph of the property; and
  - (e) The estimated value of the property.

**Section 903, DESIGNATION OF STATE AGENCY, is repealed and replaced with:**

**903 TRANSFER OF DISTRICT AND FEDERAL SURPLUS PROPERTY**

903.1 The CPDO may transfer surplus District property between District agencies.

903.2 The CPDO may transfer federal surplus property to a District agency for use in carrying out or promoting, for residents of the District, a public purpose, including conservation, economic development, education, parks and recreation, public health, and public safety.

**Section 904, INVENTORY CONTROL, is repealed and replaced with:**

**904 SALE OF DISTRICT SURPLUS PROPERTY**

- 904.1 When it is in the District’s best interest, and after the District has made an attempt to transfer District surplus property between District agencies, the Director may authorize the disposal or sale of surplus personal property after it has been in SPD for seven (7) days using any of the following disposal methods:
  - (a) Auctions;
  - (b) Competitive sealed bidding;
  - (c) Competitive electronic sales; or
  - (d) Other appropriate method designated by rule.
- 904.2 If an on-line auction occurs, items shall be placed on an on-line auction site for a period of seven (7) days. After the auction period has expired, the winning bidder shall be awarded the property after payment has been received.
- 904.3 During an on-line auction, the record of the bid prices received will be available for public viewing on the auction site.
- 904.4 Property with an estimated value exceeding ten thousand dollars (\$10,000) shall only be sold subject to a minimum bid established by the CPDO. If the CPDO determines that property cannot be sold at the established minimum bid price, the CPDO may extend the bidding period or reject the bids.
- 904.5 The CPDO may reject any bid received during any disposal method.
- 904.6 No District employee or member of a District employee’s household may purchase surplus personal property.

**Section 905, ACCOUNTING, is repealed and replaced with:**

**905 DONATION OF FEDERAL SURPLUS PROPERTY**

- 905.1 The State Agent must determine whether an applicant is eligible to receive a donation of federal surplus property in the District’s possession.
- 905.2 When a determination has been made by the State Agent to donate federal surplus property, donations may be made to the following sources:
  - (a) Any public agency for use in carrying out or promoting for the residents of the District one or more public purposes, such as conservation, economic development, education, parks and recreation, public health, and public safety; or

- (b) To a nonprofit educational or public health institution or organization that is exempt from taxation under section 501 of the Internal Revenue Code of 1986 (26 U.S.C. § 501), including—
- (i) a medical institution, hospital, clinic, health center, or drug abuse treatment center;
  - (ii) a provider of assistance to homeless individuals or to families or individuals whose annual incomes are below the poverty line (as that term is defined in Section 673 of the Community Services Block Grant Act (42 U.S.C. § 9902));
  - (iii) a school, college, or university;
  - (iv) a school for the mentally retarded or physically handicapped;
  - (v) a child care center;
  - (vi) a radio or television station licensed by the Federal Communications Commission as an educational radio or educational television station;
  - (vii) a museum attended by the public;
  - (viii) a public library;
  - (ix) a historic light station as defined under Section 308(e)(2) of the National Historic Preservation Act (16 U.S.C. §§ 470w-7 (e)(2)), including a historic light station conveyed under Subsection (b) of that section, notwithstanding the number of hours that the historic light station is open to the public; or
  - (x) an organization whose membership comprises substantially all veterans (as defined under Section 101 of Title 38) and representatives are recognized by the Secretary of Veterans Affairs under Section 5902 of Title 38.

905.3 The distribution of federal surplus property should be done in a fair and equitable manner based on the relative needs and resources of interested District agencies and other eligible institutions in the District, and their abilities to use the property.

905.4 When an eligible donee ceases to operate, whether by loss of license, accreditation, approval or otherwise, or fails to satisfy all financial obligations as required or fails to maintain a reasonable posture regarding all financial obligations, D.C. SASP shall terminate the distribution of federal surplus personal property immediately upon notification.

- 905.5 When a determination has been made by the State Agent that property has not been put into use by a donee within one (1) year from the date of receipt, or when the donee ceases to use the property within one (1) year after it has been received, the donee shall, at the direction of the CPDO do one (1) of the following:
- (a) Return all usable surplus personal property at the donee's expense, to the D.C. SASP warehouse;
  - (b) Transfer all usable property to another eligible donee; or
  - (c) Make another disposal arrangement deemed appropriate by the CPDO.
- 905.6 D.C. SASP may impose reasonable terms, conditions, reservations, and restrictions on the use of the donated property.
- 905.7 D.C. SASP shall maintain a donee wish-list which shall serve as a fundamental tool designed to neutralize the necessity of frequent visits to the warehouse in search of desired properties. D.C. SASP employees shall be guided by these requests in the screening and selection of property.

**Section 906, RESERVED, is repealed and replaced with:**

**906 DONATION OF DISTRICT SURPLUS PROPERTY**

- 906.1 The District may donate its surplus personal property to an organization qualified as a tax-exempt under Section 501 of the Internal Revenue Code of 1986 (26 U.S.C. § 501), or state, county, or municipal jurisdictions only after an attempt has been made to:
- (a) Transfer the property within an agency;
  - (b) Transfer the property between agencies; and
  - (c) Auction the property for sale.
- 906.2 The CPDO must determine whether an applicant is eligible to receive a donation of District surplus property, and re-verify its eligibility every two (2) years.
- 906.3 Before receiving a donation of District surplus personal property, a tax-exempt organization must:
- (a) Demonstrate it meets any approval, accreditation, or licensing requirements for operation of its program;
  - (b) Certify that it is not debarred, suspended, or excluded from any federal or District program, including procurement programs;

(c) Operate in compliance with applicable federal nondiscrimination law; and

(d) Certify that it is a non-profit tax-exempt organization.

906.4 SPD shall maintain a donee wish-list which shall serve as a fundamental tool designed to neutralize the necessity of frequent visits to the warehouse in search of desired properties. SPD employees shall be guided by these requests in the screening and selection of property.

**Section 907, RESERVED, is repealed and replaced with:**

**907 UNDISTRIBUTED SURPLUS PROPERTY**

907.1 The CPDO may recycle, sell for scrap, abandon, or destroy undistributed District or federal surplus personal property upon making a determination that the property has no commercial value, or the estimated cost of its continued care and handling would exceed the estimated proceeds from its sale.

**Section 908, RETURN OF DONATED PROPERTY, is repealed and replaced with:**

**908 SERVICE CHARGES**

908.1 D.C. SASP may assess a service charge for services performed under this chapter. Service charges shall be fair and equitable in relation to the services performed. The D.C. SASP must take into account the amount of screening, packing, crating, removal, transportation and other efforts required to perform the services when determining the amount of a service charge.

**Section 909, FINANCING AND SERVICE CHARGES, is repealed and replaced with**

**909 PLACEMENT OF ANIMALS**

909.1 Notwithstanding any other provisions of this chapter, the CPDO may transfer or donate surplus animals in any manner in which he determines to be in the best interest of the District.

**Section 910, TERMS AND CONDITIONS ON DONABLE PROPERTY, is repealed.**

**Section 911, NON-UTILIZED DONABLE PROPERTY, is repealed.**

**Section 912, FAIR AND EQUITABLE DISTRIBUTION, is repealed.**

**Section 913, ELIGIBILITY, is repealed.**

**Section 914, APPLICATION, is repealed.**

**Section 915, MAINTAINING ELIGIBILITY, is repealed.**

**Section 916, COMPLIANCE AND UTILIZATION, is repealed.**

**Section 917, CONSULTATION WITH ADVISORY BODIES AND PUBLIC AND PRIVATE GROUPS, is repealed.**

**Section 918, AUDIT, is repealed.**

**Section 919, COOPERATIVE AGREEMENTS, is repealed.**

**Section 920, LIQUIDATION, is repealed.**

**Section 921, RESERVED, is repealed.**

**Section 922, RESERVED, is repealed.**

**Section 923, RESERVED, is repealed.**

**Section 924, RESERVED, is repealed.**

**Section 925, RESERVED, is repealed.**

**Section 926, RESERVED, is repealed.**

**Section 927, RESERVED, is repealed.**

**Section 928, RESERVED, is repealed.**

**Section 929, RESERVED, is repealed.**

**Section 930, FORMS, is repealed.**

**Section 931, RECORDS, is repealed.**

**Section 932, ADMISSION TO SASP DISTRIBUTION CENTER AND SELECTION OF PROPERTY, is repealed.**

**Section 933, DONEE-SCREENERS, is repealed.**

**Section 934, CERTIFICATIONS AND AGREEMENTS (INCLUDING TERMS, CONDITIONS, RESERVATIONS AND RESTRICTIONS) COVERING THE DONATION OF DONABLE FEDERAL SURPLUS PROPERTY, is repealed.**

**999 DEFINITIONS**

999.1 When used in this chapter, the following words have the meanings ascribed:

**Chief Property Disposal Officer:** The Chief of the District of Columbia State Agency for Surplus Property and the Chief of the Office of Contracting and Procurement Surplus Property Division who is designated to oversee and manage all personal property programs of the District government.

**Director:** The Director of the Office of Contracting and Procurement (OCP) or the District of Columbia Chief Procurement Officer (CPO).

**Electronic Inventory Control System:** The shared computer system and database used by the District of Columbia Personal Property Division and the State Agency for Surplus Property to record transactions related to surplus property.

**Federal Property and Administrative Services Act of 1949:** The law approved August 16, 1950 to authorize a State Agency for Surplus Property to acquire and distribute to all eligible donees in the District any federal surplus property.

**Public agency:** A federal or District department, agency, or instrumentality thereof.

**Public purpose:** A program carried out by a public agency which is legally authorized in accordance with the laws of the District of Columbia, and for which public funds may be expended. Public purposes include, but are not limited to, programs such as conservation, economic development, education, parks and recreation, public health, and public safety.

## DEPARTMENT OF HEALTH

## NOTICE OF FINAL RULEMAKING

The Interim Director of the Department of Health (Department), pursuant to Sections 4 and 5 of the District of Columbia Unused Pharmaceutical Safe Disposal Act of 2009, (the Act), effective March 5, 2010 (D.C. Law 18-112, D.C. Official Code §§ 48-851.03 and 48-851.04 (2012 Repl.)) and Mayor's Order 2011-90, dated May 6, 2011, hereby gives notice of the adoption of the following new Chapter 5 of Subtitle B (Public Health and Medicine) of Title 22 (Health) of the District of Columbia Municipal Regulations (DCMR), entitled "Safe Disposal of Unused Pharmaceuticals in Health Care Facilities."

The adoption of Chapter 5, which had until now been reserved, is necessary to ensure the safe, effective, and proper disposal of unused pharmaceuticals in the District of Columbia by requiring health care facilities to dispose of unused pharmaceuticals by means other than disposing through the sewer system.

These rules were previously published in the *D.C. Register* as a proposed rulemaking on August 19, 2011, at 58 DCR 7518. Written comments were received from the District of Columbia Hospital Association and the District of Columbia Health Care Association during the thirty (30)-day comment period. Based upon the review of the comments, additional changes were made to the proposed rulemaking in Sections 500.2, 502.2, and 599.1. The changes included extending the effective date to October 1, 2012; addressing pharmaceutical products, which are defined as controlled substances; removing the specified required elements that must be maintained regarding the disposal records; requiring that the position title of the person responsible for implementing the program be included in the healthcare facility's policies and procedures; and clarifying the definition of pharmaceutical waste.

These rules were published again in the *D.C. Register* as a proposed rulemaking on April 27, 2012, at 59 DCR 3704. Written comments were received from the District of Columbia Hospital Association and the District of Columbia Health Care Association during the thirty (30)-day comment period. Based upon the review of the comments, additional changes were made to the proposed rulemaking in Sections 500.2, 502.1, 502.7, and 599.1. These changes included extending the effective date to July 1, 2013; permitting disposal of pharmaceutical products through recommended procedures as published by the FDA and DEA; allowing pharmaceutical waste that has been denatured to be combined with other forms of waste; and adding the definition of the term "Act" to the regulations.

The rules were published again in the *D.C. Register* as proposed rulemaking on March 8, 2013 at 60 DCR 2955. One written comment was received from the District of Columbia Hospital Association during the thirty (30)-day comment period. The comments were reviewed and it was determined that no further changes were necessary at this time. Therefore, no changes were made. These final rules will be effective upon publication of this notice in the *D.C. Register*.

**Chapter 5 (Safe Disposal of Unused Pharmaceuticals in Health Care Facilities) of Subtitle B (Public Health and Medicine) of Title 22 (Health) is added as follows:**

**500 GENERAL PROVISIONS AND ENFORCEMENT**

- 500.1 Effective January 1, 2011, a health care facility shall not dispose of any pharmaceutical product, used or unused, by flushing the product down a drain or by any other method that utilizes the public sewer system, except as authorized by this chapter.
- 500.2 Effective July 1, 2013, unless authorized by this chapter, a health care facility that is determined to have disposed of a pharmaceutical product by flushing the product down a drain or by any other method that utilizes the public sewer system, shall be:
- (a) Subject to a civil fine of up to one thousand dollars (\$1,000) per occurrence; and
  - (b) Required to submit to the Board of Pharmacy, or its designee, a mitigation plan designed to prevent further such occurrences within thirty (30) days of receipt of a request for the mitigation plan.
- 500.3 The Director of the Department of Health (Director), or his or her agent, shall have the right to enter upon and into the premises of any health care facility:
- (a) At reasonable times;
  - (b) After presenting proper identification; and
  - (c) For the purpose of making inspections to determine compliance with this chapter and the District of Columbia Unused Pharmaceutical Safe Disposal Act of 2009, effective March 5, 2010(D.C. Law 18-112, D.C. Official Code §§ 48-851.01, *et seq.* (2012 Repl.)) (Act).
- 500.4 An inspection or investigation conducted pursuant to this chapter and the Act may include, but shall not be limited to:
- (a) Review of policies and procedures manuals;
  - (b) Inspection of all locations within the health care facility where pharmaceuticals and pharmaceutical waste are stored; and
  - (c) Review of all records, receipts, and other documentation pertaining to the health care facility's pharmaceutical waste disposal.

500.5 Chapters 20 (Hospitals) and 32 (Nursing Facilities) of this subtitle shall supplement this chapter.

**501** ***EXEMPTED PHARMACEUTICAL PRODUCTS***

501.1 When absent of any additional additives, the following pharmaceutical products may be disposed of by flushing the product down the drain or by another method that uses the sewer system:

- (a) Sterile Water;
- (b) Dextrose solutions such as five percent (5%) dextrose in water (D5W);
- (c) Saline solutions such as nine tenths of a percent of sodium chloride (0.9% NaCl);
- (d) Lactated Ringers;
- (e) Potassium salts such as potassium chloride (KCl);
- (f) Calcium salts such as calcium chloride (CaCl) and Calcium Gluconate; and
- (g) Magnesium salts such as magnesium sulfate (MgSo4).

**502** **DISPOSAL OF UNUSED PHARMACEUTICAL PRODUCTS**

502.1 Pharmaceutical products may be disposed of through:

- (a) A waste to energy program;
- (b) A pharmaceutical waste container with appropriate procedures for disposal; or
- (c) Recommended procedures as published by the FDA and DEA.

502.2 Those pharmaceutical products which are defined as controlled substances under federal or District law shall be managed in accordance with federal and District laws and regulations.

502.3 Those pharmaceutical products which are defined as hazardous waste under federal or District law shall be managed in accordance with federal and District laws and regulations.

502.4 All antineoplastic and cytotoxic drugs shall be treated as hazardous waste and

managed and disposed of in accordance with the applicable federal and District laws and regulations.

- 502.5 A health care facility may choose to manage its pharmaceutical waste at a more stringent or higher level of waste management than that required under applicable District or federal laws and regulations.
- 502.6 All pharmaceutical waste shall be separated from active pharmaceutical stock and clearly labeled as “pharmaceutical waste.”
- 502.7 Pharmaceutical waste shall not be combined with other forms of waste unless the pharmaceutical waste is first denatured as recommended by both the FDA and DEA.

### **503 RECORDKEEPING**

- 503.1 The recordkeeping requirements of this section shall apply to all health care facilities, unless otherwise exempted by this chapter or the Director.
- 503.2 A healthcare facility shall maintain a complete and accurate record of its pharmaceutical waste disposal, for a period of three (3) years from the date of disposal.
- 503.3 A healthcare facility shall develop and maintain written policies and procedures for the management of its pharmaceutical waste.
- (a) These policies and procedures shall include, at a minimum, the following:
- (1) Documentation that the program has been reviewed and updated as needed not less than every two (2) years;
  - (2) The position title(s) of the person(s) within the facility responsible for program implementation; and
  - (3) Policies and procedures designed to educate facility staff and volunteers, as part of an orientation process and continuing on an annual basis thereafter, regarding proper pharmaceutical waste disposal; and
- (b) These policies and procedures may also include processes designed to minimize the creation of pharmaceutical waste, such as implementation of a pharmaceutical waste minimization program.

### **599 DEFINITIONS**

599.1 As used in this chapter the following terms shall have the meanings ascribed:

**Act** - District of Columbia Unused Pharmaceutical Safe Disposal Act of 2009, effective March 5, 2010 (D.C. Law 18-112, D.C. Official Code §§ 48-851.01, *et seq.* (2012 Repl.))

**Board** - District of Columbia Board of Pharmacy

**Department** - Department of Health

**Director** - Director of the Department

**Hazardous pharmaceutical waste** - a pharmaceutical product that is defined as hazardous waste under federal or District law.

**Health care facility** – a hospital, assisted living facility, nursing home, or institutional pharmacy.

**Institutional pharmacy** – that physical portion of a health care facility where drugs, devices, and other materials used in the diagnosis or treatment of injury, illness, and disease are dispensed, compounded, or distributed and pharmaceutical care is provided.

**Pharmaceutical product** – a drug or biologic for human use regulated by the federal Food and Drug Administration.

**Pharmaceutical waste** - a pharmaceutical product that is no longer suitable for its intended purpose or is otherwise being discarded, but does not include pharmaceuticals excreted from the body during normal physiological functions and medical procedures.

**Pharmaceutical waste minimization program** - a program used to identify pharmaceuticals that need to be discarded, to decrease pharmaceutical waste, and to implement more environmentally sustainable practices regarding pharmaceutical waste disposal.

**DEPARTMENT OF MOTOR VEHICLES****NOTICE OF FINAL RULEMAKING**

The Director of the Department of Motor Vehicles (Director), pursuant to the authority set forth in Sections 1825 and 1826 of the Department of Motor Vehicles Establishment Act of 1998, effective March 26, 1999 (D.C. Law 12-175; D.C. Official Code §§ 50-904 and 50-905 (2009 Repl.)), and Sections 6 and 7 of the District of Columbia Traffic Act of 1925, approved March 3, 1925 (43 Stat. 1121; D.C. Official Code §§ 50-2201.03 and 50-1401.01 (2009 Repl.)), hereby gives notice of the adoption of the following rulemaking that will amend Chapter 1 (Issuance of Driver's Licenses) of Title 18 (Vehicles and Traffic) of the District of Columbia Municipal Regulations (DCMR). The proposed rules will allow third party examiners to administer road tests for driver's licenses in lieu of testing by Department of Motor Vehicles employees.

Notice of Proposed Rulemaking was published in the *D.C. Register* on May 10, 2013 at 60 DCR 6688. No comments were received. No changes were made to the text of the proposed rules. The final rules will become effective on the date of publication of this notice in the *D.C. Register*.

**Title 18, VEHICLES AND TRAFFIC, of the DCMR is amended as follows:**

**Chapter 1, ISSUANCE OF DRIVER'S LICENSES, is amended as follows:**

**A new Section 113, THIRD PARTY TESTING, is added to read as follows:**

**113 THIRD PARTY TESTING**

113.1 The Director may authorize a District of Columbia licensed driving instructor ("third party examiner") employed by a District of Columbia licensed driving school as described in Chapter 9 of this title ("third party employer") to administer the road test described in Section 104 of this chapter, if the following conditions are met:

- (a) The road tests given by the third party examiner are the same as those which would otherwise be given by the Department of Motor Vehicles;
- (b) The third party examiner has successfully completed a road test examiner training course, as approved by the Director;
- (c) The third party employer has an agreement with the Department of Motor Vehicles containing, at a minimum, provisions that:
  - (1) Allow the Department of Motor Vehicles to conduct random examinations of the third party examiner and audits of the employer without prior notice;

- (2) Require that all third party examiners meet the same qualification and training standards as Department of Motor Vehicle examiners, to the extent necessary to conduct road tests;
- (3) Require that all third party examiners who will administer the skills test pass an examination to the satisfaction of the Director;
- (4) Require that its third party examiners initiate and complete each road test at a Department of Motor Vehicles facility designated by the Director;
- (5) Require that the results from each road test administered by a third party examiner be delivered to the Department of Motor Vehicles by the examiner immediately after conclusion of the examination;
- (6) Require that the third party employer maintain bodily injury and property damage liability insurance as set forth by the Director;
- (7) Require that the third party employer indemnify and hold harmless the District of Columbia and its employees from and against all claims, demands, judgments, losses, damages, and costs arising directly or indirectly from any act or omission of the third party examiner or third party employer relating to his, her, or its activities under this section.
- (8) Allow Department of Motor Vehicles employees to take the tests actually administered by the third party examiner as if the Department of Motor Vehicles' employee were a test applicant and allow the Department of Motor Vehicles to test a sample of drivers who were examined by the third party examiner to compare pass/fail results;
- (9) Allow the third party employer to charge a fee, the maximum of which will be determined by the Director; and
- (10) Reserve to the Department of Motor Vehicles the right to take prompt and appropriate remedial action against the third party employer or the third party examiner if either fails to comply with a provision of this section, the Department of Motor Vehicles standards for the driver's license testing program, or any term of the agreement required by this paragraph.

## PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

## NOTICE OF FINAL RULEMAKING

**ET00-2, IN THE MATTER OF POTOMAC ELECTRIC POWER COMPANY'S PUBLIC SPACE OCCUPANCY SURCHARGE ELECTRICITY TARIFF, P.S.C.-D.C. No. 1**

1. The Public Service Commission of the District of Columbia (Commission) hereby gives notice, pursuant to Section 34-802 of the District of Columbia Official Code, and in accordance with Section 2-505 of the District of Columbia Official Code,<sup>1</sup> of its final rulemaking action taken in the above-captioned proceeding. On June 13, 2013, the Commission released Order No. 17164, approving the Potomac Electric Power Company's (Pepco or the Company) updated Rider "PSOS" - Public Space Occupancy Surcharge ("Surcharge Update").<sup>2</sup>

2. On February 27, 2013, pursuant to D.C. Official Code § 10-1141.06,<sup>3</sup> Pepco filed with the Commission an updated Rider PSOS. In the filing, Pepco shows the process to be used to recover from its customers the fees paid by Pepco to the District of Columbia Government for the rental of public structures in public space. Pepco proposes to amend the following tariff page, so that it will read:

**ELECTRICITY TARIFF, P.S.C.-D.C. No. 1  
14<sup>th</sup> Revised Page No. R-33**

3. According to its tariff, Pepco's surcharge rate for its Rider PSOS will be updated annually to be effective March 1 of each year.<sup>4</sup> In light of its tariff, Pepco states that its "updated Rider PSOS is to become effective with meter readings on and after March 1, 2013."<sup>5</sup> On March 29, 2013, the Commission published a Notice of Proposed Rulemaking ("NOPR") in the *D.C. Register* inviting public comment on Pepco's Surcharge Update.<sup>6</sup> In the NOPR, the Commission stated that Pepco has a statutory right to implement the PSOS; however, if the Commission discovers any inaccuracies in the calculation of the proposed surcharge rate, Pepco could be

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<sup>1</sup> D.C. Official Code § 34-802 (2010 Repl.) and D.C. Official Code § 2-505 (2011 Repl.).

<sup>2</sup> *ET00-2, In The Matter of Potomac Electric Power Company's Public Occupancy Surcharge Electricity Tariff, P.S.C.-D.C. No. 1*, Letter to Brinda Westbrook-Sedgwick, Commission Secretary, from Peter E. Meier, Vice President, Legal Services, re: ET00-2 - Rider "PSOS", filed February 27, 2013 (hereinafter referred to as "Surcharge Update").

<sup>3</sup> D.C. Official Code § 10-1141.06 (2008 Repl.) states that [e]ach public utility company regulated by the Public Service Commission shall recover from its utility customers all lease payments which it pays to the District of Columbia pursuant to this title through a surcharge mechanism applied to each unit of sale and the surcharge amount shall be separately stated on each customer's monthly billing statement.

<sup>4</sup> *ELECTRICITY TARIFF, P.S.C.- D.C. No. 1*, 13<sup>th</sup> Revised Page No. R-33. The effective date is March 1, 2013.

<sup>5</sup> *ET00-2*, Surcharge Update at 1.

<sup>6</sup> 60 DCR 4877-4878 (March 29, 2013).

subject to reconciliation of the surcharges. No comments were filed in response to the NOPR, and the Commission is satisfied that Pepco's proposed surcharge complies with D.C. Official Code § 10-1141.06. Subsequently, the Commission approved Pepco's Surcharge Update by Order No. 17164.

## PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

## NOTICE OF FINAL RULEMAKING

**GAS TARIFF 00-2, IN THE MATTER OF WASHINGTON GAS LIGHT COMPANY'S RIGHTS-OF-WAY SURCHARGE GENERAL REGULATIONS TARIFF, P.S.C.-D.C. No. 3**

1. The Public Service Commission of the District of Columbia (Commission) hereby gives notice, pursuant to Section 34-802 of the District of Columbia Official Code, and in accordance with Section 2-505 of the District of Columbia Official Code,<sup>1</sup> of its final rulemaking action taken in the above-captioned proceeding. On June 13, 2013, the Commission released Order No. 17165, approving Washington Gas Light Company's (WGL or the Company) filing for an updated Rights-of-Way (ROW) Surcharge.<sup>2</sup>

2. On March 21, 2013, pursuant to D.C. Official Code Section 10-1141.06,<sup>3</sup> WGL filed a Surcharge Update for the ROW Current Factor.<sup>4</sup> The ROW Surcharge contains two components, the ROW Current Factor and the ROW Reconciliation Factor. In the tariff filing, WGL sets forth the process used to recover from its customers the D.C. Public ROW fees paid by WGL to the District of Columbia government in accordance with the following tariff page:

**GENERAL SERVICES TARIFF, P.S.C.-D.C. No. 3**  
**Section 22**  
**3<sup>rd</sup> Revised Page 56**

3. According to its tariff, WGL's surcharge rate for the ROW Current Factor would become effective commencing with the April 2013 billing cycle.<sup>5</sup> WGL's Surcharge Update shows that the ROW Current Factor is 0.0329 with the ROW Reconciliation Factor of 0.0035 for the prior period, which yields a net factor of 0.0364.<sup>6</sup> Based on our review of the Surcharge

<sup>1</sup> D.C. Official Code § 34-802 (2010 Repl.) and D.C. Official Code § 2-505 (2011 Repl.).

<sup>2</sup> *GT00-2, In The Matter Of Washington Gas Light Company's Rights-Of-Way Surcharge General Regulations Tariff, P.S.C.-D.C. No. 3*, ("GT00-2") Rights of Way Current Factor Surcharge Filing of Washington Gas Light Company, ("Surcharge Update"), filed March 21, 2013.

<sup>3</sup> D.C. Official Code § 10-1141.06 (2008 Repl.) stating that "Each public utility company regulated by the Public Service Commission shall recover from its utility customers all lease payments which it pays to the District of Columbia pursuant to this title through a surcharge mechanism applied to each unit of sale and the surcharge amount shall be separately stated on each customer's monthly billing statement."

<sup>4</sup> *GT00-2*, Surcharge Update at 1.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*; See also Order No. 16924, rel. September 20, 2012, where the Commission approved the

Update, the Commission finds that WGL's calculations for the ROW Current Factor comply with General Services Tariff, P.S.C. No. 3, Section 22, 3<sup>rd</sup> Revised Page No. 56. A Notice of Proposed Rulemaking (NOPR) regarding WGL's Surcharge Filing was published in the *D.C. Register* on April 26, 2013.<sup>7</sup> In the NOPR, the Commission stated that WGL has a statutory right to implement its filed surcharges; however, if the Commission discovers any inaccuracies in the calculation of the proposed surcharge rate, WGL could be subject to reconciliation of the surcharges. No comments were filed in response to the NOPR and the Commission is satisfied that the surcharge proposed by WGL complies with D.C. Code §10-1141.06. Subsequently, the Commission approved WGL's Surcharge Filing by Order No. 17165.

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Reconciliation Factor.

<sup>7</sup> 60 DCR 6219-6220 (April 26, 2013).

## DEPARTMENT OF HEALTH

NOTICE OF PROPOSED RULEMAKING

The Interim Director of Health, pursuant to the authority set forth in Section 1 of An Act To authorize the Commissioners of the District of Columbia to make regulations to prevent and control the spread of communicable and preventable diseases, (“Act”), approved August 11, 1939 (53 Stat. 1408, Ch. 691; D.C. Official Code § 7-131 (2008 Repl.)), and Section 2 of Mayor’s Order 98-141 dated August 20, 1998, hereby gives notice of his intent to adopt the following amendments to Chapter 2 (Communicable and Reportable Diseases) of Title 22 (Health), Subtitle B (Public Health and Medicine) of the District of Columbia Municipal Regulations (DCMR).

The rules amend Chapter 2 of Title 22B to require health care providers to report pregnancies in HIV-infected women.

The Interim Director also gives notice of his intent to take final rulemaking action to adopt the proposed rules in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

**Chapter 2 (Communicable and Reportable Diseases) of Title 22B (Public Health and Medicine) is amended as follows:**

**Section 206.1 is amended to read as follows:**

206.1 All Human Immunodeficiency Virus (HIV) infection cases and pregnancies in HIV-infected women (including Acquired Immune Deficiency Syndrome (AIDS)) shall be reported to the Director of the Department of Health or his or her designee.

**Section 206.2 is amended to read as follows:**

206.2 Physicians and others licensed to practice in the District under the District of Columbia Health Occupations Revision Act of 1985 (D.C. Official Code § 3-1201.01 et seq.), in charge of an AIDS diagnosis, shall report the AIDS diagnosis to the Director within forty-eight (48) hours of diagnosis and furnish information the Director deems necessary to complete a confidential case report. Additionally, physicians and others licensed under the District of Columbia Health Occupations Revision Act of 1985 shall report a HIV positive test result to the Director or his or her designee. The physician or provider, laboratory, blood bank, or other entity or facility that provides HIV testing shall report all cases of HIV infection to the Director or his or her designee. A physician, physician’s assistant, nurse-midwife, and other person licensed to practice in the District under the District of Columbia Health Occupations Revision Act of 1985 (D.C. Official Code § 3-1201.01 et seq.), who attends to, treats, examines, or provides perinatal treatment to a pregnant woman infected with HIV shall report the pregnancy to the Director

within forty-eight (48) hours of diagnosis of the pregnancy and furnish information the Director deems necessary to complete a confidential case report.

**Section 206.4 is amended to read as follows:**

206.4 Upon receiving a report of the existence of an HIV infection, potential AIDS case, or the existence of a pregnancy in an HIV-infected woman, the Director or his or her designee shall make any investigation that he or she may deem necessary for the purpose of determining the source of the infection and the nature of the HIV treatment. To facilitate the investigation, any entity providing health or medical services shall make medical records and histories available to the Director for inspection.

**Section 206.5 is amended to read as follows:**

206.5 Information on HIV cases reported under this section shall be used for statistical, public health, epidemiological, and surveillance purposes only. Pregnancy information reported under this section shall be used for public health purposes to ensure the health of the pregnant woman and prevent the transmission of a communicable disease. The Director, or his or her designee, shall not disclose the identity of any person with an HIV infection or reported AIDS case or pregnancy status without the person's written permission.

Comments on the proposed rules should be sent in writing to the Department of Health, Office of the General Counsel, 5<sup>th</sup> Floor, 899 North Capitol Street, NE, Washington, DC 20002, not later than thirty (30) days after the date of publication of this notice in the *D.C. Register*. Copies of the proposed rules may be obtained Monday through Friday, except holidays, between the hours of 8:15 A.M. and 4:45 P.M. at the same address. Questions concerning the rulemaking should be directed to Angli Black, Administrative Assistant, at [Angli.Black@dc.gov](mailto:Angli.Black@dc.gov) or (202) 442-5977.

**DISTRICT DEPARTMENT OF TRANSPORTATION****THIRD NOTICE OF PROPOSED RULEMAKING**

The Director of the District Department of Transportation (Department), pursuant to the authority set forth in Sections 5(3)(D) (allocating and regulating on-street parking) and 6(b) (transferring to the Department the parking management function previously delegated to the Department of Public Works under Section III (H) of Reorganization Plan No. 4 of 1983) of the Department of Transportation Establishment Act of 2002, effective May 21, 2002 (D.C. Law 14-137; D.C. Official Code §§ 50-921.04(3)(D) and 50-921.05(b) (2009 Repl. & 2012 Supp.)), Section 3 of the Commercial Curbside Loading Zone Implementation Act of 2009, effective October 22, 2009 (D.C. Law 18-66; D.C. Official Code § 50-2652 (2009 Repl. & 2012 Supp.)), and Mayor's Order 2010-63, dated April 15, 2010, hereby gives notice of the intent to adopt the following rulemaking to amend Chapter 24, "Stopping, Standing, Parking, and other Non-Moving Violations," and Chapter 26, "Civil Fines for Moving and Non-moving Infractions," of Title 18, "Vehicles and Traffic," of the District of Columbia Municipal Regulations (DCMR).

