VOL. 60 – NO. 33 FRIDAY, AUGUST 2, 2013

District of Columbia

REGISTER

HIGHLIGHTS

- DC Council passes Law 19-320, Omnibus Criminal Code Amendments Act of 2012
- Office of Tax and Revenue adopts rules that allow a seven-month extension for combined reporting filers
- District Department of Transportation establishes a permit for reserved on-street car-sharing company parking
- DC Water and Sewer Authority increases water and sewer service rates
- Department of Consumer and Regulatory Affairs proposes rules that outline the Green Building Act requirements
- Department of Consumer and Regulatory Affairs schedules an information session on the vending regulations

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, §§2-50l *et seq.*, as amended.

All documents published in the *D.C. Register* must be submitted in accordance with the applicable provisions of the Rules of the Office of Documents and Administrative Issuances. Documents which are published in the *D.C. Register* include (1)) Acts and resolutions of the Council of the District of Columbia; (2) Notices of proposed Council legislation, Council hearings, and other Council actions; (3) Notices of public hearings; (4) Notices of final, proposed, and emergency rulemaking; (5) Mayor's Orders and information on changes in the structure of the District of Columbia government (6) Notices, Opinions, and Orders of District of Columbia Boards, Commissions and Agencies; (7) Documents having general applicability and notices and information of general public interest.

Deadlines for Submission of Documents for Publication

ODAI accepts electronic documents for publication using a Web-based portal at www.dcregs.dc.gov. To submit a document, obtain a username and password from your department's ODAI liaison. If you do not know your liaison, email ODAI at dcdocuments@dc.gov to request for your department's ODAI liaison. For guidelines on how to format and submit documents for publication, email ODAI at dcdocuments@dc.gov.

The deadline for receiving documents from the District of Columbia Agencies, Boards, Commissions, and Public Charter schools is TUESDAY, NOON of the week of publication. The deadline for receiving documents from the District of Columbia Council is WEDNESDAY, NOON of the week of publication. If an official District government holiday falls on Monday or Friday, the deadline for receiving documents remains the same as outlined above. If an official District government holiday falls on Tuesday, Wednesday or Thursday, the deadline for receiving documents is one day earlier from the deadlines outlined above.

Viewing the DC Register

ODAI publishes the *D.C. Register* ONLINE every Friday at www.dcregs.dc.gov. Copies of the *D.C. Register* are also available for public review at each branch of the District of Columbia Public Library and in each Advisory Neighborhood Commission office. There are no restrictions on the republication of any portion of the *D.C. Register*. News services are encouraged to publish all or part of the *D.C. Register*.

Legal Effect of Publication - Certification

Except in the case of emergency rules, no rule or document of general applicability and legal effect shall become effective until it is published in the *D.C. Register*. Publication creates a rebuttable legal presumption that a document has been duly issued, prescribed, adopted, or enacted and that the document complies with the requirements of the *District of Columbia Documents Act* and the *District of Columbia Administrative Procedure Act.* The Administrator of the Office of Documents hereby certifies that this issue of the *D.C. Register* contains all documents required to be published under the provisions of the *District of Columbia Documents Act.*

DISTRICT OF COLUMBIA
OFFICE OF DOCUMENTS AND ADMINISTRATIVE ISSUANCES

441 4th STREET - SUITE 520 SOUTH - ONE JUDICIARY SQ. - WASHINGTON, D.C. 20001 - (202) 727-5090

VINCENT C. GRAY
MAYOR

VICTOR L. REID, ESQ.
ADMINISTRATOR

PERIODICAL POSTAGE PAID AT WASHINGTON, D.C.
POSTMASTER: Send address changes to D.C. Register, 441 - 4th Street, N.W., Suite 520 South, Washington, D.C. 20001

CONTENTS

ACTIONS OF THE COUNCIL OF THE DISTRICT OF COLUMBIA CONT'D

D.C. ACTS CONT'D

ACTIONS OF THE EXECUTIVE BRANCH AND INDEPENDENT AGENCIES

PUBLIC HEARINGS

ACTIONS OF THE EXECUTIVE BRANCH AND INDEPENDENT AGENCIES CONT'D

FINAL RULEMAKING

ACTIONS OF THE EXECUTIVE BRANCH AND INDEPENDENT AGENCIES CONT'D

PROPOSED RULEMAKING

EMERGENCY AND PROPOSED RULEMAKING

NOTICES, OPINIONS, AND ORDERS
MAYOR'S ORDERS

ACTIONS OF THE EXECUTIVE BRANCH AND INDEPENDENT AGENCIES CONT'D

NOTICES, OPINIONS, AND ORDERS CONT'D
BOARDS, COMMISSIONS, AND AGENCIES

ACTIONS OF THE EXECUTIVE BRANCH AND INDEPENDENT AGENCIES CONT'D

NOTICES, OPINIONS, AND ORDERS CONT'D
BOARDS, COMMISSIONS, AND AGENCIES CONT'D

COUNCIL OF THE DISTRICT OF COLUMBIA

NOTICE

D.C. LAW 19-320

"Omnibus Criminal Code Amendments 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 19-645 on first and second readings December 4, 2012 and December 18, 2012 respectively. Following the signature of the Mayor on February 11, 2013, pursuant to Section 404(e) of the Charter, the bill became Act 19-677 and was published in the March 15, 2013 edition of the D.C. Register (Vol. 60, page 3390). Act 19-677 was transmitted to Congress on March 7, 2013 for a 60-day review, in accordance with Section 602(c)(2) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 60-day Congressional review period has ended, and Act 19-677 is now D.C. Law 19-320, effective June 19, 2013.

PHIL MENDELSON
Chairman of the Council

Days Counted During the 60-day Congressional Review Period:

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

Apr. 8,9,10,11,12,15,16,17,18,19,22,23,24,25,26,29,30

May 1,2,3,6,7,8,9,10,13,14,15,16,17,20,21,22,23,24

June 3,4,5,6,7,10,11,12,13,14,17,18

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-112

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 17, 2013

To amend, on a temporary basis, the Vending Regulation Act of 2009 to allow the Council to vote to approve in whole or in part the proposed regulations for that act.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Vending Regulation Temporary Amendment Act of 2013".

Sec. 2. Section 11 of the Vending Regulation Act of 2009, effective October 22, 2009 (D.C. Law 18-71; D.C. Official Code § 37-131.10), is amended by striking the phrase "proposed rules, by resolution," and inserting the phrase "proposed rules, in whole or in part, by resolution" in its place.

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.

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

ENROLLED ORIGINAL

(b) This act shall expire after 225 days of its having taken effect.

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
July 17, 2013

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-113

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 23, 2013

To amend, on an emergency basis, An Act Authorizing the sale of certain real estate in the District of Columbia no longer required for public purposes to authorize an extension of time to dispose of District-owned real property located at 310 7th Street, S.E.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Extension of Time to Dispose of Hine Junior High School Emergency Amendment Act of 2013".

Sec. 2. Section 1 of An Act Authorizing the sale of certain real estate in the District of Columbia no longer required for public purposes, approved August 5, 1939 (53 Stat. 1211; D.C. Official Code § 10-801), is amended by adding a new subsection (d-8) to read as follows:

"(d-8) Notwithstanding subsection (d) of this section, the Council extends the time period within which the Mayor may dispose of real property located at 310 7th Street, S.E., to Stanton-Eastbanc Hine School Ventures, LLC (or its affiliates or assignees approved by the Mayor) in accordance with the terms and conditions set forth in the Hine Junior High School Disposition Approval Resolution of 2010, effective July 13, 2010 (Res. 18-555; 57 DCR 7628), to on or before January 13, 2014.".

Sec. 3. Applicability.

This act shall apply as of July 13, 2013.

Sec. 4. 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. 5. 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
July 23, 2013

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-114

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 19, 2013

To approve, on an emergency basis, Change Orders No. FY13-001 through No. FY13-014 to Contract No. GM-10-S-0707D-FM for on-call small capital projects between the District of Columbia government and HRGM Corporation, and to authorize payment to HRGM Corporation in the aggregate amount of $1,941,489 for the goods and services received and 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. FY13-001 through No. FY13-014 to Contract No. GM-10-S-0707D-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. FY13-001 through No. FY13-014 to Contract No. GM-10-S-0707D-FM with HRGM Corporation for on-call small capital projects and authorizes payment in the aggregate amount of $1,941,489 for the goods and services received and 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 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
July 19, 2013

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-115

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 23, 2013

To approve, on an emergency basis, Task Order No. DCKA-2013-T-0006 to Alta Bicycle Share, Inc. for services and equipment received and to be received by the District Department of Transportation for the Capital Bikeshare Program.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Task Order No. DCKA-2013-T-0006 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), and of section 2425.9 of Title 27 of the District of Columbia Municipal Regulations (27 DCMR § 2425.9), the Council approves Task Order No. DCKA-2013-T-0006 for the Capital Bikeshare Program, and authorizes payment in the amount of $6,431,331.27 for services and equipment received and to be received under the task order.

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
July 23, 2013

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-116

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 19, 2013

To approve, on an emergency basis, Modification Nos. 2-9 to Contract No. DCKA-2011-R-0180 with Xerox State and Local Solutions, Inc. for parking meter management services, and to authorize payment 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 "Modification Nos. 2-9 to Contract No. DCKA-2011-R-0180 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 sections 202 and 404 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code §§ 2-352.02 and 2-354.04), the Council approves Modification Nos. 2-9 to Contract No. DCKA-2011-R-0180 for parking meter management services provided by Xerox State and Local Solutions, Inc. to the District Department of Transportation, and authorizes payment in the amount of $5,890,500.00 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 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
July 19, 2013

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-117

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 24, 2013

To amend on an emergency basis, due to Congressional Review, An Act To establish a code of law for the District of Columbia to provide a borrower the same rights for a defective notice of default on residential mortgage as the law provides for a defective notice of intention to foreclose on a residential mortgage, to provide that a foreclosure sale of a property secured by a residential mortgage shall be void if a lender files a notice of intention to foreclose on a residential mortgage without a mediation certificate, to provide for a new definition of residential mortgage, to provide several technical changes to the text, and to amend the Foreclosure Mediation Fund provisions to allow mortgage-related or foreclosure-related settlement funds to be transferred into the fund and allow those funds to be used for specified mortgage-related or foreclosure-related matters.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Saving D.C. Homes from Foreclosure Enhanced Congressional Review Emergency Amendment Act of 2013".

Sec. 2. An Act To establish a code of law for the District of Columbia, approved March 3, 1901 (31 Stat. 1271; D.C. Official Code § 42-801 *et seq.*), is amended as follows:

(a) Subsection 539a(a) (D.C. Official Code § 42-815.01(a)) is amended by striking the phrase, "at least one of which is the principal place of abode of the debtor or his immediate family".

(b) Subsection 539b (D.C. Official Code § 42-815.02) is amended as follows:

(1) Designate the 2nd subsection (e) as subsection (f).

(2) Designate subsection (f) as subsection (g).

(3) Designate subsection (g) as subsection (h).

(4) Designate subsection (h) as subsection (i).

(5) Designate subsection (i) as subsection (j).

(6) The newly designated subsection (h) is repealed.

(7) New subsections (h-1), (h-2), (h-3), and (h-4) are added to read as follows:

"(h-1) A foreclosure sale of property secured by a residential mortgage shall be void if a lender files a notice of intention to foreclose on a residential mortgage without a mediation certificate.

ENROLLED ORIGINAL

"(h-2) A borrower shall have the same rights to assert a claim for a defective notice of default on residential mortgage as the law provides for a defective notice of intention to foreclose on a residential mortgage.

"(h-3) Except as provided in subsections (h-1) and (h-2) of this section, a mediation certificate shall serve as conclusive evidence that all other provisions of this act and implementing regulations have been complied with and can be relied upon by a bona fide purchaser and a bona fide purchaser's lender or assigns.

"(h-4) Nothing in this act shall be construed to limit a borrower's right to assert a claim for fraud or monetary damages against the borrower's lender.".

(c) Section 539 c(a) (D.C. Official Code § 42-815.03(a)) is amended to read as follows:

"(a)(1) There is established as a nonlapsing fund the Foreclosure Mediation Fund ("Fund"), into which shall be deposited the fees and penalties generated by the foreclosure mediation program, the District's share of proceeds from February 2012 consent judgments between the federal government and participating states, and any future designated settlements and funds.

"(2) The Fund shall be used for one or more of the following purposes:

"(A) Pay mortgage-related or foreclosure-related counseling;

"(B) Mortgage-related or foreclosure-related legal assistance or advocacy;

"(C) Mortgage-related or foreclosure-related mediation;

"(D) Outreach or assistance to help current and former homeowners secure the benefits for which they are eligible under mortgage-related or foreclosure-related settlements or judgments, and

"(E) Enforcement work in the area of financial fraud or consumer protection.".

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

ENROLLED ORIGINAL

90 days, as provided for emergency acts of the Council 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
July 24, 2013

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-118

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 24, 2013

To amend, on a temporary basis, the District of Columbia Workers' Compensation Act of 1979 to match the federal statute of limitations for negligence claims brought by private-sector employees who are injured at work.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Workers' Compensation Statute of Limitations Temporary Amendment Act of 2013".

Sec. 2. Section 36(b) of the District of Columbia Workers' Compensation Act of 1979, effective July 1, 1980 (D.C. Law 3-77; D.C. Official Code § 32-1535(b)), is amended by adding a new sentence at the end to read as follows: "If the employer fails to commence an action against such third person within 90 days after the cause of action is assigned under this section, the right to bring the action shall revert to the person entitled to compensation.".

Sec. 3. Applicability.

This act applies to causes of action for negligence for which the 3-year statute of limitations has not expired.

Sec. 4. 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. 5. Effective date.

(a) This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved

ENROLLED ORIGINAL

December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

(b) This act shall expire after 225 days of its having taken effect.

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
July 24, 2013

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-119

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 23, 2013

To require private health insurance and Medicaid coverage for services delivered through telehealth.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Telehealth Reimbursement Act of 2013".

Sec. 2. Definitions.

For the purposes of this act, the term:

(1) "Health benefits plan" shall have the same meaning as provided in section 2(4) of the Prompt Pay Act of 2002, effective July 23, 2002 (D.C. Law 14-176; D.C. Official Code § 31-3131(4)).

(2) "Health insurer" shall have the same meaning as provided in section 2(5) of the Prompt Pay Act of 2002, effective July 23, 2002 (D.C. Law 14-176; D.C. Official Code § 31-3131(5)).

(3) "Provider" shall have the same meaning as provided in section 2(7) of the Prompt Pay Act of 2002, effective July 23, 2002 (D.C. Law 14-176; D.C. Official Code § 31-3131(7)).

(4) "Telehealth" means the delivery of healthcare services through the use of interactive audio, video, or other electronic media used for the purpose of diagnosis, consultation, or treatment; provided, that services delivered through audio-only telephones, electronic mail messages, or facsimile transmissions are not included.

Sec. 3. Private reimbursement.

(a) A health insurer offering a health benefits plan in the District may not deny coverage for a healthcare service on the basis that the service is provided through telehealth if the same service would be covered when delivered in person.

(b) A health insurer shall reimburse the provider for the diagnosis, consultation, or treatment of the insured when the service is delivered through telehealth.

(c) A health insurer shall not be required to:

(1) Reimburse a provider for healthcare service delivered through telehealth that is not a covered under the health benefits plan; and

(2) Reimburse a provider who is not a covered provider under the health benefits plan.

(d)A health insurer may require a deductible, copayment, or coinsurance amount for a healthcare service delivered through teleheath; provided, that the deductible, copayment, or coinsurance amount may not exceed the amount applicable to the same service when it is delivered in person.

(e) A health insurer shall not impose any annual or lifetime dollar maximum on coverage for telehealth services other than an annual or lifetime dollar maximum that applies in the aggregate to all items and services under the health benefits plan.

(f) Nothing in this act shall preclude the health insurer from undertaking utilization review to determine the appropriateness of telehealth as a means of delivering a healthcare service; provided, that the determinations shall be made in the same manner as those regarding the same service when it is delivered in person.

Sec. 4. Medicaid reimbursement.

Medicaid shall cover and reimburse for healthcare services appropriately delivered through telehealth if the same services would be covered when delivered in person.

Sec. 5. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report 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. 6. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December

ENROLLED ORIGINAL

24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
July 23, 2013

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-120

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 23, 2013

To establish procedures and protocols to ensure the integrity of tests results of the Districtwide assessments administered to students; and to amend the State Education Office Establishment Act of 2000 to provide the responsibilities that the Office of State Superintendent of Education has relating to Districtwide assessments.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Testing Integrity Act of 2013".

TITLE I. TESTING INTEGRITY

Sec. 101. Definitions.

For the purposes of this title, the term:

(1) "Authorized personnel" means an individual who has access to Districtwide assessment materials or is directly involved in the administration of a Districtwide assessment.

(2) "Districtwide assessments" shall have the same meaning as provided in section 2002(13) of the District of Columbia School Reform Act of 1996, approved April 26, 1996 (110 Stat. 1321; D.C. Official Code § 38-1800.02(13)).

(3) "IEP" means a student's individualized education program.

(4) "ELL" means English language learner.

(5) "Local education agency" or "LEA" means the District of Columbia Public Schools system or any individual or group of public charter schools operating under a single charter.

(6) "Test monitor" means an individual designated by a local education agency to be responsible for testing integrity and security at each individual school subject to the LEA's control during the administration of a Districtwide assessment.

(7) "OSSE" means the Office of the State Superintendent of Education.

(8) "Test integrity coordinator" means an individual designated by a LEA to be responsible for testing integrity and security for the LEA in its entirety during the administration of a Districtwide assessment.

(9) "Testing integrity and security agreement" means an agreement developed by OSSE that:

(A) Sets forth requirements for ensuring integrity of Districtwide assessments pursuant to District law and regulation; and

(B) Requires the signatory to acknowledge that he or she understands that knowingly and willingly violating a District law, regulation, or a test security plan could result in civil liability, including the loss of an OSSE granted certification or license.

Sec. 102. LEA administration of Districtwide assessments.

(a) A LEA responsible for administering a Districtwide assessment shall meet the requirements of section 3(b)(20) of the State Education Office Establishment Act of 2000, effective October 21, 2000 (D.C. Law 13-176; D.C. Official Code § 38-2602(b)(2)) ("Act").

(b) In addition to the requirements of subsection (a) of this section, a LEA shall:

(1) File the test security plan required by section 3(b)(20) of the Act with OSSE at least 90 days before the administration of a Districtwide assessment;

(2) Designate a test integrity coordinator and test monitors;

(3) Immediately report any breach of security, loss of materials, failure to account for materials, or any other deviation from the test security plan to OSSE;

(4) Investigate, document, and report to OSSE any findings and recommendations for the remediation of an allegation of the failure of the test security plan or other testing integrity and security protocol;

(5) Within 10 days after the conclusion of a Districtwide assessment, obtain signed, under penalty of law, affidavits from the LEA's test integrity coordinator and each of the LEA's test monitors attesting that, to the best of his or her knowledge or belief, the LEA complied with all applicable laws, regulations, and policies, including the test security plan; and

(6) Within 15 days after the conclusion of a Districtwide assessment, file with OSSE:

(A) The affidavits required by paragraph (5) of this subsection; and

(B) Copies of all testing integrity and security agreements required by section 103(a).

(c) No employee of a LEA shall retaliate against any other employee, parent, or student solely because that individual reports or participates in an investigation of a potential failure of the test security plan or other testing integrity and security policy or protocol.

Sec. 103. Authorized personnel; responsibilities.

(a) Authorized personnel shall:

(1) Before the administration of a Districtwide assessment:

(A) Complete testing integrity training, as developed by OSSE; and

(B) Sign a testing integrity and security agreement, as developed and distributed by OSSE;

(2) Immediately report any breach of testing security to the school's test monitor, the LEA's test integrity coordinator, or OSSE;

(3) Cooperate with OSSE in any investigation concerning the administration of a Districtwide assessment;

(4) Except as provided in subsection (b) of this section, be prohibited from:

(A) Photocopying, or in any way reproducing, or disclosing secure test items or other materials related to Districtwide assessments;

(B) Reviewing, reading, or looking at test items or student responses before, during, or after administering the Districtwide assessment, unless specifically permitted in the test administrator's manual;

(C) Assisting students in any way with answers to test questions using verbal or nonverbal cues before, during, or after administering the assessment;

(D) Altering student responses in any manner;

(E) Altering the test procedures stated in the formal instructions accompanying the Districtwide assessments;

(F) Allowing students to use notes, references, or other aids, unless the test administrator's manual specifically allows;

(G) Having in one's personal possession secure test materials except during the scheduled testing date;

(H) Allowing students to view or practice secure test items before or after the scheduled testing time;

(I) Making or having in one's possession answer keys before the administration of that Districtwide assessment; except, that it shall not be prohibited to have an answer key for a Districtwide assessment that has already been administered;

(J) Leaving secure test materials in a non-secure location or unattended by authorized personnel; and

(K) Using cell phones, unapproved electronics, or computer devices during the administration of a Districtwide assessment.