This rulemaking will establish a curb loading zone management program and a commercial permit parking program. A proposed rulemaking was previously published in a Notice of Proposed Rulemaking on March 18, 2011 at 58 DCR 2511 and republished February 8, 2013 at 60 DCR 1582. The agency received several comments. Commenters raised concerns that the regulation would impose a burden on the flow of commerce across the District's borders with other states. One commentator also raised a concern that the rulemaking requires commercial motor vehicles to carry decals in violation of federal law prohibiting state or local governments from requiring interstate motor carriers from displaying any form of identification other than the vehicle's registration. However, the entire loading zone rulemaking consists of a series of options intended to make parking and paying for parking in loading zones easier. One of the options is to continue the practice of paying for parking at the meter. Nothing in the regulations requires owners of commercial motor vehicles to carry decals on their vehicles. If they choose to purchase an annual pass, those commercial motor vehicles may do so. If they do not, they can still use the space. Furthermore, all commercial motor vehicles are treated equally, whether they are registered in state or out of state.

However, the definition of commercial motor vehicle has been removed from this chapter so that the definition from 18 DCMR 9901.1 will apply. With this change, the weight restriction has effectively been lowered so that more commercial motor vehicles can use the loading zones.

This notice supersedes the Notice of Proposed Rulemaking published at 60 DCR 1582.

Final rulemaking action shall be taken in not less than thirty (30) days after the date of publication of this notice in the *D.C. Register*. In addition, this rulemaking proposal will be submitted to the Council of the District of Columbia for a thirty (30) day review period. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution within the 30-day review period, the proposed rules will be deemed approved by the Council.

**Chapter 24 of Title 18 of the DCMR is amended as follows:**

Section 2402, "Loading Zones," is amended to read as follows:

**2402       LOADING ZONES**

2402.1       The Director of the District Department of Transportation (DDOT) shall install and maintain signs designating the location for each commercial motor vehicle loading zone ("loading zone"). Each sign shall state the hours during which the loading zone restrictions apply.

2402.2       A commercial motor vehicle may park within a loading zone, if it meets one (1) of the following conditions:

- (a)       The commercial motor vehicle displays a loading zone annual pass, as described in § 2428;
- (b)       The commercial motor vehicle displays a loading zone day pass, as described in § 2429; or
- (c)       The commercial motor vehicle has one (1) of the following proofs of payment:
  - (1)       An unexpired single space meter; or
  - (2)       An alternative proof of payment, as determined by the DDOT Director.

2402.3       Notwithstanding § 2402.2:

- (a)       A commercial motor vehicle shall not park in a loading zone pursuant to § 2402.2 for a purpose other than loading or unloading;
- (b)       A commercial motor vehicle shall not be parked in a loading zone during any period of time when parking and standing is prohibited on the block on which the loading zone is located, such as during rush hour parking restriction periods; and
- (c)       A commercial motor vehicle shall not park in a loading zone for longer than the time indicated on the signs or parking meters in that zone; provided, that where no signs are present, the maximum amount of time a commercial motor vehicle may park in a loading zone is two (2) hours.

2402.4       No other vehicle shall park or stop in a loading zone during the hours applicable to the zone, except that the operator of a passenger vehicle carrying fifteen (15) passengers or fewer may park in a loading zone during such hours if the operator is stopping momentarily within the loading zone to pick up a passenger or passengers and if such stopping does not interfere with a commercial motor vehicle that is within the loading zone or is waiting to enter the loading zone.

2402.5 When parking in a loading zone, the operator of a commercial motor vehicle that does not have a valid loading zone annual permit or day pass shall, immediately after parking, pay for the amount of time desired.

2402.6 A commercial motor vehicle may not park at a non-loading zone parking meter space at the times specified in those zones; provided, that if no time is specified, the loading zone shall be in effect between 7:00 a.m. and 6:30 p.m.; provided further, that a commercial motor vehicle may park at a non-loading zone parking meter space between the hours of 10:00 a.m. and 2:00 p.m.

2402.7 The fee to park a commercial motor vehicle within a loading zone shall be established by the DDOT Director and posted in the loading zone; provided, that the Director shall not establish a fee greater than five dollars (\$5.00) per hour.

**Section 2404, “Parking Meters and Parking Meter Zones,” is amended as follows:**

**Subsection 2404.5 is amended to read as follows:**

2404.5 No person shall stop, stand, or park in a parking meter zone that exceeds twenty-one feet (21 ft.) in length, except as provided in §§ 2428.8 and 2429.9.

**Section 2424, “Performance Parking Pilot Zones,” is amended as follows:**

**The lead-in language of Subsection 2424.8 is amended to read as follows:**

2424.8 Notwithstanding §§ 2402, 2404, 2424.7, 2411, 2412, 2413, 2414, and 2428, the initial rates for parking meters in the Ballpark Performance Parking Pilot Zone shall be as follows:

**Subsection 2424.12 is amended to read as follows:**

2424.12 The civil infractions and their respective fines set forth in § 2601 for violating provisions in §§ 2404, 2428, and 2429 shall apply to the provisions in this section, except that fines during Ballpark Events shall be double the fines set forth in §§ 2404 and 2428 or set forth elsewhere in this chapter for non-Ballpark Event times.

**New Sections 2428 through 2430 are added to read as follows:**

**2428 COMMERCIAL PERMIT PARKING; ANNUAL PASS**

2428.1 There is established a commercial permit parking (CPP) annual pass to provide commercial motor vehicle owners the option to purchase an annual parking pass for a commercial motor vehicle to park in loading zones or at curbside parking spaces instead of paying for parking at the meter in those zones.

- 2428.2 A commercial motor vehicle owner or company shall complete an application, to be provided by DDOT, including identifying information on each vehicle to be registered for a CPP annual pass.
- 2428.3 DDOT shall provide a decal to a participating commercial motor vehicle owner to affix to each commercial motor vehicle in the owner's fleet that is participating in the CPP annual pass program.
- 2428.4 The commercial parking permit decal shall display the following information:
- (a) A serial number or other identifying mark; and
  - (b) The expiration date, which shall specify the last day that the permit for the commercial motor vehicle is effective.
- 2428.5 Except as provided in § 2428.6, a participating company shall affix a valid parking decal provided by DDOT on each commercial motor vehicle in the company's fleet that is participating in the CPP program on the lower right hand corner of the passenger side window.
- 2428.6 A company that purchases seventy-five (75) permits may, subject to approval by DDOT, use their company logo instead of the decal.
- 2428.7 The CPP annual pass shall allow for parking at designated loading zones during times specified in those zones; provided, that if no time is specified, the loading zone shall be in effect between 7:00 a.m. to 6:30 p.m., or in a metered curbside zone during off-peak hours of 10:00 a.m. to 2:00 p.m. and when meter enforcement is not in effect, as posted on the signs and meters in the parking zone; provided further, that such parking is otherwise consistent with the provisions of § 2402.
- 2428.8 Notwithstanding § 2404.5, a commercial motor vehicle may park outside a loading zone between the hours of 10:00 a.m. and 2:00 p.m. with a valid annual pass if it occupies no more than two (2) metered spaces or no more than forty feet (40 ft.) within a parking zone serviced by a multi-space meter.

## **2429 COMMERCIAL PERMIT PARKING; DAY PASS**

- 2429.1 There is established a CPP day pass to provide commercial motor vehicle owners the option to purchase a daily parking pass for a commercial motor vehicle to park in loading zones or at curbside parking spaces instead of paying for parking at the meter in those zones.
- 2429.2 A commercial motor vehicle owner or company shall complete an application, to be provided by DDOT, including identifying information on each vehicle to be registered in the CPP day pass program.

- 2429.3 The CPP day pass shall be valid at loading zones and curbside parking spaces on the date shown on the day-pass.
- 2429.4 The CPP day pass shall allow parking for up to two (2) hours at designated loading zones during times specified in those zones; provided, that if no time is specified, the loading zone shall be in effect between 7:00 a.m. to 6:30 p.m., or in a metered curbside zone during off-peak hours of 10:00 a.m. to 2:00 p.m. and when meter enforcement is not in effect, as posted on the signs and meters in the parking zone; provided further, that such parking is otherwise consistent with the provisions of § 2402.
- 2429.5 A CPP day pass shall be obtained by the company for each commercial delivery vehicle that will be operating in the District on a given day and will be using a day pass. A CPP day pass may not be shared between two (2) or more vehicles.
- 2429.6 The commercial motor vehicle operator shall place the day pass facing out on the inside of the passenger side window of the vehicle so that it is clearly visible through the passenger side window of the vehicle.
- 2429.7 The expiration date displayed on the commercial permit parking day pass shall specify the date on which the day pass is effective.
- 2429.8 Notwithstanding § 2404.5, a commercial motor vehicle may park outside a loading zone between the hours of 10:00 a.m. and 2:00 p.m. with a valid day pass if it occupies no more than two (2) metered spaces or no more than forty feet (40 ft.) within a parking zone serviced by a multi-space meter.

#### **2430 COMMERCIAL PERMIT PARKING PASS FEES**

- 2430.1 The annual CPP permit fee for each commercial motor vehicle registered in the CPP program shall be three hundred and twenty three dollars (\$323).
- 2430.2 A company may register as many commercial motor vehicles as it owns in the CPP program.
- 2430.3 A company that registers seventy-five (75) or more vehicles for CPP annual passes need only pay for seventy-five (75) annual passes; provided, that the company shall use its company logo instead of the decal.
- 2430.4 Each CPP day pass shall cost twenty-five dollars (\$25) and shall only be valid for one (1) commercial motor vehicle.

New Section 2499 is added to read as follows:

**2499 DEFINITIONS**

2499.1 For the purposes of this chapter, a loading zone is defined as on street parking space set aside for commercial motor vehicles used or maintained for transporting freight, merchandise, or other commercial loads or property.

Chapter 26 of Title 18 of the DCMR is amended as follows:

Subsection 2601.1 is amended as follows:

**The following infractions are inserted after “Bus stop, within 20 feet of [§ 2409.8]” and before “Any passenger vehicle with a seating capacity of more than fifteen (15) passengers, a boat, a trailer, any vehicle longer than twenty-two feet (22 ft.) or wider than eight feet (8 ft.), or any vehicle that has been designed or modified to haul trash, junk, or debris parked on a public street in front of any private dwelling, or apartment, house of worship, school playground or hospital. [§ 2405.5]”:**

Commercial permit parking decal, display expired [§ 2428.4(b)]	\$50
Commercial permit parking decal, fail to display properly [§ 2428.5]	\$50
Commercial permit parking day pass, display expired [§ 2429.3]	\$50
Commercial permit parking day pass, fail to display properly [§ 2429.6]	\$50
Commercial motor vehicle parked at a non-loading zone parking meter space during prohibited times [§ 2402.4(b)]	\$50
Commercial motor vehicle parked at a non-loading zone parking meter space without an annual pass or day pass [§§ 2428.7 and 2429.4]	\$50

The following infractions are inserted after “Left wheel to curb-parallel parking [§ 2400.1; 2400.3; 2400.4]” and before “Loading zone, unauthorized vehicle in [§ 2402.6]”:

Loading zone, commercial motor vehicle parked at an expired meter in a commercial permit parking loading zone and with no commercial permit parking decal or commercial permit parking day pass displayed [§ 2402.6] \$100

Loading zone, overtime parking by a commercial motor vehicle with valid commercial permit parking decal [§ 2402.4(c)] \$50

The infraction “Loading zone, unauthorized vehicle in [§ 2402.6]” is amended to read as follows:

Loading zone, unauthorized vehicle in [§ 2402.6] \$100

The following infraction is inserted after “Parallel, fail to park (except where permitted) [§ 2400.1]” and before “Public or private property [D.C. Code § 40-812] [REPEALED]”:

Prohibited vehicles

Any passenger vehicle with a seating capacity of more than fifteen (15) passengers, a boat, a trailer, any vehicle longer than twenty-two feet (22 ft.) or wider than eight feet (8 ft.), or any vehicle that has been modified to haul trash, junk, or debris parked on a public street in front of any private dwelling, or apartment, church, school playground or hospital [§ 2405.5] \$1,000

All persons interested in commenting on the subject matter in this proposed rulemaking action may file comments in writing, not later than thirty (30) days after the publication of this notice in the *D.C. Register*, with Sam Zimbabwe, Associate Director, District Department of Transportation, 55 M Street, S.E., 5th Floor, Washington, D.C. 20003. Comments may also be sent electronically to [publicspace.committee@dc.gov](mailto:publicspace.committee@dc.gov). Copies of this proposal are available, at cost, by writing to the above address, and are also available electronically, at no cost, on the District Department of Transportation’s web site at [www.ddot.dc.gov](http://www.ddot.dc.gov).

**GOVERNMENT OF THE DISTRICT OF COLUMBIA****ADMINISTRATIVE ISSUANCE SYSTEM**

Mayor's Order 2013-105  
June 13, 2013

**SUBJECT:** Appointments – Commission on the Arts and Humanities

**ORIGINATING AGENCY:** Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2012 Supp.), and pursuant to sections 4(a) and (b) of the Commission on the Arts and Humanities Act, effective October 21, 1975, D.C. Law 1-22, D.C. Official Code §§ 39-203(a) and (b) (2012 Supp.), it is hereby **ORDERED** that:

1. **JAMES E. LAWS, JR.**, who was nominated by the Mayor on March 21, 2013, and deemed approved by the Council of the District of Columbia pursuant to Proposed Resolution 20-0156 on May 25, 2013, is appointed as a member of the Commission on the Arts and Humanities ("Commission"), for a term to end June 30, 2015.
2. **JOSE ALBERTO UCLES**, who was nominated by the Mayor on March 21, 2013, and deemed approved by the Council of the District of Columbia pursuant to Proposed Resolution 20-0155 on May 25, 2013, is appointed as a member of the Commission, for a term to end June 30, 2014.
3. **EFFECTIVE DATE:** This Order shall become effective immediately.

  
\_\_\_\_\_  
VINCENT C. GRAY  
MAYOR

ATTEST:   
\_\_\_\_\_  
CYNTHIA BROCK-SMITH  
SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

## ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2013-106  
June 13, 2013

**SUBJECT:** Rescission of Mayor's Order 2013-100, dated May 29, 2013

**ORIGINATING AGENCY:** Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia pursuant to section 422(11) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(11) (2012 Supp.), it is hereby **ORDERED** that:

1. Mayor's Order 2013-100, dated May 29, 2013, entitled "Appointment – District of Columbia Child Fatality Review Committee," is rescinded in its entirety.
2. **EFFECTIVE DATE:** This Order shall become effective *nunc pro tunc* to May 29, 2013.

  
\_\_\_\_\_  
VINCENT C. GRAY  
MAYOR

ATTEST:   
\_\_\_\_\_  
CYNTHIA BROCK-SMITH  
SECRETARY OF THE DISTRICT OF COLUMBIA

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ALCOHOLIC BEVERAGE CONTROL BOARD**

**NOTICE OF MEETING  
INVESTIGATIVE AGENDA**

**WEDNESDAY, JUNE 26, 2013  
2000 14<sup>TH</sup> STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009**

**On June 26, 2013 at 4:00 pm, the Alcoholic Beverage Control Board will hold a closed meeting regarding the matters identified below. In accordance with Section 405(b) of the Open Meetings Amendment Act of 2010, the meeting will be closed “to plan, discuss, or hear reports concerning ongoing or planned investigations of alleged criminal or civil misconduct or violations of law or regulations.”**

1. Case#13-251-00053 Grand Central, 2447 18TH ST NW Retailer C Restaurant, License#: ABRA-076693

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2. Case#13-AUD-00049 Langston Bar & Grille, 1831 BENNING RD NE Retailer C Restaurant, License#: ABRA-076260

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3. Case#13-251-00045 Ibiza, 1222 1ST ST NE Retailer C Nightclub, License#: ABRA-074456

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4. Case#13-251-00046 Ibiza, 1222 1ST ST NE Retailer C Nightclub, License#: ABRA-074456

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5. Case#13-251-00047 Ibiza, 1222 1ST ST NE Retailer C Nightclub, License#: ABRA-074456

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6. Case#13-AUD-00047 Smith Point, 1338 WISCONSIN AVE NW Retailer C Restaurant, License#: ABRA-060131

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7. Case#13-CC-00030 7-Eleven, 1101 SOUTH CAPITOL ST SW Retailer B Retail - Grocery, License#: ABRA-026520

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8. Case#13-AUD-00041 One, 1606 20TH ST NW Retailer C Restaurant, License#: ABRA-083468

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9. Case#13-AUD-00046 The Blaguard, 2003 18TH ST NW Retailer C Restaurant, License#: ABRA-086012

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10. Case#13-CC-00018 Pacifico, 514 8TH ST SE Retailer C Restaurant, License#: ABRA-086033

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11. Case#13-251-00054 DC Shenanigans, 2450 18th ST NW Retailer C Tavern, License#: ABRA-088119

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12. Case#13-CMP-00219 MERKATO ETHIOPIAN RESTAURANT, 1909 9th ST NW Retailer C Restaurant, License#: ABRA-089019

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ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF MEETING  
AGENDA

WEDNESDAY, JUNE 26, 2013 AT 1:00 PM  
2000 14<sup>TH</sup> STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

1. Review of Requests dated June 10, June 11 and June 13, 2013 from E& J Gallo Winery for approval to provide retailers with products valued at more than \$50 and less than \$500.

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2. Review of Request dated June 17, 2013 from Constellation Brands, Inc. for approval to provide retailers with products valued at more than \$50 and less than \$500.

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3. Review of Request for Reconsideration, dated June 10, 2013, from Virender Manocha for Citation No. 7581. *S & R Liquors*, 1800 I Street NW Retailer A, Lic.#: 60716.

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4. Review of Response to the Shaw-DuPont Citizens Alliance's Requests for Re-Placarding and Reinstatement, dated June 17, 2013, from Thaddeus Curtz. *Standard*, 1801 14th Street NW Retailer CR02, Lic.#: 83769.

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5. Review of letter, dated June 13, 2013, from Susie Taylor of the Cleveland Park Citizens Association requesting to protest the Board's approval of Pulpo's Entertainment Endorsement. *Pulpo*, 3407 Connecticut Avenue NW Retailer CR02, Lic.#: 89639.

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6. Review of letter, dated June 11, 2013, from Willie Blakeney Jr. requesting that the Board dismiss ANC 5C's protest. *The Scene*, 2221 Adams Place NE Retailer CX, Lic.#: 78642.

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7. Review of letter, dated June 12, 2013, from Commissioner Kent Boese of ANC 1A requesting reconsideration of the dismissal of Sweet Mango's Application at the Roll Call Hearing. Sweet Mango was dismissed for failure to appear. *Sweet Mango Café*, 3701 New Hampshire Avenue NW Retailer CR03, Lic.#: 72512.

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Board's Agenda – June 26, 2013 - Page 2

8. Review of Petition for Reconsideration, dated June 14, 2013, from Commissioner Sara Green of ANC 4B. ANC 4B was dismissed at the Roll Call Hearing for failure to submit a signed protest letter. ***Sunshine Bar & Lounge***, 7331 Georgia Avenue NW Retailer CR02, Lic.#: 85239.

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9. Review of Request for Reconsideration, dated June 13, 2013, from Jeff Ragonese from Capitol Skyline Hotel. Capitol Skyline Hotel was dismissed at the Roll Call Hearing for failure to appear. ***Capitol Skyline Hotel***, 10 I Street SW Retailer CH03, Lic.#: 72534.

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10. Review Request for Reinstatement, dated June 14, 2013, from Matthew Moore for 1350 I Street Associates Limited Partnership. 1350 I Street Associates Limited Partnership was dismissed at the Roll Call Hearing because it was not abutting Tuscana West. ***Tuscana West***, 1350 I Street NW Retailer CR03, Lic.#: 82284.

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11. Review of Settlement Agreement, dated November 17, 2006, between Tuscana West and 1350 I Street Associates Limited Partnership. ***Tuscana West***, 1350 I Street NW Retailer CR03, Lic.#: 82284.\*

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12. Review of Settlement Agreement, dated June 18, 2013, between Le Chat Noir and ANC 3E. ***Le Chat Noir***, 4907 Wisconsin Avenue NW Retailer CR01, Lic.#: 72038.\*

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13. Review of Settlement Agreement, dated May 29, 2013, between Cantina Marina and ANC 6D. ***Cantina Marina***, 600 Water Street SW Retailer CR03, Lic.#: 60628.\*

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14. Review of Settlement Agreement, dated May 13, 2013, between Nando's Peri Peri and ANC 3E. ***Nando's Peri Peri***, 4231 Wisconsin Avenue NW Retailer CR02, Lic.#: 92041.\*

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15. Review of Settlement Agreement, dated June 10, 2013, between Wah Sing Restaurant and ANC 7B. ***Wah Sing Restaurant***, 2521 Pennsylvania Avenue NW Retailer CR01, Lic.#: 514.\*

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16. Review of Settlement Agreement, dated June 8, 2013, between The Getaway and ANC 1A. ***The Getaway***, 0 Meridian Place NW Retailer CR02, Lic.#: 86700.\*

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Board's Agenda – June 26, 2013 - Page 3

17. Review of Settlement Agreement, dated June 10, 2013, between Osteria Morini/Nicoletta and ANC 6D. *Osteria Morini/Nicoletta*, 301 Water Street SE Retailer CR03, Lic.#: 92083.\*

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18. Review of Settlement Agreement, dated June 6, 2013, between Alero Restaurant and Lounge and ANC 1B. *Alero Restaurant and Lounge*, 1301 U Street NW Retailer CR03, Lic.#: 71881.\*

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**\* In accordance with Section 405(b) of the Open Meetings Amendment Act of 2010, this portion of the meeting will be closed for deliberation and to consult with an attorney to obtain legal advice. The Board's vote will be held in an open session, and the public is permitted to attend.**

**DC MAYOR'S OFFICE ON ASIAN AND PACIFIC ISLANDER AFFAIRS****DC MAYOR'S COMMISSION ON ASIAN AND  
PACIFIC ISLANDER AFFAIRS****NOTICE OF REGULAR MEETING**

The DC Mayor's Commission on Asian and Pacific Islander Affairs will be holding its regular meeting on Wednesday, June 26, 2013 at 6:30 pm.

The meeting will be held in Conference Room 1114 at One Judiciary Square, 441 4<sup>th</sup> Street NW, Washington, DC 20001. The location is closest to the Judiciary Square metro station on the red line of the Metro. All commission meetings are open to the public. If you have any questions about the commission or its meetings, please contact [oapia@dc.gov](mailto:oapia@dc.gov) or Andrew Chang at [andrew.chang@dc.gov](mailto:andrew.chang@dc.gov). Telephone: (202) 727-3120.

The DC Commission on Asian and Pacific Islander Affairs usually convenes monthly meetings to discuss current issues affecting the DC AAPI community.

Future meetings for the remainder of the year have been scheduled for the following dates:

September 25, 2013

October 23, 2013

November 20, 2013

**OFFICE ON ASIAN AND PACIFIC ISLANDER AFFAIRS  
NOTICE OF FUNDING AVAILABILITY  
FY2013 Asian American and Pacific Islander Community Grant**

**Background information on the grant:**

The Mayor's Office on Asian and Pacific Islander Affairs (OAPIA) is soliciting grant applications from qualified community-based organizations (CBOs) serving the District's Asian American and Pacific Islander (AAPI) residents and/or merchants for its FY 2013 Asian American and Pacific Islander Community Grant. The grant is intended to fund programs that provide services to the District's AAPI residents and/or merchants in the areas of employment, economic development, education, safety, housing, legal, health and human, and arts, culture and humanities .

**Amount of grant funds available and number of awards:**

OAPIA expects to award up to 10 grants. Eligible CBOs can be funded up to \$50,000. CBOs which collaborate with other organizations on a program(s), can be funded up to \$70,000.

**Eligible organizations and entities:**

Applicants must meet all of the following conditions:

- Is a nonprofit – 501(c)(3) – organization
- Program/organization serves primarily AAPI residents and/or merchants
- Program is located in the District of Columbia

**Program scope:**

Focus of the grant will be to fund culturally and linguistically appropriate services in the Mayor's priority areas: job creation and economic development, public education, and public safety. OAPIA will also consider programs in the areas of housing services, legal services, health and human services, arts, culture and humanities to the District's AAPI residents and merchants.

**Release Date of RFA:** Monday July 9, 2012

**Availability of RFA:** Download at OAPIA's website ([www.apia.dc.gov](http://www.apia.dc.gov)) and/or pick up a copy at the OAPIA office located at 441 4<sup>th</sup> Street, NW, #721N Washington, DC 20001

**Pre-bidder's conference:** Wednesday, July 18, 2012 from 10:00 am – 12:00 noon  
441 4<sup>th</sup> Street, NW  
11<sup>th</sup> Floor, Conference Room 1112S  
Washington, DC 20001

**Deadline for Submission:** Thursday, August 9 2012 at 12:00 pm  
441 4<sup>th</sup> Street, NW Suite 721 North  
Washington, DC 20001

**Contact Name:** Neel Saxena, Grant Manager, (202) 727-3120, [neel.saxena@dc.gov](mailto:neel.saxena@dc.gov)

**BASIS, DC**  
A public charter school

**REQUEST FOR PROPOSALS**

**Transportation Provider**

BASIS DC, a public charter school, will receive bids until July 1, 2013 at 5:00PM EST.

Notice is hereby given that BASIS DC will receive electronic proposals for the implementation of a school bus transportation contract. The Proposer shall provide full-service student transportation. The service will include the vehicles, maintenance, insurance, staffing, dispatch, supervision, and management. The primary obligation of the Proposer is to operate its affairs so that BASIS DC will be assured of continuous, reliable service and such that BASIS DC is not burdened with day-to-day operations.

Please email [chris.irvine@basisdc.org](mailto:chris.irvine@basisdc.org) for a copy of the RFP.

**Any proposals not addressing all areas as outlined in the RFP will not be considered.**

**CENTER CITY PUBLIC CHARTER SCHOOLS, INC.**

**REQUEST FOR PROPOSAL**

Center City Public Charter Schools, Inc. is soliciting proposals from qualified vendors for the following:

Center City PCS would like to engage a professional moving company (“Company”) to provide relocation services for Central Office. The goal is to enter into a contract with a professional and dynamic company that is able to meet all requirements identified in the RFP.

To obtain copies of full RFP’s, please visit our website: [www.centercitypcs.org](http://www.centercitypcs.org). The full RFP’s contain guidelines for submission, applicable qualifications and deadlines.

Contact person:

Cristine Doran  
cdoran@centercitypcs.org

**CESAR CHAVEZ PUBLIC CHARTER SCHOOLS**  
**REQUEST FOR PROPOSALS**

The Cesar Chavez Public Charter For Public Policy Schools invites interested and qualified vendors to submit proposals to provide services in the following areas:

**School Based Professional Development Provider** of Common Core and Concepts Based Curriculum coaching services for principals and school based leadership teams. Services must include professional development and site based coaching for school teams.

**School Leadership and Executive Coaching** organization with a documented track record of providing high quality executive leadership coaching service for the purpose of developing Chavez school leaders and executive team members. Interested parties must have worked with high performing school organizations and have evidence to support their impact.

The full text of the proposal is available upon request by sending an email to:  
[Tracy.wright@chavezschools.org](mailto:Tracy.wright@chavezschools.org)

Proposals are due no later than 12:00 PM June 28, 2013.

Bidding requirements can be obtained by contacting: [Tracy.wright@chavezschools.org](mailto:Tracy.wright@chavezschools.org)

**CESAR CHAVEZ PUBLIC CHARTER SCHOOLS**  
**REQUEST FOR PROPOSALS**

The Cesar Chavez Public Charter For Public Policy Schools invites interested and qualified vendors to submit proposals to provide services in the following areas:

**Speech and Language Therapy Services** to provide communication related services in a school setting. Services must be provided across the network of schools containing approximately 70 students with IEP mandated speech therapy services for an approximate total of 45 hours/week plus preparation and administrative time.

**Occupational Therapy Services** to provide occupational therapy related services in a school setting. Services must be provided across the network of schools containing approximately 20 students with IEP mandated occupational therapy services for an approximate total of 10-15 hours/week plus preparation and administrative time.

The full text of the proposal is available upon request by sending an email to:  
[Gerard.jackson@chavezschools.org](mailto:Gerard.jackson@chavezschools.org)

Proposals are due no later than 2:00 PM July 12, 2013.

Bidding requirements can be obtained by contacting: Gerard Jackson at  
[gerard.jackson@chavezschools.org](mailto:gerard.jackson@chavezschools.org)

**COMMUNITY ACADEMY PUBLIC CHARTER SCHOOL (CAPCS)****REQUEST FOR PROPOSALS****Management Services**

Community Academy Public Charter School (CAPCS) is soliciting bids for a school management organization to provide educational services and management operations for CAPCS as of July 2013. For SY 13-14, CAPCS will serve grades preschool – 5<sup>th</sup> in 4 schools on 3 campuses, plus an online program serving K-8<sup>th</sup>. Selection will be based on the ability to enhance CAPCS' educational and community programs and provide cost-effective and efficient educational, administrative, and management services. At least 5 years of charter school management required, including delivery of Reggio-Emilia-inspired programs. Proposals must include description of relevant experience, references, and cost structure. Contact Norma Barfield at [normabarfield@capcs.org](mailto:normabarfield@capcs.org) for specific instructions and scope of work. **Final proposals submitted electronically are due by 4 p.m. Friday, June 28, 2013.** CAPCS RESERVES THE RIGHT TO CANCEL THIS RFP AT ANY TIME.

**D.C. PREPARATORY ACADEMY****REQUEST FOR PROPOSALS****COMMISSIONING AGENT**

D.C. Preparatory Academy (DC Prep) Public Charter School is seeking competitive proposals for a **Commissioning Agent** for a public charter school facility project. A copy of the RFP and related materials can be obtained by contacting Mr. Ryan Gever of Brailsford & Dunlavey at (202) 289-4455 or [rgever@programmanagers.com](mailto:rgever@programmanagers.com). **All proposals must be submitted by 5:00 pm Friday, June 28, 2013.**

**DC SCHOLARS PUBLIC CHARTER SCHOOL****SCHOOL NURSING SERVICES****REQUEST FOR PROPOSAL**

DC Scholars Public Charter School, in accordance with section 2204 (c) (1) (A) of the D.C. School Reform Act of 1995 (Public Law 104-134), hereby solicits proposals for school nursing services. DC Scholars Public Charter School serves grades PS -4 with approximately 340 students and 40 staff. The school is located at 5601 East Capitol Street, SE, Washington, DC 20019 and operates from 7:45am-6:00pm daily.

The proposal should include:

- both part-time and full-time onsite nurse pricing
- general first aid materials and supplies (pricing can be included in monthly invoice rate or separate but must be included in proposal)

DC Scholars Public Charter School will receive proposals titled "Proposal for Nursing Services" until July 19, 2013. Proposals will be opened and recorded at 9AM on July 22, 2013. A contract will be offered within three weeks of the bid opening. Bids may not be withdrawn after the closing period.

Bid will be evaluated on price, references, ability to meet specifications, customer service, and alignment to Scholar Academies' mission. The school seeks a one-year contract with specified options for renewals. We are price sensitive and open to ideas to revise our scope slightly in order to generate savings.

All questions should be in writing by e-mail. Please put "Nursing Services RFP" in the subject heading. No phone calls regarding this RFP will be accepted.

Vashaunta Harris  
[vharris@scholaracademies.org](mailto:vharris@scholaracademies.org)  
DC Scholars Public Charter School  
5601 E. Capitol St. SE  
Washington DC 20019

**E.L. HAYNES PUBLIC CHARTER SCHOOL****REQUEST FOR PROPOSALS**

**E.L. HAYNES** Public Charter School seeks bids from prospective candidates to provide the following services:

1. **Janitorial Services** within the school building that protect human health and the environment and comply with industry-accepted guidelines and standards.
2. **Security Services** to patrol both school buildings and parking structures and ensure security is maintained throughout the school day.
3. **Playground Resurfacing** to resurface two areas.

Proposals are due via email to Cat Peretti no later than 5:00 PM July 5, 2013. The RFP with bidding requirements can be obtained by contacting:

Cat Peretti  
E.L. Haynes Public Charter School  
Phone: 202.520.3395  
Email: [cperetti@elhaynes.org](mailto:cperetti@elhaynes.org)

## OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION

## NOTICE OF FUNDING AVAILABILITY

**Announcement Date: June 12, 2013**

**Request for Application Release Date: June 28, 2013**

**Pre-Application Workshops -- July 9, 2013/July 10, 2013**

**Deadline for Submission: July 18, 2013**

**Purpose and Description:** The Division of Specialized Education (“DSE”), within the Office of the State Superintendent of Education (“OSSE”), is soliciting grant applications from District of Columbia local education agency charter schools (“LEA charters”) for support to create, staff, and manage a co-located therapeutic classroom model.

The purpose of these grants is to expand the capacity of LEA charters to meet the needs of students with Individual Education Programs (“IEPs”) with high levels of need and ensure that they are provided a Free Appropriate Public Education (“FAPE”) in the least restrictive environment (“LRE”).

Grantees will be required to host a co-located classroom model that provides students with effective, intensive therapeutic supports, including but not limited to specialized instruction, related services, wraparound support, and a robust transition plan to support a student’s successful re-integration to the LEA of primary enrollment.

**Eligibility:** Local Education Agency Charter Schools are eligible to apply. Eligible applicants will be LEA charters that will demonstrate:

- (1) The ability to physically house an additional classroom;
- (2) The ability to appropriately staff the therapeutic classroom model according to grant requirements;
- (3) The ability to adopt an evidence-based model with proven success; and
- (4) The ability to monitor and enforce the terms of resulting Memoranda of Agreement.

**Priority:** Priority will be given to LEAs that (1) demonstrate the creative use of existing partnerships and/or secure additional resources from community partners, (2) demonstrate a plan for sustainability beyond the grant year, and (3) create opportunities to showcase the model for other LEAs, to ensure dissemination of best practices.

**Length of Awards:** Grant awards will be made for a period of one (1) year.

**Available Funding for Awards:** The amount available for this award period is approximately Six Hundred Thousand Dollars (\$600,000). The funds will be awarded based on eligibility and

strength of the application, including (1) the anticipated quality of proposed services provided to District students as supported by evidence-based practice, and (2) the reasonableness of budget based on demonstrated costs.

**Anticipated Number of Awards:** It is anticipated that OSSE will have funding available to support approximately three (3) classrooms.

**Timeline/Deadline:** The Request for Applications (RFA) will be released on Friday, June 28, 2013, and the deadline for submission is Thursday, July, 18, 2013 at 4:00 p.m. The RFA will be available on OSSE's website, [www.osse.dc.gov](http://www.osse.dc.gov), and/or by contacting the Division of Specialized Education at (202) 741-6412.

**Required Pre-Application Workshops:** The OSSE will facilitate two (2) Pre-Application Technical Assistance Workshops for grant applicants. Applicants are required to attend a pre-application technical assistance workshop. The workshops will be held from 3:00- 4:00 pm on Tuesday, July 9, 2013, and from 2:00 p.m. to 3:00 p.m. on Wednesday, July 10, 2013. Failure to attend one of the pre-application technical assistance workshops will disqualify an application. Pre-registration for the workshops is required.

For additional information regarding this competition, or to register for the pre-application workshop, please contact Ms. Yuliana Del Arroyo, Director of Placement Oversight, Division of Specialized Education, Office of the Superintendent of Education, 801 1<sup>st</sup> Street NE, 5<sup>th</sup> Floor, Washington, DC 20002 or via email at [Yuliana.delarroyo@dc.gov](mailto:Yuliana.delarroyo@dc.gov).

**OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION**  
**CHANGE TO REQUEST FOR APPLICATIONS**

**Community Schools Incentive Initiative**

The **question period for the Community School Incentive Initiative has been extended until June 21<sup>st</sup> at 5:00 pm.** For the RFA and Frequently Asked Questions, please contact click [here](#) or contact Nancy Brenowitz Katz, Project Manager, Office of the State Superintendent of Education, 810 1<sup>st</sup> Street, N.E., Washington, DC, 4<sup>th</sup> Floor. Telephone: 202-724-7983, Email: [nancy.katz@dc.gov](mailto:nancy.katz@dc.gov).

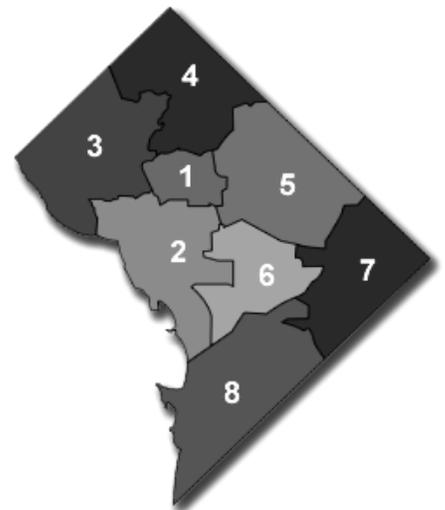
**D.C. BOARD OF ELECTIONS  
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS  
CITYWIDE REGISTRATION SUMMARY  
As Of MAY 31, 2013**

WARD	DEM	REP	STG	LIB	OTH	N-P	TOTALS
<b>1</b>	45,567	2,978	861	19	167	12,942	<b>62,534</b>
<b>2</b>	32,146	6,522	284	27	160	12,870	<b>52,009</b>
<b>3</b>	39,554	8,087	414	21	128	13,205	<b>61,409</b>
<b>4</b>	52,070	2,673	616	9	180	10,515	<b>66,063</b>
<b>5</b>	54,599	2,289	619	17	171	9,631	<b>67,326</b>
<b>6</b>	53,526	6,672	605	21	194	13,781	<b>74,799</b>
<b>7</b>	52,583	1,424	488	2	130	7,396	<b>62,023</b>
<b>8</b>	50,732	1,484	490	3	189	8,305	<b>61,203</b>
<b>Totals</b>	380,777	32,129	4,377	119	1,319	88,645	<b>507,366</b>
<b>Percentage By Party</b>	<b>75.04%</b>	<b>6.33%</b>	<b>.86%</b>	<b>.02%</b>	<b>.26%</b>	<b>17.47%</b>	<b>100.00%</b>

DISTRICT OF COLUMBIA BOARD OF ELECTIONS MONTHLY REPORT OF  
**VOTER REGISTRATION STATISTICS AND REGISTRATION TRANSACTIONS**  
AS OF THE END OF MAY 31, 2013

COVERING CITY WIDE TOTALS BY:  
**WARD, PRECINCT AND PARTY**

ONE JUDICIARY SQUARE  
441 4<sup>TH</sup> STREET, NW SUITE 250N  
WASHINGTON, DC 20001  
(202) 727-2525  
<http://www.dcboee.org>



**D.C. BOARD OF ELECTIONS**  
**MONTHLY REPORT OF VOTER REGISTRATION STATISTICS**  
**WARD 1 REGISTRATION SUMMARY**  
**As Of MAY 31, 2013**

<b>PRECINCT</b>	<b>DEM</b>	<b>REP</b>	<b>STG</b>	<b>LIB</b>	<b>OTH</b>	<b>N-P</b>	<b>TOTALS</b>
<b>20</b>	1,489	45	14	1	11	245	<b>1,805</b>
<b>22</b>	3,706	306	32	2	8	1,023	<b>5,077</b>
<b>23</b>	2,841	176	68	3	6	793	<b>3,887</b>
<b>24</b>	2,629	262	37	0	9	884	<b>3,821</b>
<b>25</b>	4,203	474	78	1	7	1,397	<b>6,160</b>
<b>35</b>	3,690	244	71	0	14	1,164	<b>5,183</b>
<b>36</b>	4,555	295	81	2	17	1,273	<b>6,223</b>
<b>37</b>	3,309	161	57	0	8	780	<b>4,315</b>
<b>38</b>	2,843	147	60	1	10	784	<b>3,845</b>
<b>39</b>	4,289	232	112	3	17	1,126	<b>5,779</b>
<b>40</b>	3,985	233	111	1	25	1,230	<b>5,585</b>
<b>41</b>	3,449	214	72	3	19	1,117	<b>4,874</b>
<b>42</b>	1,875	64	30	2	6	525	<b>2,502</b>
<b>43</b>	1,754	71	25	0	4	383	<b>2,237</b>
<b>137</b>	950	54	13	0	6	218	<b>1,241</b>
<b>TOTALS</b>	<b>45,567</b>	<b>2,978</b>	<b>861</b>	<b>19</b>	<b>167</b>	<b>12,942</b>	<b>62,534</b>

**D.C. BOARD OF ELECTIONS**  
**MONTHLY REPORT OF VOTER REGISTRATION STATISTICS**  
**WARD 2 REGISTRATION SUMMARY**  
**As Of MAY 31, 2013**

<b>PRECINCT</b>	<b>DEM</b>	<b>REP</b>	<b>STG</b>	<b>LIB</b>	<b>OTH</b>	<b>N-P</b>	<b>TOTALS</b>
<b>2</b>	721	170	7	0	11	472	<b>1,381</b>
<b>3</b>	1,494	452	17	1	13	763	<b>2,740</b>
<b>4</b>	1,728	494	9	1	8	884	<b>3,124</b>
<b>5</b>	2,311	786	20	1	10	967	<b>4,095</b>
<b>6</b>	2,740	1,164	29	2	23	1,736	<b>5,694</b>
<b>13</b>	1,411	303	7	1	1	532	<b>2,255</b>
<b>14</b>	3,138	500	29	1	12	1,178	<b>4,858</b>
<b>15</b>	3,345	369	27	7	16	1,062	<b>4,826</b>
<b>16</b>	3,891	443	36	4	12	1,133	<b>5,519</b>
<b>17</b>	5,031	716	49	6	32	1,781	<b>7,615</b>
<b>129</b>	2,077	368	14	2	6	863	<b>3,330</b>
<b>141</b>	2,546	283	27	0	9	779	<b>3,644</b>
<b>143</b>	1,713	474	13	1	7	720	<b>2,928</b>
<b>TOTALS</b>	<b>32,146</b>	<b>6,522</b>	<b>284</b>	<b>27</b>	<b>160</b>	<b>12,870</b>	<b>52,009</b>

**D.C. BOARD OF ELECTIONS**  
**MONTHLY REPORT OF VOTER REGISTRATION STATISTICS**  
**WARD 3 REGISTRATION SUMMARY**  
**As Of MAY 31, 2013**

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
7	1,253	439	18	0	4	589	2,303
8	2,425	721	25	2	9	831	4,013
9	1,246	562	11	2	11	577	2,409
10	1,758	496	9	1	9	704	2,977
11	3,532	1,024	48	3	9	1,525	6,141
12	520	218	3	0	4	240	985
26	3,038	403	34	2	5	1,053	4,535
27	2,622	326	20	1	6	683	3,658
28	2,517	653	36	4	9	945	4,164
29	1,378	308	17	0	4	500	2,207
30	1,366	267	17	0	5	316	1,971
31	2,422	382	21	0	10	634	3,469
32	2,922	424	32	2	5	729	4,114
33	3,116	423	39	2	12	887	4,479
34	3,872	596	30	0	12	1,387	5,897
50	2,253	350	20	2	11	571	3,207
136	937	146	10	0		372	1,465
138	2,377	349	24	0	3	662	3,415
<b>TOTALS</b>	<b>39,554</b>	<b>8,087</b>	<b>414</b>	<b>21</b>	<b>128</b>	<b>13,205</b>	<b>61,409</b>

**D.C. BOARD OF ELECTIONS**  
**MONTHLY REPORT OF VOTER REGISTRATION STATISTICS**  
**WARD 4 REGISTRATION SUMMARY**  
**As Of MAY 31, 2013**

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
45	2,319	84	47	2	8	491	2,951
46	3,217	93	34	0	16	663	4,023
47	3,221	181	39	3	15	861	4,320
48	3,008	154	37	0	11	650	3,860
49	932	51	17	0	6	227	1,233
51	3,393	623	26	0	10	731	4,783
52	1,336	237	6	0	2	269	1,850
53	1,280	81	20	0	4	317	1,702
54	2,515	114	39	0	7	547	3,222
55	2,764	87	38	1	14	528	3,432
56	3,375	107	39	0	14	799	4,334
57	2,843	100	37	0	17	539	3,536
58	2,525	69	23	1	3	449	3,070
59	2,843	101	39	1	8	457	3,449
60	2,378	99	25	0	8	752	3,262
61	1,819	63	18	0	3	343	2,246
62	3,407	156	31	0	5	422	4,021
63	3,604	137	63	0	14	703	4,521
64	2,450	64	18	1	6	377	2,916
65	2,841	72	20	0	9	390	3,332
<b>Totals</b>	<b>52,070</b>	<b>2,673</b>	<b>616</b>	<b>9</b>	<b>180</b>	<b>10,515</b>	<b>66,063</b>

**D.C. BOARD OF ELECTIONS**  
**MONTHLY REPORT OF VOTER REGISTRATION STATISTICS**  
**WARD 5 REGISTRATION SUMMARY**  
**As Of MAY 31, 2013**

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
19	4,259	203	61	5	10	1,014	5,552
44	3,022	240	32	3	16	714	4,027
66	5,049	145	39	0	12	611	5,856
67	3,259	126	25	0	9	442	3,861
68	2,057	182	34	1	9	454	2,737
69	2,410	87	20	0	9	298	2,824
70	1,660	77	21	1	3	289	2,051
71	2,657	74	36	1	8	395	3,171
72	4,897	131	31	1	16	815	5,891
73	2,050	112	34	2	6	407	2,611
74	4,448	210	65	0	12	889	5,624
75	3,414	135	52	0	8	717	4,326
76	1,320	57	14	0	4	263	1,658
77	3,228	123	38	0	11	584	3,984
78	3,107	80	37	0	7	489	3,720
79	2,144	70	16	2	8	388	2,628
135	3,225	190	52	1	16	606	4,090
139	2,393	47	12	0	7	256	2,715
<b>TOTALS</b>	<b>54,599</b>	<b>2,289</b>	<b>619</b>	<b>17</b>	<b>171</b>	<b>9,631</b>	<b>67,326</b>

**D.C. BOARD OF ELECTIONS**  
**MONTHLY REPORT OF VOTER REGISTRATION STATISTICS**  
**WARD 6 REGISTRATION SUMMARY**  
**As Of MAY 31, 2013**

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
1	4,345	414	51	1	18	1,134	5,963
18	4,262	268	49	0	16	946	5,541
21	1,167	57	19	0	4	271	1,518
81	5,168	380	53	1	20	1,048	6,670
82	2,704	278	26	1	11	612	3,632
83	3,962	439	41	3	13	999	5,457
84	2,065	458	28	2	9	651	3,213
85	2,911	585	29	1	9	882	4,417
86	2,406	294	29	0	7	550	3,286
87	2,987	246	30	1	13	621	3,898
88	2,269	333	21	0	7	569	3,199
89	2,732	765	32	3	7	912	4,451
90	1,707	287	15	1	6	523	2,539
91	4,296	387	49	2	18	1,040	5,792
127	4,213	290	57	2	13	960	5,535
128	2,306	216	33	1	10	676	3,242
130	889	371	10	0	3	351	1,624
131	1,716	429	15	2	5	602	2,769
142	1,421	175	18	0	5	434	2,053
<b>TOTALS</b>	<b>53,526</b>	<b>6,672</b>	<b>605</b>	<b>21</b>	<b>194</b>	<b>13,781</b>	<b>74,799</b>

**D.C. BOARD OF ELECTIONS**  
**MONTHLY REPORT OF VOTER REGISTRATION STATISTICS**  
**WARD 7 REGISTRATION SUMMARY**  
**As Of MAY 31, 2013**

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
80	1,813	90	18	0	8	315	2,244
92	1,689	41	14	1	10	248	2,003
93	1,693	47	17	0	5	240	2,002
94	2,122	57	18	0	2	277	2,476
95	1,829	51	21	0		315	2,216
96	2,535	76	27	0	7	385	3,030
97	1,593	35	14	0	4	208	1,854
98	1,994	44	26	0	4	273	2,341
99	1,570	45	15	0	4	245	1,879
100	2,242	43	14	0	5	279	2,583
101	1,853	37	21	0	6	207	2,124
102	2,624	58	28	0	7	326	3,043
103	3,808	99	40	0	13	580	4,540
104	3,111	84	29	0	11	456	3,691
105	2,571	64	27	0	4	403	3,069
106	3,334	78	23	0	7	474	3,916
107	1,928	59	17	0	4	295	2,303
108	1,284	38	8	0	2	140	1,472
109	1,097	39	9	0	1	116	1,262
110	4,351	129	35	1	10	517	5,043
111	2,716	68	29	0	9	404	3,226
113	2,506	78	21	0	5	322	2,932
132	2,320	64	17	0	2	371	2,774
<b>TOTALS</b>	<b>52,583</b>	<b>1,424</b>	<b>488</b>	<b>2</b>	<b>130</b>	<b>7,396</b>	<b>62,023</b>

**D.C. BOARD OF ELECTIONS**  
**MONTHLY REPORT OF VOTER REGISTRATION STATISTICS**  
**WARD 8 REGISTRATION SUMMARY**  
**As Of MAY 31, 2013**

PRECINCT	DEM	REP	STG	LIB	OTH	N-P	TOTALS
112	2,380	67	12	1	8	339	2,807
114	3,476	115	32	0	21	576	4,220
115	3,314	79	29	1	11	686	4,120
116	4,369	116	44	0	18	685	5,232
117	2,104	56	16	0	10	337	2,523
118	2,979	85	35	0	11	458	3,568
119	3,193	136	47	0	11	602	3,989
120	2,104	47	22	0	6	350	2,529
121	3,624	89	39	1	14	591	4,358
122	2,097	56	21	0	6	318	2,498
123	2,680	132	29	0	14	509	3,364
124	2,934	71	18	0	5	412	3,440
125	5,092	133	47	0	16	808	6,096
126	4,197	131	40	0	18	765	5,151
133	1,544	49	10	0	5	198	1,806
134	2,486	52	32	0	6	327	2,903
140	2,159	70	17	0	9	344	2,599
<b>TOTALS</b>	<b>50,732</b>	<b>1,484</b>	<b>490</b>	<b>3</b>	<b>189</b>	<b>8,305</b>	<b>61,203</b>

**D.C. BOARD OF ELECTIONS**  
**MONTHLY REPORT OF VOTER REGISTRATION STATISTICS**  
**CITYWIDE REGISTRATION ACTIVITY**

*For voter registration activity between 4/30/2013 and 5/31/2013*

<b>NEW REGISTRATIONS</b>	<b>DEM</b>	<b>REP</b>	<b>STG</b>	<b>LIB</b>	<b>OTH</b>	<b>N-P</b>	<b>TOTAL</b>
<b>Beginning Totals</b>	<b>380,300</b>	<b>32,060</b>	<b>4,360</b>	<b>115</b>	<b>1,322</b>	<b>88,353</b>	<b>506,510</b>
Board of Elections Over the Counter	21	1	1	1	0	10	<b>34</b>
Board of Elections by Mail	64	4	0	1	0	16	<b>85</b>
Board of Elections Online Registration	91	12	4	0	0	23	<b>130</b>
Department of Motor Vehicle	1,012	146	23	1	4	512	<b>1,698</b>
Department of Disability Services	9	0	0	1	1	0	<b>11</b>
Office of Aging	0	0	0	0	0	0	<b>0</b>
Federal Postcard Application	0	0	0	0	0	0	<b>0</b>
Department of Parks and Recreation	0	0	0	0	0	0	<b>0</b>
Nursing Home Program	0	0	0	0	0	0	<b>0</b>
Dept. of Youth Rehabilitative Services	0	0	0	0	0	0	<b>0</b>
Department of Corrections	17	0	0	0	0	2	<b>19</b>
Department of Human Services	17	2	0	0	0	2	<b>21</b>
Special / Provisional	0	0	0	0	0	0	<b>0</b>
All Other Sources	38	2	0	0	0	18	<b>58</b>
<b>+Total New Registrations</b>	<b>1,269</b>	<b>167</b>	<b>28</b>	<b>4</b>	<b>5</b>	<b>583</b>	<b>2,056</b>

<b>ACTIVATIONS</b>	<b>DEM</b>	<b>REP</b>	<b>STG</b>	<b>LIB</b>	<b>OTH</b>	<b>N-P</b>	<b>TOTAL</b>
Reinstated from Inactive Status	91	8	1	0	0	16	<b>116</b>
Administrative Corrections	11	1	0	0	0	196	<b>208</b>
<b>+TOTAL ACTIVATIONS</b>	<b>102</b>	<b>9</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>212</b>	<b>324</b>

<b>DEACTIVATIONS</b>	<b>DEM</b>	<b>REP</b>	<b>STG</b>	<b>LIB</b>	<b>OTH</b>	<b>N-P</b>	<b>TOTAL</b>
Changed to Inactive Status	487	40	6	1	5	123	<b>662</b>
Moved Out of District (Deleted)	6	4	0	0	0	0	<b>10</b>
Felon (Deleted)	2	0	0	0	0	1	<b>3</b>
Deceased (Deleted)	39	2	0	0	0	2	<b>43</b>
Administrative Corrections	540	74	11	2	5	173	<b>805</b>
<b>-TOTAL DEACTIVATIONS</b>	<b>1,074</b>	<b>120</b>	<b>17</b>	<b>3</b>	<b>10</b>	<b>299</b>	<b>1,523</b>

<b>AFFILIATION CHANGES</b>	<b>DEM</b>	<b>REP</b>	<b>STG</b>	<b>LIB</b>	<b>OTH</b>	<b>N-P</b>
+ Changed To Party	317	60	17	4	13	129
- Changed From Party	-137	-47	-12	-1	-11	-333
<b>ENDING TOTALS</b>	<b>380,777</b>	<b>32,129</b>	<b>4,377</b>	<b>119</b>	<b>1,319</b>	<b>88,645</b>

**DISTRICT DEPARTMENT OF THE ENVIRONMENT**

FISCAL YEAR 2013

**PUBLIC NOTICE**

Notice is hereby given that, pursuant to 40 C.F.R. Part 51.161, and D.C. Official Code §2-505, the Air Quality Division (AQD) of the District Department of the Environment (DDOE), located at 1200 First Street NE, 5<sup>th</sup> Floor, Washington, DC, intends to issue a permit (#6748) to HQ Hotel, LLC to install and operate one (1) diesel-fired 2000 kW emergency generator set located at the Marriott Marquis Hotel, 901 Massachusetts Avenue NW, Washington, DC. The contact person for the facility is Mark Brungart, Senior Project Manager, at (202) 393-1999.

The proposed emission limits are as follows:

- a. Emissions shall not exceed those found in the following table [40 CFR 60.4205(b) 40 CFR 60.4202(a)(2) and 40 CFR 89.112(a)]

<b>Pollutant Emission Limits (g/kW-hr)</b>		
NMHC+NO <sub>x</sub>	CO	PM
6.4	3.5	0.20

- b. Visible emissions shall not be emitted into the outdoor atmosphere from the generator, except that discharges not exceeding forty percent (40%) opacity (unaveraged) shall be permitted for two (2) minutes in any sixty (60) minute period and for an aggregate of twelve (12) minutes in any twenty-four hour (24 hr.) period during start-up, cleaning, adjustment of combustion controls, or malfunction of the equipment [20 DCMR 606.1]
- c. An emission into the atmosphere of odorous or other air pollutants from any source in any quantity and of any characteristic, and duration which is, or is likely to be injurious to the public health or welfare, or which interferes with the reasonable enjoyment of life or property is prohibited. [20 DCMR 903.1]

The estimated emissions from the unit, operating five hundred (500) hour per year are expected to be as follows:

<b>Pollutant</b>	<b>Emission Rate (lb/hr)</b>	<b>Maximum Annual Emissions (tons/yr)</b>
Total Particulate Matter (PM -Total)	0.026	0.007
Sulfur Oxides (SO <sub>x</sub> )	0.709	0.177
Nitrogen Oxides (NO <sub>x</sub> )	34.142	8.536
Volatile Organic Compounds (VOC)	36.010	9.003
Carbon Monoxide (CO)	1.160	0.290

The application to operate the generator and the draft permit are available for public inspection at AQD and copies may be made available between the hours of 8:15 A.M. and 4:45 P.M. Monday

through Friday. Interested parties wishing to view these documents should provide their names, addresses, telephone numbers and affiliation, if any, to Stephen S. Ours at (202) 535-1747.

Interested persons may submit written comments or may request a hearing on this subject within 30 days of publication of this notice. The written comments must also include the person's name, telephone number, affiliation, if any, mailing address and a statement outlining the air quality issues in dispute and any facts underscoring those air quality issues. All relevant comments will be considered in issuing the final permit.

Comments on the proposed permits and any request for a public hearing should be addressed to:

Stephen S. Ours  
Chief, Permitting Branch  
Air Quality Division  
District Department of the Environment  
1200 First Street NE, 5<sup>th</sup> Floor  
Washington, DC 20002  
[Stephen.Ours@dc.gov](mailto:Stephen.Ours@dc.gov)

**No written comments or hearing requests postmarked after July 22, 2013 will be accepted.**

For more information, please contact Stephen S. Ours at (202) 535-1747.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ETHICS AND GOVERNMENT ACCOUNTABILITY**

**Office of Government Ethics**

**BEGA – Advisory Opinion – Redacted - 1050-001**

**VIA EMAIL TO:**

May 30, 2013

[Name]  
Chair  
Historic Preservation Review Board  
[Email address]

Dear Chairperson:

This responds to your request for an Advisory Opinion regarding whether you can accept private work to perform services as a preservation architect for Building #102 on St. Elizabeths Hospital East campus, even though you are the Chair of the Historic Preservation Review Board (“HPRB”). In your private capacity, you work for a professional engineering and consulting services firm and have expertise in architectural preservation, which involves the preservation and restoration of historic buildings.

With respect to HPRB, in your email of May 11, 2013, and your subsequent telephone conversation with a member of my staff, you advised that you have been on the HPRB for approximately one year, and have been the Chair for approximately three months. Approximately six months ago, HPRB reviewed the District Department of Transportation (“DDOT”) concept for the main roads leading to the campus, which included a review of the utilities going to the St. Elizabeths Hospital campus. In addition, approximately one month ago, the HPRB reviewed and approved the concept for the temporary market pavilion, which is on a different part of the campus than Building #102.

As a member of HPRB, a board listed in D.C. Official Code § 1-523.01(e), you are both a public official and an employee as those terms are defined in the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011 (“Ethics Act”), effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1161.01 (2012 Supp.)) and, therefore, are subject to both the provisions of the Ethics Act and Chapter 18, Title 6B of the D.C. Municipal Regulations.<sup>1</sup> The Conflicts of Interest provisions of the Ethics Act state that:

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<sup>1</sup> Hereinafter, Title 6b of the D.C. Municipal Regulations will be referred to as the District Personnel Manual or DPM.

*No employee shall use his or her official position or title, or personally and substantially participate, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, in a judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter, or attempt to influence the outcome of a particular matter, in a manner that the employee knows is likely to have a direct and predictable effect on the employee's financial interests or the interests of a person closely affiliated with the employee. (D.C. Official Code § 1-1162.23(a)).*

Based on the information you provided, you have not taken an action as a member and Chair of HPRB that benefits you or the private company for which you work financially. The review of the DDOT concept for roads and utilities concerned the entire St. Elizabeths Hospital campus and is unrelated to the preservation architectural work you propose to do for Building #102. The HPRB review and vote related to the temporary market pavilion concerned another part of the St. Elizabeths Hospital campus entirely and, again, is unrelated to the preservation architectural work you propose to do for Building #102.

The Conflicts of Interest provisions of the Ethics Act also prohibit you from acquiring an interest in a business that is directly related to your official duties or which might otherwise be involved in an official action taken or recommended by you, or which is related to matters over which you could wield any influence, official or otherwise. (D.C. Official Code § 1-1162.23(d)(2)(B)). Because Building #102 is owned by the District of Columbia government, you would not be acquiring an ownership or financial interest in the building itself. You are proposing to perform a service, for compensation, for the owner of the building, which is not prohibited by this section.

In addition, you are subject to the requirements of DPM § 1804, Outside Employment and Other Outside Activities. DPM §1804.1 states:

*1804.1 An employee may not engage in any outside employment or other activity which is not compatible with the full and proper discharge of his or her duties and responsibilities as a government employee. Activities or actions which are not compatible with government employment include, but are not limited to, the following:*

*(a) Engaging in any outside employment, private business activity, or other interest which may interfere with the employee's ability to perform his or her job, or which may impair the efficient operation of the District of Columbia government.*

This section of the DPM does not prohibit you from engaging in paid private preservation architectural work on Building #102. As you advise, though, at some point in the future, Building #102 will come before the HPRB for review and a vote. At that time, you will be required to fully recuse yourself from all participation in that matter as a member or Chair of the HPRB. This means that you must disclose the conflict, in writing, to the other HPRB members and fully remove yourself from any discussions and/or votes related to Building #102. I also take note of your representation that it is common for HPRB members to recuse themselves from HPRB matters on which they worked as a

member of the private sector and that this does not interfere with HPRB’s ability to perform its required functions. Therefore, I see nothing to suggest that your recusal in a matter relating to Building #102 will impair the efficient operation of District government. In terms of your recusal, you also will be prohibited from representing your private employer’s work or interests before HPRB or participating in any presentation to HPRB related to the work you and/or your private employer performed on Building #102.

As general guidance, you must not devote District government time or resources to work that you perform for your private employer on Building #102 (see, DPM § 1804.1(b)) and you cannot order other HPRB members or subordinate staff to work on matters related to your private employment responsibilities. (See, DPM § 1804.1(c)).

Based upon the information you provided, your proposed outside activity is permissible. When Building #102 comes before the HPRB, you will be required to inform the HPRB, in writing, that a conflict of interest has presented itself, and recuse yourself from all participation in the matter both as a member or Chair of HPRB.

Please be advised that this advice is provided to you pursuant to section 219 of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011 (“Ethics Act”), effective April 27, 2012, D.C. Law 19-124, D.C. Official Code § 1-1161.01 *et seq.*, which empowers me to provide such guidance. As a result, no enforcement action for violation of the District’s Code of Conduct may be taken against you in this context, provided that you have made full and accurate disclosure of all relevant circumstances and information in seeking this advisory opinion. This advisory opinion only provides protection for prospective conduct, not past conduct.

Finally, you are advised that the Ethics Act requires this opinion to be published in the District of Columbia Register within 30 days of its issuance, but that identifying information will not be disclosed unless and until you consent to such disclosure in writing, should you wish to do so.

Please let me know if you have any questions or wish to discuss this matter further. I may be reached at (202) 481-3411, or by email at [darrin.sobin@dc.gov](mailto:darrin.sobin@dc.gov).

Sincerely,

\_\_\_\_\_/s/\_\_\_\_\_  
DARRIN P. SOBIN  
Director of Government Ethics  
Board of Ethics and Government Accountability

#1050-001

**EXCEL ACADEMY PUBLIC CHARTER SCHOOL****REQUEST FOR PROPOSALS****Project Management Services RFP****Scope of Work**

Excel Academy Public Charter School (“Excel”) invites all interested parties to submit proposals to provide project management services for the analysis and financing for the acquisition of our current facility located at 2501 Martin Luther King Jr. Avenue SE, Washington, DC. 20020.

**Qualifications/Proposal Submission Requirements**

Vendors interested in submitting a response to this Request for Proposal must:

- Vendor must meet the procurement qualifications as established by the DC Public Charter School Board, and any applicable local and federal laws.
- Vendor must be licensed and certified to do business in the District of Columbia.
- Vendor must be registered with the D.C. Department of Consumer and Regulatory Affairs (DCRA) and the D.C. Department of Finance and Revenue (DFR).
- Vendor must have the most recent Certificate and Good Standing from DCRA and DFR.

**Proposal Requirements**

Interested vendors must include and submit detailed information in the response to enable Excel Academy officials to evaluate the response to determine the proposal most appropriate for the school. Included in the proposal shall be the following:

1. Cover Letter;
2. Proposal details;
3. Brief History of the Business;
4. Resumes of staff to be assigned to Excel;
5. Proposal Pricing (Discounts, if applicable);
6. Copies of;
  - a. Articles of Incorporation
  - b. Business License
  - c. Certificates of Good Standing from DCRA and DFR
  - d. District of Columbia, and or Federal certifications
7. List of three (3) Business References;
8. Dunn and Bradstreet Number;

### Vendor Selection

Selection will be made after consideration of all information requested and submitted in response to this RFP. Respondents will be evaluated on the basis of their experience, quality of response, best price for items requested, recommendations from references, license to do business in the District of Columbia, and demonstrated commitment to the District of Columbia, and commitment to employ residents of the District of Columbia. Excel reserves the right to establish a fee schedule that is acceptable to the vendor selected and to Excel and to negotiate fees, when appropriate.

Communication with representatives of Excel Academy concerning this RFP, except as stated herein, by you, your organization, or on your behalf is not permitted during the submission process. Any inappropriate communication will disqualify any organization or individual from the process.

Excel reserves the right to request additional information if necessary or to request an interview with an organization (s) or to reject any and proposals with or without cause, and waive any irregularities or informalities in the proposals submitted. Excel further has the right to make such investigation as it deems necessary to the qualifications of any and all firms and or individuals submitting proposals. Excel reserves the right to reject any and all submitted proposals. In the event that all proposals are rejected, Excel reserves the right to conduct a subsequent solicitation for proposals.

### Submission of proposals

Qualified Contractors wishing to be considered for this opportunity shall submit one (1) original signed in ink and three (3) copies, mailed or hand delivered to the school office at the following address:

Excel Academy Public Charter School  
2501 Martin Luther King Jr. Avenue, S.E.  
Washington, D.C. 20020

All proposals must be received no later than **5 P.M. on Wednesday, July 3, 2013**. Any proposal or modification received after this time shall not be considered. No phone calls regarding this RFP will be accepted. No proposals submitted by facsimile will be accepted. **All** questions should be in writing and directed by email to [vwarnock@excelpcs.org](mailto:vwarnock@excelpcs.org); please use "Project Management RFP" in the subject area heading.

Excel will not be responsible for any expenses in the preparation and/or presentation of the proposals and oral interviews, if any, or for the disclosure of any information or material received in connection with the solicitation, whether by negligence or otherwise.

All information submitted in response to this RFP will become the property of Excel Academy and may be open to inspection by members of the public.

**DEPARTMENT OF HEALTH****PUBLIC NOTICE**

The District of Columbia Board of Nursing Home Administration (“Board”) hereby gives notice of its regular meeting scheduled for June 27, 2013, pursuant to § 405 of the District of Columbia Health Occupation Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1204.05 (b)) (2001) (“Act”).

The Board’s regular meeting, previously scheduled for June 12, 2013, was cancelled without notice due to unforeseen circumstances. The Board will hold the meeting instead on Thursday, June 27, 2013 from 10:00 am – 12:00 pm. The meeting will be open to the public from 10:00 am until 11:00 am to discuss various agenda items and any comments and/or concerns from the public. In accordance with Section 405(b) of the Open Meetings Amendment Act of 2010, the meeting will be closed from 11:00 am to 12:00 pm to plan, discuss, or hear reports concerning licensing issues, ongoing or planned investigations of practice complaints, and or violations of law or regulations.