(b) The failure to comply with the prohibitions set forth in subsection (a)(4) of this section shall not be considered a violation of a test security plan if the action is necessary to provide for an accommodation that is explicitly identified in a student's IEP or an approved accommodation plan for a ELL student; provided, that any accommodation shall be limited to the eligible student or students.

Sec. 104. Test integrity; sanctions.

(a) A LEA, or school subject to the LEA's control, that is determined by OSSE to have violated this title, regulations issued pursuant to this title, or a test security plan shall be subject to sanctions, which shall include:

(1) The payment of any expenses incurred by OSSE as a result of the violation, including the costs associated with developing, in whole or in part, a new assessment;

(2) An administrative fine of not more than $10,000 for each violation; and

(3) The invalidation of test scores.

(b) A person who knowingly and willfully violates, assists in the violation of, solicits another to violate or assist in the violation of the provisions of this title, regulations issued pursuant to this title, or test security plan, or fails to report such a violation, shall be subject to sanctions, which shall include:

(1) Denial, suspension, revocation, or cancellation of, or restrictions on the issuance or renewal of a teaching or administrative credential or teaching certificate issued by OSSE, or both, for a period of not less than one year;

(2) Payment of expenses incurred by the LEA or OSSE as a result of the violation; or

(3) An administrative fine, not to exceed $1,000 for each violation.

(c) When determining sanctions, OSSE may take into account:

(1) The seriousness of the violation;

(2) The extent of the violation;

(3) The role the individual played in the violation;

(4) The LEA leadership's involvement;

(5) How and when the violation was reported to OSSE; and

(6) The actions taken by the LEA since the violation was reported to OSSE.

Sec. 105. Right to administrative review.

Any person aggrieved by a final decision or order of OSSE imposing sanctions following a determination by OSSE that a violation of this title has occurred may obtain a review of the final decision or order in accordance with regulations issued by the Mayor pursuant to section 106 or the process set forth in section 107, whichever is applicable; provided, that if the aggrieved party is a member of a collective bargaining unit, he or she may choose between the negotiated grievance process set forth in a collective bargaining agreement and the grievance process set forth in section 107 or in regulations issued by the Mayor pursuant to section 106, whichever is applicable.

Sec. 106. Rulemaking.

(a) The Mayor, pursuant to Title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), shall issue rules to implement this title.

(b) The proposed rules shall be submitted to the Council for a 45-day period of review. If the Council does not approve or disapprove the proposed rules, by resolution, within the 45-day review period, the proposed rules shall be deemed approved.

Sec. 107. Due process.

(a) Until rules are issued pursuant to section 106, any party aggrieved by a final decision or order of OSSE imposing sanctions following a determination by OSSE that a violation of this title has occurred may obtain a review of the final decision or order by filing a written notice of appeal to the Mayor within 10 calendar days from the date on which OSSE imposed the sanction being contested.

(b) The written notice of appeal shall contain the following information:

(1) The type and the effective date of the sanction imposed;

(2) The name, address, and telephone number of the aggrieved party or the aggrieved party's representative, if any;

(3) A copy of OSSE's notice of final decision;

(4) A statement as to whether the aggrieved party or anyone acting on his or her behalf has filed an appeal under any negotiated review procedure pursuant to a collective bargaining agreement, or has filed a complaint with any other agency regarding this matter;

(5) The identity of the collective bargaining unit, if any, of which the aggrieved party is a member;

(6) A statement as to whether the aggrieved party requests a hearing;

(7) A concise statement of the facts giving rise to the appeal;

(8) An explanation as to why the aggrieved party believes OSSE's action was unwarranted and any supporting documentation;

(9) A statement of the specific relief the aggrieved party is requesting; and

(10) The signature of the aggrieved party and his or her representative, if any.

(c) If a hearing is requested, the Mayor shall hold a hearing within 30 calendar days after the receipt of the notice of appeal and hearing request and shall issue a written ruling no later than 10 calendar days after the hearing. If no hearing is requested, the Mayor shall issue a written ruling within 30 days of receipt of the notice of appeal.

(d) Appeals filed pursuant to this section, and any hearings held, shall be administered in accordance with the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*).

(e) For the purposes of this section, a notice of appeal is considered received on the date it was postmarked.

TITLE II. OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION; RESPONSIBILITIES

Sec. 201. Section 3(b) of the State Education Office Establishment Act of 2000, effective October 21, 2000 (D.C. Law 13-176; D.C. Official Code § 38-2602(b), is amended as follows:

(a) Paragraph (18) is amended by striking the word "and".

(b) Paragraph (19) is amended by striking the period and inserting the phrase "; and" in its place.

(c) A new paragraph 20) is added to read as follows:

"(20)(A) Oversee the functions and activities, as required, of the Testing Integrity Act of 2013, passed on 2nd reading on June 26, 2013 (Enrolled version of Bill 20-109), including ensuring the integrity and security of Districtwide assessments administered by a local education agency;

"(B) Establish standards to obtain and securely maintain and distribute test materials, which shall at minimum require that:

"(i) An inventory of all test materials be maintained;

"(ii) All test materials be secured under lock and key;

"(iii) Only authorized personnel have access to test materials; and

"(iv) All authorized personnel sign a test integrity and security agreement before being able to access test materials or assist in the administration of a Districtwide assessment;

"(C) Require each LEA to maintain and submit to OSSE at least 90 days before the administration of a Districtwide assessment a test security plan that at minimum includes:

"(i) Procedures for the secure maintenance, dissemination, collection, and storage of Districtwide assessment materials before, during, and after administering a test, including:

"(I) Keeping an inventory of all materials and identifying individuals with access to the materials;

"(II) Accounting for and reporting to the OSSE any materials that are lost or otherwise unaccounted; and

"(III) Accounting for and securing old or damaged materials;

"(ii) The name and contact information for the test integrity coordinator and the test monitors at each school under the LEA's control;

"(iii) A list of actions prohibited by authorized personnel;

"(iv) Procedures pursuant to which students, authorized personnel, and other individuals may, and are encouraged to, report irregularities in testing administration or testing security; and

"(v) Written procedures for investigating and remediating any complaint, allegation, or concern about a potential failure of testing integrity and security;

"(D) Approve an LEA's test security plan and make recommendations to amend the plan when necessary;

"(E) Keep a copy of each LEA's test security plan on file, which shall be made available to a member of the public upon request;

"(F) Establish a standard for monitoring the administration of Districtwide assessments to ensure compliance with all applicable laws, regulations, and policies;

"(G) Monitor Districtwide assessment administration procedures in randomly selected schools and in targeted schools to ensure adherence to all applicable laws, regulations, and policies, which may occur one week before the administration of a Districtwide assessment and during the administration of a Districtwide assessment.

"(H) Establish a process by which to ensure compliance with all applicable laws and regulations for the administration of Districtwide assessments for LEA students at nonpublic schools.

"(I) Develop and distribute a testing integrity and security agreement to be signed by authorized personnel;

"(J) Develop standards to train authorized personnel on testing integrity and security and require the authorized personnel to acknowledge in writing that he or she completed the training;

"(K) Provide technical assistance to LEAs regarding testing integrity and security procedures;

"(L) Establish standards for the investigation of any alleged violation of an applicable law, regulation, or policy relating to testing integrity and security, which standards shall:

"(i) Identify the circumstances that trigger an investigation;

"(ii) Require the initiation of an investigation even if only one circumstance is present; provided, that there appears to be egregious noncompliance; and

"(iii) Require the investigation of any report of a violation of the laws, regulations, and policies relating to testing integrity and security;

"(M) Cooperate with any investigation initiated by the Office of the Attorney General for the District of Columbia or the U.S. Attorney's Office; and

"(N) Revoke, for a period of at least one year, any OSSE granted certification or license granted to an individual who is found to have knowingly and willfully violated, assisted in the violation of, solicited another to violate or assist in the violation of, or failed to report a violation of this paragraph, regulations issued pursuant to this paragraph, other applicable law, or other test integrity policy or procedure.

"(O) For the purposes of this paragraph, the term:

"(i) "Authorized personnel" means any individual who has access to Districtwide assessment materials or is directly involved in the administration of a Districtwide assessment.

"(ii) "Districtwide assessments" shall have the same meaning as provided in section 2002(13) of the District of Columbia School Reform Act of 1996, approved April 26, 1996 (110 Stat. 1321; D.C. Official Code § 38-1800.02(13)).

"(iii) "Local education agency" or "LEA" means the District of Columbia Public Schools system or any individual or group of public charter schools operating under a single charter.

"(iv) "Test integrity coordinator" means an individual designated by a LEA to be responsible for testing integrity and security for the LEA in its entirety during the administration of a Districtwide assessment.

"(v) "Testing integrity and security agreement" means an agreement developed by OSSE that:

"(I) Sets forth requirements for ensuring the integrity of Districtwide assessments pursuant to District law and regulation; and

"(II) Requires the signatory to acknowledge that he or she understands that knowingly and willingly violating a District law, regulation, or a test security plan could result in civil liability, including the loss of an OSSE granted certification or license.

"(vi) "Test monitor" means an individual designated by a LEA to be responsible for testing integrity and security at each individual school subject to the LEA's control during the administration of a Districtwide assessment.".

TITLE III. GENERAL PROVISIONS

Sec. 301. Fiscal impact statement.

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

Sec. 302. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as

ENROLLED ORIGINAL

provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813: D.C. Official Code § 1-206.02(c)(1)) and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
July 23, 2013

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-121

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 24, 2013

To order the closing of a portion of Akron Place, S.E., abutting Squares 5641 and N-5641; the closing of a portion of the public alley in Squares 5641 and N-5641; and the removal of building restriction lines along Akron Place, S.E., and the south side of Austin Street, S.E., in Squares 5641 and N-5641, S.O. 07-2117, in Ward 7.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Closing of a Public Street and Alley and Elimination of Building Restriction Lines in and abutting Squares 5641 and N-5641, S.O. 07-2117, Act of 2013".

Sec. 2. Pursuant to section 201 of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code § 9-202.01), the Council finds that the portion of Akron Place, S.E., abutting Squares 5641 and N-5641, in Ward 7, as shown on the Surveyor's plat filed under S.O. 07-2117, is unnecessary for street purposes and orders it closed, with title to the land to vest as shown on the Surveyor's plat, S.O. 07-2117.

Sec. 3. The Council finds that the portion of the public alley in Squares 5641 and N-5641, in Ward 7, as shown on the Surveyor's plat filed under S.O. 07-2117, is unnecessary for alley purposes and orders it closed, with the title to the land to vest as shown on the Surveyor's plat, S.O. 07-2117.

Sec. 4. The Council finds that the building restriction lines along Akron Place, S.E., and the south side of Austin Street, S.E., in Squares 5641 and N-5641, in Ward 7, as shown on the Surveyor's plat filed under S.O. 07-2117, are unnecessary and orders them eliminated.

Sec. 5. Transmittal.

The Secretary to the Council shall transmit a copy of this act, upon its effective date to the Office of the Surveyor and the Office of the Recorder of Deeds.

ENROLLED ORIGINAL

Sec. 6. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report 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. 7. Effective date.

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

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
July 24, 2013

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-122

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 23, 2013

To symbolically designate the public street in the 1700 block of New Hampshire Avenue, N.W., in Ward 2, as Delta Sigma Theta Way.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Delta Sigma Theta Way Designation Act of 2013".

Sec. 2. Pursuant to sections 401 and 403a of the Street and Alley Closing Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code §§ 9-204.01 and 9-204.03a), the Council symbolically designates the 1700 block of New Hampshire Ave, N.W., in Ward 2, as "Delta Sigma Theta Way".

Sec. 3. Transmittal.

The Secretary to the Council shall transmit a copy of this act, upon its effective date, to the Office of the Surveyor, the Office of the Recorder of Deeds, and the District Department of Transportation.

Sec. 4. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report 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. 5. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December

ENROLLED ORIGINAL

24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
July 23, 2013

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-123

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 23, 2013

To designate the public alley in Square 981, bounded by the 1100 blocks of H Street, N.E., and I Street, N.E., and the 800 blocks of 11th Street, N.E., and 12th Street, N.E., in Ward 6, as Atlas Court.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Atlas Court Alley Designation Act of 2013".

Sec. 2. Pursuant to section 401 of the Street and Alley Closing Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code § 9-204.01) ("Act"), and notwithstanding section 403 (D.C. Official Code § 9-204.03) of the Act, the Council designates the alley in Square 981 bordered by the 1100 blocks of H Street, N.E., and I Street, N.E., and the 800 blocks of 11th Street, N.E., and 12th Street, N.E., as "Atlas Court".

Sec. 3. Transmittal.

The Secretary to the Council shall transmit a copy of this act, upon its effective date, to the Office of the Surveyor, the Office of the Recorder of Deeds, the District Department of Transportation, and the United States Postal Service.

Sec. 4. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report 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.5. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as

ENROLLED ORIGINAL

provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
July 23, 2013

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-124

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 26, 2013

To approve, on an emergency basis, Change Orders No. 001 through No. 006 to Contract No. GM-10-DPR-0308B-FM for design-build services for Raymond Recreation Center between the District of Columbia government and AF/F&L, INC-SIGAL, LLC, and to authorize payment to AF/F&L, INC-SIGAL, LLC, in the aggregate amount of $3,049,148 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. 001 through No. 006 to Contract No. GM-10-DPR-0308B-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. 001 through No. 006 to Contract No. GM-10-DPR-0308B-FM with AF/F&L, INC-SIGAL, LLC, for design-build services and additional project scope, including the construction of a new playground and athletic field, at Raymond Recreation Center, and changes to improve accessibility to the Raymond Recreation Center, and authorizes payment in the aggregate amount of $3,049,148 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)).

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
July 26, 2013

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-125

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 26, 2013

To amend, on an emergency basis, due to Congressional review, the Health Benefit Exchange Authority Establishment Act of 2011 to streamline the procurement process for the Health Benefit Exchange Authority by clarifying that such procurements are not subject to the Procurement Practices Reform Act of 2010.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Health Benefit Exchange Authority Establishment Congressional Review Emergency Act of 2013".

Sec. 2. Section 5(a)(5) of the Health Benefit Exchange Authority Establishment Act of 2011, effective March 2, 2012 (D.C. Law 19-94; D.C. Official Code § 31-3171.04(a)(5)), is amended by striking the phrase "consistent with" and inserting the phrase "and not subject to" in its place.

Sec. 3. Section 105(c) of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-351.05(c)), is amended as follows:

(a) Paragraph (14) is amended by striking the word "and" after the semicolon.

(b) Paragraph (15) is amended by striking the period at the end and inserting the phrase "; and" in its place.

(c) A new paragraph (16) is added to read as follows:

"(16) The Health Benefit Exchange Authority.".

Sec. 4. Applicability.

This act shall apply as of July 14, 2013.

Sec. 5. 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)).

ENROLLED ORIGINAL

Sec. 6. 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 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
July 26, 2013

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-126

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 26, 2013

To symbolically designate, on an emergency basis, the public street in the 1700 block of New Hampshire Avenue, N.W., in Ward 2, as Delta Sigma Theta Way.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Delta Sigma Theta Way Designation Emergency Act of 2013".

Sec. 2. Pursuant to sections 401 and 403a of the Street and Alley Closing Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code §§ 9-204.01 and 9-204.03a), the Council symbolically designates the 1700 block of New Hampshire Ave, N.W., in Ward 2, as "Delta Sigma Theta Way".

Sec. 3. Transmittal.

The Secretary to the Council shall transmit a copy of this act, upon its effective date, to the Office of the Surveyor, the Office of the Recorder of Deeds, and the District Department of Transportation.

Sec. 4. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report for the Delta Sigma Theta Way Designation Act of 2013, passed on 2nd reading on July 10, 2013 (Enrolled version of Bill 20-241), 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. 5. 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
July 26, 2013

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-127

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 24, 2013

To adopt the request of the District of Columbia government for appropriation and authorization for the fiscal year ending September 30, 2014.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Fiscal Year 2014 Budget Request Act of 2013".

Sec. 2. The Council of the District of Columbia approves the following expenditure levels and appropriation language for the government of the District of Columbia for the fiscal year ending September 30, 2014.

DIVISION A

DISTRICT OF COLUMBIA APPROPRIATION REQUEST
TITLE I--FEDERAL FUNDS

DISTRICT OF COLUMBIA COURTS

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA COURTS

For salaries and expenses for the District of Columbia Courts, $222,667,000 to be allocated as follows: for the District of Columbia Court of Appeals, $13,375,000, of which not to exceed $1,500 is for official reception and representation expenses; for the District of Columbia Superior Court, $112,566,000, of which not to exceed $1,500 is for official reception and representation expenses; for the District of Columbia Court System, $68,987,000, of which not to exceed $1,500 is for official reception and representation expenses; and $27,739,000, to remain available until September 30, 2015, for capital improvements for District of Columbia courthouse facilities; provided, that funds made available for capital improvements shall be expended consistent with the District of Columbia Courts master plan study and building evaluation report; provided further, that notwithstanding any other provision of law, all amounts under this heading shall be apportioned quarterly by the Office of Management and Budget and obligated and expended in the same manner as funds appropriated for salaries and expenses of other Federal agencies; provided further, that 30 days after providing written notice to the Committees on Appropriations of the House of Representatives and the Senate, the District of Columbia Courts may reallocate not more than $3,000,000 of the funds provided under this

heading among the items and entities funded under this heading but no such allocation shall be increased by more than 4 %.

FEDERAL PAYMENT FOR DEFENDER SERVICES IN DISTRICT OF COLUMBIA COURTS

For payments authorized under section 11–2604 and section 11–2605 of the District of Columbia Official Code (relating to representation provided under the District of Columbia Criminal Justice Act), payments for counsel appointed in proceedings in the Family Court of the Superior Court of the District of Columbia under Chapter 23 of Title 16 of the District of Columbia Official Code, or pursuant to contractual agreements to provide guardian ad litem representation, training, technical assistance, and such other services as are necessary to improve the quality of guardian ad litem representation, payments for counsel appointed in adoption proceedings under Chapter 3 of Title 16 of the District of Columbia Official Code, and payments authorized under section 21–2060 of the District of Columbia Official Code (relating to services provided under the District of Columbia Guardianship, Protective Proceedings, and Durable Power of Attorney Act of 1986), $49,890,000, to remain available until expended; provided, that funds provided under this heading shall be administered by the Joint Committee on Judicial Administration in the District of Columbia; provided further, that notwithstanding any other provision of law, this appropriation shall be apportioned quarterly by the Office of Management and Budget and obligated and expended in the same manner as funds appropriated for expenses of other Federal agencies.

DISTRICT OF COLUMBIA GENERAL AND SPECIAL PAYMENTS

FEDERAL PAYMENT FOR RESIDENT TUITION SUPPORT

For a Federal payment to the District of Columbia, to be deposited into a dedicated account, for a nationwide program to be administered by the Mayor, for District of Columbia resident tuition support, $35,000,000, to remain available until expended; provided, that such funds, including any interest accrued thereon, may be used on behalf of eligible District of Columbia residents to pay an amount based upon the difference between in-State and out-of-State tuition at public institutions of higher education, or to pay up to $2,500 each year at eligible private institutions of higher education; provided further, that the awarding of such funds may be prioritized on the basis of a resident's academic merit, the income and need of eligible students and such other factors as may be authorized; provided further, that the District of Columbia government shall maintain a dedicated account for the Resident Tuition Support Program that shall consist of the Federal funds appropriated to the Program in this Act and any subsequent appropriations, any unobligated balances from prior fiscal years, and any interest earned in this or any fiscal year; provided further, that the account shall be under the control of the District of Columbia Chief Financial Officer, who shall use those funds solely for the purposes of carrying out the Resident Tuition Support Program; provided further, that the Office of the Chief Financial Officer shall provide a quarterly financial report to the Committees on Appropriations

of the House of Representatives and the Senate for these funds showing, by object class, the expenditures made and the purpose therefor.

FEDERAL PAYMENT FOR SCHOOL IMPROVEMENT

For a Federal payment to a school improvement program in the District of Columbia, $52,200,000, to remain available until expended, as authorized under the Scholarship for Opportunity and Results Act, approved April 15, 2011 (division C of Pub. L. No. 112-10; 125 Stat. 38), to be allocated as follows: for the District of Columbia Public Schools, $30,000,000 to improve public school education in the District of Columbia; for the State Education Office, $20,000,000 to expand quality public charter schools in the District of Columbia; and for the activities specified in sections 3007(b) through 3007(d) and 3009 of the Act, $2,200,000.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

For a Federal payment to the District of Columbia Water and Sewer Authority, $14,500,000, to remain available until expended, to continue implementation of the Combined Sewer Overflow Long-Term Plan; provided, that the District of Columbia Water and Sewer Authority provides a 100 % match for this payment.