The meeting will be held at 899 North Capitol Street, NE, Second Floor, Washington, DC 20002. Visit the Department of Health’s Events webpage at [www.doh.dc.gov/events](http://www.doh.dc.gov/events) to view the agenda.

**KIPP DC**

**REQUEST FOR PROPOSALS:**

**CAPITAL TEACHING RESIDENCY PROGRAM EVALUATION**

KIPP DC is soliciting proposals from qualified vendors for a program evaluation of the Capital Teaching Residency. The competitive Request for Proposal can be found on KIPP DC's website at [www.kippdc.org/procurement](http://www.kippdc.org/procurement).

Proposals are due no later than 5:00 P.M., EST, July 9, 2013. No proposals will be accepted after the deadline. Questions can be addressed to [sarah.strom@kippdc.org](mailto:sarah.strom@kippdc.org).

**KIPP DC**

**REQUEST FOR PROPOSALS**

**Electronic Security (Access Control, Burglar Alarm, CCTV)**

KIPP DC is soliciting proposals from qualified vendors for electronic security. The competitive Request for Proposal can be found on KIPP DC's website at [www.kippdc.org/procurement](http://www.kippdc.org/procurement).

Proposals are due no later than 4:00 P.M., EST, July 12, 2013. No proposals will be accepted after the deadline. Questions can be addressed to [jsalsbury@pmmcompanies.com](mailto:jsalsbury@pmmcompanies.com).

**THE NOT-FOR-PROFIT HOSPITAL CORPORATION  
BOARD OF DIRECTORS  
NOTICE OF PUBLIC MEETING**

The monthly Governing Board meeting of the Board of Directors of the Not-For-Profit Hospital Corporation, an independent instrumentality of the District of Columbia Government, will be held at 9:00 a.m. on Thursday, June 27, 2013. The meeting will be held at 1310 Southern Avenue, SE, Washington, DC 20032, in Conference Room 3/4. Notice of a location or time change will be published in the D.C. Register, posted in the Hospital, and/or posted on the Not-For-Profit Hospital Corporation's website ([www.united-medicalcenter.com](http://www.united-medicalcenter.com)).

**DRAFT AGENDA**

- I. CALL TO ORDER**
  
- II. DETERMINATION OF A QUORUM**
  
- III. APPROVAL OF AGENDA**
  
- IV. CONSENT AGENDA**
  - A. READING AND APPROVAL OF MINUTES**
    - 1. May 23, 2013
  
- V. NONCONSENT AGENDA**
  - A. MEDICAL STAFF REPORT**
    - 1. Chief of Staff Report / Dr. Gilbert Daniel, COS
  
  - B. EXECUTIVE REPORTS**
    - 1. Executive Management Report / David Small, Interim CEO
  
  - C. COMMITTEE REPORTS**
    - 1. Finance Committee Report / Mr. Steve Lyons, Chair
    - 2. Strategic Steering Committee Report / Dr. Margo Baily, Chair
    - 3. Governance Committee Report / Mr. Virgil McDonald, Chair
    - 4. Patient Safety & Quality Committee Report / Dr. Shannon Hader, Chair
  
  - D. OTHER BUSINESS**
    - 1. Old Business
    - 2. New Business

**E. ANNOUNCEMENT**

1. The next Governing Board Meeting will be held at 9:00am, July 25, 2013 at United Medical Center/Conference Room 2/3.

**F. ADJOURNMENT**

***NOTICE OF INTENT TO CLOSE.*** The NFPHC Board hereby gives notice that it may close the meeting and move to executive session to discuss contracts, settlements, collective bargaining agreements, personnel, discipline, and investigations of alleged criminal or civil misconduct. D.C. Official Code §§2-575(b)(2)(4A)(5),(9),(10),(14).

**PERRY STREET PREP PUBLIC CHARTER SCHOOL****NOTICE: FOR PROPOSALS FOR VARIOUS CHARTER SCHOOL SERVICES  
AND SUPPLIES**

The Perry Street Prep Public Charter School in accordance with section 2204(c) of the District of Columbia School Reform Act of 1995 solicits proposals for the following supplies/services: laptop carts and computer equipment, professional development, and credit recovery services.

The school anticipates that it will select multiple vendors to perform these services, so vendors are encouraged to submit proposals for the provision of individual services rather than the full list. E-mail Garrett Mushaw, Chief Operating Officer, at [gmushaw@pspdc.org](mailto:gmushaw@pspdc.org) to request a full RFP offering more detail on scope of work and bidder requirements.

Proposals shall be received no later than 5:00 P.M., Friday, June 28, 2013.

Prospective Firms shall submit one electronic submission via e-mail to the following address:

Garrett Mushaw  
[gmushaw@pspdc.org](mailto:gmushaw@pspdc.org)

Please include the type of service you are submitting for in the subject line of the e-mail.

**OFFICE OF THE DEPUTY MAYOR FOR PLANNING AND ECONOMIC  
DEVELOPMENT**

**NOTICE OF FUNDING AVAILABILITY**

**GREAT STREETS RETAIL PRIORITY AREA GRANT PROGRAM**

**Grant funds purpose and availability:**

The purpose of the Great Streets Retail Priority Area Grant Program is to support existing small businesses, attract new small businesses, increase the District's tax base and create new jobs for District Residents. Office of the Deputy Mayor Planning and Economic Development (ODMPED) will award individual grants up to a maximum of \$85,000 each to support and foster growth amongst small businesses. Grant funds may be utilized to reimburse the grantee for the purposes of capital expenditures to improve the subject property.

**Eligible Applicants/Entities:**

Eligible applicants include small businesses. **Eligible retail development projects shall not include liquor stores, nightclubs, bars, banks, or hotels.**

**Eligible applicants must possess all of the following prior to an award being made:**

1. Be a registered business in **Good Standing** with the DC Department of Consumer and Regulatory Affairs (DCRA), the Office of Tax and Revenue (OTR), the Department of Employment Services (DOES), and the Internal Revenue Service (IRS)
2. Site control of the property either through fee simple ownership of the site or through an executed contract or lease with the property owner. Grantee must demonstrate site control for at least three years after receiving grant.
3. Businesses must be located within targeted Great Streets corridors

Prior to the execution of a grant agreement, the grantee must enter into a First Source Agreement with the District's Department of Employment Services.

The Request for Applications will be released on **Monday, July 8, 2013**. Applicants must submit a completed online application to ODMPED by **Friday, August 30, 2013 by 6:00 PM**.

ODMPED will hold informational sessions in the various corridors on a date and time to be posted on ODMPED's website at [dcbiz.dc.gov](http://dcbiz.dc.gov) once confirmed.

**Direct all inquiries and completed applications to:** LaToyia Hampton, Grants Manager, Office of the Deputy Mayor for Planning and Economic Development, 1100 4<sup>th</sup> Street, SW, Washington, DC 20024. Telephone: (202) 724-7648. Email: [LaToyia.Hampton@dc.gov](mailto:LaToyia.Hampton@dc.gov)

The Request for Applications is available on the Great Streets website @ [greatstreets.dc.gov](http://greatstreets.dc.gov). Applicants must submit a completed application to ODMPED by the deadline. Late applications will not be forwarded to the review panel.

**PUBLIC ACCESS CORPORATION OF THE DISTRICT OF COLUMBIA**  
**ANNUAL MEETING AND AWARDS CEREMONY**

**NOTICE OF PUBLIC MEETING**

The Annual Meeting and Awards Ceremony of the Public Access Corporation of the District of Columbia will be held on Saturday, June 22, 2013 4:00-6:00 p.m. The meeting will be held in Studio A of the Brooks Mansion at 901 Newton Street, N.E., Washington, D.C. 20017. Below is the draft agenda for this meeting. A final agenda will be posted to DCTV's website at [www.dctv.org](http://www.dctv.org) For additional information, please contact: Tonya Gonzalez, VP of Public Affairs at (202) 526-7007x104 or [tgonzalez@dctv.org](mailto:tgonzalez@dctv.org)

**DRAFT AGENDA**

1. Introductory Remarks

Nantz Rickard, President and CEO

2. Convene Annual Meeting and Awards Ceremony

Kojo Nnamdi, Chair, Board of Directors

3. Chair's Report

Presented by Kojo Nnamdi, Chair, Board of Directors

4. Finance Committee Report

FY12 Audited Financial Statement

Presented by Pedro Alfonso, Vice Chair/Treasurer, Board of Directors

5. Nominating Committee Report

Election of June, 2013 presented by Cynthiana Lightfoot,

Chair, Nominating Committee, Board of Directors

6. Viewers' Choice Awards

Hosted by Kojo Nnamdi, Chair, Board of Directors

Awards Presented by members of the Board of Directors

**PUBLIC ACCESS CORPORATION OF THE DISTRICT OF COLUMBIA****BOARD OF DIRECTORS****NOTICE OF PUBLIC MEETING**

The Board of Directors of the Public Access Corporation of the District of Columbia will be holding a meeting on Saturday, June 22, 2013 3:00 p.m. The meeting will be held in Studio B of the Brooks Mansion at 901 Newton Street, N.E., Washington, D.C. 20017. Below is the draft agenda for this meeting. A final agenda will be posted to DCTV's website at [www.dctv.org](http://www.dctv.org). For additional information, please contact: Tonya Gonzalez, VP of Public Affairs at (202) 526-7007x104 or [tgonzalez@dctv.org](mailto:tgonzalez@dctv.org)

**DRAFT AGENDA**

- 1. Call to Order**
- 2. Approval of Minutes**  
April 24, 2013 Regular Meeting
- 3. Chair's Report** (Nnamdi)
- 4. President's Report** (Rickard)
- 5. Finance Committee Report** (Alfonso)  
FY13 Financial Statement, Jul. 1, 2012 — May 31, 2013  
(Unaudited)
- 6. Nominating Committee Report** (Lightfoot)
- 7. New Business**  
Restatement of Articles of Incorporation  
  
Discussion of Hiring Auditor  
  
Charge Audit Committee
- 8. Old Business**  
Bylaws Amendments  
  
Update on 25<sup>th</sup> Anniversary (Lightfoot/Lewis)
- 9. Adjournment**

**DISTRICT OF COLUMBIA PUBLIC CHARTER SCHOOL BOARD****NOTICE OF PUBLIC COMMENT PERIOD**

The District of Columbia Public Charter School Board (PCSB) hereby gives notice that it has released for public comment the 2014 Charter Renewal Guidelines. These guidelines provide the steps required for public charter schools going through the 15-year charter renewal process with PCSB during the 2013-14 school year. A copy of the proposed guidelines can be found at: [http://www.dcpsb.org/data/files/tuesday%20bulletin/201314\\_pcsb\\_charter\\_renewal\\_guidelines.pdf](http://www.dcpsb.org/data/files/tuesday%20bulletin/201314_pcsb_charter_renewal_guidelines.pdf)

The public comment period opened June 14, 2013 and will close by Monday, July 15. A public hearing will be held during the Board's monthly meeting on July 29, at 7:30 pm at PCSB offices located at 3333 14<sup>th</sup> St, NW, Washington, DC.

To submit written comments, please email Isoken Igodan, [iigodan@dcpsb.org](mailto:iigodan@dcpsb.org), or mail them to DC Public Charter School Board, 3333 14th Street, NW, Suite 210, Washington, DC 20010. To sign up to testify at the public hearing, please email [iigodan@dcpsb.org](mailto:iigodan@dcpsb.org) or call the PCSB office at (202) 328-2660 by 4:00 pm on Friday, June 26 to be placed on the witness list. Testimony will be limited to two minutes. Please bring copies of your testimony to the hearing.

**SELA PUBLIC CHARTER SCHOOL****REQUESTS FOR PROPOSALS****Food Service Management Services****DC Hebrew Language Charter School, Inc. d/b/a Sela Public Charter School**

Sela PCS is advertising the opportunity to bid on the delivery of breakfast, lunch, snack and/or CACFP supper meals to children enrolled at the school for the 2013-2014 school year with a possible extension of (4) one year renewals. All meals must meet at a minimum, but are not restricted to, the USDA National School Breakfast, Lunch, Afterschool Snack and At Risk Supper meal pattern requirements. Additional specifications outlined in the Request for Proposals (RFP) such as; student data, days of service, meal quality, etc. may be obtained beginning on July 22, 2013 from:

Those interested in submitting a formal proposal can access the RFP on the Sela PCS school website ([www.sela pcs.org](http://www.sela pcs.org)) under "Public Notices."

**Proposals must be submitted in hard copy to 6015-17 Chillum Place, NE, Washington, DC 20011 on Monday, July 22, 2013 no later than 4:00 P.M.**

**All bids not addressing all areas as outlined in the RFP will not be considered.**

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
DC TAXICAB COMMISSION**

**NOTICE OF SPECIAL MEETING**

The District of Columbia Taxicab Commission will hold a Special Meeting on Tuesday, June 25, 2013 at 2:00 pm. The Special Meeting will be held in the Old Council Chambers at 441 4th Street, NW, Washington, DC 20001.

The final agenda will be posted no later than seven (7) days before the General Commission Meeting on the DCTC website at [www.dctaxi.dc.gov](http://www.dctaxi.dc.gov).

Contact the Assistant Secretary to the Commission, Ms. Mixon, on 202-645-6018, extension 4, if you have further questions.

**DRAFT AGENDA**

- I. Call to Order
- II. Commission Communication
- III. Adjournment

**WASHINGTON YU YING PUBLIC CHARTER SCHOOL****INVITATION FOR BID****Food Service Management Services**

Washington Yu Ying Public Charter School is advertising the opportunity to bid on the delivery of breakfast, lunch, snack and/or CACFP supper meals to children enrolled at the school for the 2013-2014 school year with a possible extension of (4) one year renewals. All meals must meet at a minimum, but are not restricted to, the USDA National School Breakfast, Lunch, Afterschool Snack and At Risk Supper meal pattern requirements. Additional specifications outlined in the Invitation for Bid (IFB) such as; student data, days of service, meal quality, etc. may be obtained beginning on June 21, 2013. All bids not addressing all areas as outlined in the IFB will not be considered.

Additional specifications outlined in the Invitation for Bid (IFB) such as; student data, days of service, meal quality, etc. may be obtained beginning on June 21, 2013 from: Kate Dart

220 Taylor Street, NE  
Washington, DC 20017  
202-635-1950

Final bids are due by 12:00pm on Thursday, July 18, 2013.

**DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY**

**BOARD OF DIRECTORS**

**NOTICE OF PUBLIC MEETING**

**Audit Committee**

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) Audit Committee will be holding a meeting on Thursday, June 27, 2013 at 9:30 a.m. The meeting will be held in the Board Room (4<sup>th</sup> floor) at 5000 Overlook Avenue, S.W., Washington, D.C. 20032. Below is the draft agenda for this meeting. A final agenda will be posted to DC Water's website at [www.dcwater.com](http://www.dcwater.com).

For additional information, please contact Linda R. Manley, Board Secretary at (202) 787-2332 or [لمانley@dcwater.com](mailto:لمانley@dcwater.com).

**DRAFT AGENDA**

- |    |   |                  |
|----|---|------------------|
| 1. | Call to Order   | Chairman         |
| 2. | Summary of Internal Audit Activity -<br>Internal Audit Status | Internal Auditor |
| 3. | Executive Session   | Chairman         |
| 4. | Adjournment   | Chairman         |

**DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY****BOARD OF DIRECTORS****NOTICE OF PUBLIC MEETING****Finance and Budget Committee**

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) Finance and Budget Committee will be holding a meeting on Thursday, June 27, 2013 at 11:00 a.m. The meeting will be held in the Board Room (4<sup>th</sup> floor) at 5000 Overlook Avenue, S.W., Washington, D.C 20032. Below is the draft agenda for this meeting. A final agenda will be posted to DC Water's website at [www.dewater.com](http://www.dewater.com).

For additional information please contact: Linda R. Manley, Board Secretary at (202) 787-2332 or [لمانley@dewater.com](mailto:لمانley@dewater.com).

**DRAFT AGENDA**

- |    |                                   |                              |
|----|-----------------------------------|------------------------------|
| 1. | Call to Order                     | Chairman                     |
| 2. | May 2013 Financial Report         | Director of Finance & Budget |
| 3. | Agenda for July Committee Meeting | Chairman                     |
| 4. | Adjournment                       | Chairman                     |

**DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY****BOARD OF DIRECTORS****NOTICE OF PUBLIC MEETING****Retail Water and Sewer Rates Committee**

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) Retail Water and Sewer Rates Committee will be holding a meeting on Tuesday, June 25, 2013 at 9:30 a.m. The meeting will be held in the Board Room (4<sup>th</sup> floor) at 5000 Overlook Avenue, S.W., Washington, D.C 20032. Below is the draft agenda for this meeting. A final agenda will be posted to DC Water's website at [www.dewater.com](http://www.dewater.com).

For additional information, please contact Linda R. Manley, Board Secretary at (202) 787-2332 or [lmanley@dewater.com](mailto:lmanley@dewater.com).

**DRAFT AGENDA**

- |     |  |                         |
|-----|--|-------------------------|
| 1.  | Call to Order  | Committee Chairman      |
| 2.  | Potomac Interceptor Agreement Update   | Chief Financial Officer |
| 3.  | Public Hearing on Proposed FY 2014 Retail Rates  | Chief Financial Officer |
| 4.  | FY 2014 Management Recommendation on Retail Rates  | Chief Financial Officer |
| 5.  | Action Items   | Chief Financial Officer |
| 6.  | Retail Rates Committee Workplan  | Chief Financial Officer |
| 7.  | Other Business   | Chief Financial Officer |
| 8.  | Executive Session – To discuss legal, confidential or privileged matters pursuant to the District of Columbia Open Meetings Act of 2010, D.C. Official Code § 2-575(b)(4). |                         |
| 9.  | Agenda for July 23, 2013 Committee Meeting   | Committee Chairman      |
| 10. | Adjournment  | Committee Chairman      |

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT**

**Application No. 18448 of 3579 Warder Street LLC**, pursuant to 11 DCMR § 3103.2, for variances from the lot area requirement under § 401.3, lot occupancy requirement under § 403.2, and nonconforming structure requirements under § 2001.3 to allow the conversion of a rooming house into a four-unit apartment building in the R-4 District at premises 1221 Otis Place, N.W. (Square 2829, Lot 57).<sup>1</sup>

**HEARING DATE:** November 27, 2012  
**DECISION DATE:** January 15, 2013

**DECISION AND ORDER**

This self-certified application was submitted on June 12, 2012 by 3579 Warder Street LLC (the “Applicant”), the owner of the property that is the subject of the application. The application, as amended, requests area variances from requirements pertaining to maximum lot occupancy under § 403.2, the enlargement of a nonconforming structure under § 2001.3, and minimum lot area under § 401.3 to allow the enlargement and conversion of a two-story, 11-bedroom rooming house to a three-story, four-unit apartment house in the R-4 District at 1221 Otis Place, N.W. (Square 2829, Lot 57). Following a public hearing, the Board of Zoning Adjustment (“Board”) voted to approve the application.

**PRELIMINARY MATTERS**

Notice of Application and Notice of Hearing. By memoranda dated August 1, 2012, the Office of Zoning provided notice of the application to the Office of Planning (“OP”); the District Department of Transportation (“DDOT”); the Councilmember for Ward 1; Advisory Neighborhood Commission (“ANC”) 1A, the ANC in which the subject property is located; and Single Member District/ANC 1A07. Pursuant to 11 DCMR § 3112.14, on September 17, 2012 the Office of Zoning mailed letters providing notice of the hearing to the Applicant, ANC 1A, and the owners of all property within 200 feet of the subject property. Notice was also published in the *D.C. Register* on September 21, 2012 (59 DCR 10996).

Party Status. The Applicant and ANC 1A were automatically parties in this proceeding. The Board granted a request for party status in opposition to the application from Elias Wolfberg, the

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<sup>1</sup> This self-certified application was amended at the public hearing to request variance relief from requirements pertaining to lot occupancy and the enlargement of a nonconforming structure, in addition to the variance from the lot area requirement initially requested. The Applicant requested the amendment after becoming aware of a mistaken calculation of lot occupancy in the initial application. The caption has been revised accordingly.

**BZA APPLICATION NO. 18448****PAGE NO. 2**

owner and resident of a property abutting the Applicant's property to the west.

Applicant's Case. The Applicant provided evidence and testimony from Mohammed Pishvaeian, representing 3579 Warder Street LLC, and from the project architect, James Killete. The witnesses described the proposed project and asserted that the application satisfied all requirements for approval of the requested zoning relief. The Applicant submitted a "profit and loss analysis" in support of its contention that conversion to a three-unit apartment house, as suggested by OP, would not be financially feasible, in part due to the costs of renovating the property from its prior use as a rooming house.

Party in opposition. The party in opposition objected to the Applicant's proposal "to convert a single-family dwelling house, protected by and classified under R-4, into a three-story, four-unit condominium complex." (Exhibit 34.) The party in opposition asserted that the building at the subject property was no longer an 11-room rooming house, as the Applicant lacked both a certificate of occupancy and a business license to operate a rooming house. According to the party in opposition, the application did not satisfy the requirements for variance relief but was an attempt by the Applicant to maximize return on investment, and would create an apartment building, containing four units in three stories, that would be out of character with the surrounding neighborhood of predominantly two-story one- or two-family dwellings. The party in opposition also objected that the planned third story at the subject property would compromise the view from his property, and that approval of the requested zoning relief would encourage other property owners in the neighborhood to seek approval of additional units in their buildings, which would alter the current lower-density character of the neighborhood.

OP Report. By memorandum dated November 20, 2012, OP indicated its lack of support for variance relief that would allow the conversion of the Applicant's building, after enlargement, to a four-unit apartment house, although OP could potentially support conversion of the existing building into three apartments. According to OP, conversion to three units would be economically feasible and would require a smaller degree of variance relief and thus would be more consistent with the intent of the Zoning Regulations. The report further concluded that approval of the requested zoning relief "would be contrary and detrimental to the intent and integrity of the Zoning Regulations." The report noted that the Zoning Commission had recently adopted amendments to the R-4 zone to "clarify and reinforce" that this zone district was not intended to be an apartment zone. (Exhibit No. 30.) By supplemental report dated January 7, 2012, OP reiterated its lack of support for the variances requested by the Applicant from the requirements pertaining to lot area and lot occupancy. (Exhibit 37.)

DDOT. By memorandum dated November 19, 2012, the DDOT indicated no objection to approval of the requested variance. (Exhibit 31.)

ANC Report. At a public meeting on November 14, 2012, with a quorum present, ANC 1A voted 6-1-1 in support of the application and recommended that the Board grant the requested relief. ANC 1A indicated no concerns with the Applicant's proposal, as finally revised. (Exhibit 33.)

**BZA APPLICATION NO. 18448**  
**PAGE NO. 3**

Persons in support or in opposition. The Board received several letters in support of the application from residents living in the vicinity of the subject property. The letters stated that the Applicant's project would not have a substantially adverse effect on the use or enjoyment of the residents' nearby homes, or affect their light, air, or privacy, but would be comparable to other projects in the immediate vicinity and would not visually intrude on the character, scale, or pattern of houses in the neighborhood.

The Board also received a letter in opposition to the application from a neighbor of the subject property, who asserted that the application had not satisfied the requirements for variance relief and cited concerns that the density of the Applicant's proposal would cause substantial detriment to the public infrastructure, the availability of parking, and the cohesion of the row of two-story dwellings that comprise the street's architecture.

## **FINDINGS OF FACT**

### **The Subject Property**

1. The subject property is an interior lot located on the north side of Otis Place, N.W. near its intersection with 13<sup>th</sup> Street (Square 2829, Lot 57). The parcel is rectangular, 18 feet wide and 100 feet deep, and has an area of 1,800 square feet. A public alley, 10 feet wide, abuts the rear lot line.
2. The subject property is improved with a row building, built around 1909, that is two stories in height and has a cellar. The building at the subject property occupies approximately 65.5% of the lot.<sup>2</sup> The property has a rear yard of 34 feet. Two parking spaces are located at the rear of the lot, accessible from the public alley.
3. The building on the subject property is attached to a similar building, one of a series of row buildings, on the east. The western side of the building, which contains several windows on both floors, abuts the rear yards of five residential row buildings that front on 13<sup>th</sup> Street, separated by a walkway between the Applicant's building and the rear yards.
4. The building on the subject property was formerly used as a rooming house with as many as 11 bedrooms. Exterior stairs were installed to provide access from both floors of the building to the rear yard. The building is presently in a deteriorated condition, has an inefficient layout due to the numerous bedrooms, and lacks a kitchen.

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<sup>2</sup> The Applicant originally stated that the existing lot occupancy at the subject property was 54%. However, the Applicant subsequently realized that an error had been made in that calculation and corrected the application to state that existing lot occupancy was 65.5%. The party in opposition asserted that existing lot occupancy was 68%. Even if true, that higher figure would not alter the Board's analysis of the Applicant's request for variance relief.

**BZA APPLICATION NO. 18448****PAGE NO. 4**

5. The subject property is located in an R-4 District mapped between C-2-A Districts along 11<sup>th</sup> and 14<sup>th</sup> Streets and a C-3-A District along Georgia Avenue.
6. The majority of lots in the immediate vicinity of the subject property are developed with row or semi-detached dwellings, generally two or three stories in height. A number of apartment houses, as well as a shopping area, are located within a half-mile of the subject property.

**The Applicant's Project**

7. The Applicant proposes to construct a third-story addition to the existing building, and to convert its use to a four-unit apartment house. The addition will be constructed of brick and will occupy substantially the same building footprint; the existing rear yard will not decrease in size. Building height will increase from two stories and approximately 20 feet to three stories and 39 feet where a maximum of three stories and 40 feet are permitted. (11 DCMR § 400.1.)
8. The planned renovation of the subject property will decrease lot occupancy slightly, from 65.5% to 64.75%, due to changes in the building's rear deck. The depth of the new deck will be less than the depth of the existing deck, and its width will also decrease due to the presence of a new spiral staircase at the rear of the building.
9. The enlarged building will provide one apartment per floor, including the cellar. The apartments, each with two bedrooms, will range in size from approximately 836 square feet to 1,145 square feet.

**Harmony with Zoning**

10. The R-4 District is designed to include those areas now developed primarily with row dwellings, but within which there have been a substantial number of conversions of the dwellings into dwellings for two or more families. (11 DCMR § 330.1.) The primary purpose of the R-4 zone is the stabilization of remaining one-family dwellings. (11 DCMR § 330.2.) The R-4 District is not intended to become an apartment house district as contemplated under the General Residence (R-5) districts, since the conversion of existing structures is controlled by a minimum lot area per family requirement. (11 DCMR § 330.3.)
11. A rooming or boarding house is permitted as a matter of right in an R-4 District, subject to certain requirements, including that accommodations may not be provided to transient guests who stay 90 days or less at the premises, cooking facilities may not be provided in any individual unit, and no central dining or food preparation area may be provided for guests. (11 DCMR § 330.6.)

**BZA APPLICATION NO. 18448****PAGE NO. 5**

12. In the R-4 District, a building that was existing before May 12, 1958, such as the Applicant's building, may be converted to an apartment house as a matter of right, as limited by the lot area requirement set forth in §§ 401.3 and 403.2. (11 DCMR § 330.5.) Pursuant to § 401.3, conversion of a building to an apartment house requires 900 square feet of lot area per apartment. Pursuant to § 403.2, the other limit on matter-of-right conversion of a building to an apartment house, the maximum permitted lot occupancy for conversion of a building to an apartment house is the greater of 60% or the lot occupancy as of the date of conversion.

**CONCLUSIONS OF LAW AND OPINION**

The Applicant requests area variances from requirements pertaining to maximum lot occupancy under § 403.2,<sup>3</sup> the enlargement of a nonconforming structure under § 2001.3, and minimum lot area under § 401.3 to allow the enlargement and conversion of a two-story, 11-bedroom rooming house to a three-story, four-unit apartment house in the R-4 District at 1221 Otis Place, N.W. (Square 2829, Lot 57). The Board is authorized under § 8 of the Zoning Act, D.C. Official Code § 6-641.07(g)(3) (2008), to grant variance relief where, "by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the original adoption of the regulations or by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition of a specific piece of property," the strict application of the Zoning Regulations would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of the property, provided that relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map. (*See* 11 DCMR § 3103.2.)

Based on the findings of fact, the Board finds that the application satisfies the requirements for approval of the requested area variance relief. The Board credits the testimony of the Applicant that the subject property is faced with an exceptional situation or condition due to a confluence of factors related to the deteriorated condition of the existing structure and its prior use as an 11-room boarding house. Due to the past deterioration of the building and deferred maintenance by prior owners, the Applicant must expend considerable funds to ensure the building's compliance with the Construction Code and to construct marketable dwelling units. Because of its past use

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<sup>3</sup> The Applicant's request for relief was self-certified and, apparently assuming that the maximum permitted lot occupancy at the subject property is 60%, "in an abundance of caution" also sought variance relief from the requirements relating to lot occupancy and enlargement of a nonconforming structure. The Board notes that, pursuant to § 403.2, the R-4 District permits a maximum lot occupancy of 60% for a row dwelling or flat, and 40% for "all other structures" (other than certain uses not relevant here), while the maximum permitted lot occupancy for the conversion of a building or structure to an apartment house is the greater of 60% or "the lot occupancy as of the date of conversion." Consistent with the Applicant's submission, the Board considers the application a request for area variance relief to permit lot occupancy of 64.75% rather than 60%.

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as a rooming house with 11 bedrooms, the building presently has a number of unnecessary interior walls and an unconventional layout, increasing the cost of renovation of the building.<sup>4</sup>

The party in opposition asserted that the facts presented by the Applicant “are not sufficient to establish the ‘uniqueness’ of the property, and thus the Applicant cannot meet its legal burden to prove that there is an extraordinary or exceptional condition affecting the property.” (Exhibit 34.) The Board finds no merit in the party in opposition’s assertion that the building at the subject property was no longer an 11-room rooming house because of its alleged use more recently as a one-family dwelling. While the Applicant may not have obtained the necessary certificate of occupancy or license to continue the prior rooming house use, the Board credits the Applicant’s testimony that the building, when acquired by the Applicant, was configured as a rooming house with 11 bedrooms, and its multiple interior walls and inefficient layout hindered the renovation of the building to another use.

The Board also concludes that the strict application of the Zoning Regulations would result in peculiar and exceptional practical difficulties to the Applicant by precluding the renovation of the building into a viable residential use. The Board credits the testimony and evidence provided by the Applicant, including the financial analysis showing the expected return on the renovation of the building, in finding that conversion to four dwelling units is necessary for the viable reuse of the building.

The party in opposition argues that “the extraordinary expense of renovating a property [is] not sufficient to satisfy the ‘practical difficulty’ prong,” citing *Myrick v. District of Columbia Bd. of Zoning Adjustment*, 577 A.2d 757 (D.C. 1990). As noted by the Applicant, the District of Columbia Court of Appeals has held that “economic use of property may be properly considered as a factor in deciding the question of what constitutes an unnecessary burden or practical difficulty in area variance cases.” *Tyler v. District of Columbia Bd. of Zoning Adjustment*, 606 A.2d 1362, 1366 (D.C. 1992); *see also, Gilmartin v. District of Columbia Bd. of Zoning Adjustment*, 579 A.2d 1164, 1170 (D.C. 1990) (economic use of property has been considered as a factor in deciding the question of what constitutes an unnecessary burden or practical difficulty in variance cases; at some point economic harm becomes sufficient, at least when coupled with a significant limitation on the utility of the structure); *Wolf v. District of Columbia Bd. of Zoning Adjustment*, 397 A.2d 936 (D.C. 1979) (lot area variance for conversion of two-family flat into three-unit apartment house was appropriate where two-family dwelling was not marketable and would operate at a loss, but three units would allow a return). In light of the evidence presented

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<sup>4</sup> As noted by OP, the Board has previously approved applications for zoning relief necessary to allow the conversion of a rooming house into an apartment house in the R-4 District, including an application concerning a property abutting the subject property in this case. *See* BZA orders issued in BZA Case Nos. 18115 (November 18, 2010) (variances from requirements pertaining to minimum lot area, maximum lot occupancy, courts, enlargement of a nonconforming structure, and parking to allow conversion of a 12-unit rooming house into a three-unit apartment house, with a new third-story addition at 3603 13<sup>th</sup> Street, N.W.) and 18297 (February 13, 2012) (variance from lot area requirement under § 401.3 to allow conversion of rooming house into a three-unit apartment house).

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by the Applicant, the Board concludes that the Applicant demonstrated a need for variance relief to allow four apartment units at the subject property, and did not agree with OP's contention that conversion to a three-unit apartment house would be economically feasible under the circumstances.

The Board was not persuaded by the party in opposition's contention that the Applicant's financial argument is without merit. The opposition contends that the financial challenge was self-created. He argued that financial feasibility depends principally on the fact that the Applicant paid too much for the building that was vacant and had been on the market for a long period of time. The "self-created hardship" is a factor generally applicable to a request for a use variance, not an area variance. *See, 1700 Block of N Street, NW v. District of Columbia Bd. of Zoning Adjustment*, 384 A.2d 674, 678 (D.C. 1978); *Wolf*, 397 A.2d at 945; *Gilmartin*, 579 A.2d at 1169 (D.C. 1990) (prior or constructive knowledge or a difficulty or hardship that is self-imposed is not a bar to an area variance), *citing A.L.W. v. District of Columbia Bd. of Zoning Adjustment*, 338 A.2d 428, 431 (D.C. 1975).

For similar reasons, the Board concludes that the Applicant has also satisfied the requirements for variance relief from requirements related to lot occupancy and enlargement of a nonconforming structure. The Applicant does not propose to increase lot occupancy over the existing situation, and thus the planned enlargement of the building – a new third floor that will not alter the building's footprint substantially, but in fact will reduce lot occupancy slightly – will not increase the existing nonconforming lot occupancy or create any new nonconformity of the structure and addition combined.

The Board credits the testimony of the Applicant in concluding that approval of the requested variances will not cause any substantial detriment to the public good. After the conversion, the building will be restored to residential use, at a lower density than its prior 11-room boarding house use. OP testified that its recommendation of conversion of the existing building into three apartments would not negatively impact the surrounding neighborhood, in part because on-site parking would be adequate and the overall building envelope would remain the same. The Board does not find that the addition of the planned third floor, utilizing the footprint of the existing building and constructed to a height permitted under the Zoning Regulations, will result in any adverse impacts on the use of neighboring properties.

The Board credits the testimony from persons in support of the application who stated that the Applicant's project would be comparable to other projects in the immediate vicinity and would not visually intrude on the character, scale, or pattern of houses in the neighborhood. The Board does not find that the conversion to apartment house use or the addition of the planned third floor will cause substantial detriment to the neighborhood due to its density, effect on parking, or surrounding architecture. The neighborhood is characterized by a variety of building types and contains several apartment houses in the vicinity of the subject property, and the Applicant's project will satisfy the zoning requirements for parking and thus will not significantly alter existing parking conditions in the neighborhood.

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Similarly, the Board does not find that approval of the requested variance relief would substantially impair the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map. Conversion of the building into a four-unit apartment house will cause the property to remain in residential use in a manner consistent with the relatively lower density residential use of the surrounding neighborhood. The size of the Applicant's building, as enlarged, will remain consistent with the generally two- and three-story buildings in the vicinity of the subject property.

The Board is required to give "great weight" to the issues and concerns raised by the affected ANC. Section 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d) (2001)). In this case, ANC 1A adopted a resolution indicating its support for the application. The ANC recommended approval of the requested zoning relief and did not express any issues or concerns about the application, including the amendment by the Applicant seeking additional variance relief.

The Board is also required under § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163, D.C. Official Code § 6-623.04) to give weight to the recommendations of the Office of Planning. The Board interprets OP's statement that it cannot support the application as its recommendation of denial. For the reasons stated above, the Board disagrees with OP's contention that the conversion of the rooming house to a three-unit building was economically feasible or that approval would be contrary and detrimental to the intent and integrity of the Zoning Regulations. Therefore, the Board does not find OP's recommendation to be persuasive.

Based on the findings of fact and conclusion of law, the Board concludes that the Applicant has satisfied the burden of proof with respect to the request for area variances from requirements pertaining to lot occupancy under § 403.2, enlargement of a nonconforming structure under § 2001.3, and minimum lot area under § 401.3 to allow the enlargement and conversion of a two-story, 11-bedroom rooming house to a three-story, four-unit apartment house in the R-4 District at 1221 Otis Place, N.W. (Square 2829, Lot 57). Accordingly, it is **ORDERED** that the application is **GRANTED**, subject to Exhibit 29A, Revised Plans.

**VOTE: 4-0-1** (Lloyd J. Jordan, Marcie I. Cohen, Jeffrey L. Hinkle, and Nicole C. Sorg (by absentee ballot), voting to approve; one Board seat vacant.)

**BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT**

A majority of Board members approved the issuance of this order.

**FINAL DATE OF ORDER:** June 13, 2013

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PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO § 3130.6 AT LEAST 30 DAYS PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THAT SUCH REQUEST IS GRANTED. NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR § 3125, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT**

**Application No. 18549 of Carlos Jackson**, pursuant to 11 DCMR § 3104.1, for a special exception under section 223, to allow a rear deck addition to an existing one-family row dwelling not meeting the lot occupancy (section 403) requirements in the R-4 District at premises 1458 Spring Road, N.W. (Square 2690, Lot 43).

**HEARING DATE:** May, 7, 2013, June 11, 2013

**DECISION DATE:** June 11, 2013

**SUMMARY ORDER**

**REVIEW BY THE ZONING ADMINISTRATOR**

The application was accompanied by a memorandum from the Zoning Administrator certifying the required relief.

The Board provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission (“ANC”) 1A, and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 1A, which is automatically a party to this application. ANC 1A submitted a letter in support of the application. The Department of Transportation submitted a report of no objection to the application. The Office of Planning (“OP”) submitted a report and testified at the hearing in support of the application.

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for a special exception under subsection 223. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 223, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that this application (pursuant to Exhibit 7– Plans) be **GRANTED**.

**VOTE:** **3-0-2** (Lloyd J. Jordan, Anthony J. Hood and Jeffrey L. Hinkle to APPROVE. S.

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Kathryn Allen not present, and the third mayoral member vacant.)

**BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT**

The majority of the Board members approved the issuance of this order.

**FINAL DATE OF ORDER:** June 12, 2013

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO § 3130.6 AT LEAST 30 DAYS PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THAT SUCH REQUEST IS GRANTED. NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR § 3125, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT**

**Application No. 18555 of Jemal's Prospect's LLC**, pursuant to 11 DCMR § 3104.1, for a special exception to change nonconforming uses to yoga studio, yoga apparel, and yoga accessories uses under § 2003.1 of the Zoning Regulations, in the R-3 District at premises 3343 Prospect Street, N.W. (Square 1220, Lot 30).

**HEARING DATE:** June 4, 2013

**DECISION DATE:** June 4, 2013

**SUMMARY ORDER**

**SELF-CERTIFIED**

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 6.)

The Board of Zoning Adjustment (the "Board") provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission ("ANC") 2E, and to owners of property within 200 feet of the site. The site is located within the jurisdiction of ANC 2E, which is automatically a party to this application. ANC 2E submitted a letter, dated May 3, 2013, indicating that at a duly noticed public meeting at which a quorum was present, the ANC voted unanimously (5:0) in support of the application, subject to conditions. (Exhibit 24.) The Office of Planning ("OP") submitted a report in support of the application, subject to one condition. (Exhibit 27.) The District Department of Transportation ("DDOT") also submitted a report recommending approval of the application. (Exhibit 22.)

The Applicant initially requested approval for "yoga studio, apparel, accessories, home goods and furnishings use." However, at the request of ANC 2E, the Applicant amended the proposed uses to "yoga studio, yoga apparel, and yoga accessories" uses, which are first permitted as a matter-of-right in the C-2 District pursuant to §§ 701.1 (j) ("Group Instruction Center or Studio") and 701.5 (other "service or retail" uses) of the Zoning Regulations.

3343 Prospect Street, N.W. is the official address of record for Square 1220, Lot 30. However, as shown on the site plan included as Exhibit C of the Applicant's Prehearing Statement marked as Exhibit 26 of the record, the requested relief applies to: (i) a vacant 1,246 square foot space last used for "office and display of interior decorating" pursuant to Certificate of Occupancy No. B93857; (ii) a vacant 519 square foot space last used for "office space" pursuant to Certificate of Occupancy No. CO30195; and (iii) an existing 616 square foot hair salon space.

**Special Exception Relief:**

As directed by 11 DCMR § 3119.2, the Board required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1 for a special exception under § 2003.1. No parties appeared at the public hearing in opposition to

**BZA APPLICATION NO. 18546****PAGE NO. 2**

the application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the ANC and OP reports filed in this case, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR § 3104.1, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirements of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case.

It is therefore **ORDERED** that the application is hereby **GRANTED, SUBJECT TO THE FOLLOWING CONDITION:**

1. The approved hours for the uses are between 7:00 a.m. and 9:30 p.m. on Monday through Friday, and between 9:00 a.m. and 9:30 p.m. on Saturday and Sunday.

**VOTE: 4-0-0** (Lloyd L. Jordan, S. Kathryn Allen, Jeffrey L. Hinkle, and Peter G. May to Approve; one Board seat vacant.)

**BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT**

A majority of the Board members approved the issuance of this order.

**FINAL DATE OF ORDER:** June 12, 2013

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN SIX MONTHS AFTER IT BECOMES EFFECTIVE UNLESS THE USE APPROVED IN THIS ORDER IS ESTABLISHED WITHIN SUCH SIX-MONTH PERIOD.

PURSUANT TO 11 DCMR § 3205, THE PERSON WHO OWNS, CONTROLS, OCCUPIES, MAINTAINS, OR USES THE SUBJECT PROPERTY, OR ANY PART THERETO, SHALL COMPLY WITH THE CONDITIONS IN THIS ORDER, AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE

**BZA APPLICATION NO. 18546****PAGE NO. 3**

BOARD OF ZONING ADJUSTMENT. FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT**

**Order No. 18558/17809-C of Application of Jemal's Uline LLC, Motion for Minor Modification of Approved Plans for Application Nos. 18558 / 17809**, pursuant to § 3129 of the Zoning Regulations, for approval of interior and exterior modifications to the plans approved by the Board of Zoning Adjustment pursuant to Order No. 17809, to permit the expansion and renovation of the existing Uline arena and ice house in the C-M-1 and C-M-3 Districts at premises 1130-1150 3rd Street, N.E. (Square 748, Lots 8-11, 30-34, 42, 43, 802, 808-812).<sup>1</sup>

The original application (No. 17809) was pursuant to 11 DCMR § 3104.1 for special exception relief from parking requirements for historic structures under § 2120 and a special exception from the roof structure number and setback requirements under § 411, to permit the expansion and renovation of the existing Uline arena and ice house in the C-M-1 and C-M-3 Districts at premises 1130-1150 3rd Street, N.E. (Square 748, Lots 8-11, 42, 43, 802, 808-812).

<b>HEARING DATE (Orig. Application):</b>	September 16, 2008
<b>DECISION DATE (Orig. Application):</b>	September 16, 2008
<b>FINAL ORDER ISSUANCE DATE (No. 17809):</b>	October 2, 2008
<b>DECISION ON 1<sup>ST</sup> MOTION TO EXTEND ORDER:</b>	September 28, 2010
<b>ISSUANCE DATE OF 1<sup>ST</sup> EXTENSION (No. 17809-A):</b>	October 1, 2010
<b>DECISION ON 2<sup>ND</sup> MOTION TO EXTEND ORDER:</b>	October 23, 2012
<b>ISSUANCE DATE OF 2<sup>ND</sup> EXTENSION (No. 17809-B):</b>	October 24, 2012
<b>MODIFICATION (No. 18558) HEARING / DECISION DATE:</b>	June 4, 2013

**SUMMARY ORDER ON REQUEST FOR MODIFICATION OF APPROVED  
PLANS IN ORDER NO. 17809**

**Background.**

On September 16, 2008, the Board of Zoning Adjustment (the "Board" or "BZA") approved Application No. 17809 of Jemal's Uline LLC (the "Applicant"). The Applicant's original request was for special exception relief from off-street parking requirements for historic structures under § 2120 and from the roof structure number and setback requirements under § 411, to permit the expansion and renovation of the existing Uline arena and ice house in the C-M-1 and C-M-3 Districts at premises 1130-1150 3<sup>rd</sup> Street, N.E. Pursuant to 11 DCMR § 3104.1, the Board granted a special exception from

<sup>1</sup> When the Applicant filed Application No. 18558, it submitted a motion for modification of the approved plans in Application No. 17809 as if it was a new application and consequently, it was given a new case number, Case No. 18558. However, it is also a continuation of Application No. 17809 insofar as it is a request to modify the plans approved in that case. Given there are two prior cases for time extensions in Case No. 17809, this case is now designated Application No. 18558/17809-C. Also, in Application No. 18558/17809-C, the Applicant has amended the original application by adding Lots 30-34 to the subject property. The caption has been amended accordingly to reflect both the revised application numbers and the addition of Lots 30-34. Finally, it is duly noted that Order No. 17809 was approved subject to five conditions which remain in effect, and the Board has conditioned this application, Application No. 18558/17809-C, on six additional conditions.

**BZA APPLICATION NO. 18558/17809-C****PAGE NO. 2**

parking requirements for historic structures under 11 DCMR § 2120 and a special exception from the roof structure number and setback requirements under 11 DCMR § 411, in order to expand and renovate the existing Uline arena and ice house in the C-M-1 and C-M-3 Districts at premises 1130-1150 3<sup>rd</sup> Street, N.E. (Square 748, Lots 8-11, 42, 43, 802, 808-812).<sup>2</sup> Order No. 17809 approving the original request subject to five conditions was issued October 2, 2008. (Exhibit 32, BZA Order No. 17809, Application No. 17809.)

On April 6, 2010, the Board received a request from the Applicant in Case No. 17809 for a two-year extension, pursuant to 11 DCMR § 3130, in the authority granted in Order No. 17809, which was then due to expire on October 2, 2010. At its decision meeting on September 28, 2010, the Board found that the requirements of § 3130 were met and granted the Applicant a two-year extension of BZA Order No. 17809, until October 2, 2012. (Exhibit 36, BZA Order No. 17809-A, Application No. 17809.)

On August 31, 2012, the Board received a request from the Applicant in Case No. 17809 for a second two-year extension of the authority granted in the original BZA Order, upon a showing of good cause, pursuant to 11 DCMR § 3130. That Order was due to expire on October 2, 2012. At its decision meeting on October 23, 2012, the Board found that the requirements of § 3130 were met and granted the Applicant a second two-year extension of BZA Order No. 17809, until October 2, 2014. (Exhibit 42, BZA Order No. 17809-B, Application No. 17809.)

2013 Request for Modification of Approved Plans in Order No. 17809

On March 8, 2013, the Applicant in Case Nos. 18558/17809 submitted a request for approval of interior and exterior modifications to the plans approved by the Board pursuant to Order No. 17809, to permit the expansion and renovation of the existing Uline arena and ice house at premises 1130-1150 3<sup>rd</sup> Street, N.E. (Square 748, Lots 8-11, 30-34, 42, 43, 802, and 808-812) in the C-M-1 and C-M-3 Districts. (Exhibit 1, Application No. 18558.) In the modification request submitted as Application No. 18558, the Applicant asked that the entire record of Application No. 17809 be incorporated by reference. The record reflects that the request for modification was served on all of the parties to the case: the Office of Planning (“OP”) and Advisory Neighborhood Commission (“ANC”) 6C, the affected ANC, and the Single District Member. (Exhibit 1, Application No. 18558.)

In Application No. 17809, the Board approved a development of a total of 280,765 square feet for office uses, 182 off-street parking spaces, and loading facilities. The initial approved relief permitted the conversion of the former arena and ice house to four floors of office space inside the arena, with a new structure at the southeast corner of the property. Additionally, two new floors would be built upon the remaining portion of the ice house located next to the arena. The ice house was originally redesigned to be a four-story building, but would be reduced to three stories in the modified plans. The revisions to the approved design also include the introduction of retail space at the ground level of the arena and ice house, previously assigned to office space and thereby reduce the area of office space. The revised plans also relocate the parking from a two-level below grade structure to a four-

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<sup>2</sup> As mentioned in footnote 1, the original application did not include Lots 30-34, but these lots have now been made part of the application, as amended and modified.

**BZA APPLICATION NO. 18558/17809-C****PAGE NO. 3**

level, above grade, screened parking structure for 176 spaces (where 162-182 spaces were approved per Order No. 17809).

Since that initial approval of the project, the owner has removed the below grade parking so as to reduce excavation beneath the Arena and to reduce modifications to the existing foundation structure. According to the record, the parking garage relocation resulted in a reduction of the rentable square footage by removing the previously approved new ice house addition on the southeast corner of the site. The Applicant also requested approval to modify the building's design to introduce retail uses to the base of the office portion and thereby create a mixed use development, to reduce and shift office space, and to relocate parking to a screened parking structure. (Exhibit 27, Application No. 18558.)

The Applicant indicated that the revised project does not create any new areas of zoning relief. In Application No. 17809, the Board granted special exception relief to reduce the off-street parking requirements where 243 spaces had been required and 162-182 would be provided as well as granted relief from the roof structure number and setback requirements under § 411. In the modified design, the project would continue to require roof structure number and setback relief, although the specific configuration would change. The project also would continue to require relief to reduce the off-street parking requirements, but in the modified design 202 spaces were required and 176 would be provided. Thus, the degree of parking relief needed is reduced in the current design. Also the façade along Third and M Streets has been changed to encompass more retail. (See, Exhibit 27, Application No. 18558.)

Section 3129, specifically § 3129.3, indicates that a request for minor modification "of plans shall be filed with the Board not later than two (2) years after the date of the final order approving the application." The motion was filed within the two-year period following the final order in the underlying case and thus is timely.

Pursuant to § 3129.4, all parties are allowed to file comments within 10 days of the filed request for a minor modification of plans. In the instant case, the Applicant chose to file an application and requested a hearing on the modification request at the outset, rather than seeking to be placed on the Board's meeting agenda as a minor modification of plans pursuant to § 3129.5. Thus, the Board provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission ("ANC") 6C, and to owners of property within 200 feet of the site. The site is located within the jurisdiction of ANC 6C, which is automatically a party to this application.

ANC 6C submitted a letter dated May 13, 2013, in support of the modification application. The ANC report indicated that at a duly noticed, regularly scheduled monthly meeting of the ANC at which a quorum was present, the ANC voted to support the request for modification unanimously by a vote of 6:0:0. (Exhibit 26, Application No. 18558.)

The Office of Planning ("OP") submitted a report in support of the application. (Exhibit 28, Application No. 18558.) The District Department of Transportation ("DDOT") also submitted a report recommending approval of the application, subject to the inclusion of conditions. (Exhibit 32.) The Capitol Hill Restoration Society submitted a letter in support of the application. (Exhibit 30.)

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Pursuant to § 3129.7, the Board conducted a hearing on the requested modifications on June 4, 2013. Based upon the record before the Board and having given great weight to the OP and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR § 3129, that the requested modifications can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested modifications will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map. No objections to the request for modification were submitted by any parties to the case. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

The Board concludes that the Applicant's proposed modifications are well supported, consistent with the requirements of § 3129.7 of the Zoning Regulations, and do not change the material facts the Board relied upon in approving the original application.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.3 that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case.

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case for modifications of approved plans. Subsections 3129.6 and 3129.7 of the Zoning Regulations authorize the Board to grant, without a hearing, requests for modifications of approved plans that do not change the material facts upon which the Board based its original approval of the application. (11 DCMR § 3129.7.)

Based upon the record before the Board and having given great weight to the ANC and OP reports filed in this case, the Board concludes that in seeking a modification to the approved plans, the Applicant has met its burden of proof under 11 DCMR § 3129, that the modification is minor and no material facts have changed upon which the Board based its decision on the underlying application that would undermine its approval.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case.

It is therefore **ORDERED** that this application for modification of approved plans is hereby **GRANTED, PURSUANT TO THE REVISED PLANS DATED JUNE 4, 2013 AT EXHIBIT 31 (APPLICATION NO. 18558), AND SUBJECT TO THE FOLLOWING CONDITIONS:**

1. The Applicant shall have the flexibility to provide 162 to 176 off-street parking spaces.
2. The Applicant shall have the flexibility to modify the design and internal layout of the building to address any comments from the Historic

**BZA APPLICATION NO. 18558/17809-C**

**PAGE NO. 5**

Preservation Office and the Historic Preservation Review Board during final review of the project so long as the modifications do not require any additional areas of zoning relief.

- 3. The Applicant shall coordinate with DDOT to provide adequate access and egress on Congress Street from the Applicant's parking structure.
- 4. The Applicant shall work with DDOT to develop a loading management plan that identifies truck routing options, limits delivery times, and limits the size of trucks accessing the site to 40 feet. The Applicant shall assign a loading management coordinator to assist with truck loading activities.
- 5. The Applicant shall provide in the office portion of the building a transportation information screen that provides information regarding train, bus, and BikeShare schedules and availability.
- 6. The Applicant shall provide showers and lockers for bike users in the area shown on the approved plans.

In all other respects Order No. 17809 and the conditions therein remain unchanged. The granting of the modifications approved pursuant to this Order does not extend or toll the validity of Order No. 17809.

**VOTE on Modification of Order No. 17809: 4-0-1**

(Lloyd J. Jordan, Peter G. May, S. Kathryn Allen, and Jeffrey L. Hinkle<sup>3</sup>, to APPROVE; the third Mayoral appointee vacant.)

**BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT**

A majority of the Board members approved the issuance of this summary order.

**ATTESTED BY:** \_\_\_\_\_  
**SARA A. BARDIN**  
**Director, Office of Zoning**

**FINAL DATE OF ORDER:** June 13, 2013

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

<sup>3</sup> Each of the sitting and voting Board members indicated on the record that they had not participated in the original case, No. 17809, but each had reviewed the entire record of that case prior to deliberations on the modification request.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT**

**Application No. 18565 of Nike, Inc.**, pursuant to 11 DCMR § 3104.1, for a special exception from the roof structure requirements under sections 411 and 777, to allow multiple roof structures serving a retail store in the C-2-A District at 3040 M Street, N.W. (Square 1198, Lot 74).

**HEARING DATE:** June 11, 2013

**DECISION DATE:** June 11, 2013

**SUMMARY ORDER**

**SELF-CERTIFIED**

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2.

The Board provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission (“ANC”) 2E, and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 2E, which is automatically a party to this application. ANC 2E submitted a letter in support of the application. The Department of Transportation submitted a report of no objection to the application. The Office of Planning (“OP”) submitted a report and testified at the hearing in support of the application.

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for a special exception under sections 411 and 777. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1, 411 and 777, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that this application (pursuant to Exhibit 9 – Plans) be **GRANTED**.

**VOTE:** **3-0-2** (Lloyd J. Jordan, Anthony J. Hood and Jeffrey L. Hinkle to APPROVE. S. Kathryn Allen not present, and the third mayoral member vacant.)

BZA APPLICATION NO. 18565

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**BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT**

The majority of the Board members approved the issuance of this order.

**FINAL DATE OF ORDER:** June 12, 2013

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO § 3130.6 AT LEAST 30 DAYS PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THAT SUCH REQUEST IS GRANTED. NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR § 3125, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ. (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

**ZONING COMMISSION ORDER NO. 05-36H**  
**Z.C. Case No. 05-36H**  
**K Street Developers, LLC**  
**(Minor Modification to Approved Planned Unit Development @ Square 749)**  
**March 11, 2013**

Pursuant to notice, a public meeting of the Zoning Commission for the District of Columbia (“Commission”) was held on March 11, 2013. At that meeting, the Commission considered an application from K Street Developers, LLC (“Applicant”), for modification to a previously approved planned unit development (“PUD”) and Zoning Map amendment for Record Lot 67 in Square 749, which is bounded by 2<sup>nd</sup>, 3<sup>rd</sup>, K, and L Streets, N.E., pursuant to Chapter 24 and Chapter 30 of the District of Columbia Zoning Regulations (11 DCMR). Because the modification was deemed minor, a public hearing was not conducted.

The Commission determined that this modification request was properly before it under the provisions of §§ 2409.9 and 3030 of the Zoning Regulations and voted unanimously to grant the application.

**FINDINGS OF FACT**

1. By Z.C. Order No. 05-36, effective October 10, 2006, the Commission granted first-stage PUD approval and a related Zoning Map amendment to allow for the construction of a two-phased apartment development around an outdoor central plaza. The PUD approval provided for a total of approximately 712 dwelling units with ground-floor retail and other non-residential uses. Phase I contemplated approximately 212 dwelling units, and Phase II was planned to provide approximately 500 units. The two phases were designed to be constructed as a single building for zoning purposes, with above-grade connections located on various upper-level corridors. As part of the original order, the Commission granted consolidated approval for Phase I of the PUD and first stage approval for Phase II. The Applicant confirms that construction of the first phase of the development, located on that certain portion of Record Lot 67 known as Lot 828, has been completed and is being occupied and that this first phase is now owned and operated by an entity known as Union Place Phase I, LLC, which, as was previously stated, is a separate entity from the Applicant.
2. By Z.C. Order No. 05-36A, effective November 14, 2008, the Commission granted second-stage approval for the second phase of the PUD, to be located on that portion of Record Lot 67 known for assessment and taxation purposes as Lots 826 and 827.
3. In Z.C. Orders Nos. 05-36B and 05-36C, the Commission approved minor modifications to Phase I of the PUD, to restrict access for safety purposes to a small portion of the outdoor plaza to project residents only (05-36B), and to modify the affordable housing proffer slightly to allow prospective tenants to utilize more than 30% of household expenses for payment of rent in order to accommodate arts professionals (05-36C).
4. The Commission granted time extensions for Phase II of the PUD in Z.C. Order Nos. 05-36D and 05-36F, such that a building permit application for Phase II must be filed by November 2014.

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5. In Z.C. Order No. 05-36E, the Commission granted the Applicant flexibility to construct Phase II in two sub-phases, and modified the PUD's parking requirement.
6. Application No. 05-36G, which is currently pending before the Commission, regards a proposed modification to the PUD to include additional land in Square 749 as part of the PUD in order to allow construction of a seven-story, 41-unit freestanding apartment house.
7. The multi-phase PUD was designed as a single building for zoning purposes by virtue of the installation of door connections along certain of the upper level residential corridors of Phases I and II. Aside from the connections, the two phases have been designed to be occupied and operated completely independent of one another.
8. The Applicant has stated that its relationship with Union Place Phase I, LLC, the record owner of Assessment and Taxation Lot 828 within the PUD, has been strained to the extent that future cooperation between the parties in the completion and operation of the two phases of the PUD appears remote. As a result, the Applicant filed the present application for minor modification to the PUD - solely to allow the PUD to be constructed, occupied, and operated as separate buildings on a single record lot. This modification would be accomplished through the Commission's approval of the removal of all door openings and above-grade connections between Phase I and Phase II.
9. The Commission's grant of the Applicant's minor modification would have no detrimental impact upon the PUD in its entirety, nor upon Union Place Phase I, LLC, nor the occupants of the Phase I building. No physical modifications would be required to be made to the Phase I building. There would be absolutely no discernible change to the exterior appearance of the PUD. All of the amenities of the PUD would continue to be provided as approved by the Commission. The overall design and programming of the PUD would remain unchanged. The Applicant has stated that this minor modification is solely requested by the Applicant to allow Phase II to move forward to financing, construction, occupancy, and operation without future involvement by Union Place Phase I, LLC.
10. According to the Applicant's February 27, 2013, letter, aside from the minor modification to the approved plans for the PUD of removing a single door opening/building connection on the Phase II portion of the property, the overall PUD project that the Commission approved has not changed in any fashion. The use, height, and density of the PUD have not changed. The overall gross floor area of the PUD remains unchanged. The project amenities and community benefits of the project, including the significant affordable housing commitment, likewise remain unchanged and will continue to be provided as part of the PUD.

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11. As identified on Sheets A2.03A and A4.01 of the drawings submitted with its October 28, 2010, letter (Exhibit 2, Z.C. Case No. 05-36E), the Applicant proposes to finish the north wall of Phase II-A with the same materials as utilized for the first phase of the PUD. This north wall ultimately will become an internal wall once Phase II-B is constructed. Similarly, plans for the interim landscaping for the second phase are shown on Sheets A4.01 and A4.02 of the drawings. Upon completion of construction of Phase II-B, the completed PUD, including the landscaped plaza area, will appear as approved by the Commission in Z.C. Case Nos. 05-36, 05-36A, and 05-36B, and all of the proposed project amenities and community benefits that the Commission approved will continue to be provided in the project.
12. The District of Columbia Office of Zoning referred this matter to the Office of Planning for analysis and recommendation. By memorandum dated March 8, 2013, the Office of Planning stated its support for approval of the modified project as a minor modification.
13. Responding to the Office of Planning report, the Applicant submitted a letter dated March 1, 2013, clarifying that approval of the application by the Commission would result in there being two principal buildings on Record Lot 67 in Square 749, which condition is permitted pursuant to § 2517 of the Zoning Regulations. The Applicant further confirmed that upon the approval of the application the PUD will continue to satisfy all of the requirements of section § 2517, including use, height, bulk, and open spaces. The point of measurement for the Phase II building will be from L Street, N.E., and the height of the Phase II building will not exceed 130 feet from that point of measurement.
14. Ward 6 Councilmember Tommy Wells submitted a letter to the Commission, dated February 28, 2013, recommending approval of the application.
15. Advisory Neighborhood Commissioner Tony Goodman, Single Member District Representative for ANC 6C06, the district in which the property is located, submitted a letter to the Commission dated March 4, 2013, stating support for the modification and recommending that the Commission approve the requested modification. No report was received from ANC 6C.
16. On March 11, 2013, at its regular public meeting, the Commission reviewed the modification request as a Consent Calendar matter.
17. The Commission concurs with the Applicant, and the Office of Planning that the approval of the modification is appropriate and not inconsistent with the intent of 11 DCMR §§ 2409.9 and 3030.

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### CONCLUSIONS OF LAW

Upon consideration of the record in this application, the Commission concludes that the proposed modification is minor and is consistent with the intent of the previously approved PUD. Further, the Commission concludes that approval of the requested modification is in the best interest of the District of Columbia and is consistent with the intent and purpose of the Zoning Regulations. Approval of the modification to the approved PUD also is not inconsistent with the District of Columbia Comprehensive Plan (10 DCMR). Further, the modification does not impact material elements of the PUD, including use, height, gross floor area, or project amenities or benefits. The Commission concludes that the two phases of the PUD will have separate points of measurement for purposes of determining building height. The Phase II point of measurement for building height shall be taken from L Street, N.E., and the height of the Phase II building from that point of measurement shall not exceed 130 feet in height.

The Commission is required by § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163, D.C. Official Code § 6-623.04) to give great weight to the recommendations of the Office of Planning. The Office of Planning recommended approval of this application as a minor modification, and the Commission concurs in this recommendation.

### DECISION

In consideration of the Findings of Fact and Conclusions of Law provided herein, the Zoning Commission for the District of Columbia hereby **ORDERS APPROVAL** of the application for modification of an approved PUD for Lot 67 Square 749. Condition No. 1 of Z.C. Order No. 05-36A is modified to read:

1. The PUD shall be developed in accordance with the architectural plans and elevations dated June 2, 2008 and marked as Exhibit 38 of the record in this case (the "Final Plans"), **as may be modified by the revised floorplans shown in the plans marked as Exhibit C to Exhibit 1 of the official record of Case No. 05-36H, which plans provide no above-grade building connections between Phase I and Phase II of the PUD,** and as modified by the guidelines, conditions, and standards of this order. The Applicant shall have the flexibility to modify the design of the PUD in the following areas:
  - (a) To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, mechanical rooms, elevators, and bathrooms, provided that the variations do not change the exterior configuration of the building;
  - (b) To vary the final selection of the exterior materials within the color ranges and material types as proposed, based on availability at the time of construction, without reducing the quality of the materials;

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- (c) To make minor refinements to exterior details and dimensions, including balcony enclosures, belt courses, sills, bases, cornices, railing, and trim, or any other changes to comply with the Construction Codes or that are otherwise necessary to obtain a final building permit;
- (d) To modify the design of all landscaping and other streetscape improvements located in public space in order to secure any necessary permits from the District Department of Transportation;
- (e) To increase or decrease the overall number of residential units by no more than 5% percent, provided that the percentage of residential gross floor area designated for affordable units shall be no less than 10% of the total gross floor area devoted to residential units and shall be provided consistent with the Commission's approval in Corrected Z.C. Order No. 05-36; and
- (f) To vary the number and location of parking spaces in the underground garage, provided that the total number of parking spaces is no less than 545 vehicle spaces and 55 bicycle spaces.<sup>1</sup>

Pursuant to § 2409.3 of the Zoning Regulations, the Applicant shall record a notice of modification of Z.C. Order No. 05-36 among the land records of the District of Columbia. After recordation of the notice of modification, the Applicant shall provide a copy of same for the records of the Office of Zoning.

On March 11, 2013, upon the motion of Chairman Hood, as seconded by Commissioner Miller, this Order was **ADOPTED** by the Zoning Commission at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, Peter G. May, and Michael J. Turnbull to adopt).

In accordance with the provisions of 11 DCMR § 3028.9, this Order shall become effective upon publication in the *D.C. Register*; that is on June 21, 2013.

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<sup>1</sup> Through Z.C. Order No. 05-36E, the Commission approved a modification to Z.C. Order 05-36A that provided in part that:

Parking shall be provided throughout the PUD at a ratio of 0.71 parking spaces per dwelling unit. Any references to amount of parking provided in any prior order shall be superseded by this Order.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA**  
**ZONING COMMISSION ORDER NO. 06-11G/06-12G**  
**Z.C. Case No. 06-11G/06-12G**  
**The George Washington University Foggy Bottom Campus**  
**(Modification of a First-Stage Planned Unit Development (“PUD”) and Approval of a**  
**Second-Stage PUD @ Square 75)**  
**February 25, 2013**

Pursuant to notice, the Zoning Commission for the District of Columbia (“Commission”) held a public hearing on November 15, 2012, to consider an application of The George Washington University (“University”) for the review and approval of second-stage approval of an approved PUD and modification to the approved first-stage PUD and related amendment to the Zoning Map. The Commission considered the application pursuant to Chapter 24 and Chapter 30 of the District of Columbia Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations (“DCMR”). The public hearing was conducted in accordance with the provisions of 11 DCMR § 3022. The Commission approves the application, subject to the conditions below.