FEDERAL PAYMENT TO THE CRIMINAL JUSTICE COORDINATING COUNCIL

For a Federal payment to the Criminal Justice Coordinating Council, $1,800,000, to remain available until expended, to support initiatives related to the coordination of Federal and local criminal justice resources in the District of Columbia.

FEDERAL PAYMENT FOR JUDICIAL COMMISSIONS

For a Federal payment, to remain available until September 30, 2015, to the Commission on Judicial Disabilities and Tenure, $295,000, and for the Judicial Nomination Commission, $205,000.

FEDERAL PAYMENT FOR THE DISTRICT OF COLUMBIA NATIONAL GUARD

For a Federal payment to the District of Columbia National Guard, $500,000, to remain available until expended.

FEDERAL PAYMENT FOR TESTING AND TREATMENT OF HIV/AIDS

For a Federal payment to the District of Columbia for the testing of individuals for, and the treatment of individuals with, human immunodeficiency virus and acquired immunodeficiency syndrome in the District of Columbia, $5,000,000.

ENROLLED ORIGINAL

FEDERAL PAYMENT FOR REDEVELOPMENT OF THE ST. ELIZABETHS HOSPITAL CAMPUS

For a Federal Payment to the District of Columbia, $9,800,000, for activities to support redevelopment efforts at the site of the former St. Elizabeths Hospital in the District of Columbia.

FEDERAL PAYMENT FOR D.C. COMMISSION ON THE ARTS AND HUMANITIES GRANTS

For a Federal payment to the District of Columbia Commission on the Arts and Humanities, $1,000,000, to fund competitively awarded grants for nonprofit fine and performing arts organizations based in and primarily serving the District of Columbia.

FEDERAL PAYMENT FOR EMERGENCY PLANNING AND SECURITY COSTS IN THE DISTRICT OF COLUMBIA

For a Federal payment of necessary expenses, as determined by the Mayor of the District of Columbia in written consultation with the elected county or city officials of surrounding jurisdictions, $14,900,000, to remain available until expended and in addition any funds that remain available from prior year appropriations under this heading for the District of Columbia Government, for the costs of providing public safety at events related to the presence of the national capital in the District of Columbia, including support requested by the Director of the United States Secret Service Division in carrying out protective duties under the direction of the Secretary of Homeland Security, and for the costs of providing support to respond to immediate and specific terrorist threats or attacks in the District of Columbia or surrounding jurisdictions.

TITLE II--DISTRICT OF COLUMBIA FUNDS--SUMMARY OF EXPENSES

The following amounts are appropriated for the District of Columbia for the current fiscal year out of the General Fund of the District of Columbia ("General Fund"), except as otherwise specifically provided; provided, that notwithstanding any other provision of law, except as provided in section 450A of the District of Columbia Home Rule Act, approved November 2, 2000 (114 Stat. 2440; D.C. Official Code § 1-204.50a), and provisions of this Act, the total amount appropriated in this Act for operating expenses for the District of Columbia for fiscal year 2014 under this heading shall not exceed the lesser of the sum of the total revenues of the District of Columbia for such fiscal year or $12,158,414,000 (of which $6,814,718,000 shall be from local funds (including $447,926,000 from dedicated taxes), $961,836,000 shall be from Federal grant funds, $1,918,368,000 from Medicaid payments, $2,335,654,000 shall be from other funds, and $9,338,000 shall be from private funds, and $118,500,000 shall be from funds previously appropriated in this Act as Federal payments, which does not include funds appropriated under the American Recovery and Reinvestment Act of 2009, approved February 17, 2009 (123 Stat. 115; 26 U.S.C. § 1, note); provided further, that of the local funds, such amounts as may be necessary may be derived from the District's General Fund balance; provided further, that of these funds the District's intra-District authority shall be $669,096,000; in

addition, for capital construction projects, an increase of $2,756,433,000, of which $2,278,934,000 shall be from local funds, $53,680,000 from the Local Transportation Fund, $104,857,000 from the District of Columbia Highway Trust Fund, and $318,962,000 from Federal grant funds, and a rescission of $558,139,000, of which $420,472,000 is from local funds, $100,300,000 from the Local Transportation Fund, $12,105,000 from the District of Columbia Highway Trust Fund, and $25,262,000 from Federal grant funds appropriated under this heading in prior fiscal years, for a net amount of $2,198,294,000, to remain available until expended; provided further, that the amounts provided under this heading are to be available, allocated, and expended as proposed under this title and Title III of this Act, at the rate set forth under "District of Columbia Funds Division of Expenses" as included in the Fiscal Year 2014 Proposed Budget and Financial Plan submitted to the Congress by the District of Columbia; provided further, that, notwithstanding any other provision of law, upon the first enactment of the District's budget request under this Act, through September 30, 2014, during a period in which there is an absence of a federal appropriations act authorizing the expenditure of local funds, the District of Columbia is authorized to obligate and expend local funds for programs and activities at the rate set forth in this Act and to approve and execute reprogramming requests of local funds pursuant to section 446 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 777; D.C. Official Code § 1-204.46); provided further, that this amount may be increased by proceeds of one-time transactions, which are expended for emergency or unanticipated operating or capital needs; provided further, that such increases shall be approved by enactment of local District law and shall comply with all reserve requirements contained in the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 777; D.C. Official Code § 1-201.01 *et seq.*), as amended by this Act; provided further, that the Chief Financial Officer of the District of Columbia shall take such steps as are necessary to assure that the District of Columbia meets these requirements, including the apportioning by the Chief Financial Officer of the appropriations and funds made available to the District during fiscal year 2014; except, that the Chief Financial Officer may not reprogram for operating expenses any funds derived from bonds, notes, or other obligations issued for capital projects.

ENROLLED ORIGINAL

TITLE III--DISTRICT OF COLUMBIA FUNDS - - DIVISION OF EXPENSES
OPERATING EXPENSES

GOVERNMENTAL DIRECTION AND SUPPORT

Governmental direction and support, $682,775,000 (including $602,553,000 from local funds, $28,526,000 from Federal grant funds, $51,377,000 from other funds, and $319,000 from private funds): provided, that there are appropriated such additional amounts as may be necessary to account for vendor fees that are paid as a fixed percentage of revenue recovered from third parties on behalf of the District under contracts that provide for payments of fees based upon such revenue as may be collected by the vendor; provided further, that any program fees collected from the issuance of debt shall be available for the payment of expenses of the debt management program of the District, to be allocated as follows:

(1) Council of the District of Columbia. –$20,957,000 from local funds; provided, that not to exceed $25,000 shall be available for the Chairman from this appropriation for official reception and representation expenses and for purposes consistent with the Discretionary Funds Act of 1973, approved October 26, 1973 (87 Stat. 509; D.C. Official Code § 1-333.10); provided further, that beginning in fiscal year 2012 and for each fiscal year thereafter, such amounts on deposit and any such future deposits into the Council Technology Projects Fund, established by section 1082 of the Fiscal Year 2012 Budget Support Act of 2011, effective September 14, 2011 (D.C. Law 19-210; D.C. Official Code § 1-325.201), shall be available upon deposit and shall remain available until expended, consistent with the purposes set forth in that section;

(2) Office of the District of Columbia Auditor. –$4,276,000 from local funds;

(3) Advisory Neighborhood Commission. –$902,000 from local funds; provided, that the Advisory Neighborhood Commission allotments shall not revert to the General Fund of the District of Columbia at the end of the fiscal year, or at any other time, but shall be continually available until expended;

(4) Uniform Law Commission. – $50,000 from local funds;

(5) Office of the Mayor. –$11,402,000 (including $8,353,000 from local funds and $3,050,000 from Federal grant funds); provided, that not to exceed $25,000 shall be available for the Mayor for official reception and representation expenses;

(6) Office of the Secretary. – $3,266,000 (including $2,266,000 from local funds and $1,000,000 from other funds); provided, that such amounts on deposit and any such future deposits into the Emancipation Day Fund, established by section 4 of the District of Columbia Emancipation Parade and Fund Act of 2004, effective March 17, 2005 (D.C. Law 15-240; D.C. Official Code § 1-183), shall be available upon deposit and shall remain available until expended, consistent with the purposes set forth in that section;

(7) City Administrator. – $4,688,000 (including $3,383,000 from local funds and $1,305,000 from other funds); provided, that not to exceed $10,600 shall be available for the City Administrator for official reception and representation expenses;

(8) Office of Risk Management. – $2,946,000 from local funds;

(9) Department of Human Resources. – $7,701,000 (including $7,415,000 from local funds and $286,000 from other funds); provided, that all unexpended Compensation and

Class funds as of September 30, 2013, are authorized for expenditure and shall remain available until expenditure;

(10) Office of Disability Rights. –$1,755,000 (including $980,000 from local funds and $775,000 from Federal grant funds);

(11) Captive Insurance Agency. – $1,802,000 (including $1,753,000 from local funds and $49,000 from other funds); and all unexpended fiscal year 2013 local and other funds as of September 30, 2013, to remain available until expended;

(12) Office of Finance and Resource Management. – $19,665,000 from local funds;

(13) Office of Contracting and Procurement. – $11,731,000 from local funds;

(14) Office of Chief Technology Officer. – $65,156,000 (including $47,837,000 from local funds, $985,000 from Federal grant funds, and $16,334,000 from other funds); provided, that any funds deposited into the Technology Infrastructure Services Support Fund, established by the Technology Services Support Amendment Act of 2013 within the Fiscal Year 2014 Budget Support Act of 2013, passed on 2nd reading on June 26, 2013 (Enrolled version of Bill 20-199)("Fiscal Year 2014 Budget Support Act of 2013"), and any interest earned on those funds, shall not revert to the General Fund of the District of Columbia at the end of a fiscal year, or at any other time, but shall be continually available until expended;

(15) Department of General Services. – $266,161,000 (including $260,032,000 from local funds and $6,129,000 from other funds); provided, that amounts on deposit in, and any such future deposits to, the Commodities Cost Reserve Fund established under D.C. Official Code § 47-368.04 shall be available upon deposit and shall remain available until expended consistent with the purposes established under D.C. Official Code § 47-368.04(b);

(16) Contract Appeals Board. – $1,059,000 from local funds;

(17) Board of Elections. – $6,615,000 from local funds;

(18) Office of Campaign Finance. – $2,629,000 from local funds;

(19) Public Employee Relations Board. – $1,162,000 from local funds;

(20) Office of Employee Appeals. – $1,480,000 from local funds;

(21) Metropolitan Washington Council of Governments. – $428,000 from local funds;

(22) Office of the Attorney General. – $83,351,000 (including $59,972,000 from local funds, $21,234,000 from Federal grant funds, $1,827,000 from other funds, and $319,000 from private funds);

(23) Board of Ethics and Government Accountability. – $1,315,000 (including $1,255,000 from local funds and $60,000 from other funds);

(24) Innovation Fund. – $15,000,000 from local funds;

(25) Office of the Inspector General. – $15,948,000 (including $13,465,000 from local funds and $2,483,000 from Federal grant funds);

(26) Tax Revision Commission – $200,000 from local funds; provided, that of the amount budgeted for the Tax Revision Commission in fiscal year 2013, any portion left unexpended at the end of fiscal year 2013 shall be available for the same purpose in fiscal year 2014; and

(27) Office of the Chief Financial Officer. – $131,130,000 (including $106,743,000 from local funds, and $24,387,000 from other funds); provided, that not to exceed $10,600 shall be available for the Chief Financial Officer for official reception and representation expenses; provided further, that amounts appropriated by this Act may be increased by the amount required to pay banking fees for maintaining the funds of the District of Columbia; provided further, that amounts on deposit in, and any such future deposits to, the Delinquent Debt Fund, established under the Delinquent Debt Recovery Act of 2012, effective September 20, 2012 (D.C. Law 19-168; D.C. Official Code § 1-305.04), shall be available upon deposit and shall remain available until expended consistent with the purposes set forth in that act; provided further, that any funds deposited into the Waterfront Park Maintenance Fund, established by the Waterfront Park at the Yards Amendment Act of 2013 within the Fiscal Year 2014 Budget Support Act of 2013, and any interest earned on those funds, shall not revert to the General Fund of the District of Columbia at the end of a fiscal year, or at any other time, but shall be continually available until expended.

ECONOMIC DEVELOPMENT AND REGULATION

Economic development and regulation, $436,947,000 (including $152,010,000 from local funds (including $1,170,000 from dedicated taxes), $95,864,000 from Federal grant funds, $177,711,000 from other funds, $562,000 from private funds, and $9,800,000 from funds previously appropriated from this Act under the heading "Federal Payment for Redevelopment of the St. Elizabeths Hospital Campus" and $1,000,000 from funds previously appropriated from this Act under the heading "Federal Payment for D.C. Commission on the Arts and Humanities Grants"), to be allocated as follows:

(1) Deputy Mayor for Planning and Economic Development. – $45,093,000 (including $13,328,000 from local funds, $1,800,000 from Federal grant funds, $20,400,000 from other funds, and $9,565,000 from funds previously appropriated from this Act under the heading "Federal Payment for Redevelopment of the St. Elizabeths Hospital Campus");

(2) Office of Planning. – $7,288,000 (including $6,481,000 from local funds, $522,000 from Federal grant funds, $50,000 from other funds, and $235,000 from funds previously appropriated from this Act under the heading "Federal Payment for Redevelopment of the St. Elizabeths Hospital Campus"); provided, that the local funds provided to the Office of Planning in previous fiscal years for Neighborhood Historic Preservation, including the Targeted Homeowner Grant funds authorized by section 11b(k) of the Historic Landmark and Historic District Protection Act of 1978, effective March 2, 2007 (D.C. Law 16-189; D.C. Official Code § 6-1110.02(k)), shall remain available until expended; provided further, that any funds deposited into the Historic Landmark-District Protection Fund, established by section 11a of the Historic Landmark and Historic District Protection Act of 1978, effective November 16, 2006 (D.C. Law 16-185; D.C. Official Code § 6-1101.01), and any interest earned on those funds, shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time, but shall be continually available until expended;

(3) Department of Small and Local Business Development. –$8,155,000 (including $7,464,000 from local funds, and $691,000 from Federal grant funds); provided, that any amounts deposited into the Small Business Micro Loan Fund, established by section 2375 of the Small, Local, and Disadvantaged Business Enterprise Development and Assistance Act of 2005, effective September 18, 2007 (D.C. Law 17-20; D.C. Official Code § 2-218.75), shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time, but shall be continually available until expended; provided further, that all amounts deposited into the Commercial Revitalization Assistance Fund, established by section 2376 of the Small, Local, and Disadvantaged Business Enterprise Development and Assistance Act of 2005, effective September 24, 2010 (D.C. Law 18-223; D.C. Official Code § 2-218.76); and any interest earned on those funds, are authorized for expenditure and shall remain available until expended.;

(4) Office of Motion Pictures and Television Development. – $1,160,000 (including $1,065,000 from local funds and $95,000 from other funds); provided, that any funds deposited into the Film DC Economic Incentive Fund, established by section 2 of the Film DC Economic Incentive Act of 2006, effective March 14, 2007 (D.C. Law 16-290; D.C. Official Code § 39-501), and any interest earned on those funds, shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time, but shall be continually available until expended;

(5) Office of Zoning. –$2,628,000 from local funds;

(6) Department of Housing and Community Development. – $61,496,000 (including $11,054,000 from local funds, $40,821,000 from Federal grant funds, and $9,621,000 from other funds);

(7) Department of Employment Services. – $144,412,000 (including $48,162,000 from local funds, $48,551,000 from Federal grant funds, $47,618,000 from other funds, and $80,000 from private funds); provided, that all amounts deposited into the Adult Training Fund established by section 2261 of the Adult Training Funding Act of 2009, effective September 10, 2010 (D.C. Law 18-111; D.C. Official Code § 32-16710), are authorized for expenditure and shall remain available until expended; provided further, that all amounts deposited into the Youth Job Fund, established by section 1009 of the Youth Jobs Fund Establishment Act of 2008, effective August 16, 2008 (D.C. Law 17-219; D.C. Official Code § 2-1516.01), are authorized for expenditure and shall remain available until expended;

(8) Real Property Tax Appeals Commission. – $1,684,000 from local funds;

(9) Department of Consumer and Regulatory Affairs. – $39,476,000 (including $14,571,000 from local funds and $24,905,000 from other funds);

(10) Office of the Tenant Advocate. – $2,132,000 from local funds;

(11) Commission on Arts and Humanities. – $8,253,000 (including $6,307,000 from local funds, $746,000 from Federal grant funds, $200,000 from other funds, and $1,000,000 from funds previously appropriated from this Act, under the heading "Federal Payment for D.C. Commission on the Arts and Humanities Grants", to fund competitively awarded grants for nonprofit fine and performing arts organizations based in and primarily serving the District); provided, that any funds deposited into the Neighborhood Parade and Festival Fund, established

in section 2033 of the Deputy Mayor for Planning and Economic Development Limited Grant-Making Authority Act of 2012, effective September 20, 2012 (D.C. Law 19-168; D.C. Official Code § 1-325.211), are authorized for expenditure and shall remain available until expended;

(12) Alcoholic Beverage Regulation Administration. –$7,565,000 (including $1,170,000 from local funds (including $1,170,000 from dedicated taxes) and $6,395,000 from other funds);

(13) Public Service Commission. – $11,951,000 (including $319,000 from Federal grant funds, $11,612,000 from other funds, and $20,000 from private funds);

(14) Office of the People's Counsel. – $6,566,000 from other funds;

(15) Department of Insurance, Securities, and Banking. – $21,662,000 (including $2,414,000 from Federal grants, $18,786,000 from other funds, and $462,000 from private funds);

(16) Office of Cable Television. –$8,464,000 from other funds;

(17) Housing Authority Subsidy Payment. – $35,963,000 from local funds; and

(18) Business Improvement District Transfer. – $23,000,000 from other funds.

PUBLIC SAFETY AND JUSTICE

Public safety and justice, $1,147,898,000 (including $987,421,000 from local funds, $109,973,000 from Federal grant funds, $47,643,000 from other funds, $60,000 from Medicaid payments, $500,000 from funds previously appropriated in this Act under the heading "Federal Payment for the D.C. National Guard", $1,800,000 from funds previously appropriated in this Act under the heading "Federal Payment to the Criminal Justice Coordinating Council", and $500,000 from funds previously appropriated in this Act under the heading "Federal Payment for Judicial Commissions"), to be allocated as follows:

(1) Metropolitan Police Department. –$486,140,000 (including $476,289,000 from local funds, $2,858,000 from Federal grant funds, $6,993,000 from other funds);

(2) Fire and Emergency Medical Services Department. –$201,080,000 (including $197,951,000 from local funds, $1,608,000 from Federal grant funds, and $1,520,000 from other funds);

(3) Police Officers and Firefighters Retirement System. – $110,766,000 from local funds;

(4) Department of Corrections. – $139,953,000 (including $118,803,000 from local funds, and $21,150,000 from other funds);

(5) District of Columbia National Guard. – $10,690,000 (including $2,941,000 from local funds, $7,249,000 from Federal grant funds, and $500,000 from funds previously appropriated in this Act under the heading "Federal Payment for the District of Columbia National Guard"); provided, that the Mayor shall reimburse the District of Columbia National Guard for expenses incurred in connection with services that are performed in emergencies by the National Guard in a militia status and are requested by the Mayor, in amounts that shall be jointly determined and certified as due and payable for these services by the Mayor and the Commanding General of the District of Columbia National Guard; provided further, that such sums as may be necessary for reimbursement to the District of Columbia National Guard under

the preceding proviso shall be available pursuant to this Act, and the availability of the sums shall be deemed as constituting payment in advance for emergency services involved;

(6) Homeland Security and Emergency Management Agency. – $93,893,000 (including $2,027,000 from local funds and $91,866,000 from Federal grant funds);

(7) Commission on Judicial Disabilities and Tenure. – $295,000 from funds previously appropriated in this Act under the heading "Federal Payment for Judicial Commissions";

(8) Judicial Nomination Commission. – $270,000 (including $65,000 from local funds and $205,000 from funds previously appropriated in this Act under the heading "Federal Payment for Judicial Commissions");

(9) Office of Police Complaints. –$2,110,000 from local funds;

(10) District of Columbia Sentencing and Criminal Code Revision Commission. – $1,407,000 from local funds;

(11) Office of the Chief Medical Examiner. – $8,790,000 from local funds;

(12) Office of Administrative Hearings. – $8,292,000 (including $8,232,000 from local funds and $60,000 from Medicaid payments);

(13) Criminal Justice Coordinating Council. – $2,316,000 (including $516,000 from local funds, and $1,800,000 from funds previously appropriated in this Act under the heading "Federal Payment to the Criminal Justice Coordinating Council");

(14) Office of Unified Communications. – $43,753,000 (including $27,350,000 from local funds, and $16,403,000 from other funds);

(15) Department of Forensic Sciences. – $12,821,000 (including $12,391,000 from local funds and $431,000 from Federal grant funds);

(16) Deputy Mayor for Public Safety and Justice – $25,322,000 (including $17,783,000 from local funds, $5,961,000 from Federal grant funds, and $1,577,000 from other funds); provided further, that not less than $200,000 shall be available to fund the District of Columbia Poverty Lawyer Loan Assistance Program, established by the Access to Justice Initiative Amendment Act of 2011, effective September 14, 2011 (D.C. Law 19-21; D.C. Official Code § 4-1701.01 *et seq.*); provided further, that $3,550,425 shall be made available to award a grant to the District of Columbia Bar Foundation for the purpose of providing support to nonprofit organizations that deliver civil legal services to low-income and under-served District residents; provided further, that $1,021,000 shall be transferred to the Community-based Violence Reduction Fund, established by section 3014 of the Fiscal Year 2009 Budget Support Act of 2008, effective August 16, 2008 (D.C. Law 17-219; D.C. Official Code § 1-325.121), for use by the Justice Grants Administration for the purpose of providing grants for the development of programs to intervene with children who are chronically truant.

PUBLIC EDUCATION SYSTEM

Public education system, including the development of national-defense education programs, $2,055,594,000 (including $1,684,915,000 from local funds (including $4,266,000 from dedicated taxes), $259,999,000 from Federal grant funds, $20,510,000 from other funds, $5,170,000 from private funds, $35,000,000 from funds previously appropriated in this Act

under the heading "Federal Payment for Resident Tuition Support", and $50,000,000 from funds previously appropriated in this Act under the heading "Federal Payment for School Improvement"), to be allocated as follows:

(1) District of Columbia Public Schools. – $719,268,000 (including $644,437,000 from local funds, $28,678,000 from Federal grant funds, $11,090,000 from other funds, $5,062,000 from private funds, and $30,000,000 from funds previously appropriated in this Act under the heading "Federal Payment for School Improvement"); provided, that this appropriation shall not be available to subsidize the education of any nonresident of the District at any District public elementary or secondary school during fiscal year 2014 unless the nonresident pays tuition to the District at a rate that covers 100% of the costs incurred by the District that are attributable to the education of the nonresident (as established by the Chancellor of the District of Columbia Public Schools); provided further, that not to exceed $10,600 for the Chancellor shall be available for official reception and representation expenses; provided further, that, notwithstanding the amounts otherwise provided under this heading or any other provision of law, there shall be appropriated to the District of Columbia Public Schools on July 1, 2013, an amount equal to 10% of the total amount of the local funds appropriations request provided for the District of Columbia Public Schools in the proposed budget of the District of Columbia for fiscal year 2014 (as submitted to Congress), and the amount of such payment shall be chargeable against the final amount provided for the District of Columbia Public Schools under the District of Columbia Appropriations Act, 2014; provided further, that the Chancellor shall allocate $1,063,000 from the Chancellor's Enrollment Reserve Fund to fund 11 addditional teaching positions for Anacostia High School during school year 2013-2014.

(2) Teachers Retirement System. – $31,636,000 from local funds;

(3) Office of the State Superintendent of Education. – $394,564,000 (including $103,143,000 from local funds (including $4,266,000 from dedicated taxes), $230,481,000 from Federal grant funds, $5,832,000 from other funds, $108,000 from private funds, $35,000,000 from funds previously appropriated in this Act under the heading "Federal Payment for Resident Tuition Support", and $20,000,000 from funds previously appropriated in the Act under the heading "Federal Payment for School Improvement"); provided, that of the amounts provided to the Office of the State Superintendent of Education, $1,000,000 from local funds shall remain available until June 30, 2014, for an audit of the student enrollment of each District of Columbia public school and of each District of Columbia public charter school; provided further, that $5,000,000 in fiscal year 2013 unexpended local funds shall remain available until expended for the Blackman and Jones v. District of Columbia consent decree; provided further, that any funds deposited into the State Athletic Activities, Programs, and Office Fund, established by the State Athletic Activities, Programs, and Office Fund Act of 2013 within the Fiscal Year 2014 Budget Support Act of 2013, and any interest earned on those funds, shall not revert to the General Fund of the District of Columbia at the end of a fiscal year, or at any other time, but shall be continually available until expended;

(4) District of Columbia Public Charter Schools. – $616,499,000 from local funds; provided, that there shall be quarterly disbursement of funds to the District of Columbia public charter schools, with the first payment to occur within 15 days of the beginning of the

fiscal year; provided further, that if the entirety of this allocation has not been provided as payments to any public charter schools currently in operation through the per pupil funding formula, the funds shall remain available until expended for public education in accordance with section 2403(b)(2) of the District of Columbia School Reform Act of 1995, approved April 26, 1996 (110 Stat. 1321; D.C. Official Code § 38-1804.03(b)(2)); provided further, that of the amounts made available to District of Columbia public charter schools, $110,000 shall be made available to the Office of the Chief Financial Officer as authorized by section 2403(b)(6) of the District of Columbia School Reform Act of 1995, approved April 26, 1996 (110 Stat. 1321; D.C. Official Code § 38-1804.03(b)(6)); provided further, that, notwithstanding the amounts otherwise provided under this heading or any other provision of law, there shall be appropriated to the District of Columbia public charter schools on July 1, 2013, an amount equal to 30% of the total amount of the local funds appropriations request provided for payments to public charter schools in the proposed budget of the District of Columbia for fiscal year 2014 (as submitted to Congress), and the amount of such payment shall be chargeable against the final amount provided for such payments under the District of Columbia Appropriations Act, 2014; provided further, that the annual financial audit for the performance of an individual District of Columbia public charter school shall be funded by the charter school;

(5) University of the District of Columbia Subsidy. – $66,691,000 from local funds; provided, that this appropriation shall not be available to subsidize the education of nonresidents of the District at the University of the District of Columbia, unless the Board of Trustees of the University of the District of Columbia adopts, for the fiscal year ending September 30, 2014, a tuition- rate schedule that will establish the tuition rate for nonresident students at a level no lower than the nonresident tuition rate charged at comparable public institutions of higher education in the metropolitan area; provided further, that, notwithstanding the amounts otherwise provided under this heading or any other provision of law, there shall be appropriated to the University of the District of Columbia on July 1, 2013, an amount equal to 10% of the total amount of the local funds appropriations request provided for the University of the District of Columbia in the proposed budget of the District of Columbia for fiscal year 2014 (as submitted to Congress), and the amount of such payment shall be chargeable against the final amount provided for the University of the District of Columbia under the District of Columbia Appropriations Act, 2014; provided further, that not to exceed $10,600 for the President of the University of the District of Columbia shall be available for official reception and representation expenses; provided further, that any funds deposited into the University of the District of Columbia Debt Collection Fund, established by the Delinquent Debt Recovery Amendment Act of 2013 within the Fiscal Year 2014 Budget Support Act of 2013, and any interest earned on those funds, shall not revert to the General Fund of the District of Columbia at the end of a fiscal year, or at any other time, but shall be continually available until expended;

(6) District of Columbia Public Libraries. – $53,480,000 (including $52,100,000 from local funds, $840,000 from Federal grant funds, and $540,000 from other funds); provided, that not to exceed $8,500 for the Public Librarian shall be available for official reception and representation expenses; provided further, that any amounts deposited into the Library Collections Account, established by the Library Collections Account Amendment Act of 2012,

effective September 20, 2012 (D.C. Law 19-168; D.C. Official Code § 39-114), are available for expenditure and shall remain available until expended;

(7) Public Charter School Board. – $4,209,000 (including $1,161,000 from local funds and $3,048,000 from other funds);

(8) Non-Public Tuition. – $79,868,000 from local funds;

(9) Special Education Transportation. – $86,688,000 from local funds; provided, that, notwithstanding the amounts otherwise provided under this heading or any other provision of law, there shall be appropriated to the Special Education Transportation agency under the direction of the Office of the State Superintendent of Education, on July 1, 2013, an amount equal to 10% of the total amount of the local funds appropriations request provided for the Special Education Transportation agency in the proposed budget of the District of Columbia for fiscal year 2014 (as submitted to Congress), and the amount of such payment shall be chargeable against the final amount provided for the Special Education Transportation agency under the District of Columbia Appropriations Act, 2014; provided further, that amounts appropriated under this heading may be used to offer financial incentives as necessary to reduce the number of routes serving 2 or fewer students;

(10) District of Columbia State Board of Education. – $866,000 from local funds; and

(11) Office of the Deputy Mayor for Education. – $1,826,000 from local funds.

HUMAN SUPPORT SERVICES

Human support services, $4,088,014,000 (including $1,714,676,000 from local funds (including $86,307,000 from dedicated taxes), $418,012,000 from Federal grant funds, $1,918,309,000 from Medicaid payments, $31,817,000 from other funds, $201,000 from private funds, and $5,000,000 from funds previously appropriated in this Act under the heading "Federal Payment for HIV/AIDS Prevention"); to be allocated as follows;

(1) Department of Human Services. – $380,321,000 (including $213,684,000 from local funds, $149,698,000 from Federal grant funds, $15,739,000 from Medicaid payments, and $1,200,000 from other funds);

(2) Child and Family Services Agency. – $226,858,000 (including $170,893,000 from local funds, $54,721,000 from Federal grant funds, $1,200,000 from other funds, and $44,000 from private funds);

(3) Department of Behavioral Health. – $229,342,000 (including $202,845,000 from local funds, $18,310,000 from Federal grant funds, $4,330,000 from Medicaid payments, $3,700,000 from other funds, and $157,000 from private funds); provided, that any funds deposited into the Department of Mental Health Enterprise Fund, and any interest earned on those funds, shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time, but shall be continually available until expended; in addition to the funds otherwise appropriated under this Act, the Department of Behavioral Health may expend any funds that are or were paid by the United States Virgin Islands to the District in fiscal year 2013 or fiscal year 2014 to compensate the District for care previously provided by the District to patients at the St. Elizabeths hospital and are not otherwise

appropriated under this Act; provided, that the availability of the funds is certified by the Chief Financial Officer before any expenditure; provided further, that the funds shall be expended in a manner determined by the Director of the Department of Behavioral Health;

(4) Department of Health. – $219,447,000 (including $69,402,000 from local funds, $132,717,000 from Federal grant funds, $12,328,000 from other funds, and $5,000,000 from funds previously appropriated in this Act under the heading "Federal Payment for HIV/AIDS Prevention"); provided, that any funds deposited into the Health Professional Recruitment Fund, established by section 16a of the District of Columbia Health Professionals Recruitment Program Act of 2005, effective March 2, 2007 (D.C. Law 16-192; D.C. Official Code § 7-751.15a), including unspent funds from prior fiscal years, shall remain available until expended;

(5) Department of Parks and Recreation. –$37,050,000 (including $34,850,000 from local funds, and $2,200,000 from other funds); provided, that any funds deposited into the Recreation Enterprise Fund, established by section 4 of the Recreation Act of 1994, effective March 23, 1995 (D.C. Law 10-246; D.C. Official Code § 10-303(c)(2)), as amended by the Department of Parks and Recreation O-Type Amendment Act of 2013 within the Fiscal Year 2014 Budget Support Act of 2013, and any interest earned on those funds, shall not revert to the General Fund of the District of Columbia at the end of a fiscal year, or at any other time, but shall be continually available until expended;

(6) Office on Aging. – $31,312,000 (including $23,957,000 from local funds and $7,356,000 from Federal grant funds);

(7) District of Columbia Unemployment Compensation Fund. – $6,887,000 from local funds;

(8) Employees' Compensation Fund. – $20,021,000 from local funds, and all unexpended fiscal year 2013 funds as of September 30, 2013 to remain available until expended;

(9) Office of Human Rights. – $2,902,000 (including $2,595,000 from local funds and $307,000 from Federal grant funds);

(10) Office of Latino Affairs. – $2,695,000 from local funds;

(11) Children and Youth Investment Collaborative. – $3,000,000 from local funds;

(12) Office of Asian and Pacific Islander Affairs. – $785,000 from local funds;

(13) Office on Veterans Affairs. – $391,000 (including $386,000 from local funds and $5,000 from other funds);

(14) Department of Youth Rehabilitation Services. – $104,890,000 from local funds; provided, that amounts appropriated herein may be expended to implement the provisions of section 105(k) of the Department of Youth Rehabilitation Services Establishment Act of 2004, effective April 12, 2005 (D.C. Law 15-335; D.C. Official Code § 2-1515.05(k)); provided further, that of the local funds appropriated for the Department of Youth Rehabilitation Services, $12,000 shall be used to fund the requirements of the Interstate Compact for Juveniles;

(15) Department of Disability Services. – $95,544,000 (including $55,204,000 from local funds, $26,454,000 from Federal grant funds, $6,336,000 from Medicaid payments, and $7,550,000 from other funds); provided, that any funds deposited into the Ticket to Work

Employment Network Fund, established by the Developmental Disabilities Service Management Reform Amendment Act of 2013 within the Fiscal Year 2014 Budget Support Act of 2013, and any interest earned on those funds, shall not revert to the General Fund of the District of Columbia at the end of a fiscal year, or at any other time, but shall be continually available until expended;

(16) Department of Health Care Finance. – $2,724,624,000 (including $800,638,000 from local funds (including $86,307,000 from dedicated taxes), $28,449,000 from Federal grant funds, $1,891,903,000 from Medicaid payments, and $3,634,000 from other funds); provided, that any funds deposited into the Healthy DC Fund, established by section 15b of the Hospital and Medical Services Corporation Regulatory Act of 1996, effective March 2, 2007 (D.C. Law 16-192; D.C. Official Code § 31-3514.02), including unspent funds from prior fiscal years, shall remain available until expended; provided further, that any funds deposited into the Nursing Facility Quality of Care Fund, established by D.C. Official Code § 47-1262, including unspent funds from prior fiscal years, shall remain available until expended; provided further, that any funds deposited into the Assessment Fund, established by the Department of Health Care Finance Establishment Act of 2013 within the Fiscal Year 2014 Budget Support Act of 2013, and any interest earned on those funds, shall not revert to the General Fund of the District of Columbia at the end of a fiscal year, or at any other time, but shall be continually available until expended; provided further, that any funds deposited into the Hospital Provider Fee Fund, established by the Medicaid Hospital Outpatient Supplemental Payment Act of 2013 within the Fiscal Year 2014 Budget Support Act of 2013, and any interest earned on those funds, shall not revert to the General Fund of the District of Columbia at the end of a fiscal year, or at any other time, but shall be continually available until expended; provided further, that amounts on deposit from fiscal year 2013 in, and any such future deposits to, the Hospital Provider Fee Fund shall become available upon deposit and shall remain available until expended; and

(17) Deputy Mayor for Health and Human Services. – $1,945,000 from local funds.

PUBLIC WORKS

Public works, including rental of one passenger-carrying vehicle for use by the Mayor and 3 passenger-carrying vehicles for use by the Council of the District of Columbia and leasing of passenger-carrying vehicles, $649,555,000 (including $488,222,000 from local funds (including $59,119,000 from dedicated taxes), $29,934,000 from Federal grant funds, $130,789,000 from other funds, and $610,000 from private funds), to be allocated as follows:

(1) Department of Public Works. – $119,264,000 (including $111,484,000 from local funds and $7,780,000 from other funds);

(2) Department of Transportation. – $92,674,000 (including $72,329,000 from local funds, $3,956,000 from Federal grant funds, and $16,389,000 from other funds);

(3) Department of Motor Vehicles. – $36,603,000 (including $27,153,000 from local funds and $9,450,000 from other funds);

(4) Department of the Environment. – $95,801,000 (including $17,200,000 from local funds, $25,979,000 from Federal grant funds, $52,012,000 from other funds, and $610,000

from private funds); provided, that any funds deposited into the Stormwater In-Lieu Fee Payment Fund, established by the Stormwater In-Lieu Fee Special Purpose Revenue Fund Act of 2013 within the Fiscal Year 2014 Budget Support Act of 2013, and any interest earned on those funds, shall not revert to the General Fund of the District of Columbia at the end of a fiscal year, or at any other time, but shall be continually available until expended;

(5) Taxicab Commission. – $4,000,000 from other funds;

(6) Washington Metropolitan Area Transit Commission. – $126,000 from local funds; and

(7) Washington Metropolitan Area Transit Authority. – $301,088,000 (including $259,929,000 from local funds (including $59,119,000 from dedicated taxes) and $41,159,000 from other funds); provided, that any funds deposited into the WMATA Momentum Fund, established by the Internet Sales Tax and WMATA Momentum Fund Establishment Act of 2013 within the Fiscal Year 2014 Budget Support Act of 2013, and any interest earned on those funds, shall not revert to the General Fund of the District of Columbia at the end of a fiscal year, or at any other time, but shall be continually available until expended.

FINANCING AND OTHER

Financing and Other, $1,037,959,000 (including $966,516,000 from local funds (including $145,349,000 from dedicated taxes), $56,543,000 from other funds, and $14,900,000 from funds previously appropriated in this Act under the heading "Federal Payment for Emergency Planning and Security Costs in the District of Columbia"), to be allocated as follows:

(1) Repayment of Loans and Interest. – $524,082,000 (including $519,354,000 from local funds, and $4,728,000 from other funds); for payment of principal, interest, and certain fees directly resulting from borrowing by the District of Columbia to fund District of Columbia capital projects as authorized by sections 462, 475, and 490 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 777; D.C. Official Code §§ 1-204.62, 1-204.75, and 1-204.90);

(2) Short-Term Borrowing. –$3,675,000 from local funds for payment of interest on short-term borrowing;

(3) Certificates of Participation. – for lease payments representing principal and interest on the District's Certificates of Participation, issued to finance land and buildings for the Unified Communications Center and Office of Unified Communications, located on the St. Elizabeths Campus, $24,619,000 from local funds;

(4) Debt Issuance Costs. – for the payment of debt service issuance costs, $6,000,000 from local funds;

(5) Schools Modernization Fund. – for the Schools Modernization Fund, established by section 4042 of the Schools Modernization Amendment Act of 2005, effective October 20, 2005 (D.C. Law 16-33; D.C. Official Code § 1-325.41), $11,863,000 from local funds;

(6) Revenue Bonds. – for the repayment of revenue bonds, $7,824,000 from local funds (including $7,824,000 from dedicated taxes);

(7) Settlements and Judgments. – for making refunds and for the payment of legal settlements or judgments that have been entered against the District of Columbia government, $21,292,000 from local funds; provided, that this appropriation shall not be construed as modifying or affecting the provisions of section 101 of this Act;

(8) Wilson Building. – for expenses associated with the John A. Wilson building, $4,495,000 from local funds;

(9)Workforce Investments. – for workforce investments, $59,442,000 from local funds;

(10) Non-Departmental. – to account for anticipated costs that cannot be allocated to specific agencies during the development of the proposed budget, $9,702,000 (including $2,000,000 from local funds and $7,702,000 from other funds), to be transferred by the Mayor of the District of Columbia within the various appropriations headings in this Act;

(11) Emergency Planning and Security Costs. –$14,900,000 from funds previously appropriated in this Act under the heading "Federal Payment for Emergency Planning and Security Costs in the District of Columbia"; provided, that, notwithstanding any other law, the District of Columbia may charge obligations and expenditures that are pending reimbursement under the heading "Federal Payment for Emergency Planning and Security Costs in the District of Columbia" to this local appropriations heading;

(12) Equipment Lease Operating. – $42,677,000 from local funds;

(13) Emergency and Contingency Funds. – $5,500,000 from local funds for the emergency reserve fund and the contingency reserve fund under section 450A of the District of Columbia Home Rule Act, approved November 2, 2000 (114 Stat. 2440; D.C. Official Code § 1-204.50a); the amounts appropriated herein may be increased by such additional amounts from the funds of the District government as are necessary to meet the balance requirements for such funds under section 450A;

(14) Pay-As-You-Go Capital funds. – in lieu of capital financing, $34,786,000 (including $9,200,000 from local funds and $25,587,000 from other funds) to be transferred to the Capital Fund; provided, that the Office of the Chief Financial Officer reconciles the capital budgets recorded in the District's Financial Accounting System of Record ("SOAR"), with budgets approved by the Council annually and provides the Mayor with a report on the reconciliation at the project level by February 1, following the end of every fiscal year;

(15) District Retiree Health Contribution. – for a District Retiree Health Contribution, $107,800,000 from local funds;

(16) Highway Trust Fund Transfer. – $40,306,000 (including $21,780,000 from local funds (including $21,780,000 from dedicated taxes) and $18,526,000 from other funds); and

(17) Convention Center Transfer. – $118,995,000 from local funds (including $115,745,000 from dedicated taxes).