**FINDINGS OF FACT**

**Application, Parties, Hearing, and Post-Hearing Submissions**

1. The property that is the subject of the application is located in Square 75, Lots 23, 33, 34, 41, 42, 47, 863, and a portion of a public alley to be closed (the “Property”).<sup>1</sup>
2. In February 2012, the University submitted an application for second-stage PUD approval of the Property. The University sought approval to develop an 11-story commercial office building. The University concurrently applied for approval of a modification of the approved first-stage PUD and related Zoning Map amendment to incorporate Lot 863 and a portion of a public alley into the first-stage PUD (together, with the second-stage PUD application, the “Application”). (Exhibit [“Ex.”] 2.) The University supplemented the Application on July 17, 2012 to incorporate affordable housing as a public benefit of the PUD. (Ex. 10.)
3. The Application was set down for a public hearing at the Commission’s July 30, 2012 public meeting. Notice of the public hearing was published in the *D.C. Register* on August 31, 2012 and was mailed to Advisory Neighborhood Commission (“ANC”) 2A and to owners of property within 200 feet of the second-stage PUD site.
4. A public hearing was conducted on November 15, 2012. The Commission accepted Jeff Barber as an expert in the field of architecture and Jami Milanovich as an expert in the field of traffic engineering. The University provided testimony from these experts as

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<sup>1</sup> Subsequent to filing of the Application, the University made certain modifications to the configuration of the proposed alley closure and dedication. As a result of these changes, a small portion of Lot 864 was also incorporated into the PUD Site.

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well as from Alicia Knight, the University's Senior Associate Vice President for Operations.

5. In addition to the University, ANC 2A was automatically a party in this proceeding. The Commission also granted a request for party status in opposition to the application from the West End Citizens Association ("WECA") and the Foggy Bottom Association ("FBA"). (Ex. 20, 27.) The President Condominium Association, Inc. ("President") also submitted a request for party status in opposition, but withdrew the request based on the Applicant's proposed revisions to the Project. (Ex. 23, 37.)
6. At the hearing, the Commission heard testimony and received evidence from the Office of Planning ("OP"), the District Department of Transportation ("DDOT"), the Department of Housing and Community Development ("DHCD"), ANC 2A, WECA, and FBA regarding the Application.
7. The Commission also heard testimony from area residents, students, and alumni in support of the application. Other than ANC 2A, WECA, and FBA, no other person or party testified in opposition to the Application.
8. At the close of the hearing, the Commission asked the University to refine the proposed affordable housing commitment and transportation demand management monitoring program, provide a copy of the settlement agreement with the President, and continue to engage ANC 2A in dialogue regarding the Project.
9. On December 21, 2012, ANC 2A filed a supplemental resolution regarding the Project. (Ex. 49.)
10. On December 28, 2012, the Applicant submitted its draft findings of fact and conclusions of law. (Ex. 51.)
11. On December 31, 2012, the University filed its post-hearing submission addressing the Commission's comments, responding to ANC 2A's supplemental resolution, and attaching revised plans. (Ex. 50.)
12. On January 3, 2013, DDOT submitted a request to reopen the record and a supplemental report. (Ex. 52, 53.)
13. On January 3, 2013, WECA submitted its response to the Applicant's post-hearing submission. (Ex. 54.)
14. On January 7, 2013, FBA submitted its response to the Applicant's post-hearing submission. (Ex. 55.)

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15. On January 14, 2013, the Applicant submitted a request to re-open the record, a letter stating that it had agreed to use DHCD's form affordable housing covenant for the Project, and attached the covenant. (Ex. 56.) The Applicant submitted a second request to re-open the record, a letter stating that it agreed with DDOT regarding the transportation performance monitoring program, and the document memorializing the program. (Ex. 57.)
16. At its public meeting on January 14, 2013, the Commission took proposed action to approve the Application and plans that were submitted into the record.
17. At the January 14, 2013 public meeting, the Commission issued a procedural order directing the Applicant to submit a final list of the project's proffered benefits and amenities and draft conditions, and stipulating deadlines for the District of Columbia Office of the Attorney General ("OAG"), OZ, and OP, as well as the parties to submit comments on the proposed conditions. The order stated that the responses should be limited to the issue of whether the proposed conditions are specific and enforceable as to the proffers to which they relate. (Ex. 58.) On January 22, the Applicant submitted its responsive filing. (Ex. 61.) On January 29, OAG submitted comments to the Applicant. On February 4, 2013, the Applicant submitted its revised final list of proffers and conditions. (Ex. 62.) On February 8, 2013, WECA submitted its response to the Applicant's filing. (Ex. 63.) On February 11, 2013, ANC 2A submitted a response to the Applicant's filing. (Ex. 64.)
18. The proposed action of the Commission was referred to the National Capital Planning Commission ("NCPC") pursuant to § 492 of the Home Rule Act. The Executive Director of NCPC, by delegated action dated February 14, 2013, found that the proposed PUD would not be not inconsistent with the Comprehensive Plan for the National Capital, nor would it adversely affect any other identified federal interests.
19. The Commission took final action to approve the Application on February 25, 2013.

#### **First-Stage PUD Approval**

20. In Z.C. Order No. 06-11/06-12, the Commission concurrently approved a new campus plan and first-stage PUD for the Foggy Bottom Campus (the "Campus Plan/PUD"). The Campus Plan incorporated a plan for developing the campus as a whole by concentrating height and density within the central campus core. The first-stage PUD is coterminous with the approved boundaries for the Foggy Bottom Campus, and includes all properties that were owned by the University at the time of approval of the Campus Plan/PUD. The approved first-stage PUD identified 16 development sites for future development as well as the uses, height, gross floor area, and lot occupancy for each development site.

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21. The Property that is the subject of the Application is located in the C-3-C Zone District. The western portion of the Property was identified as Development Site 75A in the first-stage PUD and called for a building devoted to commercial/investment use with a height of 130 feet, lot occupancy of 100%, and gross floor area of 122,990 square feet (or a 10.0 floor area ratio ("FAR") on Site 75A).
22. The first-stage PUD approved the rezoning of certain development sites in order to permit the University to achieve the height and density needed to achieve its forecasted academic and student housing needs. The first-stage PUD approved a PUD-related rezoning of the Development Site 75A to the C-4 Zone District.<sup>2</sup>

### **Modification of the First-Stage PUD**

23. The University requested approval of a modification of the first-stage PUD in order to incorporate the eastern portion of the Property, which is improved with a commercial office building recently vacated by its primary tenant. The eastern portion of the Property is currently located in the C-3-C Zone District.
24. The University proposed rezoning of the eastern portion of the Property to the C-4 Zone District and development to a height of 130 feet, FAR of 10.0 and lot occupancy of up to 100%. The proposed zoning and development parameters are consistent with the zoning and parameters already approved for the western portion of the Property. The proposed modification provides the University with an opportunity to redevelop the Property with a more efficient footprint and floorplate that corresponds with market needs.

### **Alley Relocation**

25. The first-stage PUD called for the relocation of the existing alley entrance that runs north-south from I Street, N.W.
26. In the Application, the University indicated that it would seek approval from the D.C. Council for adjustments to the public alley system in the square, including the relocation of the north-south portion of the public alley. At the public hearing, the University indicated that pursuant to an agreement with the President, the University agreed to maintain the north-south portion of the public alley in the current location at this time. Adjustments to the public alley would be limited to changes that would improve vehicular traffic flow within the alley and create a more efficient footprint and floorplate for the PUD. The adjustments will not increase the size of the Property or decrease the amount of public alley in the square. The University stated that it may seek a further

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<sup>2</sup> Pursuant to § 2028.9, that map amendment will not become effective until completion of the process required by chapter 24 and upon filing with the District of Columbia a covenant ensuring compliance with approved plans.

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relocation of the alley in the future, subject to applicable reviews by the D.C. Council and District agencies.

### **Second-Stage PUD Approval**

#### **Overview of the Property**

27. The Property is a rectangular parcel located midblock along Pennsylvania Avenue, N.W. The western portion of the Property is currently improved with six low-scale rowhouses that are generally used for commercial retail and university uses. The eastern portion of the Property is improved with an eight-story commercial office building.
28. To the south of the Property, in Lot 858, are low-scale buildings that are generally used for university uses. Pursuant to the approved first-stage PUD, Lot 858 is proposed to be consolidated with adjacent property to the east to create another development site, Site 75B.
29. Surrounding uses include the 12 Burns Memorial Building and the Ambulatory Care Center to the west, an eight-story commercial office building to the east, and the President, a nine-story condominium building to the south. The President is the only non-University owned property in the Square. To the north, across Pennsylvania Avenue, is the 130-foot tall headquarters of the International Finance Corporation, a division of the World Bank.
30. The entrance to the Foggy Bottom-GWU Metrorail station is located approximately two blocks from the Property.

#### **The Project**

31. The University sought approval to develop the property for commercial uses as an 11-story office building (the "Project"). The Project also includes approximately 154 underground parking spaces and approximately 6,637 square feet of ground-floor retail use fronting Pennsylvania Avenue.
32. At the hearing, the University's representatives explained that the Project will generate non-enrollment driven revenue that will support the University's academic mission and permit the development of future academic sites and improvements outlined in the first-stage PUD. Such investment use was explicitly called for in the first-stage PUD. The University expects to select a development partner to construct the Project.
33. The architect provided a detailed description of the building design intent, façade design, materials selection, and surrounding context. The architect noted that the massing, scale and façade design are appropriate given the prominent Pennsylvania Avenue location.

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- The proposed design employs many of the primary massing strategies used to moderate the scale of other successful large contemporary buildings along or near Pennsylvania Avenue.
34. The design also features an articulated two-story base as well as ground-floor retail uses that will provide human scale and improve the pedestrian experience. Representatives of the University testified that the Project would notably increase the amount of retail street frontage along Pennsylvania Avenue.
  35. The rear of the building has also been fully designed; it incorporates an upper-story setback and other features to break down the building mass. The proposed Project will be further away from the President than the current office building. The University provided shadow studies that demonstrated the Project would not cast shadows on the President.
  36. The Property is currently covered with impervious building and paving. The proposed Project will minimize environmental impacts, particularly compared to existing conditions. Specific features cited by the University's representative include green and white roofs for the building. The University testified that it is targeting the equivalent of a Gold rating under the US Green Building Council's LEED 2009 for Core and Shell rating system. The project will be designed to capture 1.2" of rainfall (exceeding current District Department of the Environment ("DDOE") standards).
  37. Consistent with DDOT standards, the Project's parking and loading will be accessed from the public alley system at the rear of the Property. The alley system will be widened to minimize existing conflicts and facilitate safer and more convenient movement for truck deliveries not only to the Project but also to other uses within the square.
  38. Streetscape improvements will be constructed along the Pennsylvania Avenue frontage.
  39. The total gross floor area for the Project is approximately 250,000 square feet for a total density of approximately 10.0 FAR and a lot occupancy of approximately 95%. The building will reach a maximum height of approximately 130 feet.
  40. The University requested flexibility from the court and rear yard requirements in order to accommodate the proposed design of the building relative to the underlying lot.<sup>3</sup>
  41. In connection with the Project, the University will also construct improvements on other properties not included in the PUD site. Specifically:

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<sup>3</sup> The initial Application requested relief from the court requirements. At the public hearing, the University amended its request to include relief from the rear yard requirements, which was required after the University had adjusted the location of the public alley pursuant to the private settlement agreement with the President.

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- a. The University will construct a new stair tower for the commercial office building located to the east of the Property on Lot 861, on land that will be reallocated to that parcel; and
- b. The University will demolish the existing improvements on Lot 858 to permit widening of the public alley. The demolition of these properties was also called for in the first-stage PUD for the future development of Site 75B.

Project Amenities and Public Benefits

42. The project amenities and public benefits of the PUD were proffered and accepted in conjunction with the Campus Plan/PUD process.
  - a. In the Campus Plan/PUD Order, the Commission recognized that the University had developed its first-stage PUD, including the identification of project amenities and public benefits for the surrounding community, through a comprehensive community-based planning process that engaged a variety of stakeholders to elicit input and feedback. Z.C. Order No. 06-11/06-12 at 18 (FOF 71). During that proceeding, many persons and organizations, including residents of the surrounding neighborhoods, testified in support of the proposed benefits and amenities; and (See *id.* at 24 (FOF 96).)
  - b. In approving the Campus Plan/PUD, the Commission found that the proposed increases in height, density, and lot occupancy and related changes in zoning, were appropriate and concluded that the value of the project amenities and public benefits were acceptable in light of the degree of development incentives requested. (Z.C. Order No. 06-11/06-12 at 25 (COL 4).) On appeal, the D.C. Court of Appeals sustained the Commission's decision, specifically holding that the record contained substantial evidence to support the Commission's decision regarding the sufficiency of the amenities package. (*Foggy Bottom Ass'n v. D.C. Zoning Comm'n*, 979 A.2d 1160, 1172 (D.C. 2009).)
43. The University indicated in its written submissions and at the public hearing that it had started to implement many of these public benefits and project amenities pursuant to the conditions of approval of the Campus Plan/PUD Order, including:
  - a. Transitioning the use of off-campus properties to uses other than undergraduate housing;
  - b. Refraining from purchasing residentially zoned properties in the Foggy Bottom/West End neighborhoods for university uses;

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- c. Designating six University properties as historic landmarks, including the Burns Memorial Building located on Square 75 adjacent to the proposed Project, and submitting the materials required for the District's Historic Preservation Office to create the campus historic district;
- d. Developing and submitting a final campus streetscape plan to DDOT; and
- e. Creating the Campus Plan Advisory Committee, with regular quarterly meetings since 2007.

The University also testified that it had recently submitted a minor modification to the Campus Plan/PUD Order, together with ANC 2A, that would encourage ANC 2A participation in the Advisory Committee.

- 44. In conjunction with the Project, the University agreed to provide additional public benefits commensurate with and proportional to the additional 44,275 square feet of net new gross floor area obtained through the proposed modification of the first-stage PUD to incorporate Lot 863 (that is, the increase from the 6.5 FAR permitted as a matter of right in the C-3-C Zone District to the 10.0 FAR permitted as a matter of right in the C-4 zoning sought in connection with the first-stage PUD modification).
- 45. As detailed in the University's testimony and written submissions, the proposed Project will implement the following project amenities and public benefits that were either approved as part of the first-stage PUD or added pursuant to the proposed first-stage PUD modification:
  - a. Exemplary urban design, architecture, and landscaping, including high-quality materials, pedestrian-oriented landscape improvements, clear separation of pedestrian and vehicular entrances and circulation patterns, and sustainable features;
  - b. Site planning and efficient land utilization, through the redevelopment of a strategic underutilized site located along Pennsylvania Avenue within two blocks of a Metrorail station;
  - c. Effective and safe vehicular and pedestrian access and transportation management measures. Specific features include:
    - i. Replacement of the existing uncoordinated loading and service activities associated with the retail and other tenants on the Property with one centralized loading and service area for the Project;

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- ii. Widening of the public alley and improved vehicular turning movement within the square;
  - iii. A loading management plan that includes a dock manager and peak hour delivery restrictions, which will regulate service and delivery activity and reduce potential vehicular conflicts and other adverse impact;
  - iv. Transportation demand management features, such as bicycle parking spaces; and
  - v. A detailed post-occupancy monitoring study;
- d. Environmental benefits, including green roof and white roof, specific building systems and design features that will reduce the overall energy demands and water usage, as well as a goal of achieving a minimum of the equivalent of a Gold rating under the LEED-CS 2009 rating system and a design intended to capture 1.2” of rainfall (exceeding current DDOE standards); and
- e. Uses of special value, including:
- i. Approximately 7,209 square feet of affordable housing along F Street;
  - ii. Approximately 6,637 square feet of ground floor retail fronting Pennsylvania Avenue;
  - iii. Contribution of \$50,000-55,000 in landscaping and buffering improvements for the benefit of the President Condominium;
  - iv. Contribution of \$100,000 to rent for office space for the Foggy Bottom/West End Village;
  - v. Contribution of \$100,000 to the development and installation of a real-time transportation information board;
  - vi. Contribution of \$50,000 to fund a fellowship position at the Francis-Stevens Education Campus;
  - vii. Contribution of \$1,000 to the Francis-Stevens Parent-Teacher Association to support the PTA’s marketing efforts to promote enrollment; and
  - viii. Additional tax revenue for the District of Columbia.

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### Affordable Housing

46. As a key public benefit of the PUD, the University agreed to rehabilitate three existing uninhabitable rowhouses located at 2142, 2146, and 2150 F Street, N.W. as affordable housing, for a total of approximately 7,209 square feet of affordable housing. The University proffered the affordable housing program in response to a request from OP to provide affordable housing consistent with the housing linkage requirements even though the project was not subject to such requirements. (Ex. 10, 11.)
47. Location. The three rowhouses are owned by the University and located outside the campus boundaries in a residential zone district. The properties are located within the proposed Foggy Bottom campus historic district. To implement the affordable housing, the University agreed to contribute the value of the existing land and buildings (approximately \$2.5 million) and the approximately \$1 million worth of capital improvements necessary to rehabilitate the properties, as well as forego an estimated \$2 million worth of revenue that would have been generated by the property if operated as a market rate housing project, over the 30-year life of the affordable housing project.
48. Unit Type. The affordable housing consists of seven units within the three rowhouses, and includes a mix of one, two, and large three-bedroom units.
49. Term. The proposed affordable housing will be completed prior to the issuance of a certificate of occupancy for the Project and will be set aside for a term of 30 years.
50. Level of Affordability. The University originally proffered a mix of units set aside for households earning up to 80% AMI and 95% AMI. Prior to the public hearing, the University agreed to set aside all units for households earning up to 80% AMI.
51. Maximum Rent.
  - a. The University originally proposed setting the maximum rent charged for each unit at 35% of household income (“HHI”) less the standard utility expense (meaning that the maximum rent has been adjusted downward to account for utility expenses);
  - b. At the hearing, DHCD expressed a preference for maximum rents of 30%, inclusive of utilities, based on the agency’s desire to implement uniform standards to streamline the administration of affordable units;
  - c. In a post-hearing submission and in response to comments from the Commission and DHCD, the University agreed to set the maximum rent charged for each unit at 30% HHI, exclusive of utilities. The University explained that, given the significant investment required to implement the affordable housing program, the

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University has not been able to modify the program to the full extent requested because additional costs would threaten the economic viability of the affordable housing program, which is budgeted to operate at a break-even level on an annualized basis following its inception; and

- d. In its post-hearing submission, the University provided evidence that the total housing cost (including utility expense) for each unit will remain below the total housing cost standard of 38% HHI. The University also noted energy-efficient construction practices, including delivery of Energy-Star appliances and energy efficient building systems, which will be applied in the rehabilitation of the properties, will further reduce the total housing costs associated with the affordable units;
52. Further elaboration of the Applicant's affordable housing program is set forth in Exhibit 50, Tab A of the Record (the "Affordability Requirements.")
  53. In response to concerns raised by the ANC and the other parties regarding the administration of the affordable housing program, the Applicant agreed to utilize a covenant similar in form to DHCD's form affordable dwelling unit covenant ("ADU Covenant") (Ex. 56A.) The ADU Covenant would bind the University to comply with the Affordability Requirements, which would be attached thereto. The administrative provisions of the ADU Covenant could be modified if accepted by both the University and DHCD.
  54. The Commission finds that the proposed terms of the affordable housing program, including the maximum rent to be charged, represents a significant public benefit of the PUD, particularly given the unique size, type, and location of the affordable housing units.

### **Transportation Issues**

#### **Traffic**

55. The road network surrounding Square 75 consists of two two-way streets and two one-way streets. Two of the four street intersections are currently signalized; DDOT plans to install a signal at a third intersection in the near term as a result of payments made in connection with Z.C. Order No. 06-27.
56. The Project is located near several modes of transportation, including the nearby Foggy Bottom-GWU Metrorail station, Metrobus and D.C. Circulator lines, shuttle buses, bicycle facilities, a connected and developed urban network of pedestrian sidewalks and paths, and a connected network of arterial, collector, and local streets.

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57. The University's traffic expert submitted a detailed transportation impact analysis that concluded that the proposed Project would not generate an adverse traffic impact on the surrounding roadway network or cause objectionable impacts in the surrounding neighborhood due to traffic or parking impacts. The University's traffic consultant also concluded that the location of the parking and loading entrances would accommodate the parking and loading needs for the Project and not generate adverse or objectionable impacts on neighboring property.
58. Prior to the hearing, DDOT submitted a late report that was accepted by the Commission and recommended that the University revise the transportation analysis to address "relatively minor" errors; reduce the number of parking spaces; provide an acceptable loading management plan; agree to establish goals for the TDM program and monitor the Project post-occupancy to ensure those goals are met; and revise the crash rate analysis.
59. At the public hearing, the University's traffic expert testified that the University had agreed to reduce the number of parking spaces, provide a detailed loading management plan that included restrictions on peak hour deliveries to the Project, agreed to maintain the alley in its current location at this time, and agreed to conduct a post-occupancy monitoring survey, all in response to the comments made by DDOT. The University's traffic expert concluded that the additional measures further reduced the projected traffic impacts of the Project. At the hearing, DDOT clarified that it did not oppose the Project and generally agreed with the University's traffic expert that the agreement to maintain the alley in the current location at this time and reduction in parking addressed DDOT's concerns regarding the alley location and the number of parking spaces.
60. The University's traffic expert also provided a supplemental analysis that addressed the remaining comments made in the DDOT report. The University's traffic expert concluded that initial analysis had been conducted in conformance with accepted engineering practices that conform with traffic studies typically submitted to the Commission. Only three intersections demonstrated a potential significant impact, and the transportation analysis proposed mitigation measures that would address these potential impacts. The University's traffic expert also concluded that even if the initial analysis had resulted in the errors alleged by DDOT, such errors were harmless because they resulted in a more conservative transportation analysis that overestimated the potential impacts of the Project yet still concluded that the Project would not generate adverse or objectionable impacts. The supplemental analysis also provided the revised crash rate analysis.
61. In a post-hearing submission and in response to comments from the Commission and DDOT, the University agreed to enhance its post-occupancy transportation performance monitoring plan, and the revised plan. (Ex. 57.) The University's proposed plan sets an ambitious vehicle trip reduction goal that exceeds the trip reduction estimate for the Foggy Bottom-GWU Metrorail station as well as trip reduction rate actually measured at

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the nearby Square 54 development. Annual monitoring studies will be conducted for a period of two to six years; if goals are met for two consecutive years then monitoring will cease, but if the goal is not met, then monitoring will continue and additional steps will be taken.

62. The Project will not cause unacceptable impacts on vehicular or pedestrian traffic, as demonstrated by the testimony and reports provided by the University's traffic expert:
- a. The Commission finds that the Project will not impose adverse or objectionable impacts on the surrounding transportation network. The Commission credits the findings of the University's traffic expert that the Project will not create any adverse impacts when compared with future background conditions. The Commission finds that the scope and methodology of the transportation study was adequate and concludes that, to the extent that the study contained any of the errors alleged by DDOT, such errors were harmless because, as the University's traffic expert and DDOT itself both noted, the resulting study tended to be more conservative and overestimated the potential traffic impacts of the Project;
  - b. The Commission finds that the proposed reduction in the number of parking spaces addresses DDOT's concerns regarding traffic impacts as well as transportation demand management and concludes that the number of parking spaces will not result in adverse or objectionable conditions. The Commission credits the evidence presented by the University that the amount of parking was in line with similar projects elsewhere in the downtown core of the District;
  - c. The Commission finds that the location of the parking and loading entrances, with the truck management measures proposed by the University, will not generate adverse or objectionable conditions. The Commission concludes that the University's proposed loading management plan, which includes a restriction on peak hour deliveries, will help avoid vehicular conflicts and sufficiently addresses the concerns raised by DDOT;
  - d. The Commission finds that the University's proposed transportation performance monitoring program adequately addresses the concerns raised by DDOT and will help ensure that the Project meets the trip reduction goals forecasted by the University's traffic expert; and
  - e. The Commission finds that the Project will not impose adverse or objectionable impacts on the surrounding pedestrian network. The Commission also credits DDOT's acceptance of the pedestrian and related streetscape measures proffered by the University subject to final approval by DDOT. The Commission recognizes that DDOT will determine the final measures to be installed through the public space approval process.

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63. The Commission does not agree with assertions by ANC 2A or WECA that the Project will impose adverse impacts on traffic or parking. The Commission finds that the University has largely addressed ANC 2A and WECA's concerns through the measures adopted pursuant to the private settlement reached between the President and the University, the sole non-University property in the surrounding neighborhood. Accordingly the Commission concludes that the Project, with the changes to the alley location and loading management plan agreed to by the University, will not generate adverse or objectionable impacts on surrounding residential property due to traffic, parking, or loading activity. As demonstrated by the University's traffic consultant, the Project will not impose adverse impacts on surrounding intersections when compared to future background conditions without the Project, which is the proper point of comparison for analyzing the impact of this Project.

**Compliance with Requirements of Order No. 06-11/06-12**

64. Pursuant to Condition P-14 of Z.C. Order No. 06-11/06-12, the University demonstrated that the proposed second-stage PUD is consistent with the location, use, zoning, gross floor area, lot occupancy, and height set forth in the first-stage PUD as modified by the University in the Application.
65. Pursuant to Condition P-15 of the Order, the University demonstrated that the project met the special exception standards set forth in 11 DCMR §§ 210 and 3104.
- a. Section 210 requires proof that the "proposed use will be located so that it is not likely to become objectionable to neighboring property because of noise, traffic, number of students, or other objectionable impacts." During its consideration of the campus plan in Z.C. Case No. 06-11/06-12, the Commission determined that the use of the Foggy Bottom Campus as a whole, including the number of students, faculty and staff proposed and the related traffic and parking impacts associated with that use, would not become objectionable to neighboring property. Here, the Commission finds that the University has satisfied its burden of proof under the Zoning Regulations that the Project is not likely to become objectionable to neighboring property because of noise, traffic, number of students or other objectionable conditions:
- i. The Commission concludes that the proposed Project, as amended by the University pursuant to the private settlement agreement with the President, is not likely to become objectionable to neighboring property due to noise;
- ii. For the reasons detailed in this Order, the Commission credits the testimony of the University's traffic consultant and finds that the traffic,

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parking, and other transportation impacts of the Project are not likely to become objectionable to neighboring property; and

- iii. The Project is a commercial/investment use as set forth in the first-stage PUD, and the Commission concludes that the proposed Project is not likely to become objectionable due to number of students.
  - b. The Commission credits the evidence submitted by the University that total campus FAR would remain well within the density limit approved for the residentially zoned portions of the campus even after the construction of the Project; and
  - c. The Commission credits the evidence provided by the University and OP that the Project would not be inconsistent with the District of Columbia Comprehensive Plan, and will further the goals and policies of the Comprehensive Plan.
66. Pursuant to Condition P-16 of the Order, the University provided the compliance, impact analysis, and progress reports required for each second stage PUD in its initial PUD application.
  67. Pursuant to Condition P-17 of the Order, the University provided its most recently filed Foggy Bottom Campus Plan Compliance Report indicating substantial compliance with Z.C. Order No. 06-11/06-12.
  68. The Commission finds that the University has satisfied the above conditions and requirements of Z.C. Order No. 06-11/06-12.

#### **Compliance with PUD Standards**

69. In evaluating a PUD application, the Commission must “judge, balance, and reconcile the relative value of project amenities and public benefits offered, the degree of development incentives requested, and any potential adverse effects.” During its consideration of the first-stage PUD in Z.C. Case No. 06-11/06-12, the Commission determined that the development incentives and related rezoning for the entire campus were appropriate and fully justified by the superior benefits and amenities offered by the Campus Plan / PUD and this decision was affirmed by the District of Columbia Court of Appeals.
70. The University has proposed a modification to the approved first-stage PUD that would rezone a portion of the Property to the C-4 Zone District and increase the total gross floor area of the PUD by an additional 44,725 square feet. The Commission finds that additional development incentives and related rezoning are appropriate and fully justified by the additional public benefits and project amenities proffered by the University. The Commission credits the testimony of ANC 2A and FBA that acknowledged the value of

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many of the benefits and amenities provided by the University, but does not agree with ANC 2A, FBA, or WECA that the benefits and amenities are insufficient. The Commission finds, in particular, that the affordable housing proposed by the University represents a very significant public benefit not found in the other PUDs cited by the parties in opposition.

71. The Commission finds that the University has satisfied its burden of proof under the Zoning Regulations for this second-stage PUD, including the requested flexibility from the rear yard and court requirements and satisfaction of the PUD standards.
72. The Commission credits the testimony of the University and its architectural experts and finds that the superior design, site planning, streetscape, sustainable design, affordable housing, retail space, office space for the Foggy Bottom/West End Village, real-time transportation information board, and tax revenue features of the Project all constitute acceptable project amenities and public benefits consistent with the Commission's first stage approval as amended by this Application.
73. The Commission finds that the character, scale, mix of uses and design of the Project are appropriate, and finds that the site plan is consistent with the intent and purposes of the PUD process to encourage high quality developments that provide public benefits. In addition, the Commission finds that the site plan and features of the Project, including the use of the Property for commercial/investment use, streetscape improvements, and use of the public alley for parking and loading access is consistent with the first-stage PUD.
74. For the reasons detailed in this Order, the Commission credits the testimony of the University's traffic consultant and finds that the traffic, parking, and other transportation impacts of the Project on the surrounding area are capable of being mitigated through the measures proposed by the University and are acceptable given the quality of the public benefits of the PUD. The Commission credits the findings of the University's traffic consultant that the proposed service and loading plan, with the loading management plan proffered by the University are acceptable and will mitigate potential vehicular conflicts. The Commission was not persuaded by ANC 2A or WECA's testimony regarding the transportation impacts of the Project.
75. The Commission credits the testimony of the University and OP regarding the compliance of the Project with the District of Columbia Comprehensive Plan. The development is fully consistent with and furthers the goals and policies in the map, citywide and area elements of the Plan, including:
  - a. Designation of the Property as High-Density Commercial use on the Future Land Use Map;

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- b. Land Use Element policies promoting redevelopment around Metrorail stations and recognizing the important contribution of universities to the District economy and their efforts to address transportation issues and serve as corporate role models through high quality architecture and sustainable building methods;
- c. Housing Element policies promoting affordable housing as a civic priority and calling for workforce housing and housing for families;
- d. Other policies in the Economic Development, Education, Transportation, Environmental Protection, and Urban Design Elements related to the Land Use policies and goals stated above; and
- e. Policies in the Near Northwest Area Element regarding improved communication, increased density on-campus, and mitigation measures and amenities that improve the character of the area as a whole.

### Agency Reports

- 76. By report dated November 5, 2012 and by testimony at the public hearing, OP recommended approval of the application, including the first-stage PUD modification and second-stage PUD approval, provided that the affordable housing proffer is strengthened and the alley be located in order to mitigate impacts on the President. OP reviewed the application under the PUD standards of the Zoning Regulations as well as the specific conditions of the Campus Plan/PUD Order and the special exception standards of § 3104, and concluded that the University had satisfied its burden of proof. At the public hearing, OP testified that it was “pleased” by the University’s agreement with the President.
- 77. By late report dated November 9, 2011, DDOT expressed concerns regarding the proposed Project based on its review of the vehicular and other transportation impacts of the Project. At the hearing, DDOT clarified that it did not oppose the Project, supported the University’s agreement to maintain the alley in the current location until the development of Site 75B and, with the reduction in parking, no longer expressed concern regarding the number of parking spaces. DDOT’s specific conclusions and recommendations are discussed elsewhere in this order.
- 78. By report and testimony at the public hearing, DHCD expressed support for the proposed affordable housing program, including the size and type of units and location in the Foggy Bottom/West End neighborhood. DHCD expressed a preference for maximum rents of 30%, inclusive of utilities, based on the agency’s desire to implement uniform standards to streamline the administration of affordable units. The University’s response to this request is discussed elsewhere in this Order. DHCD also requested that the University provide the rent calculation and agree to enter into a covenant regarding the affordable housing program, and the University provided this information.

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### ANC 2A Report

79. At a regularly scheduled meeting on November 1, 2012, with a quorum present, ANC 2A approved a resolution opposing the application unless the University agreed to amend the Campus Plan to ensure that the additional density gained through the modification is captured in the cumulative FAR for the Foggy Bottom campus; commit to nighttime-active, street-level retail; maintain and widen the alley in its current location to address the concerns of the President; and provide additional benefits and amenities. (Ex. 26.)
80. The University addressed the ANC's concerns at the public hearing as follows:
- a. No campus plan amendment is required. For the reasons set forth in the Conclusions of Law, § 210 does not apply. Furthermore, no amendment of the Campus Plan is required to ensure that the additional density is captured under the relevant FAR cap;
    - i. The first-stage PUD, not the campus plan, sets the FAR cap for all University-owned properties within the campus, including commercially zoned parcels such as the Property. The additional FAR gained through the first-stage PUD modification is captured under this overall FAR cap; and
    - ii. The campus plan FAR cap, which only sets the FAR cap for residentially zoned properties, does not apply to the Property. Section 210 merely aggregates the FAR for the residentially zoned portions of the campus. The Property is commercially zoned and will remain so; therefore, it is not aggregated under § 210;
  - b. The University has agreed to provide 6,637 square feet of ground-floor retail space within the Project along Pennsylvania Avenue. The Project does not preclude the type of neighborhood-serving retail desired by ANC but, as the University's representative explained, the type of neighborhood-serving retail desired by ANC 2A, FBA, and WECA may not necessarily be appropriate for the Project given market demands. Furthermore, such neighborhood-serving retail is considered and provided throughout the Foggy Bottom campus. Finally, the 2007 Foggy Bottom Campus Plan/PUD will deliver neighborhood-serving retail one block from the Project along the I Street retail corridor that will be implemented through the Campus Plan/PUD;
  - c. Pursuant to a private settlement agreement with the President, the University agreed to maintain and widen the alley in its current location at this time. The University also agreed to provide the President with a construction management

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plan and provide other measures deemed acceptable by the President. At the hearing, the ANC representative expressed general support for the proposed agreement with the President. The Commission concludes that the additional mitigation measures listed in the ANC resolution regarding the President are unnecessary; and

- d. The University has agreed to provide office space for the Foggy Bottom / West End Village and the real-time transportation information board requested by ANC 2A, which were specifically listed in the ANC resolution and supported by the ANC representative at the public hearing. Given these amenities, as well as the affordable housing, ground-floor retail, and agreement with the President, the Commission does not agree that the current amenities package is insufficient or that additional amenities are required to justify the development incentives granted for this Project. The other PUDs cited by ANC 2A are distinguishable from the Project; two did not include any affordable housing as a public benefit and the third project called for significant increases in density for both the residential and office components of the PUD that justified a different package of amenities.
81. Following the public hearing, ANC 2A filed a supplemental resolution ANC opposing the application unless the University agreed to provide a benefits and amenities package totaling \$350,000-500,000 and including the items set forth in the resolution. (Ex. 49.)
  82. In a post-hearing submission, the University agreed to additional public benefits that, when totaled with the public benefits already proffered in response to ANC 2A's request, totaled over \$300,000. Again, for the reasons discussed above, the Commission finds that the amenities package responds to the ANC's requests and is sufficient when combined with the affordable housing program, sustainable design features, ground-floor retail, and other project amenities and public benefits given the degree of development incentives requested.
  83. In response to the procedural order the Commission issued after it took proposed action, ANC 2A submitted a third report dated February 11, 2013. (Ex. 64.) The report reiterated the issues and concerns the ANC made in its prior reports, and described ways in which ANC 2A believed the proffered benefits and amenities were inadequate. These issues and concerns were outside the scope of the comments the Commission requested in its order, which was expressly limited to whether the proposed conditions are specific and enforceable as to the proffers to which they relate.
  84. Nevertheless, because the Commission must give Great Weight to the issues and concerns raised by an ANC, the Commission will address the issues raised.