REVISED REVENUE ESTIMATE CONTINGENCY PRIORITY

If the Chief Financial Officer of the District of Columbia certifies through a revised revenue estimate in June 2013 that up to $50,000,000 in excess revenue is available from local

funds, up to $50,000,000 is appropriated for obligation and expenditure by the District in accordance with acts enacted by the Council, which shall specify the use and amount for each obligation and expenditure. Such acts shall not be considered a supplemental budget act as defined in section 446 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 777; D.C. Official Code § 1-204.46), and any obligations and expenditures may be authorized immediately upon enactment of such acts.

ENTERPRISE AND OTHER FUNDS

The amount of $2,059,673,000 (including $218,406,000 from local funds (including $151,715,000 from dedicated taxes), $19,527,000 from Federal grants, $1,819,264,000 from other funds, and $2,476,000 from private funds) shall be provided to enterprise funds as follows; provided, that, in the event that certain dedicated revenues exceed budgeted amounts, the District may increase its General Fund budget authority as needed to transfer all such revenues, pursuant to local law, to the Highway Trust Fund, the Washington Convention Center, and the Washington Metropolitan Transit Authority.

WATER AND SEWER AUTHORITY

Pursuant to section 445a of the District of Columbia Home Rule Act, approved August 6, 1996 (110 Stat. 1698; D.C. Official Code § 1-204.45a), which provides that the Council may comment and make recommendations concerning such annual estimates but shall have no authority to revise the budget for the District of Columbia Water and Sewer Authority, the Council forwards this non-appropriated budget request: For operation of the District of Columbia Water and Sewer Authority, $479,543,000 from other funds, of which no outstanding debt exists for repayment of loans and interest incurred for capital improvement projects and payable to the District's debt service fund. For construction projects, $557,036,000 to be distributed as follows: $49,419,000 for the Blue Plains Wastewater Treatment Plant, $35,233,000 for the Sanitary Sewer System, $73,839,000 for the Water System, $379,603,000 for the Combined Sewer Overflow Program, $11,192,000 for the Washington Aqueduct, and $7,750,000 for the capital equipment program; in addition, $14,500,000 from funds previously appropriated in this Act under the heading "Federal Payment to the District of Columbia Water and Sewer Authority"; provided, that the requirements and restrictions that are applicable to General Fund capital improvement projects and set forth in this Act under the Capital Outlay appropriation account shall apply to projects approved under this appropriation account.

WASHINGTON AQUEDUCT

For operation of the Washington Aqueduct, $64,592,000 from other funds.

LOTTERY AND CHARITABLE GAMES ENTERPRISE FUND

For the Lottery and Charitable Games Enterprise Fund, established by the District of Columbia Appropriations Act, 1982, approved December 4, 1981 (Pub. L. No. 97-91; 95 Stat. 1174), for the purpose of implementing the Law to Legalize Lotteries, Daily Numbers Games, and Bingo and Raffles for Charitable Purposes in the District of Columbia, effective March 10,

1981 (D.C. Law 3-172; codified in scattered cites in the D.C. Official Code), $253,000,000 from other funds; provided, that the District of Columbia shall identify the source of funding for this appropriation title from the District's own locally generated revenues; provided further, that no revenues from Federal sources shall be used to support the operations or activities of the Lottery and Charitable Games Control Board; provided further, that, after notification to the Mayor, amounts appropriated herein may be increased by an amount necessary for the Lottery and Charitable Games Enterprise Fund to make transfers to the General Fund of the District of Columbia and to cover prizes, agent commissions, and gaming related fees directly associated with unanticipated excess lottery revenues not included in this appropriation.

DISTRICT OF COLUMBIA RETIREMENT BOARD

For the District of Columbia Retirement Board, established pursuant to section 121 of the District of Columbia Retirement Reform Act of 1979, approved November 17, 1979 (93 Stat 866; D.C. Official Code § 1-711), $30,338,000 from the earnings of the applicable retirement funds to pay legal, management, investment, and other fees and administrative expenses of the District of Columbia Retirement Board; provided, that the District of Columbia Retirement Board shall provide to Congress and to the Council of the District of Columbia a quarterly report of the allocations of charges by fund and of expenditures of all funds; provided further, that the District of Columbia Retirement Board shall provide to the Mayor, for transmittal to the Council of the District of Columbia, an itemized accounting of the planned use of appropriated funds in time for each annual budget submission and the actual use of such funds in time for each annual audited financial report.

WASHINGTON CONVENTION CENTER ENTERPRISE FUND

For the Washington Convention Center Enterprise Fund, including for functions previously performed by the District of Columbia Sports and Entertainment Commission, $114,585,000 from other funds).

HOUSING FINANCE AGENCY

For the Housing Finance Agency, $9,689,000 from other funds.

UNIVERSITY OF THE DISTRICT OF COLUMBIA

For the University of the District of Columbia, $141,850,000 (including $66,691,000 from local funds, $19,527,000 from Federal grant funds, $53,157,000 from other funds, and $2,476,000 from private funds).

DISTRICT OF COLUMBIA PUBLIC LIBRARY TRUST FUND

For the District of Columbia Public Library Trust Fund, $17,000 from other funds.

UNEMPLOYMENT COMPENSATION TRUST FUND

For the Unemployment Insurance Trust Fund, $480,000,000 from other funds.

HOUSING PRODUCTION TRUST FUND

For the Housing Production Trust Fund, $142,676,000 (including $75,745,000 from local funds (including $75,745,000 from dedicated taxes) and $66,931,000 from other funds); provided, that all unexpended fiscal year 2013 funds as of September 30, 2013 are authorized for expenditure and shall remain available until expended for purposes identified by the Housing Production Trust Fund Act of 1988, effective March 16, 1989 (D.C. Law 7-202; D.C. Official Code § 42-2801 *et seq.*).

TAX INCREMENT FINANCING

For Tax Increment Financing, $63,931,000 from other funds.

BALLPARK REVENUE FUND

For the Ballpark Revenue Fund, $86,970,000 (including $75,970,000 from local funds (including $75,970,000 from dedicated taxes), and $11,000,000 from other funds).

REPAYMENT OF PAYMENT IN LIEU OF TAXES FINANCING

For Repayment of Payment in Lieu of Taxes Financing, $16,341,000 from other funds.

NOT-FOR-PROFIT HOSPITAL CORPORATION

For the Not-For-Profit Hospital Corporation, $110,000,000 from other funds.

HEALTH BENEFIT EXCHANGE AUTHORITY

For the District of Columbia Health Benefit Exchange Authority, $66,140,000 from other funds.

CAPITAL OUTLAY

For capital construction projects, an increase of $2,756,433,000, of which $2,278,934,000 shall be from local funds, $53,680,000 from the Local Transportation Fund, $104,857,000 from the District of Columbia Highway Trust Fund, and $318,962,000 from Federal grant funds, and a rescission of $558,139,000, of which $420,472,000 is from local funds, $100,300,000 from the Local Transportation Fund, $12,105,000 from the District of Columbia Highway Trust Fund, and $25,262,000 from Federal grant funds appropriated under this heading in prior fiscal years, for a net amount of $2,198,294,000; to remain available until expended; in addition, provided, that all funds provided by this appropriation title shall be available only for the specific projects and purposes intended; provided further, that amounts appropriated under this heading may be increased by the amount transferred from funds appropriated in this act as Pay-As-You-Go Capital funds.

TITLE IV--GENERAL PROVISIONS

SEC. 101. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making refunds and for the payment of legal settlements or judgments that have been entered against the District of Columbia government.

ENROLLED ORIGINAL

SEC. 102. The District of Columbia may use local funds provided in this Act to carry out lobbying activities on any matter.

SEC. 103.The District of Columbia government is authorized to approve reprogramming and transfer requests of local funds under this Act through November 7, 2014.

SEC. 104. Except as otherwise provided in this section, none of the funds made available by this Act or by any other act may be used to provide any officer or employee of the District of Columbia with an official vehicle unless the officer or employee uses the vehicle only in the performance of the officer's or employee's official duties. For purposes of this section, the term "official duties" does not include travel between the officer's or employee's residence and workplace, except in the case of—

(1) an officer or employee of the Metropolitan Police Department who resides in the District of Columbia or a District of Columbia government employee as may otherwise be designated by the Chief of Police;

(2) at the discretion of the Fire Chief, an officer or employee of the District of Columbia Fire and Emergency Medical Services Department who resides in the District of Columbia and is on call 24 hours a day or is otherwise designated by the Fire Chief;

(3) at the discretion of the Director of the Department of Corrections, an officer or employee of the District of Columbia Department of Corrections who resides in the District of Columbia and is on call 24 hours a day or is otherwise designated by the Director;

(4) the Mayor of the District of Columbia; and

(5) the Chairman of the Council of the District of Columbia.

SEC. 105. (a) No later than 30 calendar days after the date of the enactment of this Act, the Chief Financial Officer for the District of Columbia shall submit to the appropriate committees of Congress, the Mayor, and the Council of the District of Columbia, a revised appropriated funds operating budget in the format of the budget that the District of Columbia government submitted pursuant to section 442 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 798; D.C. Official Code§ 1–204.42), for all agencies of the District of Columbia government for fiscal year 2014 that is in the total amount of the approved appropriation and that realigns all budgeted data for personal services and other-than-personal services, respectively, with anticipated actual expenditures.

(b) This section shall apply only to an agency for which the Chief Financial Officer for the District of Columbia certifies that a reallocation is required to address unanticipated changes in program requirements.

SEC. 106. No later than 30 calendar days after the date of the enactment of this Act, the Chief Financial Officer for the District of Columbia shall submit to the appropriate committees of Congress, the Mayor, and the Council for the District of Columbia, a revised appropriated funds operating budget for the District of Columbia Public Schools that aligns schools budgets to

actual enrollment. The revised appropriated funds budget shall be in the format of the budget that the District of Columbia government submitted pursuant to section 442 of the District of Columbia Home Rule Act approved December 24, 1973 (87 Stat. 798; D.C. Official Code §1–204.42).

SEC. 107. (a)Amounts appropriated in this Act as operating funds may be transferred to the District of Columbia's enterprise and capital funds and such amounts, once transferred, shall retain appropriation authority consistent with the provisions of this Act.

(b) The District of Columbia government is authorized to reprogram or transfer for operating expenses any local funds transferred or reprogrammed in this or the 4 prior fiscal years from operating funds to capital funds, and such amounts, once transferred or reprogrammed, shall retain appropriation authority consistent with the provisions of this Act.

(c) The District of Columbia government may not transfer or reprogram for operating expenses any funds derived from bonds, notes, or other obligations issued for capital projects.

SEC. 108. Section 446 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 801; D.C. Official Code § 1–204.46), is amended as follows:

(a) Strike the third sentence and insert the phrase "The Mayor shall submit to the President of the United States for transmission to Congress the portion of the budget so adopted with respect to federal funds and the Mayor shall notify the Speaker of the House of Representatives, and the President of the Senate, as to the portion of the budget so adopted with respect to local funds; provided, that in a control year (as defined in D.C. Official Code § 47-393(4)), the Mayor shall submit to the President of the United States for transmission to Congress the budget so adopted." in its place.

(b) Strike, in the fifth sentence, the phrase "the Mayor shall not transmit any annual budget or amendments or supplements thereto, to the President of the United States" and inserting the phrase "the Mayor shall not submit to the President of the United States, or, for a fiscal year which is not a control year, notify the Speaker of the House of Representatives and the President of the Senate regarding, any annual budget or amendments or supplements thereto" in its place.

SEC. 109. Notwithstanding any other provision of the Saint Elizabeths Hospital and District of Columbia Mental Health Services Act, approved November 8, 1984 (98 Stat. 3369; 42 U.S.C. § 225 note), the District may use the property transferred to the District pursuant to the Act for any purposes as may be determined by the District, and the Secretary of Health and Human Services shall amend the deed whereby the property was transferred to the District to eliminate all conditions or restrictions on the use of the property.".

SEC. 110. Except as expressly provided otherwise, any reference to "this Act" contained in this division shall be treated as referring only to the provisions of this division.

ENROLLED ORIGINAL

This division may be cited as the ''Financial Services and General Government Appropriations Act, 2014."

DIVISION B

DISTRICT OF COLUMBIA AUTHORIZATION REQUEST

SEC. 201. Budget Autonomy.

The Local Budget Autonomy Amendment Act of 2012, signed by the Mayor on January 18, 2013 (D.C. Act 19-632; 60 DCR 1724), is enacted into law.

SEC. 202. Legislative Autonomy.

(a) In General- Section 602 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02), is amended by repealing subsection (c).

(b) Congressional Resolutions of Disapproval-

(1) IN GENERAL- Section 604 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 816; D.C. Official Code § 1-206.04) is repealed.

(2) CLERICAL AMENDMENT- The table of contents is amended by striking the item relating to section 604.

(3) EXERCISE OF RULEMAKING POWER- This subsection and the amendments made by this subsection are enacted by Congress--

(A) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they shall be considered as a part of the rules of each House, respectively, or of that House to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

(c) Conforming Amendments-

(1) DISTRICT OF COLUMBIA HOME RULE ACT- The District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 877; D.C. Official Code § 1-201.01 *et seq.*), is amended as follows:

(A) Section 303 (D.C. Official Code § 1-203.03) is amended as follows--

(i) Subsection (a) is amended striking the second sentence;

(ii) Subsection (b) is repealed; and

(iii) Subsections (c) and (d) are redesignated as subsections (b) and (c), respectively.

(B) Section 404(e) (D.C. Official Code § 1-204.04(e)) is amended by striking the phrase "subject to the provisions of section 602(c)" each place it appears.

(C) Section 462 (D.C. Official Code § 1-204.62) is amended as follows--

(i) Subsection (a) is amended by striking the phrase "(a) The Council" and inserting the phrase "The Council" in its place; and

ENROLLED ORIGINAL

(ii) Subsections (b) and (c) are repealed.

(D) Section 472(d) (D.C. Official Code § 1-204.72(d)) is amended to read as follows:

"(d) Payments Not Subject to Appropriation- The fourth sentence of section 446 shall not apply to any amount obligated or expended by the District for the payment of the principal of, interest on, or redemption premium for any revenue anticipation note issued under subsection (a) of this section.".

(E) Section 475(e) (D.C. Official Code § 1-204.75(e)) is amended to read as follows:

"(e) Payments Not Subject to Appropriation- The fourth sentence of section 446 shall not apply to any amount obligated or expended by the District for the payment of the principal of, interest on, or redemption premium for any revenue anticipation note issued under this section.".

(2) OTHER LAWS-

(A) The Initiative, Referendum, and Recall Charter Amendments Act of 1977, effective March 10, 1978 (D.C. Law 2-46; D.C. Official Code § 1-204.102 *et seq.*), is amended as follows:

(i) Section 2(b)(1) (D.C. Official Code §1-204.102(b)(1)) is amended by striking the phrase "the appropriate custodian" and all that follows through "portion of such act to".

(ii) Section 5 (D.C. Official Code § 1-204.105) is amended by striking the phrase ", and such act shall become law subject to the provisions of § 1-206.02(c)".

(B) Section 16 of the District of Columbia Election Code of 1955, effective June 7, 1979 (D.C. Law 3-1; D.C. Official Code § 1-1001.16)--

(i) Subsection (j)(2) is amended as follows--

(I) Strike the phrase "sections 404 and 602(c)" and insert the phrase "section 404" in its place; and

(II) Strike the second sentence.

(ii) Subsection (m) is amended as follows--

(I) In the first sentence, strike the phrase "the appropriate custodian" and all that follows through the phrase "parts of such act to"; and,

(II) At the end of the second sentence, strike the phrase "is held. If, however, after" and insert the phrase "is held unless, under"; and

(III) Strike the phrase "section, the act which was the subject of the referendum shall be again transmitted to the Congress for review as provided in section 602(c)" and insert the word "section" in its place.

(d) Effective date.

The amendments made by this Act shall apply with respect to each act of the District of Columbia--

(1) passed by the Council of the District of Columbia and signed by the Mayor of the District of Columbia;

(2) vetoed by the Mayor and repassed by the Council;

(3) passed by the Council and allowed to become effective by the Mayor without the Mayor's signature; or

(4) in the case of initiated acts and acts subject to referendum, ratified by a majority of the registered qualified electors voting on the initiative or referendum, on or after October 1, 2013.

SEC. 203. Sections 47-391.07(b) and 47-392.09 of the District of Columbia Official Code are repealed.

SEC. 204. The Attorney General for the District of Columbia Clarification and Elected Term Amendment Act of 2010, effective May 27, 2010 (D.C. Law 18-160; D.C. Official Code § 1-301.81 *et seq.*), is amended by adding a new section 106a to read as follows:

"Sec. 106a. Contingency fee contracts.

"(a)(1) The Attorney General may make contracts retaining private counsel to furnish legal services, including representation in negotiation, compromise, settlement, and litigation, in claims and other legal matters affecting the interests of the District of Columbia.

"(2) Each contract shall include such terms and conditions as the Attorney General considers necessary or appropriate, including a provision specifying the amount of any fee to be paid to the private counsel under the contract or the method for calculating that fee. The amount of the fee payable for legal services furnished under any such contract shall not exceed the fee that counsel engaged in the private practice of law in the District typically charges clients for furnishing similar legal services, as determined by the Attorney General.

"(b) Notwithstanding any provision of federal or District of Columbia law, a contract entered into by the District of Columbia pursuant to this section may provide that costs, expenses, and fees that the private counsel charges for legal services are payable from the amount recovered. In such circumstances, the costs, expenses, and fees need not be included in an amount provided in an appropriations law.".

SEC. 205. Congressional review streamlining.

(a) Section 602(c)(1) of the District of Columbia Home Rule Act, approved December 23, 1973 (87 Stat. 813: D.C. Official Code § 1–206.02(c)(1)), is amended by striking the phrase "(excluding Saturdays, Sundays, and holidays, and any day on which neither House is in session because of an adjournment sine die, a recess of more than 3 days, or an adjournment of more than 3 days).".

(b) The amendments made by this section shall apply with respect to each act of the District of Columbia—

(1) passed by the Council of the District of Columbia and signed by the Mayor of the District of Columbia;

(2) vetoed by the Mayor and repassed by the Council; or

(3) passed by the Council and allowed to become effective without the Mayor's signature, on or after the effective date of this section.

ENROLLED ORIGINAL

SEC. 206. (a) Notwithstanding any other provision of law or other requirement:

(1) With respect to the urban renewal program, any urban renewal plans or projects, and any property acquired under the urban renewal program, the District of Columbia shall no longer have any obligations (including, obligations related to the treatment of income from the lease, use, or disposition of urban renewal properties as community development block grant ("CDBG") program income (including such lease, use, and disposition income received by the District before the effective date of this section), obligations related to payments to the Department of Housing and Urban Development ("HUD"), and obligations related to recordkeeping and accounting)), including obligations pursuant to:

(A) Previous agreements with HUD (including the District of Columbia Urban Renewal Closeout agreements);

(B) HUD regulations (including urban renewal and CDBG regulations); and

(C) The terms of any previous loans, grants, or other financial assistance provided by HUD to the District, the Redevelopment Land Agency ("RLA"), or any other entity of the District government;

(2) With respect to any property acquired pursuant to the urban renewal program or otherwise acquired with the proceeds of an urban renewal grant, loan, or other form of financial assistance that remains in the ownership or jurisdiction of the District, or any entity of the District, the District, or the entity of the District, may dispose of or lease the property for any purpose the District, or the entity of the District, considers appropriate, and no prior requirements imposed on the disposition or lease of the property by regulation, by prior agreement with HUD (including the District of Columbia Urban Renewal Closeout Agreements), by an urban renewal plan, or by any other prior agreement between HUD and the District, RLA, or any other entity of the District shall apply;

(3) With respect to any income received from the lease, use, or disposition of a property acquired pursuant to the urban renewal program or otherwise acquired with the proceeds of an urban renewal grant, loan, or other form of financial assistance, which income remains in the possession or control of the District, or any entity of the District, the District, or entity of the District, may expend such income for any purpose the District, or entity of the District, considers appropriate, and no requirement imposed on the income by regulation, by prior agreement (including the District of Columbia Urban Renewal Closeout Agreements) between HUD and the District, RLA, or any entity of the District, or by an urban renewal plan, shall apply;

(4) The urban renewal plans for the District of Columbia urban renewal areas, including 14th Street, Columbia Plaza, Downtown, Fort Lincoln, H Street, Northeast No. 1, Northwest No. 1, Shaw School, Southwest B, Southwest C, and Southwest C-1, shall no longer be of any force or effect.

(b) For the purposes of this section, the term "District of Columbia Urban Renewal Closeout Agreements" means closeout agreements between HUD and the District, RLA, or any entity of the District with respect to the urban renewal projects (including all neighborhood

development programs) of the District of Columbia, including the following: 14th Street Urban Renewal Project; Columbia Plaza Urban Renewal Project; Downtown Urban Renewal Project; Fort Lincoln Urban Renewal Project; H Street Urban Renewal Project; Northeast No. 1 Urban Renewal Project; Northwest No. 1 Urban Renewal Project; Shaw School Urban Renewal Project; Southwest B Urban Renewal Project; Southwest C Urban Renewal Project; and Southwest C-1 Urban Renewal Project.

SEC. 207. (a) Within 90 days after the effective date of this section, the director of each federal agency with jurisdiction over the following properties in the District of Columbia shall transfer all right, title, and interest of the United States in each property to the government of the District of Columbia. If jurisdiction over a property is held by the District of Columbia, the District of Columbia may execute a quitclaim deed on behalf of the United States to transfer all right, title, and interest of the United States in the property to the government of the District of Columbia:

(1) Square 2558, Lot 0810 (a portion of the Marie H. Reed Community Learning Center, a District of Columbia Public School);

(2) Square 2901, Lot 0816 (Raymond Recreation Center, a portion of the Raymond Elementary School campus);

(3) Square 2901, Lot 0815 (a portion of the Raymond Elementary School campus);

(4) Square 0364, Lot 0837 (a portion of the Shaw Junior High School campus);

(5) Parcel 246, Lot 0051 (P.R. Harris School);

(6) Square 2864, Lot 0830 (Meyer Elementary School, closed);

(7) Square 3327, Lot 0800 (Rudolph Elementary, closed);

(8) Square 0511, Lot 0822 (fields and parking of Bundy School, closed);

(9) Square 0767, Lot 0829 (Canal Park, north parcel);

(10) Square 0769, Lot 0821 (Canal Park, south parcel);

(11) Square 0768, Lot 0810 (Canal Park, center parcel);

(12) Square 2882, Lot 0936 (Banneker Senior High School campus, western portion);

(13) Square 2880, Lot 0859 (Banneker Senior High School, eastern portion);

(14) Square 0336, Lot 0828 (Shaw Jr. High School recreation fields);

(15) Square 0593, Lot 0823 (portion of Bowen Elementary School campus);

(16) Square 0593, Lot 0822 (portion of Bowen Elementary School campus);

(17) Square 0595, Lot 0810 (portion of Bowen Elementary School campus);

(18) Square 0593, Lot 0826 (portion of Bowen Elementary School campus);

(19) Square 0595, Lot 0807 (portion of Bowen Elementary School campus);

(20) Square 0647, Lot 0802 (portion of Bowen Elementary School campus);

(21) Square 0595, Lot 0809 (portion of Bowen Elementary School campus);

(22) Square 0645, Lot 0816 (portion of Bowen Elementary School campus);

(23) Square 0650N, Lot 0808 (portion of Bowen Elementary School campus);

(24) Square 0647, Lot 0803 (portion of Bowen Elementary School campus);

(25) Square 0645W, Lot 0808 (portion of Bowen Elementary School campus);
(26) Square 0593, Lot 0050 (portion of Bowen Elementary School campus);
(27) Square 0593, Lot 0051 (portion of Bowen Elementary School campus);
(28) Square 0542, Lot 0085 (Southwest Library site);
(29) All of Reservation 542 between Albemarle Street, N.W., and Chesapeake Street, N.W., including Lots 800 and 801 in Square 1772 and Lot 0807 in Square 1768, and Fort Drive, N.W., in Reservation 542 (Wilson Senior High School and Wilson Aquatic Center);

(30) The northern corner portion of Reservation 470 containing approximately 31,000 square feet, abutting both the east property line of Lot 0811 in Square 1759 and Fessenden Street, N.W. (Deal Middle School);
(31) Howard Street, N.W., in Reservation 470 (Deal Middle School);
(32) Fort Drive, N.W., in Reservation 515 (Deal Middle School);
(33) All of Reservation 519 in Square 5876 and Square 5884, including Lot 940 in Square 5876 (Johnson Middle School);
(34) The play field portion of Reservation 360 in Square 23 (Francis Middle School);
(35) Square 2673, Lot 890 (offices of the District of Columbia Department of Parks and Recreation);
(36) Square 5862, Lots 0135, 0954, and 0958 (Barry Farm New Communities Initiative);
(37) All of Reservation 487, including Square 5556, Lots 823 and 824, and Square 5560, Lots 814 and Lot 815 (Pennsylvania Avenue and Minnesota Avenue redevelopment);
(38) All of Reservation 8, including all improvements thereon, which is bounded on the north by Mount Vernon Place, N.W., on the south by K Street, N.W., on the west by 9th Street, N.W., and on the east by 7th Street, N.W. (Carnegie Library);
(39) Reservation 343F, Areas A, B, C and D (RFK Stadium); and
(40) Parcel 121/15 and Parcel 121/16 (intersection of North Capitol and Irving Streets.)

SEC. 208. Section 11201 of the National Capital Revitalization and Self-Government Improvement Act of 1997, approved August 5, 1997 (111 Stat. 734; D.C. Official Code § 24-101), is amended by adding a new subsection (a-1) to read as follows:
"(a-1) Reimbursement to District of Columbia Department of Corrections.– The United States Government shall reimburse the District of Columbia Department of Corrections its costs of providing custody and care for:
"(1) Felons committed by the Superior Court of the District of Columbia from the date of sentencing until transfer to a penal or correctional facility operated or contracted for by the Bureau of Prisons;

"(2) Previously sentenced felons committed to the Department of Corrections as violators of parole, supervised release, or probation from the date of commitment until transfer to a penal or correctional facility operated or contracted for by the Bureau of Prisons; and

"(3) Previously sentenced felons held by or committed to the Department of Corrections on writs from the date of commitment until transfer to a penal or correctional facility operated or contracted for by the Bureau of Prisons.".

SEC. 209. Any interest accumulated on the funds that the District of Columbia received pursuant to the District of Columbia Appropriations Act, 2000, approved November 29, 1999 (113 Stat. 1501; Pub. L. No. 106-113), under the heading "Federal Payment for the Incentives for Adoption of Children" and for the establishment of a scholarship fund for District of Columbia children without parents due to the September 11, 2001 terrorist attack under this same heading, pursuant to the District of Columbia Appropriations Act, 2001, approved December 21, 2001 (Pub. L. No. 107-96; 115 Stat. 923), shall be available to the District of Columbia until expended.

SEC. 210. (a)(1) IN GENERAL.--The District of Columbia is authorized to renew or enter into a new Interstate Compact for Juveniles for the purposes of placing youth in appropriate therapeutic settings and providing and receiving supervision for youth in other jurisdictions.

(2) DELEGATION.--Any compact for juveniles that the Council of the District of Columbia authorizes the Mayor to execute on behalf of the District may contain provisions that delegate the requisite power and authority to the Interstate Commission for Juveniles to achieve the purposes for which the interstate compact is established.

(b) Section 406 of An Act to reorganize the courts of the District of Columbia, to revise the procedures for juveniles in the District of Columbia, to codify title 23 of the District of Columbia Code, and for other purposes, approved July 29, 1970 (84 Stat. 678; D.C. Official Code § 24-1106), is repealed.

SEC. 211. Section 424(b)(2)(E) of the District of Columbia Home Rule Act, approved April 17, 1995 (109 Stat. 142; D.C. Official Code § 1-204.24b(b)(5)), is amended by striking the phrase "equal" and inserting the phrase "at least equal" in its place.

SEC. 212. Title IV of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; 59 DCR 1862), is enacted into law.

SEC. 213. Section 103 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 777; D.C. Official Code § 1-201.03), is amended by adding a new paragraph (16) to read as follows:

"(16) The term "Attorney General" means the Attorney General for the District of Columbia provided for by part C-I of title IV.".

SEC. 214. Section 424b of the District of Columbia Home Rule Act, approved October 16, 2006 (120 Stat. 2037; D.C. Official Code § 1-204.26), is amended by striking the phrase "Procurement Practices Act of 1986" and inserting the phrase "Procurement Practices Reform Act of 2010" in its place.

SEC. 215. Sections 2, 3, and 4 of the Domestic Partnership Police and Fire Amendment Act of 2008, effective March 25, 2009 (D.C. Law 17-358; 56 DCR 1188), are enacted into law.

SEC. 216. The following proviso under the heading "Lottery and Charitable Games Enterprise Fund" in the District of Columbia Appropriations Act, 1982, approved December 4, 1981 (Pub. L. No. 97-91; 95 Stat. 1174), is repealed:

"Provided further, that the advertising, sale, operation, or playing of the lotteries, raffles, bingos, or other games authorized by D.C. Law 3-172 is prohibited on the Federal enclave, and in adjacent public buildings and land controlled by the Shipstead-Luce Act as amended by 53 Stat. 1144, as well as in the Old Georgetown Historic District:"

SEC. 217. Notwithstanding any other law, the following sales shall be subject to the sales and use taxes of the District of Columbia:

(1) Sales at gift shops, souvenir shops, kiosks, convenience stores, food shops, cafeterias, restaurants, and similar establishments in federal buildings, including, but not limited to, memorials and museums, in the District of Columbia that make sales to:

(A) The general public, whether operated by the federal government, an agent of the federal government, or a contractor; and

(B) Other than the general public, if operated by an agent of the federal government or a contractor; and

(2) Sales of goods and services by government-sponsored enterprises and corporations, institutions, and organizations established by federal statute or regulation (collectively, "federal enterprises and organizations"), including the Smithsonian Institution, National Gallery of Art, National Building Museum, Federal National Mortgage Association, and Federal Home Loan Mortgage Corporation, if the federal enterprise or organization is otherwise exempt from such taxation, to the extent such sales would otherwise be subject to the sales and use taxes of the District of Columbia if the federal enterprise or organization were organized as a nonprofit corporation established pursuant to Chapter 4 of Title 29 of the District of Columbia Official Code, and exempt from federal income taxation pursuant to section 501(c)(3) of the Internal Revenue Code of 1986, approved October 22, 1986 (100 Stat. 2085; 26 U.S.C. § 501(c)(3)).

SEC. 218. Section 485 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 807; D.C. Official Code § 1-204.85), is amended to read as follows:

"SEC. 485. Except for estate, inheritance, and gift taxes, Bonds and notes issued by the District pursuant to this title and the interest thereon shall be exempt from all District, State, and

Federal taxation, including from taxation by any county, municipality, or other political subdivision of a State and any Territory or possession of the United States.".

SEC. 219. Section 602(a)(5) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(a)(5)), is amended by striking the phrase "of the District" the first time it appears and inserting the phrase "of the District, unless his or her source of income derives from District locally appropriated funds" in its place.

SEC. 220. Section 602(a)(5) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(a)(5)), is amended by striking the phrase "of any individual not a resident of the District" and inserting the phrase "of any individual not a resident of the District, except professional athletes," in its place.

SEC. 221. (a) Within 120 days of the effective date of this section, the District government shall require every remote vendor not qualifying as an exempted vendor to collect and remit to the District remote sales taxes on sales made via the internet to a purchaser in the District of Columbia; provided, that the District government has established pursuant to local law:

(1) A registry, with privacy and confidentiality controls so that it cannot be used for any purpose other than the administration of remote sales taxes, where each remote vendor, not qualifying as an exempted vendor, shall be required to register;

(2) Appropriate protections for consumer privacy;

(3) A means for a remote vendor to determine the current District sales and use tax rate and taxability;

(4)(A) A formula and procedure that permits a remote vendor to deduct reasonable compensation for expenses incurred in the administration, collection, and remittance of remote sales taxes, other than remote sales taxes paid by the remote vendor for goods or services purchased for its own consumption.

(B) The compensation authorized by subparagraph (A) of this paragraph may be claimed by a third-party service provider that the remote vendor has contracted with to perform the responsibilities related to the administration, collection, and remittance of remote sales taxes;

(5) The date that the collection of remote sales taxes shall commence;

(6) A small-vendor exemption, including a process for an exempted vendor to apply for a certificate of exemption;

(7) Subject to subsection (c) of this section, the products and types of products that shall be exempt from the remote sales taxes;

(8) Rules:

(A) For accounting for bad debts and rounding;

(B) That address refunds and credits for remote sales taxes relating to:

(i) Customer returns;

(ii) Restocking fees;

(iii) Discounts; and

(iv) Coupons;

(C) For allocating shipping and handling and discounts that apply to multiple items;

(D) Regarding notice and procedural requirements for registry enrollment by remote-vendors; and

(E) That the Mayor determines are necessary or appropriate to further the purposes of this section; and

(9) A plan to substantially reduce the administrative burdens associated with sales and use taxes, including remote sales taxes.

(b) Every remote vendor that does not qualify as an exempted vendor shall register with the District pursuant to subsection (a)(1) of this section, in accordance with local law or rules issued pursuant to local law or this section.

(c) Nothing in this section shall require the District to exempt or to impose a tax on any product or to adopt any particular type of tax, or to impose the same rate of tax as any other taxing jurisdiction that collects remote sales taxes.

(d) Nothing in this section permits or prohibits the District from:

(1) Licensing or regulating a person;

(2) Requiring a person to qualify to transact remote selling;

(3) Subjecting a person to District taxes not related to the sale of goods or services; or

(4) Exercising authority over matters of interstate commerce.

(e) For the purposes of this section, the term:

(1) "Exempted vendor" means a remote vendor that in accordance with local law has a specified level of cumulative gross receipts from internet sales to purchasers in the District that exempts it from the requirement to collect remote sales taxes pursuant to this section.

(2) "Person" means an individual, trust, estate, fiduciary, partnership, corporation, limited liability company, or any other legal entity.

(3) "Remote vendor" means a seller, whether or not it has a physical presence or other nexus within the District of Columbia, selling via the internet property or rendering a service to a purchaser in the District.

(4) "Remote sales taxes" means District sales and use taxes when applied to a property or service sold by a vendor via the Internet to a purchaser in the District

(5) "Vendor" means a person or retailer, including a remote vendor, selling property or rendering a service to a purchaser in the District of Columbia, the receipts from which a sales and use tax may be imposed pursuant to District law or this section.

(f) This section may be cited as the "District of Columbia Main Street Tax Fairness Act of 2012".

This division may be cited as the "District of Columbia Omnibus Authorization Act, 2014".

Sec. 3. Effective date.

ENROLLED ORIGINAL

This act shall take effect as provided in section 446 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 801; D.C. Official Code § 1-204.46).

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
July 24, 2013

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF PUBLIC HEARINGS
CALENDAR

WEDNESDAY, AUGUST 7, 2013
2000 14TH STREET, N.W., SUITE 400S,
WASHINGTON, D.C. 20009

Ruthanne Miller, Chairperson
Members:
Nick Alberti, Donald Brooks, Herman Jones, Mike Silverstein

Protest Hearing (Status) **9:30 AM**
Case # 13-PRO-00067; RS of Washington DC, LLC, t/a Zengo, 781 7th Street, NW, License #73795, Retailer CR, ANC 2C
Renewal Application

Protest Hearing (Status) **9:30 AM**
Case # 13-PRO-00086; Seaton Motor Company, LLC, t/a Red Hen, 1822 1st Street NW, License #90832, Retailer CR, ANC 5E
Renewal Application

Protest Hearing (Status) **9:30 AM**
Case # 13-PRO-00084; Riot Act DC, LLC, t/a Penn Social, 801 E Street NW License #86808, Retailer CX, ANC 2C
Renewal Application

Show Cause Hearing (Status) **9:30 AM**
Case # 12-CMP-00680; The Stadium Group, LLC, t/a Stadium; 2127 Queens Chapel Road NE, License #82005, Retailer CN, ANC 5C
Operating After Hours, Provided Back-up Drinks, Noise Violation, Provided False or Misleading Information, Failed to Follow Security Plan, Violation of Special Event Safety/Security Plan

Show Cause Hearing (Status) **9:30 AM**
Case # 13-CMP-00172; Bistro Francais, Ltd., t/a Bistro Francais, 3124 M Street NW, License #1428, Retailer CR,ANC 2E
Operating After Hours

Show Cause Hearing (Status) **9:30 AM**
Case # 13-CMP-00165; Axis Bar & Grill, LLC, t/a Bistro La Bonne, 1340 U Street NW, License #75284, Retailer CR, ANC 1B
Operating After Hours

Show Cause Hearing (Status) **9:30 AM**
Case # 12-CMP-00562; Clamenzah, LLC, t/a Food Corner Kabob, 2029 P, Street NW, License #80108, Retailer CR, ANC 2B
Failed to File Quarterly Statements (2nd Quarter 2012)

Show Cause Hearing (Status) **9:30 AM**
Case # 12-CMP-00698; KHP Corporation, t/a Lee's Liquor, 2339 Pennsylvania Ave SE, License #26650, Retailer A, ANC 7B
Sold Go-Cup, Violation of Settlement Agreement

Show Cause Hearing (Status) **9:30 AM**
Case # 13-CMP-00067; Optimism, LLC, t/a Optimism, 3301 12th Street NE License #83552, Retailer CT, ANC 5B
Failed to Post ABC License, Failed to Post Pregnancy Sign

Show Cause Hearing (Status) **9:30 AM**
Case # 13-CMP-00163; Avery's LLC, t/a Avery's Bar and Lounge, 1370 H Street NE, License #90527, Retailer CT, ANC 6A
Operating After Board Approved Hours

Fact Finding Hearing **9:30 AM**
David Sakai, t/a International House of Pong, 1010 Wisconsin Ave NW, License #84905, Retailer CR, ANC 2E
New Application

Show Cause Hearing **10:00 AM**
Case # 12-CMP-00431; Beg Investments, LLC, t/a Twelve Restaurant & Lounge, 1123 H Street NE, License #76366, Retailer CT, ANC 6A
Violation of Settlement Agreement, Failed to Comply With the Terms of Board Order No. 2011-289

Show Cause Hearing **11:00 AM**
Case # 12-CMP-00603; LMW, LLC, t/a Little Miss Whisky's Golden Dollar 1104 H Street NE, License #79090, Retailer CT, ANC 6A
Participated in a Pub Crawl Without Board Approval, Violation of Settlement Agreement

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

Protest Hearing **1:30 PM**
Case # 13-PRO-00034; Tas, LLC, t/a Libertine, 2435 18th Street NW, License #86298, Retailer CR, ANC 1C
Renewal Application

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: August 2, 2013
Petition Date: September 16, 2013
Hearing Date: September 30, 2013

License No.: ABRA-060476
Licensee: Circle Productions, Inc.
Trade Name: Black Cat
License Class: Retailer's Class "C" Multi-Purpose
Address: 1811 14th St. NW
Contact: Dante Ferrando 202-667-4490

WARD 1 ANC 1B SMD 1B12

Notice is hereby given that this licensee 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 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.

Applicant requests to make some modification to the building including the addition of the 3rd floor for extra dressing room and storage space. The changes will include 1500 square foot room with a bar. In addition, increase the total load by 149.

CURRENT HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION
Sunday through Thursday 10 am – 2 am and Friday & Saturday 10 am – 3 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date:	August 2, 2013
Petition Date:	September 16, 2013
Hearing Date:	September 30, 2013
Protest Hearing Date:	November 20, 2013

License No.:	ABRA-092840
Licensee:	401M, Inc.
Trade Name:	Eye Street Cellars
License Class:	Retailer's Class "A"
Address:	425 I Street NW
Contact:	Andrew J. Kline, 202-686-7600

WARD 6 ANC 6E SMD 6E05

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 November 20, 2013.

NATURE OF OPERATION
New Liquor Store with Tasting Permit.

HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES
Sunday 11am-7pm; Monday through Saturday 9am-10pm

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: August 2, 2013
Petition Date: September 16, 2013
Hearing Date: September 30, 2013
Protest Date: November 20, 2013

License No.: ABRA-092808
Licensee: gcdc, LLC
Trade Name: gcdc
License Class: Retailer's Class "C" Restaurant
Address: 1730 Pennsylvania Ave, NW
Contact: Stephen O'Brien 202-625-7700

WARD 2 ANC 2A SMD 2A08

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 November 20, 2013.
.

NATURE OF OPERATION
A quick service grilled cheese restaurant offering high-end gourmet grilled cheese sandwiches accompanied with tatter tots, soup, or salad with 42 seats and occupancy load of 85. Sidewalk café with 25 seats. Background music will be provided and no nude performances.

HOURS OF OPERATION FOR INSIDE PREMISE AND OUTSIDE SIDEWALK CAFE
Sunday through Saturday 10 am – 10 pm

HOURS OF ALCOHOLIC BEVERAGES SALES/SERVICE/CONSUMPTION FOR INSIDE PREMISE AND OUTSIDE SIDEWALK CAFE
Sunday through Saturday 10 am – 10 pm

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: August 2, 2013
Petition Date: September 16, 2013
Hearing Date: September 30, 2013
Protest Date: November 20, 2013

License No.: ABRA-092843
Licensee: Giant of Maryland, LLC
Trade Name: Giant #2376
License Class: Retailer's Class "D" Restaurant
Address: 1400 7th St. NW
Contact: Stephen O'Brien 202-625-7700

WARD 6 ANC 6E SMD 6E01

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 November 20, 2013.
.