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85. The report also stated two ways in which ANC 2A believed the draft conditions were inadequate to ensure that the proffered benefits and amenities were actualized. First, with respect to the required retail space, the ANC stated that condition did not state (a) when the retail must be in place, and (b) if the retail must be night-active. ANC 2A requested that the Commission condition the issuance of a certificate of occupancy on having a lease agreement in place for all of the retail space. ANC 2A also expressed a preference for night-active retail. Second, with respect to a real time transportation information board, ANC stated that it does not understand why the Applicant's revised condition included language making delivery of the transportation information board dependent on an agreement with the President Condominium, and recommended deletion of the final paragraph of this proposed condition.
86. The Commission considered the third report at its February 25, 2013 public meeting. With respect to ANC 2A's concern that the condition pertaining to the required retail space did not say when the retail must be in place, and if it must be night active the Zoning Commission concluded, consistent with its prior rulings, that it cannot require that Applicant agree to augment its public benefits in this way. Proffered public benefits are either sufficient or they are not. It is not the obligation of the Commission to cure a deficient public benefits package. However, there is no such deficiency here. As noted, the Commission considers the public benefits contained within the original First Approval as increased by the specific public benefits proffered as to this particular application to justify the development flexibility sought. Nevertheless, the Commission encourages the Applicant to include night-active retail in this space.
87. With respect to the ANC's information board comments, the Applicant has agreed to modify the condition to separate the provisions related to the landscaping and buffering improvements, and those that relate to the transportation information board.
88. The Commission has identified each legally relevant issue raised by the ANC and, for the reasons stated above, found some of its advice to be persuasive and some not. In doing so it has given the ANC the great weight required by statute.

### **Testimony in Support**

89. At the hearing, the Commission received evidence and heard testimony from students and neighbors in support of the Application.

### **Testimony in Opposition**

90. WECA presented testimony and evidence from Barbara Kahlow. WECA alleged that a campus plan amendment was required; alleged that the Project would decrease the amount of retail along Pennsylvania Avenue; requested additional amenities, such as a contribution to a second Metro entrance; and alleged that the Project would impose

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adverse impacts on the President as well as traffic impacts on the broader community. The Commission does not agree with WECA's assertions regarding the Project:

- a. For the reasons set forth above, the Commission does not credit the testimony of WECA that the Project must be included in the aggregate FAR calculated under § 210;
  - b. As noted by the University's representative, the Project will significantly increase the amount of retail frontage and therefore the retail presence along Pennsylvania Avenue. The Commission finds that the proposed retail space does represent a public benefit of the PUD – the first-stage PUD did not require retail on the western portion of the Property and the eastern portion of the Property currently does not contain retail space. The Commission notes that although the amount of total retail space may have decreased from existing conditions, such existing retail space included less desirable second-story retail space;
  - c. The Commission does not agree with WECA's assertions the University should be required to fund or substantially contribute to the construction of a second Metrorail entrance. At the hearing, representatives for the University provided evidence that the cost of constructing a second entrance far exceeded any amount that could be realistically assembled through benefits and amenities associated with PUDs in the surrounding neighborhood. Furthermore, the University has already provided ample benefits and amenities through the Campus Plan/PUD, and no additional benefits are warranted because of the impact of this Project;
  - d. For the reasons set forth above, additional amenities are not required and a contribution to a second Metrorail station is infeasible;
  - e. The settlement agreement between the University and the President provides evidence that potential adverse impacts on the President have been addressed; and
  - f. For the reasons set forth above, the Project will not impose adverse traffic impacts.
91. WECA also submitted a written submission on February 8, 2013 in response to the procedural order the Commission issued when it took proposed action. (Ex. 63.) Because WECA's comments were essentially similar to the ANC's, the Commission will not repeat its earlier discussion.
  92. FBA presented testimony and evidence from Patrick Kennedy. FBA requested that the Project include subsidized ground-floor retail space for local businesses, called for the preservation of the existing buildings, expressed concern regarding the amendment of the

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campus plan to incorporate more investment use, alleged that the proposed amenities package was insufficient, and questioned the location of the proposed affordable housing.

93. The Commission does not agree with FBA's assertions regarding the Project:
- a. As noted above, the campus planning process identified the I Street Retail Corridor as the appropriate location for the type of retail called for by FBA;
  - b. In conjunction with the first-stage PUD, the University and its preservation consultants undertook a comprehensive assessment of potential historic resources throughout the campus. The structures located on the Property (Development Site 75A) and Lot 858 (Development Site 75B) were evaluated and determined not to merit preservation;
  - c. The Zoning Regulations explicitly permit modification of PUDs through a public process that permits an evaluation of the proposed change against the original approval. Here, the Commission concludes that the modification of the first-stage PUD is appropriate given the use, context, size, and benefits afforded through the PUD as a whole;
  - d. For the reasons set forth above, the Project provides ample benefits and amenities; and
  - e. The proposed affordable housing is not in an inappropriate location. The proposed location is residentially zoned and the proposed use is consistent with the zoning and character of the location. The Commission credits OP's testimony that such affordable housing was not required under the Zoning Regulations, but rather was provided as a public benefit of the PUD. The Commission credits the testimony of DHCD and a local realtor, who appeared as a witness in support of the Project, that the affordable housing would be highly desirable given the relatively unique mix of character, size, and type of units, notwithstanding its location.
94. No other persons or organizations provided testimony in opposition to the application.

#### **CONCLUSIONS OF LAW**

1. The Applicant requested approval, pursuant to 11 DCMR Chapter 24, of a second-stage PUD and modification to a first-stage PUD for its Foggy Bottom Campus. The Commission is also authorized under the Zoning Act to approve PUDs consistent with the requirements set forth in Chapter 24 of the Zoning Regulations.

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2. The Property is located in the C-3-C Zone District. Under the Zoning Regulations, a college or university use is permitted as a matter of right in commercial zone districts (11 DCMR § 701.6(b)) and it is well established that special exception approval under § 210 is not required. *See Glenbrook Road Ass'n v. D.C. Bd. of Zoning Adjustment*, 605 A.2d 22 (D.C. 1992). Furthermore, the proposed uses in this Project consist of commercial uses such as office and retail or service uses that do not require special exception approval. The Commission has previously approved multiple redevelopments for commercial office and retail use within the Foggy Bottom Campus Plan without requiring review and approval under § 210. *See, e.g.*, Z.C. Order No. 339 (1981) (approving redevelopment of Square 101 as “Red Lion Row” commercial office and retail development); *see also* Z.C. Order No. 960 (2002) (approving redevelopment of Square 119 as IMF HQ2, an office use). Accordingly, the provisions of § 210, which only apply to university use of residentially zoned property within the boundaries of a campus plan, do not apply.<sup>4</sup>
3. Pursuant to Condition P-15 of the Campus Plan/PUD Order, the University is required to demonstrate that each second-stage PUD satisfies the special exception standards of §§ 210 and 3104. Here, because the Project is a commercially zoned office building, the Applicant contended that it was not required to review or seek approval under § 210, as the standards of §§ 210 and 3104 do not formally apply to the Project. The PUD condition made no such distinction and arguably it was intended to impose higher standards upon otherwise matter-of-right commercial development. The Commission need not decide the issue because the University has met its burden of proof under these standards as well. The burden of proof under § 3104 generally permits approval of a special exception which, in the judgment of the Commission, will be in harmony with the general purpose and intent of the Zoning Regulations and Maps and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps. The burden of proof for under § 210 permits approval of a special exception subject to the provisions contained in § 210, including that the university use must be “located so that it is not likely to become objectionable to neighboring property because of noise, traffic, number of students, or other objectionable conditions” and that the maximum bulk requirements may be increased for specific buildings, subject to restrictions based on the total bulk of all buildings and structures on the campus.
4. Based on the above Findings of Fact and pursuant to Condition P-15 of Z.C. Order No. 06-11/06-12, the Commission concludes that the University has satisfied the burden of

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<sup>4</sup> This is different from other development sites in the campus. In the Campus Plan/PUD Order, the Commission noted that further processing approval under § 210 would continue to be required for university use of *development sites being rezoned from residential zoning* (generally, R-5-D zoning) to commercial zoning (generally, C-3-C zoning). (Z.C. Order No. 06-11/06-12 at 30 (2006).) This requirement does not apply to the Subject Property. Unlike the other rezonings approved under the First-Stage PUD, the rezoning of the Property is unique – it rezones property already in a commercial zone district to a higher-density commercial zone district.

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proof in accordance with §§ 210 and 3104. In particular, the Commission concludes that the proposed project will not create objectionable noise, traffic, parking, or other impacts on the surrounding community.

5. Also based on the above Findings of Fact, the Commission concludes that the University has satisfied the burden of proof for modification of the first-stage PUD and approval of the second-stage PUD under Chapter 24 of the Zoning Regulations. Approval of this Project will provide high-quality development that provides public benefits, is consistent with the overall goal of the PUD process to permit flexibility of development and other incentives provided that the PUD project “offers a commendable number or quality of public benefits, and that it protects and advances the public health, safety, welfare, and convenience.”
6. The proposed PUD meets the minimum area requirements of 11 DCMR § 2401.1.
7. Under the PUD process and pursuant to Condition P-14 of Z.C. Order No. 06-11/06-12, the Commission has the authority to consider this application as a second-stage PUD. This second-stage review permits detailed design review of each project based on the conceptual height, density, and use parameters established in the first-stage PUD and the benefits and amenities approved in exchange for that height, density, and design flexibility. The Commission concludes that the Project is consistent with the first-stage PUD as modified in this Application, including the parameters regarding location, use, height, and bulk set forth for the Property in the first-stage PUD.
8. In approving the PUD, the Commission may impose development conditions, guidelines, and standards which may exceed or be less than the matter-of-right standards. In this application, the Commission concludes that the requested flexibility from the rear yard and court requirements can be granted without detriment to surrounding properties and without detriment to the zone plan or map.
9. Based on the documentation included in the initial PUD application, the Commission concludes that the University has demonstrated compliance with the conditions of the first-stage PUD as detailed in Condition P-16 of Z.C. Order No. 06-11/06-12.
10. Based on the University’s most recently filed Foggy Bottom Campus Plan Compliance Report, which was included in the initial application package, the Commission concludes that the University is in substantial compliance with Z.C. Order No. 06-11/06-12.
11. The development of this PUD project carries out the purposes of Chapter 24 of the Zoning Regulations to encourage well-planned developments that will offer a variety of building types with more attractive and efficient overall planning and design not achievable under matter-of-right standards. The character, scale, mix of uses, and design

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of uses in the proposed PUD are appropriate, and the proposed development is compatible with the citywide and area plans of the District of Columbia.

12. The Commission concludes that this project, including the additional benefits provided through the modification of the first-stage PUD, provides superior features that benefit the surrounding neighborhood to a significantly greater extent than a matter-of-right development on the Property would provide. The Commission finds that the urban design, site planning, efficient and safe traffic circulation, sustainable features, affordable housing, ground-floor retail, uses of special value, and streetscape improvements are all are significant public benefits.
13. The Commission concludes that the impact of the project is acceptable given the quality of the public benefits of the project, including those benefits provided through the first-stage PUD modification. The Commission agrees with the conclusions of the University's traffic expert that the proposed project will not create adverse traffic, parking, or pedestrian impacts on the surrounding community.
14. Approval of the PUD and further processing application is not inconsistent with the Comprehensive Plan. The Commission agrees with the determination of OP and finds that the proposed project is consistent with the Property's High-Density Commercial Designation on the Future Land Use Map and furthers numerous goals and policies of the Comprehensive Plan, including the Land Use Element provisions related to educational institutions, transportation impacts, and corporate leadership in exemplary design, Housing Element provisions calling for affordable housing and housing for families, and provisions in other citywide elements and policies in the Near Northwest Area Element related to managing the impacts of campus development.
15. The Commission has judged, balanced, and reconciled the relative value of the project amenities and public benefits offered, including the amenities and benefits provided through the first-stage PUD modification, the degree of development incentives requested, and any potential adverse effects, and concludes approval is warranted.
16. The Commission previously concluded in Z.C. Order No. 06-11/06-12 that the proposed PUD-related Zoning Map Amendment for the western portion of the Property from the C-3-C to the C-4 Zone District was not inconsistent with the Comprehensive Plan and is appropriate given the superior features of the PUD, the goals and policies of the Comprehensive Plan, and other District of Columbia policies and objectives. The Commission concludes that the proposed PUD-related Zoning Map Amendment for the eastern portion of the Property from the C-3-C to the C-4 Zone District is not inconsistent with the Comprehensive Plan, including the Property's designation as High-Density Commercial on the Future Land Use Map, and is appropriate given the superior features of the PUD, the additional benefits and amenities provided through the first-stage PUD

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- modification, the goals and policies of the Comprehensive Plan, and other District of Columbia policies and objectives.
17. The Commission is required under D.C. Official Code § 6-623.04 to give great weight to OP recommendations. OP recommended approval, provided that the University refined the affordable housing proposal and addressed the location of the public alley. The Commission concludes that the University addressed these conditions and, accordingly, the first-stage PUD modification and second-stage approval should be granted.
  18. In accordance with § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d)) the Commission must give great weight to the written issues and concerns of the affected ANC. Through its discussion of the issues raised by ANC 2A in Findings of Facts 79 through 87, the Commission accorded those issues and concerns of ANC 2A the “great weight” to which they are entitled, and in so doing fully credited the unique vantage point that ANC 2A holds with respect to the impact of the proposed application on the ANC’s constituents.
  19. The Commission agrees with OP that the provisions of § 2404 do not apply to the Project, which does not increase the gross floor area devoted to office space over and above the amount of office space permitted as a matter of right in the C-4 Zone District, which is the zoning included as part of the PUD. Accordingly the proposed affordable housing represents a significant public benefit of the PUD.
  20. The Commission concludes that the affordable housing proposed as part of the PUD does not constitute an inclusionary development pursuant to Chapter 26 of the Zoning Regulations. Accordingly, the University is not bound to the provisions of Chapter 26 and related administrative provisions under Title 14 of the D.C. Municipal Regulations in the implementation of the proposed affordable housing program, provided that such affordable housing complies with the conditions of this Order.
  21. Notice of the public hearing was provided in accordance with the Zoning Regulations.
  22. The University is subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977.

### **DECISION**

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission of the District of Columbia **ORDERS APPROVAL** of the applications for (1) modification of the approved First-Stage PUD for the Foggy Bottom Campus to incorporate Lot 863 and portions of a public alley to be closed into the first-stage PUD and (2) second-stage PUD approval for property consisting of Square 75, Lots 23, 33, 34, 41, 42, 47, 863, part of Lot

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864, and a portion of a public alley to be closed (“Property”). This approval is subject to the following guidelines, conditions, and standards of this Order.

Compliance with the following conditions shall be the sole responsibility of the University, although the University may authorize others to perform on its behalf. If the University no longer holds title to the Property, then the University shall have no further obligations under this Order, and compliance with the following conditions shall be the sole responsibility of the successor-in-interest to the Property.

1. This project shall be developed in accordance with the plans marked as Tab D of Exhibit 50 of the record, as modified by guidelines, conditions, and standards herein.
2. The University shall have flexibility from the rear yard and court provisions of the Zoning Regulations as shown on the approved plans.
3. The project shall be used for any use permitted in the C-4 Zone District provided that at least 6,637 square feet of gross floor area on the ground floor is set aside for retail and service uses.
4. The project shall provide parking as shown on the approved plans, except that the University shall be permitted to make alterations to the size and design of the underground parking garage, provided that the garage contains approximately 154 striped parking spaces, which requirement may be satisfied with any combination of accessible, full-sized, compact, valet and tandem spaces. The Project shall provide a minimum of 52 bicycle spaces, as shown in the Plans.
5. The Project shall provide loading consistent with the approved plans. The University shall abide by the Loading Management Plan detailed on Exhibit 34, Tab C of the record.
6. The University shall submit with its building permit application a LEED checklist indicating that the Project includes sustainable design features such that the Project would be able to meet the standards for certification at a minimum of Gold rating on the LEED-CS 3.0 2009 rating system, although the University is not required to seek such LEED Gold certification for the Project. The University shall also submit evidence that the Project has been designed to capture a minimum of 1.2” of rainfall.
7. The University shall abide by the transportation performance monitoring study set forth in Exhibit 57, Tab A of the record.
8. The University will contribute up to \$100,000 for office space for the Foggy Bottom West End Village (“Village”). The Village will select and enter into a lease agreement with a to-be-identified landlord, and the Village may extend the term of the initial lease agreement and/or enter into a one or more replacement lease agreements for the same or

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new office space with the same or a new landlord. All such lease agreements shall be on terms and conditions satisfactory to the Village in its sole discretion. The University will make its contribution of rent directly to each such landlord. Rent is defined as all monies set out in each such lease agreement including but not limited to minimum rent, common area maintenance, real estate taxes, utilities, cost of cleaning services, and security as more specifically defined in each such lease agreement:

- a. The University will commence payment of rent upon (a) the effective date of this Order and the expiration of any appeal period or, if an appeal is filed, completion of the appeal and related remand, and (b) the execution of the lease by the Village. The University will terminate the payment of rent upon (a) the exhaustion of the \$100,000 allowance, or (b) the termination of the final lease, whichever comes first. Compliance with this condition of approval shall be demonstrated prior to the issuance of the certificate of occupancy for the Project. If, prior to issuance of the building permit for the Project, the Village has not yet entered into the lease, the University shall be permitted to return to the Zoning Commission to identify a substitute public benefit; and
  - b. If requested in writing by the Village, the Village may allocate up to \$15,000 of the above \$100,000 contribution to expenses incurred by the Village in outfitting the office space and the University shall reimburse the Village for such reasonably documented expenses. Such expenses may include costs associated with adding computer lines, cable upgrades, or other improvements that would be considered an additional cost for the initial set up of office space for use by the Village. The University will approve and reimburse the Village for such reimbursable expenses within 30 days after the date they are submitted. Any amount reimbursed pursuant to this section shall be deducted from the University's \$100,000 rent contribution.
9. The University shall contribute \$50,000 to fund a fellowship position at the Francis-Stevens Education Campus. The University shall work with the Francis-Stevens Parent Teacher Association to determine the specific educational role of the fellowship position based on the needs of the Francis-Stevens Education Campus, and the University shall fill the fellowship position with one or more students in the University's Columbian College or Graduate School of Education and Human Development. The fellowship position shall commence at the beginning of the next academic year following (a) the effective date of this Order and the expiration of any appeal period or, if an appeal is filed, completion of the appeal and related remand, and (b) the identification of the specific educational role of the fellowship position. The University shall terminate the fellowship position upon exhaustion of the \$50,000 contribution. Compliance with this condition shall be demonstrated prior to the issuance of a certificate of occupancy for the Project:

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- a. In the event that the University is unable to establish the fellowship position, the University shall contribute \$50,000 to the Francis-Stevens Parent Teacher Association to fund the establishment of an instructional or counseling position to be determined by the Francis-Stevens Parent Teacher Association that will support educational programs at Francis–Stevens Education Campus; and
  - b. In the event that the Francis-Stevens Education Campus is no longer in operation, the University shall work with ANC 2A to select another D.C. public school that serves ANC 2A for the fellowship position or instructional/counseling position.
10. The University shall contribute up to \$1,000 to the Francis-Stevens Parent Teacher Association to support marketing efforts for the Francis-Stevens Education Campus, such as advertisements in local media and printed materials for distribution. Compliance with this condition shall be demonstrated prior to the issuance of a certificate of occupancy for the Project.
11. Prior to the issuance of a certificate of occupancy for the Project, the University shall, in accordance with the affordability requirements outlined on Exhibit 50, Tab A of the record (the “Affordability Requirements”), convert the properties identified as 2142, 2146, and 2148 F Street N.W. to seven units containing approximately 7,209 square feet of affordable housing set aside for households earning up to 80% of the Area Median Income for the Washington, D.C. Metropolitan Statistical Area and adjusted for family size:
  - a. The maximum rent for each affordable housing unit shall be calculated as set forth in the Affordability Requirements;
  - b. Maximum annual household income upon recertification shall be determined as set forth in the Affordability Requirements;
  - c. The term of the affordable housing program shall be for a period of 30 years beginning on the date of the lease of the first unit; and
  - d. Prior to or concurrent with the conversion of the properties, the University shall enter into a covenant that binds the University to comply with the Affordability Requirements, which shall be similar in form to the ADU covenant attached as Exhibit 56, Tab A of the Record (the “ADU Covenant”). The Affordability Requirements shall be attached to the ADU Covenant. The administrative provisions of the ADU covenant may be modified if accepted by both the University and DHCD.
12. Prior to the issuance of a certificate of occupancy for the Project, the University shall demonstrate that it has constructed the landscaping and buffering improvements as shown

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on the approved plans. The final design of any such improvements shall be subject to the terms of the University's agreement with the President Condominium dated November 15, 2012 and approval by the appropriate District permitting authorities, and the University shall have flexibility to modify such improvements per the agreement or in response to DDOT's direction.

13. Prior to the issuance of a certificate of occupancy for the Project, the University shall demonstrate that it has contributed up to \$100,000 to develop and install a real-time transportation information board. The board shall be provided by the University and located in a publicly visible location on University property within the Foggy Bottom/West End neighborhood. The board shall include information on Metrorail, Metrobus and the D.C. Circulator as provided by WMATA
14. The University shall have flexibility with the design of the PUD in the following areas:
  - a. To modify the exterior design of the Project and the location and design of the public alley in response to comments received from District agencies, utilities, and the D.C. Council through the alley closing and dedication process, provided that the north-south portion of the public alley is located as shown on Exhibit 34, Tab A of the record;
  - b. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, mechanical rooms, elevators, and toilet rooms, provided that the variations do not change the exterior configuration or appearance of the structure;
  - c. To vary final selection of the exterior materials within the color ranges and materials types as proposed based on availability at the time of construction and to vary the frit pattern selected for the Project;
  - d. To vary the final streetscape design and materials subject to review and approval by the appropriate District permitting authorities;
  - e. To make minor refinements to exterior details and dimensions, including balcony enclosures, belts, courses, sills, bases, cornices, railings, and trim, or any other changes to comply with Construction Codes or that are otherwise necessary to obtain a final building permit, or to address the structural, mechanical, or operational needs of the building uses or systems;
  - f. To vary the number, size, location, and design features of retail entrances, including the size, location, and design of windows, doors, awnings, canopies, and similar features, to accommodate the needs of specific retail tenants and storefront design;

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- g. To vary the number, type, and location of doors related to the upper-story terrace as needed over the life of the Project to accommodate changes in building operation and function;
  - h. To vary the location of green roof areas and configuration of the trellis on the roof of the Project as needed over the life of the Project; and
  - i. To vary the number, size, location, and other features of proposed building signage, provided that such signage is consistent with the locations illustrated on the approved plans or is otherwise permitted under the applicable provisions of the Building Code.
15. No building permit shall be issued for this project until the University has recorded a covenant among the land records of the District of Columbia between the owners and the District of Columbia that is satisfactory to the Office of the Attorney General and the Zoning Division of the Department of Consumer and Regulatory Affairs. Such covenant shall bind the University and all successors in title to construct on or use the Property in accordance with this Order and any amendment thereof by the Zoning Commission.
16. The application approved by this Commission shall be valid for a period of two years from the effective date of this Order. Within such time, an application must be filed for the building permit as specified in 11 DCMR § 2409.1.
17. The University is required to comply fully with the provisions of the Human Rights Act of 1977, as amended, D.C. Official Code § 2-1401.01, et seq. (“Act”) and this Order is conditioned upon full compliance with those provisions. In accordance with the Act, the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination, which is also prohibited by the Act. In addition, harassment based on any of the above protected categories is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.

On January 14, 2013, upon the motion by Commissioner May, as seconded by Chairman Hood, the Zoning Commission **APPROVED** the application at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, Peter G. May, and Michael G. Turnbull to approve).

On February 25, 2013, upon the motion of Commissioner Miller, as seconded by Vice Chairman Cohen, the Zoning Commission **ADOPTED** this Order at its public meeting by a vote of **5-0-0**

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(Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, Peter G. May, and Michael G. Turnbull to adopt).

In accordance with the provisions of 11 DCMR § 3028.9, this Order shall become effective upon publication in the *D.C. Register*; that is on June 21, 2013.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA**  
**ZONING COMMISSION ORDER NO. 11-03B**  
**Z.C Case No. 11-03B**  
**Hoffman-Struever Waterfront, LLC**  
**(Second-Stage Planned Unit Development)**  
**Southwest Waterfront**  
**PARCEL 5**  
**May 13, 2013**

Pursuant to notice, the Zoning Commission for the District of Columbia (the "Commission") held a public hearing on February 28, 2013, to consider applications for a second-stage Planned Unit Development ("PUD") filed by Hoffman-Struever Waterfront, LLC, (the "Applicant") on behalf of the District of Columbia, through the Office of the Deputy Mayor for Planning and Economic Development ("DMPED"), the current owner of the property. The project site is generally bounded by the Washington Channel of the Potomac River and Maine Avenue, between 7<sup>th</sup> Street on the east and the area to be known as "Jazz Alley" on the west, all in Southwest Washington. The Commission approved the Stage 1 PUD application for this project by order dated December 16, 2011, in Z.C. Case No. 11-03. The Commission approved the first Stage 2 PUD application in four separate orders for the portion of the project site known as Parcels 2, 3, 4, and 11, the Capital Yacht Club, and the public open spaces known as the Wharf, the Transit Pier, the District Pier, the Yacht Club Piazza, the Mews, Jazz Alley, 7<sup>th</sup> Street Park and Waterfront Park, as well as temporary uses on Parcel 1. (See Z.C. Order Nos. 11-03A(1), 11-03A(2), 11-03A(3), and 11-03A(4) issued February 11, 2013, and published in the *D.C. Register* on February 25, 2013.) The Commission considered this second-stage PUD application for Parcel 5 pursuant to Chapters 24 and 30 of the District of Columbia Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations ("DCMR"). The public hearing was conducted in accordance with the provisions of 11 DCMR § 3022. For the reasons stated below, the Commission hereby approves the application for Parcel 5.

**FINDINGS OF FACT**

**The Applications, Parties, and Hearings**

1. On September 24, 2012, the Applicant filed an application with the Commission for second-stage review and approval of a PUD for Lots 84 and 831 in Square 473, part of Lot 839 in Square 473, and portions of Water Street to be closed, consisting of approximately 60,189 square feet of land area ("Property"). The Property is presently improved with improvements constructed under the Southwest Urban Renewal Plan for the Southwest. The Applicant intends to redevelop the Property consistent with the Stage 1 PUD approval order issued December 16, 2011.
2. By report dated October 19, 2012, the Office of Planning ("OP") recommended that the application be set down for a hearing. At its public meeting held on November 14, 2013, the Commission voted to schedule a public hearing on the application.

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3. On December 14, 2012, the Applicant submitted its pre-hearing statement and on February 8, 2013, submitted its supplemental information for the project, along with several architectural drawings to respond to issues raised by the Commission and OP.
4. A description of the proposed development and the notice of the public hearing for this matter were published in the *D.C. Register* on January 11, 2013. The notice of public hearing was mailed to all property owners within 200 feet of the PUD Site as well as to Advisory Neighborhood Commission (“ANC”) 6D. On February 28, 2013, the Commission held a hearing to consider the Parcel 5 PUD application.
5. The parties to the proceeding were the Applicant, ANC 6D, and the Gangplank Slipholders Association. (“GPSA”)
6. At the hearing, the Applicant presented five witnesses in support of its application: Matthew Steenhoek, on behalf of Hoffman-Struever Waterfront, LLC; Andrew McIntyre of the JBG Companies on behalf of SW Waterfront, LLC, the hotel; Andrew Rollman, SmithGroup JJR architectural firm; and Robert Schiesel, Gorove/Slade Associates, transportation consultant. Based upon their professional experience and qualifications, Mr. Rollman was qualified as an expert in architecture and Mr. Schiesel was qualified as an expert in transportation engineering and planning.
7. Jennifer Steingasser, Deputy Director for Development Review and Historic Preservation of OP, Matthew Jesick, Development Review Specialist at OP, and Jamie Henson of the District’s Department of Transportation (“DDOT”) testified in support of the application with certain comments and conditions.
8. At its meeting on February 11, 2013, which was duly noticed and at which a quorum was present, ANC 6D voted 7-0 to support the applications, with conditions.
9. Ron McBee, the single member district representative for ANC 6D03, and Richard Westbrook each testified as a person in support of the Parcel 5 PUD. The Commission received letters in support from the Disabled American Veterans, Riverside Baptist Church, and Arena Stage.
10. At the conclusion of the hearing on this matter, the Commission requested the Applicant to submit additional architectural drawings showing alternative designs for the penthouse embellishments along Maine Avenue, the proposed 7<sup>th</sup> Street Stair, a new stair along the Wharf to the second floor courtyard, proposed window treatments for the hotel, and a written response to each issued raised by OP. The Applicant submitted the requested information to the Commission on March 21, 2013. (Exhibit [“Ex.”] 34, 34A, and 34B.) The Commission also requested the Applicant to submit a bus management plan in coordination with the ANC prior to final action on the application. That information was submitted on May 6, 2013. (Ex. 44.)

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11. On April 8, 2013, the Commission took proposed action to approve with conditions the Parcel 5 PUD application.
12. The application referred to the National Capital Planning Commission (“NCPC”) for review of any impacts on the federal interest under the Comprehensive Plan. On May 7, 2013, NCPC recommended that the project would not be inconsistent with the Comprehensive Plan for the National Capital.
13. The Commission took final action to approve the Parcel 5 PUD on May 13, 2013 .

### **The Southwest Waterfront Project**

14. The Southwest Waterfront project is a public-private partnership between the District of Columbia and Hoffman-Struever Waterfront, LLC, which entered into a land disposition agreement (“LDA”) for its development. The District of Columbia, as owner of all the property in the PUD site except for Lots 83 and 814 in Square 473, the Vestry of St. Augustine's Church, the owner of Lots 83 and 814 in Square 473, and Hoffman-Struever Waterfront, LLC, the master developer selected by the City to implement the project, submitted their application for approval of a second-stage PUD to fulfill the revitalization plan envisioned by the city to reactivate the Southwest Waterfront. The project site fronts on the Washington Channel in Southwest Washington and is generally bounded on the northwest by the Maine Avenue Fish Market and Case Bridge (part of the highways comprising the 14<sup>th</sup> Street Bridge), Maine Avenue to the northeast, Washington Channel to the southwest, and on the southeast by N Street, S.W. and 6<sup>th</sup> Street, S.W.
15. Pursuant to the Stage 1 PUD approval, the entire project will include an aggregate floor area ratio (“FAR”) of 3.87, which excludes the private streets in the project area, or approximately 3,165,000 square feet of gross floor area. Proposed uses will include approximately 1,400 mixed-income and market rate residential units, with 160,000 square feet of the gross residential space set aside for households earning no more than 30% and 60% of the Washington–Arlington–Alexandria, DC–VA–MD–WV Metropolitan Statistical Area Median Income (“AMI”); approximately 925,000 square feet of office space; a luxury hotel with a total of 278 guest rooms, and two additional hotels with approximately 405 rooms; approximately 300,000 square feet devoted to retail uses; a minimum of 100,000 square feet devoted to cultural activities; and more than 10 acres of parks and open space on the land side. The riparian area will feature four public or public use piers, as well as approximately 80,000 square feet of maritime-related commercial, recreational, and service development.
16. The Commission approved the first Stage 2 PUD application for the Southwest Waterfront on February 11, 2013 in Z.C. Order Nos. 11-03A(1), 11-03A(2), 11-03A(3) and 11-03A(4), which proposed the development of six buildings on Parcels 2, 3, 4, and

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11. This first phase of the project also encompassed the creation of new public and open spaces known as the Wharf, The Transit Pier, the District Pier, the Piazza Mews, the Avenue Mews, the Pier Mews, and Jazz Alley (collectively the “Mews”), the Yacht Club Piazza, the 7<sup>th</sup> Street Park, and Waterfront Park. Parcel 1 is also to be improved with a temporary parking lot/event space.
17. The Parcel 5 PUD, which is part of Phase I of the Southwest Waterfront, proposes the development of an extended-stay and limited-service hotel combination. It will provide approximately 258,479 square feet of gross floor area devoted to hotel uses and approximately 42,000 square feet of gross floor area devoted to retail and service uses.