NATURE OF OPERATION
Eat-in café located within Giant with 54 seats. Total occupancy load 64.

HOURS OF OPERATION
Sunday through Saturday 7 am -12 am

HOURS OF ALCOHOLIC BEVERAGES SALES/SERVICE/CONSUMPTION
Sunday through Saturday 8 am – 12 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: August 2, 2013
Petition Date: September 16, 2013
Hearing Date: September 30, 2013
Protest Date: November 20, 2013

License No.: ABRA-092842
Licensee: Giant of Maryland, LLC
Trade Name: Giant #2376
License Class: Retailer's Class "B" Full Service Grocery
Address: 1400 7th St. NW
Contact: Stephen O'Brien 202-625-7700

WARD 6 ANC 6E SMD 6E01

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 November 20, 2013.
.

NATURE OF OPERATION
Full service grocery store

HOURS OF OPERATION
Sunday through Saturday 24 hours

HOURS OF ALCOHOLIC BEVERAGES SALES/SERVICE/CONSUMPTION
Sunday through Saturday 7 am – 12 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date:	August 2, 2013
Petition Date:	September 16, 2013
Roll Call Hearing Date:	September 30, 2013

License No.:	ABRA-089718
Licensee:	Hank's on the Hill, LLC
Trade Name:	Hank's Oyster Bar
License Class:	Retailer's Class "C" Restaurant
Address:	633 Pennsylvania Ave SE
Contact:	Andrew Kline 202-686-7600

WARD 6 ANC 6B SMD 6B02

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 the addition of 12 seats to an existing Sidewalk Cafe. Capacity 49

CURRENT HOURS OF OPERATION/SALES/SERVICE/CONSUMPTION FOR THE PREMISE AND THE SIDEWALK CAFE

Sunday through Thursday 11 am – 2 am Friday and Saturday 11 am – 3 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date:	August 2, 2013
Petition Date:	September 16, 2013
Hearing Date:	September 30, 2013
Protest Hearing Date:	November 20, 2013

License No.:	ABRA-092802
Licensee:	Nando's at The Yards, LLC
Trade Name:	Nando's Peri Peri
License Class:	Retailer's Class "C" Restaurant
Address:	300 Tingey Street SE, Suite 150
Contact:	David W. Briggs, Esq. /Sheila Linn, 202-955-3000

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 1:30pm November 20, 2013.

NATURE OF OPERATION
New restaurant serving chicken and side dishes with seating for 86 patrons, Total occupancy load is 148 which will include a Summer Garden with 49 seats for patrons. No entertainment.

HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES/SERVICE AND CONSUMPTION FOR INSIDE PREMISES AND SUMMER GARDEN
Sunday through Thursday 11am-11pm and Friday & Saturday 11am-12am

****CORRECTION****

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: July 26, 2013
Petition Date: September 9, 2013
Hearing Date: September 23, 2013

License No.: ABRA-076754
Licensee: Notta Tav Urne, LLC
Trade Name: Pi
License Class: Retail Class "C" Restaurant
Address: 2309 18th Street NW
Contact: Alireza Halighali 202-232-6146

WARD 1 ANC 1C SMD 1C07 **

Notice is hereby given for a request received from the Licensee to terminate the Settlement Agreement applicable to the licensed premises, as approved and incorporated into an order by the Board in Board Order Number 2005-39 on February 14, 2005.

Parties to the Settlement Agreement: Notta Tav Urne, LLC, Reed Cooke Neighborhood Association and the Kalorama Citizens Association

Objectors are entitled to be heard before the granting of such request on the Hearing Date at 10:00 am, at 2000 14th 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.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date:	August 2, 2013
Petition Date:	September 16, 2013
Hearing Date:	September 30, 2013
Protest Hearing Date:	November 20, 2013

License No.:	ABRA-092826
Licensee:	Chatham Washington DC Leaseco, LLC
Trade Name:	Residence Inn by Marriott
License Class:	Retailer's Class "D" Restaurant
Address:	801 New Hampshire Avenue NW
Contact:	Stephen J. O'Brien, Esq. 202-625-7700

WARD 2 ANC 2A SMD 2A04

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 November 20, 2013.

NATURE OF OPERATION
New restaurant serving breakfast, appetizers, snack foods, and beer and wine during early evening manager's reception. Recorded background music only.

HOURS OF OPERATION
Sunday through Saturday 6am-9:30pm

HOUR OF ALCOHOLIC BEVERAGE SALES/SERVICE AND CONSUMPTION
Sunday through Saturday 8am-9:30pm

RE-ADVERTISEMENT

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date:	August 2, 2013
Petition Date:	September 16, 2013
Hearing Date:	September 30, 2013
Protest Hearing Date:	November 20, 2013

License No.:	ABRA-092684
Licensee:	301 Romeo, LLC
Trade Name:	Romeo & Juliet
License Class:	Retailer's Class "C" Restaurant
Address:	301 Massachusetts Avenue NE
Contact:	Andrew J. Kline, 202-686-7600

WARD 6 ANC 6C SMD 6C02

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, 2000 14th Street, N.W, 4th Floor, 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 November 20, 2013.

NATURE OF OPERATION
New restaurant serving American food. No entertainment. Seating for 90 patrons, Total occupancy load is 90. Sidewalk Café with seating for 170 patrons.

HOURS OF OPERATION FOR INSIDE PREMISES AND SIDEWALK CAFE
Sunday through Thursday 7am-2am; Friday and Saturday 7am-3am

HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE AND CONSUMPTION FOR INSIDE PREMISES AND SIDEWALK CAFÉ
Sunday through Thursday 8am-2am; Friday and Saturday 8am-3am

****RESCIND****

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date:	July 26, 2013
Petition Date:	September 9, 2013
Hearing Date:	September 23, 2013
Protest Hearing Date:	November 13, 2013

License No.:	ABRA-092684
Licensee:	301 Romeo, LLC
Trade Name:	Romeo & Juliet
License Class:	Retailer's Class "C" Restaurant
Address:	301 Massachusetts Avenue NE
Contact:	Andrew J. Kline, 202-686-7600

WARD 6 ANC 6C SMD 6C02

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, 2000 14th Street, N.W, 4th Floor, 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 November 13, 2013.

NATURE OF OPERATION
New restaurant serving American food. No entertainment. Seating for 90 patrons, Total occupancy load is 90. Sidewalk Café with seating for 170 patrons.

HOURS OF OPERATION FOR INSIDE PREMISES AND SIDEWALK CAFE
Sunday through Thursday 7am-2am; Friday and Saturday 7am-3am

HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE AND CONSUMPTION FOR INSIDE PREMISES AND SIDEWALK CAFÉ
Sunday through Thursday 8am-2am; Friday and Saturday 8am-3am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: August 2, 2012
Petition Date: September 16, 2013
Hearing Date: September 30, 2013

License No.: ABRA-09884
Licensee: Roses 1, LLC
Trade Name: Rose's Luxury
License Class: Retailer's Class "C" Restaurant
Address: 717 8th Street, S.E.
Contact: Rosemarie Salguero, 202-589-1834

WARD 6 ANC 6B SMD 6B03

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 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
To operate a Summer Garden, Rooftop, with four tables and a total of 16 seats.

HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES/SERVICE AND CONSUMPTION FOR INSIDE PREMISES
Sunday through Thursday 8am-2am and Friday & Saturday 8am-3am

PROPOSED HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES/SERVICE AND CONSUMPTION FOR THE SUMMER GARDEN
Sunday through Saturday 10am-12am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date:	August 2, 2013
Petition Date:	September 16, 2013
Roll Call Hearing Date:	September 30, 2013

License No.:	ABRA-087558
Licensee:	Raso Corporation
Trade Name:	Sahara Hooka Lounge
License Class:	Retailer's Class "C" Tavern
Address:	1200 H Street, NE
Contact:	Driss Ouadrhiri: 403-220-3053 and DuBois V. Cox: 202-438-1520

WARD 6 ANC 6A SMD 6A01

Notice is hereby given that this licensee 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 change on the l hearing date at 10:00 am, 2000 14th Street, NW, 4th Floor, Washington, D.C. 20009. Petitions and/or requests to appear before the Board must be filed on or before the Petition Date.

LICENSEE REQUESTING TO ADD ENTERTAINMENT ENDORSEMENT/DANCING AND COVER CHARGE TO LICENSE

HOURS OF LIVE ENTERTAINMENT
Sunday through Thursday: 8pm-2am, Friday and Saturday: 8pm-3am

CURRENT APPROVED HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES AND CONSUMPTION
Sunday through Thursday: 11am–2am, Friday and Saturday: 11am-3am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date:	August 2, 2013
Petition Date:	September 16, 2013
Roll Call Hearing Date:	September 30, 2013
Protest Hearing Date:	November 20, 2013
License No.:	ABRA-092705
Licensee:	SANDOVAN, INC.
Trade Name:	Sandovan Restaurant & Lounge,
License Class:	Retailer's Class "C" Restaurant
Address:	4809 Georgia Ave., NW.
Contact:	Sandi Garmany Fall: 202-355-8304

WARD 4 ANC 4D SMD 4D06

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 Roll Call Hearing Date at 10:00 am, 2000 14th 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 November 20, 2013.

NATURE OF OPERATION

New Restaurant serving Caribbean,Vegetarian & American Cuisine. Specializing in Jerk Chicken. Venue for Live Poetry, music, artistic expression, dance and watching sports events on flat screen. Dance floor 20 X 15ft, rear of the building (2nd room).
Total Occupancy Load is 60, with Entertainment Endorsement, Cover Charge and Dancing.

HOURS OF OPERATION

Sunday through Thursday: 8am – 2am, Friday and Saturday: 7am-3am

HOURS OF ALCOHOLIC BEVERAGE SALES SERVICE/CONSUMPTION

Sunday through Thursday: 11am - 2am, Friday and Saturday: 11am-3am

HOURS OF LIVE ENTERTAINMENT

Sunday through Thursday: 10am - 2am, Friday and Saturday: 10am-3am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ON
8/2/2013

Notice is hereby given that:

License Number: ABRA-072512 **License Class/Type: C Restaurant**

Applicant: Sweet Mango Cafe Corpor

Trade Name: Sweet Mango Cafe

ANC: 4C

Has applied for the renewal of an alcoholic beverages license at the premises:

3701 NEW HAMPSHIRE AVE NW, WASHINGTON, DC 20010

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR BEFORE:

9/16/2013

HEARING WILL BE HELD ON

9/30/2013

AT 10:00 AM, 2000 14th Street, NW, 4th Floor, Washington, DC 20009

ENDORSEMENTS: Summer Garden

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	10 am - 12 am	11 am -12 am	-
Monday:	10 am - 12 am	11 am - 12 am	-
Tuesday:	10 am - 12 am	11 am - 12 am	-
Wednesday:	10 am - 12 am	11 am - 12 am	-
Thursday:	10 am - 12 am	11 am - 12 am	-
Friday:	10 am - 2 am	11 am - 2 am	-
Saturday:	10 am - 2 am	11 am - 2 am	-

Days	Hours of Summer Garden Operation	Hours of Sales Summer Garden
Sunday:	11 am - 12 am	11 am - 12 am
Monday:	11 am - 12 am	11 am - 12 am
Tuesday:	11 am - 12 am	11 am - 12 am
Wednesday:	11 am - 12 am	11 am - 12 am
Thursday:	11 am - 12 am	11 am - 12 am
Friday:	11 am - 1 am	11 am - 1 am
Saturday:	11 am - 1 am	11 am - 1 am

BOARD OF ELECTIONS

NOTICE OF PUBLIC HEARING
RECEIPT AND INTENT TO REVIEW INITIATIVE MEASURE

The Board of Elections shall consider in a public hearing whether the proposed measure "Decriminalization of Possession of Minimal Amounts of Marijuana for Personal Use Act of 2014" is a proper subject matter for initiative, at the Board's Meeting on Wednesday, September 4, 2013 at 10:30am., One Judiciary Square, 441 4th Street, N.W., Suite 280, Washington DC.

The Board requests that written memoranda be submitted for the record no later than 4:00 p.m., Thursday, August 29, 2013 to the Board of Elections, General Counsel's Office, One Judiciary Square, 441 4th Street, N.W., Suite 270, Washington, D.C. 20001.

Each individual or representative of an organization who wishes to present testimony at the public hearing is requested to furnish his or her name, address, telephone number and name of the organization represented (if any) by calling the General Counsel's office at 727-2194 no later than Friday, August 30, 2013 at 4:00 p.m.

The Short Title, Summary Statement and Legislative Text of the proposed initiative read as follows:

SHORT TITLE

Decriminalization of Possession of Minimal Amounts of Marijuana for Personal Use Act of 2014

SUMMARY STATEMENT

This initiative would make possession of under two ounces of marijuana for personal use, or a person's cultivation in their home of no more than three cannabis plants, a civil offense rather than a criminal offense; provide for imposition of civil fines; provide mandatory drug awareness education for minors committing the civil offense; and would prohibit any District of Columbia government agency from denying any opportunity or benefit based on such civil violation.

LEGISLATIVE TEXT

BE IT ENACTED BY THE ELECTORS OF THE DISTRICT OF COLUMBIA,That this act may be cited as the "Decriminalization of Possession of Minimal Amounts of Marijuana for Personal Use Act of 2014."

--D.C. Code §48-904.01--

1. Section 401of the District of Columbia Uniform Controlled Substances Act of 1981, effective August 5, 1981 (D.C. Law 4-29; D.C. Official Code §48-904.01), is amended as follows:

(a) Subsection (a)(1) is amended to read as follows:"(a)(1) Except as authorized by this chapter or Chapter 16B or Title 7, it is unlawful for any person knowingly or intentionally to manufacture distribute or possess with intent to manufacture or distribute, a controlled substance. Notwithstanding any provision of this section to the contrary, it shall not be a violation of this section for any person to possess marijuana weighing less than two ounces or to possess or grow no more than three cannabis plants, whether or not mature, within such person's place of residence or to possess within such place the marijuana produced by such plants."

(b) Subsection (d) is amended to read as follows:"(d) (1) It is unlawful for any person knowingly on intentionally to possess a controlled substance unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his or her professional practice, or except as otherwise authorized by this chapter or chapter 16B of Title 7. Except as provided in paragraphs (2) or (3) of this subsection, any person who violates this subsection is guilty of a misdemeanor and upon conviction may be imprisoned for not more than 180 days, fined not more than $1,000 or both.

"(2) Any person who violates this subsection by knowingly or intentionally

possessing the abusive drug phencyclidine in liquid form is guilty of a felony and, upon conviction, may be imprisoned for not more than 3 years, fined not more than $3,000 or both.

"(3) A person 18 years of age or older who possesses usable marijuana weighing less than two ounces, or who possesses or grows no more than three cannabis plants, whether or not mature, within such person's principal place of residence or possesses within such place the marijuana produced by such plants shall not be guilty of any criminal offense . Such a person commits a civil violation for which a civil penalty of (i) $25 shall be imposed for possession usable marijuana weighing less than one-half ounce; (ii) $50 for possession of usable marijuana weighing one-half ounce or more but less than one ounce; and (iii) $100 for possession of usable marijuana weighing more than one ounce but less than two ounces; or for possession or growing of no more than three cannabis plants, whether or not mature, within such person's place of residence or possession within such place of the marijuana produced by such plants. The civil penalties incurred pursuant to this paragraph shall be imposed by the Alcoholic Beverage Regulation Administration pursuant to section 25-801.

"(4) A person under the age of 18 who possesses usable marijuana weighing less than two ounces, or who possesses or grows no more than three cannabis plants, whether or not mature, within such person's principal place of residence or possesses within such place the marijuana produced by such plants shall not be guilty of any criminal offense . Such a person shall be subject to the civil penalties set forth in subparagraph 3 of this subsection and shall also be required to attend a drug awareness program. The parents or legal guardian of any such person under the age of 18 shall be notified by the Alcoholic Beverage Regulation Administration of the civil violation and availability of a drug awareness program. The program must be made available without cost and must provide at least three (3) hours of group

discussion or instruction based on science and evidence-based principles and practices specific to the use and abuse of cannabis, alcohol and other controlled substances.

--D.C. Code Title 5, Chapter I, Subchapter VIII--

3. That Subchapter VIII of Chapter I of Title 5 of the District of Columbia Code is hereby amended by adding to the end thereof the following new section 5-115.08 to read as follows:

"5.115.08. **Limits on powers of arrest with respect to cannabis.**(a) Notwithstanding any other provision of this Chapter, no officer or member of the Metropolitan Police Department shall have the authority to arrest or detain any person for possession of marijuana weighing less than two ounces ounce or for possession or growing of no more than three cannabis plants, whether or not mature, within such person's place of residence or for possession within such place of the marijuana produced by such plants.

"(b) Notwithstanding the provisions of subsection (a), whoever, being in possession of an identification card, license or other form of identification issued by the District or any other governmental agency or instrumentality, who fails to produce the same upon request of a law enforcement officer (as defined in section 22-405(a) who informs such person that he or she has been found in possession for which civil penalties may be imposed under section 48-904.01(d)(3) or (d)(4), or who fails or refuses truthfully to provide his or her name, address and date of birth to such law enforcement officer upon request, shall be guilty of the offense described in section 22-405(b) and shall be subject to arrest for such offense.

"(c) No record of or reference to any civil violation described in section 48-904.01(d)(3) or (d)(4) may be included in any criminal history of any person or included in any criminal background check of any person, as those terms as used anywhere in this Code."

--D.C. Code §48-921.02—

4. Section 14 of An Act to regulate the manufacturing, dispensing, selling, and possession of narcotic drugs in the District of Columbia, approved June 20, 1938 (52 Stat. 792; D.C. Official Code § 48–921.02), is amended as follows: Subsection (a) is amended to read as follows: "(a) A search warrant may be issued by any judge of the superior Court of District of Columbia or by a United States Magistrate for the District of Columbia when any controlled substances are manufactured, possessed (except for possession of marijuana weighing less than two ouncesor for possession or growing of no more than three cannabis plants, whether or not mature, within such person's principal place of residence or possession within such place the marijuana produced by such plants) controlled, sold, prescribed, administered, dispensed or compounded in violation of the provisions of the District of Columbia Uniform Controlled Substances Act of 1981, and any such controlled substances and any other property designed for use in connection with such unlawful manufacturing, possession, controlling, selling, prescribing, administering, dispensing or compounding may be seized there under, and shall be subject to such disposition as the Court may make thereof and such controlled substances may be taken on the warrant from any house or other place in which they are concealed."

6. Section 4 of the Drug Paraphernalia Act of 1982, effective September 17, 1982 (D.C. Law 4-149; D.C. Official Code §48-1103), is amended as follows:

(a) Subsection (a) is amended to read as follows:

"(a) Except as authorized by Chapter 16B or Title 7, it is unlawful for any person to use, or to possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack store, contain, conceal, inhale, ingest, or otherwise introduce into the human body a controlled

substance, other than usable marijuana weighing less than two ounces in the possession of such person or three or fewer cannabis plants being grown in such person's principal place of residence or the marijuana from such plants if possessed within such place. Whoever violates this subsection shall be imprisoned for not moiré than 30 days or fined for note more than $100, or both."

(b)Subsection (b) is amended to read as follows:

"(b) Except as authorized by Chapter 16B of Title 7, it is unlawful for any person to deliver or sell, possess with intent to deliver or sell, or manufacture with intent to deliver or sell drug paraphernalia, knowingly, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance, other than usable marijuana weighing less than two ounces in the possession of such person or three or fewer cannabis plants being grown in such person's principal place of residence or the marijuana from such plants if possessed within such place. Whoever violates this subsection shall be imprisoned for not more than 6 months or fined for not more than $1,000, or both, unless the violation occurs after the person has been convicted in the District of Columbia of a violation of this subchapter, in which case the person shall be imprisoned for not more than 2 years, or fined not more than $5,000, or both."

--D.C. Code §25-801--

7. Section 25-801 of Title 25 as enacted and amended by Section 101 of the Title 25, D.C. Code Enactment and Related Amendments Act of 2001, effective May 3, 2001 (DC. Law 13-298; D.C. Official Code §25-801) is amended to read as follows:

(a) Subsection (a) is amended to read as follows: "(a) The Board shall have the authority to enforce the provisions of this title with respect to licensees, with respect to any person not holding a license and selling alcohol in violation of the provision of this title, and with respect to persons committing the civil violation described in section 48-904.01(d)(3) or (d)(4)."