### **The Applicant and Development Team**

18. The master developer and Applicant of the overall PUD project is Hoffman-Struever Waterfront, LLC. The Applicant is processing this Stage 2 application on behalf of DMPED. The Applicant’s team includes the District-based Certified Local, Small, and Disadvantaged Business Enterprises of E.R. Bacon Development, Paramount Development and Triden Development, as well as District-based and CBE-certified CityPartners.
19. The hotel on Parcel 5 will be developed by SW Waterfront, LLC, an affiliate of the JBG Companies.

### **Approved Stage 1 PUD Development Parameters**

20. Under the Stage 1 PUD, the Commission approved the parameters for the development of the Southwest Waterfront, as shown on the architectural plans submitted to the record. The PUD order authorizes a landside density of 3.87 FAR, excluding private rights-of-way, with a combined gross floor area of approximately 3,165,000 square feet. Waterside uses may have a maximum potential density of 0.68 FAR, or 114,000 square feet of gross floor area. (*See* Z.C. Order No. 11-03 at 33 (Condition Nos. A-1 and A-2).)
21. The Commission authorized a maximum building height of 110 feet on Parcel 5, which was rezoned to the C-3-C Zone District.
22. With respect to parking facilities for the project, the Commission authorized the construction of one or more below grade parking structures on two to three levels that are required to provide spaces for approximately 2,100-2,650 vehicles. The PUD project is also required to provide parking or storage for 1,500-2,200 bicycles and sufficient loading facilities to accommodate the mix of uses on the site. The precise amount of parking and loading is to be determined in each Stage 2 PUD application. (*Id.*)

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23. Consistent with the phased development endorsed by the Commission, the Parcel 5 PUD will be developed with an extended-stay and limited service hotel combination with approximately 405 rooms. The ground floor will include retail/service uses. The mass of the building consists of a one-story base with a U-shaped hotel tower configuration above, rising to a maximum building height of 110 feet in eight to nine stories.

### **Overview of the Southwest Waterfront**

24. The Southwest Waterfront PUD has been designed to reunite the city with the water's edge and re-enliven it with a mix of uses and year-round urban vibrancy. The concept is to bring the city's unique urban qualities of buildings with street walls and dynamic public open spaces to this area, while recalling the thriving commercial aspects of the historic working waterfront that once lined the Washington Channel. This working wharf once connected the upland city streets to the maritime edge, and was characterized by an industrial warehouse district with a focus on maritime activities.
25. As described during the approved Stage 1 PUD, the new development will provide a mix of uses to ensure an active waterfront throughout the year, day and night. The PUD has been designed as a series of "places," not projects. Each place is the integration of architecture and landscape design to create inviting and memorable public environments. There will be a variety of gathering places to cater to every interest, ranging from actively programmed places to simple promenades and parks for passive enjoyment of the water and its environs.
26. The plan for the waterside has been fully integrated with the land plan. The project will incorporate four new public use piers along the Washington Channel, allowing public-use access into the Channel for the first time. The District Pier, the largest of the piers, is intended to be the primary waterside entrance to the project and the host for the District's waterside events. A host of other tour boats, tall ships, and maritime vessels, such as water taxis, will be added to the existing recreational maritime activities to provide much more activity and many more reasons for the public to use the waterfront and engage in water sports and activities. The waterside development will extend to the limit of the federal navigational channel.

### **Parcel 5 Proposed Development**

#### *Design Overview*

27. Parcel 5 of the Southwest Waterfront development frames the western edge of the prominent 7<sup>th</sup> Street Park and public pier. It will serve as a gateway to the newly developed Wharf Street along the edge of the Washington Channel. The primary views from the site are looking east toward the 7<sup>th</sup> Street Park and south toward the Wharf, the Washington Channel and Haines Point. Secondary views to the west along Mews Alley

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and to the north along Maine Avenue offer vistas back to the city and monumental core. These views to and from Parcel 5 were instrumental in the development of the buildings massing.

28. The U- shaped building sits on a 20-foot tall retail/service plinth and rises another 90 feet with hotel guest room floors and amenity space, a limited-service hotel and an extended-stay hotel. The east portion of the building is occupied by the nine-story extended-stay hotel with 160 guest rooms. The north-south rectilinear bar is articulated into four slightly canted bays creating a nautically inspired saw-tooth expression optimizing views to the river and park. The modern glass and metal panel facade will provide a serene backdrop to the 7<sup>th</sup> Street Park.
29. Across the internal courtyard and plaza is the eight-story limited-service hotel, which frames the northern and western edges of the development. The 245-guest-room hotel is composed of a glass facade with articulated horizontal mullions evoking a modern interpretation of the type of industrial windows that would be historically found on the waterfront. The façade has been set back from the Mews in order to enhance the views and provide a series of outdoor terraces at the Plaza level. A simple inflection in the building facade further breaks down the overall massing and improves the sight lines to the southwest toward the water. The north bar of the limited-service hotel is setback from the Maine Avenue property line and extends east to the extended stay hotel. Amenities for both hotels are located at the second floor plaza level. This level is enclosed in glass curtain wall to reduce the building's massing and create a transparent expression through the facade that allows the guest rooms to float above. The elevators and mechanical equipment for the hotel have been arranged so that a penthouse structure is not required for the north bar.

*Outdoor Elevated Courtyard; Wharf Stair and 7<sup>th</sup> Street Stair*

30. At the heart of the Parcel 5 development is a large outdoor, publicly accessible courtyard and plaza area at the second level, which is easily accessible via the hotel lobbies or exterior staircases from 7<sup>th</sup> Street and the Wharf. A variety of hotel amenities, outdoor activities and food & beverage options will activate this elevated courtyard plaza space. A small portion of the courtyard area will be reserved exclusively for use by the extended stay hotel guests. The remainder of the outdoor area will be accessible to public, including the hotel pool, which may charge a fee to non-hotel guests. Signage at the exterior Wharf stair and 7<sup>th</sup> Street stair will direct the public to the upper plaza level.
31. Although not included with the original PUD submission, the Applicant modified its plans to provide the second exterior public stair to the courtyard along the Wharf in response to comments from OP and the Commission. (Ex. 34A.) The stair incorporates illuminated risers to provide visibility and pedestrian safety and offers a visual indication that the stair is a gateway to the publically accessible space above. Signage has been

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introduced on the south side of the stair to direct pedestrians to the internal courtyard and to the accessible route via elevator. This second stair greatly enhances the vantage points and places where the public can enjoy, free of charge, elevated views over the Washington Channel. It further activates surrounding pedestrian areas and serves as an additional attraction for visitors to the Wharf.

32. The Applicant also modified the treatment of the 7<sup>th</sup> Street Park Stair in response to OP and Commission comments. As originally designed, most of the stair was covered by the floor plate of the hotel above. As revised, the area was opened up, with a "sky bridge" overhead to maintain a hotel corridor. The openness is more inviting, increases visibility and enhances pedestrian safety by eliminating the somewhat secluded nature of the previous design. Signage was introduced on both sides of the stair to direct pedestrians to the internal courtyard above and to the accessible route via elevator. The finish materials of the "sky bridge" are transparent glass walls and a back-lit underside soffit providing increased lighting to the stair and a visual indication that the stair is a gateway to the public space above.

#### 7<sup>th</sup> Street Retail Design Guidelines

33. Storefront guidelines will be instituted in order to provide a more pleasing aesthetic for the retail frontages adjacent to the hardscape elements of the 7th Street Park, which was previously approved by the Commission in Z.C. Order No. 11-03A(3). Restaurants, cafes and retail shops will be strongly encouraged to use landscaping methods to express brand identity beyond the storefronts by adding landscaped vessels, potted shrubs and trees, colorful plantings and seasonal retail window boxes. These mechanisms will add color and texture to the storefront design and create a visual connection to the parks and green spaces of the overall PUD.

#### Maine Avenue Penthouse Embellishments

34. In response to comments received from OP and the Commission, the Applicant restudied its treatment of the penthouse embellishments at the Maine Avenue façade. In order to create a lighter appearance and reduce the visual weight of the design, the solid caps of each of the embellishments were reduced in mass by the introduction of glass. The embellishments will be open to the sky, allowing natural light to penetrate through the top and reinforcing their more subtle expression. These changes successfully resolve the issues raised by the Commission and OP.

#### **Parking and Loading Facilities**

35. Parcel 5 will include its own below grade parking garage that will be separate and distinct from the shared parking facility under Parcels 2, 3, and 4. The Parcel 5 garage will be located on two levels below grade, and will provide spaces for 200-287 automobiles and

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- 34 bicycles. The range in the number of parking spaces is dependent on whether an additional half level of parking is constructed. DDOT expressed comfort with the range of spaces based on the Applicant's commitment to the Transportation Demand Management ("TDM") program. The garage will be accessed from a covered east-west "service alley" that bisects the ground floor of the building. Refrigerated trash and recycling rooms are located along the periphery of this interior service space.
36. Loading facilities are also located off the service alley, and will consist of three loading berths, two service spaces, and a loading dock. The Applicant requested relief from the loading requirements, as discussed in greater detail elsewhere in this order.
37. The Applicant will implement restrictions and guidelines on loading operations to ensure coordination on deliveries to the buildings, as set forth in the transportation technical memorandum. (Ex.17B.)

#### **Sustainable (LEED) Development**

38. The Applicant has developed guidelines to ensure that the vertical development of this Stage 2 application has been designed in accordance with LEED-ND Gold objectives, in order to meet individual certification requirements and to comply with the overall larger framework of LEED-ND criteria. (See Z.C. Order No. 11-03, at 36 (Condition No. B-7).) Consistent with the Stage 1 PUD approval, the Parcel 5 development will achieve a LEED-NC (new construction) or LEED-CS (core and shell) Silver rating or higher. The building has also been designed to meet the LEED stormwater requirements in conformance with the certification process sought for each building.
39. The Land Disposition Agreement between the Applicant and DMPED requires the overall Southwest Waterfront PUD to incorporate sustainable design criteria and pursue LEED 2009 for Neighborhood Development (LEED ND) certification by the Green Building Certification Institute ("GBCI") at the Gold-level or higher. LEED certification at the target level requires compliance with and documentation of all prerequisites and between 60 and 79 points.
40. In keeping with the approved Stage 1 PUD and the LDA, the overall project is designed and developed in its entirety to meet the requirements of the D.C. Green Building Act of 2006 that came into effect March 8, 2007. The Parcel 5 building will pursue LEED certification with the GBCI at the Silver level or higher in compliance with the appropriate individual building certification system, New Construction (NC), Core & Shell (CS), or Commercial Interiors (CI).

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### **Project Association**

41. The Applicant will create and manage a project association for the PUD that will be responsible for maintenance and improvements of the private roadways, alleys, bicycle paths, promenade, sidewalks, piers, parks, and signage, within the PUD boundaries ("Project Association"). The Applicant will manage and operate the Project Association during the "developer control period," as defined in the Applicant's Declaration of Covenants with the District of Columbia required by the LDA. The developer control period begins upon the effective date of the Declaration of Covenants and ends five years after issuance or deemed issuance of the last certificate of completion for all portions of the PUD site and unit certificates of completion for each residential condominium unit. The project association will fund maintenance and programming elements of the project's common elements through a Common Area Maintenance ("CAM") assessment charge to each development component within the PUD. Additionally, the project association will be responsible for programming and staging events within the PUD.

### **Certified Business Enterprises**

42. The Applicant has entered into a Certified Business Enterprise ("CBE") Agreement, with the D.C. Department of Small and Local Business Development ("DSLBD") in order to achieve, at a minimum, a 35% participation by certified business enterprises in the contracted development costs for the design, development, construction, maintenance, and security for the project to be created as a result of the PUD.
43. In addition to the CBE requirement, the Applicant has committed that 20% of the retail space for the Parcel 5 development will be set aside for "unique" and/or "local" businesses, which will include CBEs. As defined under the LDA, a "local" business is a retailer that is either a CBE or a retailer headquartered in the District of Columbia. A "unique" business is a retailer owning or operating fewer than eight retail outlets in the aggregate at the time such retailer enters into a retail lease at the PUD (inclusive of such retail outlet at the PUD). The Applicant will work collaboratively with business and community organizations throughout the District to identify and, where possible, mentor potential small restaurateurs and retailers to help them lease and successfully operate these retail spaces. The Applicant will also have kiosks along the promenades, and in parks and other public spaces, where even smaller local businesses can try out their retail concepts on a low-risk basis. Those kiosk operators who are successful may have the opportunity to move indoors, into one of the spaces reserved for unique and local business enterprises, thereby growing their business.

### **First Source Employment Opportunity**

44. The Applicant has also executed a First Source Employment Agreement with the Department of Employment Services (See Ex. 209 in Z.C. Case 11-03A) to achieve the

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goal of utilizing District residents for at least 51% of the new jobs created by the PUD project. Prior to issuance of a building permit for any construction of Parcel 5, the Applicant shall complete the Construction Employment Plan of the First Source Employment Agreement outlining the hiring plan for the project. The Applicant shall meet the First Source Employment Agreement requirement that 20% of new jobs will be filled by Ward 8 residents, and that good faith diligent efforts will be made to hire residents of Southwest Washington. Thirty percent of apprenticeship opportunities will be filled by residents residing east of the Anacostia River. The Applicant and the contractor, once selected, shall use best efforts to coordinate apprenticeship opportunities with construction trades organizations, the D.C. Students Construction Trades Foundation, which is an affiliate of the Academy of Construction and Design at Cardozo, and other training and job placement organizations to maximize participation by District residents in Phases of the PUD construction.

#### **Workforce Intermediary Program**

45. Consistent with the Stage 1 PUD approval, the Applicant has committed to contributing \$1 million to the District's Workforce Intermediary Program. At the time of the Stage 1 PUD approval, the Applicant had already paid \$250,000 of that commitment. The Applicant is funding the remaining \$750,000 as part of the Stage 2 PUD for Parcels 2, 3, 4, and 11.

#### **Development Incentives and Flexibility**

46. Roof Structures Setbacks: In accordance with 11 DCMR § 411.11, the Applicant seeks relief from the penthouse setback requirements under § 770.6 of the Zoning Regulations. The relief is necessary due to the narrow floor plate of the hotel while at the same time encompassing both the elevator overruns and mechanical equipment within a single, aesthetically pleasing, structure. The narrow floor plate of the hotel program requires the elevators hoistways to be placed off-center and, when restricted to the 1:1 setback requirement, limits the available floor area for equipment. The footprint of the penthouse enclosure, as indicated on Pages 1.42 and 1.43 of the drawings, is required to house the mechanical equipment and is not intended for the occupations of space. The height of the penthouse enclosure is compliant with the regulation and will not adversely affect the light and air of the adjacent buildings.
47. Loading Facilities: The Parcel 5 building generates a requirement for two loading berths at 55 feet each; two loading berths at 30 feet each; two service/delivery spaces at 20 feet each; and two platforms at 300 square feet each. Relief is requested for the project to provide instead three 30-foot loading berths, two 20-foot service/delivery loading spaces, and a 600-square-foot loading platform.

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48. *Vehicle Parking*: The Parcel 5 building will provide a minimum of 162 spaces, in compliance with the zoning requirement. The Applicant nevertheless seeks flexibility to build another half level of parking and provide a range in the number of parking spaces from 200 to 287 spaces, in response to demand. The TDM measures to be implemented as part of the PUD will ensure that any negative impacts generated by the increased number of spaces can be mitigated. The Commission finds the flexibility is warranted in consideration of the potential parking demand for the overall Southwest Waterfront project and the TDM measures.
49. No other zoning relief or flexibility was requested or is granted through this Order.

#### **Office of Planning Report**

50. By report dated February 15, 2013, OP indicated its support of the project and requested the Applicant to provide additional information with respect to: (i) public access to the second level courtyard; (ii) the rationale for removing an access stair from the Wharf to the courtyard in an earlier design but one that the Commission had never seen; (iii) the possibility of reinstating the Wharf stair; (iv) modifying the design of the stair at 7<sup>th</sup> Street to be more inviting; (v) improving the landscaping at the 7<sup>th</sup> Street Park; (vi) an explanation of the loading facilities for the retail space fronting on the Wharf; (vii) information on vehicle idling and bus movements; (viii) correcting the building height referenced on certain drawings; (ix) the potential for even minimal penthouse setbacks at the courtyard elevations of the building; (x) external building lighting; and (xi) the quantity of unique or local retailers at Parcel 5. The Applicant fully responded to these issues through supplemental information at the hearing and in post-hearing submissions dated March 21, 2013. (Ex. 34.) The responses are reflected throughout this order. OP filed a supplemental report dated March 21, 2013 indicating its support for the Applicant's responses. (Ex. 33.)

#### **DDOT Report**

51. DDOT submitted a memorandum, dated February 19, 2013, in support of the PUD, with several recommendations. DDOT concluded that, after an extensive multi-administration review, that any adverse effects of the Parcel 5 development can be mitigated based on (i) the mitigations proffered for the Phase I PUD (Z.C. Order Nos. 11-03A(1), 11-03A(2), 11-03A(3) and 11-03A(4)), of which Parcel 5 is a part; and (ii) additional measures specific to Parcel 5. These include: installation of showers for hotel employees that commute by bike; employment of market-based pricing for on-site hotel/retail parking; designation of a hotel staff member as a TDM coordinator; and provision of a kiosk in each hotel lobby that contains information on the non-vehicular transportation alternatives to the Parcel 5 PUD.

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52. DDOT also recommended, and the Applicant agreed, to limit the size of delivery trucks to 30 feet in length. With respect to bus traffic and vehicle idling, the Applicant will implement the Bus Management Plan. (Ex. 44.)
53. Based on the TDM and Loading and Curbside Management Plan submitted in Z.C. Case No. 11-03A that will govern the entirety of the Southwest Waterfront PUD, and the commitments made by the Applicant in its updated transportation analysis (Ex. 17B and 17C), the Commission finds that any potential adverse transportation impacts that may arise can be detected, monitored, and addressed quickly and efficiently.

### **ANC Report**

54. On February 11, 2013, ANC 6D voted 7-0-0 to support the Parcel 5 development, on the condition that the Applicant and the ANC develop a satisfactory bus management plan. The purpose of the bus management plan would be to mitigate the effect of loading and unloading of busses directly adjacent to exterior restaurant and retail operations and minimize the impact upon the enjoyment of visitors to the previously approved 7th Street Park. The Commission left the record open to receive such a plan prior to final action on the PUD.
55. On May 6, 2013, the Applicant submitted its bus management plan as endorsed by the ANC. It provides that the Applicant will maintain an ongoing relationship with ANC 6D to manage the bus traffic for groups visiting the hotels located on Parcel 5, and lists several methodologies that the Applicant will follow to manage the arrival, loading/unloading, departure, and parking for busses.
56. With respect to the PUD design, the ANC greatly supported the general architectural expression of the building, noting that several ANC members found it to be the most attractive thus far in the Southwest Waterfront development. The ANC recommended conditions in the order to ensure that the retail in the hotels does not cater just to the needs of temporary hotel residents and that the courtyard be open to the public. The ANC also agreed with OP's recommendation for a Wharf stair to the courtyard and noted that the proposed 7th Street stair is not an adequate substitute, based on its initial design.
57. The Commission concurs with the views of the ANC with respect to ensuring a broad range of retail and service uses and public access to the courtyard through conditions in the order. The Commission is satisfied that the bus management plan submitted by the Applicant on May 6, 2013 and endorsed by the ANC will mitigate the effect of loading and unloading of busses directly adjacent to exterior restaurant and retail operations and minimize the impact upon the enjoyment of visitors to the previously approved 7<sup>th</sup> Street Park.

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58. The Commission accords great weight to the views of the ANC and finds that the Applicant has responded appropriately to each issue raised.

### **Commission of Fine Arts**

59. The U.S. Commission of Fine Arts (“CFA”) reviewed the conceptual plans for the Parcel 5 PUD pursuant to its authority under the Shipstead-Luce Act. CFA recommended concept approval of the Parcel 5 building by letter dated June 28, 2012. (Ex.12A.)

### **Gangplank Slipholders Association**

60. GPSA testified at the hearing as a party in support of the Parcel 5 PUD, stating that the proposed hotel, along with its retail and restaurant uses, would enliven a long-neglected part of the Southwest waterfront. GPSA complemented the architectural design of the building, which would present an open view to and from the Washington Channel. GPSA expressed continuing concerns, however, with respect to noise from the courtyard and potential lighting impacts to the live-aboard vessels in the marina. GPSA also claimed that the bifurcation of the PUD into separate phases had deferred significant elements of the program, including parking for boaters and visitors, service access and circulation from marina access. GPSA urged the Commission to revisit these issues in the subsequent Stage 2 PUD application for the redesign of the Gangplank Marina.
61. The Commission noted at the hearing, and GPSA agreed, that most the concerns raised by GPSA were addressed in the agreement with the Applicant submitted to the record as part of Overall Plan Elements in Z.C. Case No. 11-03A. (Ex. 235C.) With respect to potential hotel noise, the Commission finds that proposed courtyard uses are consistent with the public-oriented activities of the Wharf and other open spaces, and any noise generated from the courtyard area will be comparable with those overall uses. Moreover, based on the approved Stage 1 PUD and the Waterside Relocation Plan approved in Z.C. Order No. 11-03A(1), the Gangplank Marina is not presently located adjacent to Parcel 5 and will be moved to the southeast adjacent to Parcels 6, 7, 8, and 9, and separated from Parcel 5 by the proposed 7<sup>th</sup> Street Pier. Consequently, any hotel noises will not directly affect the Gangplank Marina.
62. With respect to lighting, the proposed hotel will not have any exterior building illumination, except what is generated by retail users, directional and path lighting, service corridor lighting, plaza level hotel amenity and exterior courtyard lighting, and the hotel guest rooms. There also will be the ambient lighting from the Wharf itself. Consequently, the proposed Parcel 5 PUD will not generate any unnecessary or objectionable lighting.

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### CONCLUSIONS OF LAW

1. Pursuant to the Zoning Regulations, the PUD process is designed to encourage high-quality development that provides public benefits. (11 DCMR § 2400.1.) The overall goal of the PUD process is to permit flexibility of development and other incentives, provided that the PUD project “offers a commendable number or quality of public benefits, and that it protects and advances the public health, safety, welfare, and convenience.” (11 DCMR § 2400.2.)
2. Under the PUD process of the Zoning Regulations, the Commission has the authority to consider this application as a second-stage PUD. The Commission may impose development conditions, guidelines, and standards which may exceed or be less than the matter-of-right standards identified for height, FAR, lot occupancy, parking and loading, or for yards and courts. The Commission may also approve uses that are permitted as special exceptions and would otherwise require approval by the Board of Zoning Adjustment.
3. Development of the property included in this application carries out the purposes of Chapter 24 of the Zoning Regulations to encourage the development of well-planned developments, which will offer a project with more attractive and efficient overall planning and design, not achievable under matter-of-right development.
4. The PUD meets the minimum area requirements of § 2401.1 of the Zoning Regulations.
5. The PUD, as approved by the Commission, complies with the applicable height, bulk and density standards of the PUD guidelines and the authority vested in the Zoning Commission to grant deviations therefrom. The hotel and retail/service uses for this project are appropriate for the PUD Site. The impact of the project on the surrounding area is not unacceptable. Accordingly, the project should be approved.
6. This Stage 2 PUD is substantially in accordance with the elements, guidelines, and conditions of the first-stage approval and thus should be granted stage 2 approval. Pursuant to § 2408.6, if the Commission finds the Stage 2 PUD application to be in accordance with the intent and purpose of the Zoning Regulations, the PUD process, and the first-stage approval, the Commission shall grant approval to the second-stage application, including any guidelines, conditions, and standards that are necessary to carry out the Commission's decision. As set forth above, the Commission so finds.
7. The application can be approved with conditions to ensure that any potential adverse effects on the surrounding area from the development will be mitigated.
8. The Applicant's request for flexibility from the Zoning Regulations is consistent with the Comprehensive Plan. Moreover, the project benefits and amenities are reasonable trade-offs for the requested development flexibility.

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9. Approval of this PUD and map amendment is appropriate because the proposed development is consistent with the present character of the area, and is not inconsistent with the Comprehensive Plan. In addition, the proposed development will promote the orderly development of the site in conformity with the entirety of the District of Columbia zone plan as embodied in the Zoning Regulations and Map of the District of Columbia.
10. The Commission is required under § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163; D.C. Official Code § 6-623.04 (2001)), to give great weight to OP recommendations. The Commission carefully considered the OP reports and its oral testimony at the hearing. As explained in this decision, the Commission finds OP's recommendation to grant the applications persuasive.
11. The Commission is required under § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d)) to give great weight to the issues and concerns raised in the written report of the affected ANC. The Commission has carefully considered the ANC 6D's recommendation for approval and concurs in its recommendation.
12. The application for a PUD is subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977.

### DECISION

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission for the District of Columbia **ORDERS APPROVAL** of the application for approval of the Stage 2 PUD for Parcel 5, subject to the guidelines, conditions and standards set forth below. For the purposes of these conditions, the term "Applicant" means the person or entity then holding title to the Property. If there is more than one owner, the obligations under this Order shall be joint and several. If a person or entity no longer holds title to the Property, that party shall have no further obligations under this Order; however, that party remains liable for any violation of these conditions that occurred while an Owner.

#### **A. Project Development**

1. The PUD shall be developed with an extended-stay and limited-service hotel with retail and service uses, substantially in accordance with the architectural plans prepared by SmithGroupJJR Architects, dated February 8, 2013, and marked as Exhibit 17A in the record, as revised by Exhibit 34A (collectively, the "Plans"), and as modified by the guidelines, conditions, and standards herein.
2. The maximum height of the building shall be 110 feet, with approximately 300,479 square feet of gross floor area.

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3. Parking spaces for the Parcel 5 building shall be provided in the below grade garage as shown on the Plans. The Applicant shall abide by the Loading and Curbside Management Plan and Updated TDM Plan submitted as part of Exhibit 17B, and the Bus Management Plan submitted as Exhibit 44 to the record. The Applicant shall have the flexibility to modify the monitoring/reporting requirements in coordination with DDOT. The specific restrictions and guidance regarding loading operation at the Parcel 5 loading dock include:
  - a. A representative of the hotel management will supervise all deliveries to the loading dock. This representative will monitor vehicle, bicycle, and pedestrian traffic on the Parcel 5 mews during loading ingress and egress and direct truck movements to minimize conflicts, especially when wide trucks are maneuvering down the cross service mews in two-way traffic;
  - b. Trucks using the loading dock will not be allowed to idle and must follow all District guidelines for heavy vehicle operation including, but not limited to, 20 DCMR Chapter 9 (“Engine Idling”), the regulations set forth in DDOT’s Freight Management and Commercial Vehicle Operations document, and the primary access routes listed in the DDOT Truck and Bus Route System;
  - c. Delivery Trucks will not be permitted to maneuver during peak periods when traffic volumes are highest or at times that would conflict with trash collection. Peak periods are defined as weekdays (excluding holidays) from 7:00-9:00 a.m. and 4:00-6:00 p.m.; and
  - d. High-turnover retail and restaurant delivery trucks will not be allowed to use the loading dock during times of high retail and restaurant traffic in The Wharf (this restriction applies to 30-foot trucks and not to delivery vans). Therefore, the dock will close to these delivery trucks at 4:00 p.m. on weekdays and 11:00 a.m. on weekends. After 11:00 a.m. on weekends, the dock will become available for special event setup and breakdown only as these activities will see a much lower turnover of heavy vehicles and will therefore create minimal conflict.
4. The Applicant may reserve a small portion of the outdoor courtyard plaza at the second level for the exclusive use of the extended stay hotel guests. The remainder of that outdoor courtyard plaza will be accessible to the public, including the hotel pool. The Applicant may charge a fee to non-hotel guests to use the pool.
5. The Applicant shall implement the storefront and signage guidelines included with the Plans. The Applicant shall strongly encourage restaurant café and retail tenants to include landscaping elements as part of their outside storefront areas, as appropriate.

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6. The Applicant shall have flexibility with the design of the PUD in the following areas:
- a. *Parking Spaces:* The Parcel 5 building may provide a range in the number of parking spaces from 200 to 287. The Applicant shall have the option to construct an additional half level of parking to accommodate the maximum number of spaces authorized herein;
  - b. *Loading Facilities:* The Parcel 5 building shall provide three 30-foot loading berths, two 20-foot service/delivery loading spaces, and a 600-square-foot loading platform;
  - c. *Roof Structure Setbacks:* The Parcel 5 building shall comport to the roof structure setbacks as shown on the drawings;
  - d. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, and mechanical rooms, provided that the variations do not change the exterior configuration of the Parcel 5 building;
  - e. To vary the garage layout, location, and arrangement of the parking spaces, provided that the total number of parking spaces is not reduced below 200 spaces;
  - f. To vary the final selection of the exterior materials within the color ranges and material types as proposed, based on availability at the time of construction, without reducing the quality of the materials; and to make minor refinements to exterior details and dimensions, including curtainwall mullions and spandrels, window frames, glass types, belt courses, sills, bases, cornices, railings, and trim, or any other changes to comply with the District of Columbia Building Code, the recommendations of the U.S. Commission of Fine Arts, or that are otherwise necessary to obtain a final building permit; and
  - g. To vary the selection of plantings in the landscape plan depending on seasonal availability within a range and quality as proposed in the plans.

**B. Public Benefits**

1. *Prior to the issuance of a certificate of occupancy*, the Parcel 5 building shall be designed to achieve a LEED-NC (new construction) or LEED-CS (core and shell) Silver rating or higher, consistent with the score sheets submitted as Sheet 2.24 of the Volume IV of the drawings. The building shall use low impact development (“LID”) strategies to reduce as much runoff from leaving the site as is practical and will filter one inch of rainfall before discharging from the site. The building shall meet the LEED stormwater requirements in conformance with the certification process sought for the building.

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2. *Prior to issuance of a certificate of occupancy*, the Applicant shall establish the Project Association for the PUD that will be responsible for maintenance and improvements of the private roadways, alleys, bicycle paths, promenade, sidewalks, piers, parks and signage within the PUD boundaries. Additionally, the Project Association will be responsible for programming and staging events within the PUD. The Project Association will fund maintenance and programming elements of the project's common elements through a Common Area Maintenance ("CAM") assessment charge to each development component within the PUD. The Applicant shall create, manage, and operate the Project Association during the "developer control period," which begins on the effective date of the Declaration of Covenants between the District of Columbia required by the LDA and the Applicant and ends five years after issuance or deemed issuance of the last certificate of completion for all portions of the PUD site and unit certificates of completion for each residential condominium unit.
3. *During construction of the PUD*, the Applicant shall abide by the terms of the executed First Source Employment Agreement with the Department of Employment Services to achieve the goal of utilizing District residents for at least 51% of the new jobs created by the project. Prior to issuance of a building permit for the construction of the project, the Applicant shall complete the Construction Employment Plan of the First Source Employment Agreement outlining the hiring plan for the project. The Applicant and the contractor, once selected, shall use best efforts to coordinate apprenticeship opportunities with construction trades organizations, the D.C. Students Construction Trades Foundation, which is an affiliate of the Academy of Construction and Design at Cardozo, and other training and job placement organizations to maximize participation by District residents in the training and apprenticeship opportunities in the PUD.
4. *During the life of the project*, the Applicant shall abide by the executed CBE Agreement with the Department of Small and Local Business Development (Z.C. Exhibit No. 4-J in ZC Case No. 11-03) to achieve, at a minimum, 35% participation by certified business enterprises in the contracted development costs for the design, development, construction, maintenance, and security for the project to be created as a result of the PUD.
5. *Prior to the issuance of a certificate of occupancy*, the Applicant shall pay to the District \$750,000 in support of the District's Workforce Intermediary Program. Payment of the \$750,000 in connection with requirement of another Stage 2 PUD for the Southwest Waterfront shall satisfy the condition of this PUD order.

**C. Miscellaneous**

1. No building permit shall be issued for the PUD until the Applicant has recorded a covenant in the land records of the District of Columbia, between the Applicant and the

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District of Columbia, that is satisfactory to the Office of the Attorney General and the Zoning Division of the Department of Consumer and Regulatory Affairs. Such covenant shall bind the Applicant and all successors in title to construct and use the property in accordance with this order, or amendment thereof by the Commission. The Applicant shall file a certified copy of the covenant with the records of the Office of Zoning.

2. The PUD shall be valid for a period of two years from the effective date of Z. C. Order No. 11-03B. Within such time, an application must be filed for a building permit for the construction of the project as specified in 11 DCMR § 2409.1; the filing of the building permit application will vest the Order. Construction of the project must commence within three years of the effective date of Z.C. Order No. 11-03B.
3. The Applicant is required to comply fully with the provisions of the Human Rights Act of 1977, D.C. Law 2-38, as amended, and this order is conditioned upon full compliance with those provisions. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code § 2-1401.01 et seq., (“Act”) the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination that is also prohibited by the Act. In addition, harassment based on any of the above protected categories is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.

On April 8, 2013, upon the motion of Vice Chairman Cohen, as seconded by Commissioner Turnbull, the Zoning Commission **APPROVED** the application at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, Peter G. May, and Michael G. Turnbull to approve).

On May 13, 2013, upon the motion of Vice Chairman Cohen, as seconded by Commissioner Miller, the Zoning Commission **ADOPTED** this Order at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, Peter G. May, and Michael G. Turnbull to adopt).

In accordance with the provisions of 11 DCMR § 3028, this Order shall become final and effective upon publication in the *D.C. Register*; that is on June 21, 2013.

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