(b) Subsection (b) is amended to read as follows: "(b) Subject to subsection (c) of this section, ABRA investigators and the Metropolitan Police Department shall issue citations of civil violations of this title that are set forth in the schedule of civil penalties established under §25-830 and for the civil violation described in section 48-904.01(d)(3) and (d)(4)."

--D.C. Code §25-831--

8.Section 25-831 of Title 25 as enacted and amended by section 101 of the title 25, D.C. Code Enactment and Related Amendments Act of 2001, effective May 3, 2011 (D.C. Law 13-298; D.C. Official Code §25-831) is amended to read as follows: Subsection (d) is amended to read: " (d) A civil fine may be imposed as an alternative sanction for any violation of this title for which no specific penalty is provided, or for violation of any rules or regulations issued under the authority of this title, under Chapter 18 of Title 2. A civil fine shall be imposed as prescribed in section 48-904.01(d)(3) for the violations described in that section and shall be the only penalty imposed for such violation. Adjudication of an infraction of this chapter or of the civil infraction prescribed in section 48-904.01(d)(3) shall be under Chapter 18 of Title 2."

--D.C. Code §2-1402.73--

9. Section 273 of The Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code §§2-1402.73 et seq.) as added by the Human Rights Amendment Act of 2002, effective October 1, 2001 (D.C. Law 14-189), is further amended to read as follows:

"Except as otherwise provided for by District law or when otherwise lawfully and reasonably permitted, it shall be an unlawful discriminatory practice for a district government agency or office to limit or refuse to provide any facility, service, program or benefit to any individual on the basis of an individual's actual or perceived: racer, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, disability, matriculation, political affiliation, source of income or place of residence or business; or commission of a civil violation described in section 48-904.01(d)(3) or (d)(4)."

10. The amounts of the civil penalties set forth in District of Columbia Code section 48-904.01(d) as added by this Act shall be adjusted through implementing or amending legislation enacted by the Council of the District of Columbia to the extent necessary to avoid negating or limiting any act of the Council of the District of Columbia pursuant to D.C. Code §1-204.46.

11. This act shall take effect after a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Self-Government and Government Reorganization Act (Home Rule Act), approved December 24, 2971 (87 Stat. 813; D.C. Official Code §1-206.02(c)(1)).

BOARD OF ZONING ADJUSTMENT
PUBLIC HEARING NOTICE
TUESDAY, OCTOBER 8, 2013
441 4TH 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 ONE

18631 ANC-1D **Application of David and Samantha Ross,** pursuant to 11 DCMR § 3104.1, for a special exception to allow a second story screened porch addition to an existing row dwelling under section 223, not meeting the lot occupancy (section 403), court (section 406), and nonconforming structure (subsection 2001.3) requirements in the R-4 District at premises 1731 Kilbourne Place, N.W. (Square 2602, Lot 98).

WARD FOUR

18628 ANC-4D **Application of William P. Green**, pursuant to 11 DCMR § 3103.2, for a variance from the lot occupancy requirements under section 403, the rear yard requirements under section 403 and the nonconforming structure requirements under subsection 2001.3, to construct a roofed deck addition to an existing one-family row dwelling in the R-3 District at premises 461 Delafield Place, N.W. (Square 3251, Lot 212).

WARD FIVE

18629 ANC-5E **Application of Leticia Long**, pursuant to 11 DCMR § 3103.2, for a variance to establish an indoor cycling fitness center under subsection 330.5, in the R-4 District at premises 2028 4th Street, N.E. (Square 3563, Lot 94).

WARD ONE

18632 ANC-1B **Application of 14th & U Residential LLC,** pursuant to 11 DCMR §§ 3104.1, 3103.2 and 1906.1, for a variance from the public space at ground level requirements under section 633, a variance from the lot occupancy requirements under section 634, and a variance from the rear yard setback requirements under section 636, and special exceptions from the setback

requirements under subsection 1902.2 and the parking for historic structures requirements under subsection 2120.6, in the ARTS/CR District at premises 1921-1923 14th Street, N.W. 1925 14th Street, N.W., and 1351 Wallach Place, N.W. (Square 237, Lots 180, 196 and 806).

WARD SEVEN

18633 ANC-7B **Application of National Community Church**, pursuant to 11 DCMR §§ 3104.1 and 3103.2, for a special exception under section 334, a special exception from the roof structure requirements under subsection 411.11, a variance from the structural alteration limitations under subsection 334.3, a variance from the floor area ratio requirements under section 402, a variance from the lot occupancy requirements under section 403, a variance from the rear yard requirements under section 404, and a variance from the nonconforming structure provisions under subsection 2001.3, to allow an addition to and renovation of an existing building for a community service center, including an indoor basketball court in the R-5-A District at premises 2826 Q Street, S.E. (Square 5583, Lot 804).

WARD ONE

THIS APPLICATION WAS POSTPONED FROM THE JULY 30, 2013, PUBLIC HEARING SESSION:

18599 ANC-1A **Application of Trinity AME Zion Church**, pursuant to 11 DCMR § 3104.1, for a special exception to allow a parking lot (last approved under BZA Order No. 16298) under section 213, in the R-5-B District at premises 1417, 1493 and 1507 Meridian Place, N.W. (Square 2684, Lots 556,557 and 558).

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. All requests and comments should be submitted to the Board through the Director, Office of Zoning, 441 4th Street, NW, Suite 210, Washington, D.C. 20001. Please include the case number on all correspondence.

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

LLOYD J. JORDAN, CHAIRMAN, S. KATHRYN ALLEN, VICE CHAIRPERSON, 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.

OFFICE OF DOCUMENTS AND ADMINISTRATIVE ISSUANCES

ERRATA NOTICE

The Administrator of the Office of Documents and Administrative Issuances (ODAI), pursuant to the authority set forth in Section 309 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1203; D.C. Official Code § 2-559 (2012 Repl.)), hereby gives notice of a correction to Section 810 of Chapter 8 of Title 19 of the District of Columbia Municipal Regulations (DCMR), which was amended by a Notice of Final Rulemaking issued by the District of Columbia Public Library and published in the *D.C. Register* on July 26, 2013 at 60 DCR 10967.

In Section 810.5(d) a typographical error was printed in the second paragraph, stating that repeated violations of category four infractions may lead to category three barring periods (6 months to 1 year). This Errata Notice corrects the language as intended by the District of Columbia Public Library.

19-810 Behavior Rules Governing the Use of the District of Columbia Public Library

Section 810.5(d) to Chapter 8 of Title 19, second paragraph is amended as follows:

Repeated violations of category four infractions may lead to category two barring periods (6 months to 1 year).

Any questions or comments regarding this notice shall be addressed by mail to Victor L. Reid, Esq., Administrator, Office of Documents and Administrative Issuances, 441 4th Street, N.W., Suite 520 South, Washington, D.C. 20001, or via telephone at (202) 727-5090.

DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF FINAL RULEMAKING

The Director of the Department of Health Care Finance, pursuant to the authority set forth in An Act to enable the District of Columbia to receive federal financial assistance under Title XIX of the Social Security Act for a medical assistance program, and for other purposes, approved December 27, 1967 (81 Stat. 744; D.C. Official Code § 1-307.02 (2006 Repl. & 2012 Supp.)) and Section 6(6) of the Department of Health Care Finance Establishment Act of 2007, effective February 27, 2008 (D.C. Law 17-109; D.C. Official Code § 7-771.05(6) (2008 Repl.)), hereby gives notice of the intent to adopt a new Section 940 (Medicaid Pediatric Palliative Care and Hospice Care) to Chapter 9, Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR). This rule establishes standards for reimbursement by the District of Columbia Medicaid program for pediatric palliative care and hospice services, and reflects recently enacted federal legislation that allows provision of concurrent hospice and curative care for children.

Pediatric palliative care and hospice (PPCH) services for children with life-threatening conditions focuses on enhancing the child's quality of life, minimizing suffering, optimizing functionality, and providing opportunities for personal and spiritual growth. These services are planned and delivered through the collaborative efforts of an interdisciplinary team with the child, family, and caregivers at its center. These rules also authorize PPCH services to be provided concurrently with ongoing treatment services for the condition by which the child became terminally ill.

PPCH is achieved through a combination of active and compassionate therapies intended to comfort and support the child as well as family members and caregivers. Core services include various therapies, child life services provided by a Child Life Specialist, home health aide services, nutritional counseling, pain/symptom management, pharmacy services and respite care. The Council of the District of Columbia approved the corresponding State Plan Amendment (SPA) on June 15, 2012 (PR-0693), and the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services, has approved the corresponding SPA with an effective date of August 1, 2012.

A notice of proposed rulemaking was published on March 1, 2013 (60 DCR 002402). No comments were received. No substantive changes have been made. Continuous home care, general inpatient care day and routine home care as set forth in the definition section have been clarified to note these terms refer to a level of care for purposes of determining the appropriate reimbursement rate. The Director adopted these rules on July 17, 2013. The rules shall become effective on the date of publication of this notice in the *D.C. Register*.

A new Section 940 of Chapter 9 of Title 29 DCMR is added to read as follows:

940 **Pediatric Palliative Care and Hospice Care**

940.1 These rules establish the standards and conditions of participation for pediatric palliative care and hospice (PPCH) providers providing pediatric hospice services under the District of Columbia Medicaid Program.

940.2 Pediatric palliative and hospice care is an organized program for delivering care to children with life-threatening conditions. This care focuses on enhancing quality of life for the child and family, minimizing suffering, optimizing functions, and providing opportunities for personal growth.

940.3 An individual shall be eligible to receive PPCH services when he/she is:

(a) Under the age of twenty one (21);

(c) Eligible for Medicaid; and

(d) Certified as terminally ill in accordance with this section.

940.4 The hospice shall obtain the certification that a beneficiary is terminally ill in accordance with the following procedures:

(a) For the initial ninety (90) day period of hospice coverage, the hospice shall obtain, no later than two (2) calendar days after hospice care is initiated, written certification statements signed by:

(1) The hospice medical director or the physician member of the hospice interdisciplinary team; and

(2) The individual's attending physician, specialty care, or primary care physician.

(b) For the second ninety (90) day period, the hospice shall obtain, no later than two (2) calendar days after the beginning of the second election period, written certification prepared by the hospice medical director or the beneficiary's attending physician, specialty care, or primary care physician.

(c) For any subsequent election period of sixty (60) days or one or more thirty (30) day extended election periods, the hospice shall obtain, no later than two (2) calendar days after the beginning of any subsequent election period, written certification prepared by the hospice medical director or the beneficiary's attending physician, specialty care, or primary care physician.

940.5 The certification required in § 940.4 shall include:

(a) A statement that the beneficiary's life expectancy is six (6) months or less; and

(b) The signature of any physician required in § 940.4 to certify the terminal illness.

940.6 Each beneficiary who elects hospice care shall file an election statement with a participating provider entity.

940.7 A parent or legally authorized guardian shall file the election statement for beneficiaries under the age of eighteen (18). Beneficiaries eighteen (18) years of age and over may file the election statement on their own or by a legally authorized representative.

940.8 If the beneficiary electing hospice lacks the mental capacity to make an election, the designated representative shall file the election statement pursuant to the requirements set forth in the Health Care Decisions Act of 1988, effective March 16, 1989 (D.C. Law 7-189; D.C. Official Code § 21-2201 *et seq*).

940.9 An election statement shall include:

(a) Identification of the particular PPCH provider that will provide care to the beneficiary;

(b) An acknowledgement by the beneficiary or their representative that the beneficiary has been given a full explanation of the palliative rather than curative nature of hospice care as it relates to the beneficiary's terminal illness;

(c) An acknowledgement by the beneficiary or their representative that the beneficiary understands that an election to receive hospice care is a waiver of the Medicaid services described in § 940.13;

(d) The effective date of the election to receive hospice care; and

(e) The signature of the beneficiary or their representative.

940.10 The initial election period shall be for ninety (90) days, followed by a second ninety (90) day election period. Subsequent election periods shall be for sixty (60) days or one or more thirty (30) day election periods.

940.11 An election to receive PPCH is considered to continue through the initial election period and through any subsequent election periods without a break in care as

long as the beneficiary remains in the care of the PPCH provider and does not revoke the election.

940.12 A beneficiary or their representative may revoke the hospice election by signing and dating a revocation statement. This shall not prohibit a beneficiary from reelecting PPCH services at a later date.

940.13 The beneficiary shall waive all rights to Medicaid coverage for the following services for the duration of the election to receive hospice care:

(a) Hospice care provided by another provider, other than the PPCH provider designated by the beneficiary; and

(b) Any services equivalent to or duplicative of hospice care pursuant to 42 USC 1395(d)(2)(A)).

940.14 An election to receive PPCH services shall not constitute a waiver of rights to receive concurrent treatment services for the condition by which the beneficiary became terminally ill.

940.15 PPCH services shall be provided in accordance with a written plan of care developed by a pediatric interdisciplinary team in accordance with § 940.20.

940.16 The following services, performed by qualified personnel, may qualify as covered PPCH services subject to any requirements or limitations as set forth in § 940.21:

(a) Physician services;

(b) Pediatric nursing services provided by a person who is licensed as a registered nurse pursuant to the District of Columbia Health Occupations Revisions Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201 *et seq.* (2007 Repl.; 2012 Supp.)), and certified by the National Board of Pediatric Nurse Practitioners or the Pediatric Nursing Certification Board (PNCB);

(c) Child life specialist services provided by someone who completed a child life degree program at the bachelor's or master's level and who holds a certified child life specialist accreditation from the Child Life Council;

(d) Counseling services (pastoral, spiritual, bereavement, as necessary);

(e) Nutritional counseling;

(f) Homemaker services, home health aide services as described in Chapter 51 of Title 29 DCMR, and personal care aide services as described in Chapter 50 of Title 29 DCMR;

(g) Medical social services provided by a licensed social worker;

(h) Durable medical equipment and supplies as described in § 996 of Chapter 9 of Title 29 DCMR;

(i) Pharmacology and pharmacy services for pain control and symptom management;

(j) Physical, occupational, and speech therapy services;

(k) Expressive therapies if necessary;

(l) Massage therapy if necessary; and

(m) Respite care for the recipient's family or other persons caring for the beneficiary at home.

940.17 A child life specialist may provide services that utilize play and psychological therapies to facilitate coping and adjustment of the child and to establish therapeutic relationships with beneficiaries and their families to facilitate the family's involvement in the child's care.

940.18 Pharmacology/pharmacy services shall include the following:

(a) Prescription drug administration used primarily for relief of pain and symptom control related to the child's condition;

(b) Evaluation of the child's response to medication therapy; and

(c) Recommendations for appropriate corrective action administered by licensed pharmacists.

940.19 A provider of PPCH services may include:

(a) A hospital;

(b) A hospice enrolled in the Medicare program; or

(c) A home health agency enrolled in the Medicare program that meets the requirements set forth in the Health-Care and Community Residence Facility, Hospice and Home-Care Licensure Act of 1983, effective February 24, 1984 (D.C. Law 5-48; D.C. Official Code, §§ 44-501, *et seq*. (2005 Repl. & 2012 Supp.)).

940.20 A provider of PPCH services shall employ or contract with a pediatric interdisciplinary team which should include, at a minimum: a hospice medical director or a pediatrician; nurse or pediatric nurse practitioner; licensed social worker, counselor, child life specialist; and spiritual care provider. All members of the interdisciplinary team shall be able to provide pediatric expertise twenty-four (24) hours per day, seven (7) days a week.

940.21 A provider of PPCH services shall be reimbursed on a per diem rate basis at one (1) of the four (4) rates depending on which of the following levels of care is recommended in the plan of care:

(a) Routine home care for a beneficiary who is not receiving continuous home care or general inpatient care as described in § 940.21(b) and (c);

(b) Continuous home care consisting of care to maintain a beneficiary at home during a brief period of crisis lasting seventy two (72) hours or less consisting of:

(1) A minimum of eight (8) hours of care, not necessarily consecutive, provided during a twenty-four (24) hour day which begins and ends at midnight;

(2) Nursing care, provided by a registered nurse or licensed practical nurse (LPN) and accounting for more than half of the period of care; and

(3) Homemaker, home health aide, and personal care aide services if needed, to supplement nursing care.

(c) General inpatient care for purposes of pain control or acute or chronic symptom management provided in an approved freestanding hospice, or hospital consisting of:

(1) A minimum of eight (8) hours of care, not necessarily consecutive, provided during a twenty-four (24) hour day which begins and ends at midnight; and

(2) Nursing care, provided by a registered nurse or LPN and accounting for more than half of the period of care.

(d) Inpatient respite care or short term care to relieve family members caring for the beneficiary at home, when the beneficiary does not meet the requirements for continuous home care or general inpatient care. This service shall consist of:

(1) Care limited to five (5) consecutive days at a time not to exceed thirty (30) days per year; and

(2) PPCH services pursuant to a written plan of care.

940.22 A brief period of crisis shall be a period when care, predominantly consisting of nursing care, may be covered on a continuous basis for as long as twenty four (24) hours a day or as necessary to maintain an individual in the home during an unexpected or dangerous event lasting seventy two (72) hours or less.

940.23 The rates for routine home care, continuous home care, general inpatient care and inpatient respite care shall be those developed by the Centers for Medicare and Medicaid (CMS) Hospice Wage Index guidelines, in accordance with 42 CFR Part 418, Subpart E. The rates shall be posted on the DHCF website at www.dc-medicaid.gov.

940.24 Inpatient respite care shall begin on the date of admission and excludes the date of discharge.

940.25 Medicaid-enrolled providers who are furnishing concurrent curative treatment services relating to the treatment of the condition for which a diagnosis of terminal illness has been made, shall be reimbursed by the Department under the authority of the Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) services benefit subject to any requirements set forth in State Plan and attendant rules.

940.26 Providers of PPCH services shall be responsible for the coordination of all services described in these rules to avoid duplication of equivalent services.

940.27 All services submitted for the child's ongoing hospice care beyond the initial on hundred and eighty day (180) period during the initial election period described under § 940.10 shall only be reimbursed upon receiving a prior authorization from DHCF's designated quality improvement organization.

940.99 **Definitions**

When used in this section, the following terms and phrases shall have the meanings ascribed:

Beneficiary - An individual who has been determined eligible to receive services under the D.C. Medicaid program.

Continuous home care - A level of care utilized when an individual who has elected to receive hospice care is not in an inpatient facility and receives hospice care consisting predominantly of nursing care on a continuous

basis at home during a brief period of crisis necessary to maintain the terminally ill patient at home.

Counseling services - Services provided by a person who is licensed or authorized to practice as a licensed professional counselor pursuant to the District of Columbia Health Occupations Revisions Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201 *et seq.* (2007 Repl. & 2012 Supp.)).

Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) services Benefit - Comprehensive and preventive health care services as described in Section 1905(r) of the Social Security Act, including necessary health care services for treatment of all physical and mental illnesses or conditions discovered by any screening or diagnostic procedures, for children under twenty one (21) who are enrolled in the Medicaid program.

Expressive therapies - Art therapy and/or music therapy provided by appropriately licensed professionals.

General inpatient care - A level of care utilized when an individual who has elected hospice care receives general inpatient care in an inpatient facility for pain control or acute or chronic symptom management which cannot be managed in a home or other settings.

Homemaker services - Services consisting of general household activities provided by a trained homemaker, when the individual regularly responsible for these activities is unable to manage the home and care for themselves.

Hospice - A public agency or private organization or a subdivision of either that is primarily engaged in providing care to terminally ill individuals that meets the licensure requirements set forth in the Health-Care and Community Residence Facility, Hospice and Home-Care Licensure Act of 1983, effective February 24, 1984 (D.C. Law 5-48; D.C. Official Code, §§ 44-501, *et seq*. (2005 Repl. & 2012 Supp.)) or the laws, and regulations of the particular jurisdiction where the facility is located**.**

Hospice care - A comprehensive set of services described in §1861(dd)(1) of the Social Security Act, identified and coordinated by an interdisciplinary group to provide for the physical, psychosocial, spiritual, and emotional needs of a terminally ill patient and/or family members, as delineated in a specific patient plan of care.

Hospice medical director – A person who is hired by the Hospice as a medical director and licensed or authorized to practice as a physician pursuant to the District of Columbia Health Occupations Revisions Act of 1985,

effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201 *et seq.* (2007 Repl. & 2012 Supp.)).

Massage therapy - Services provided by a person who is licensed or authorized to practice as a massage therapist pursuant to the District of Columbia Health Occupations Revisions Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201 *et seq.* (2007 Repl. & 2012 Supp.)).

Nutrition counseling- Services provided by a person who is licensed or authorized to practice as a nutrition counselor pursuant to the District of Columbia Health Occupations Revisions Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201 *et seq.* (2007 Repl. & 2012 Supp.)).

Occupational therapy services – Services provided by a person who is licensed or authorized to practice occupational therapy services pursuant to the District of Columbia Health Occupations Revisions Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201 *et seq.* (2007 Repl. & 2012 Supp.)).

Pain and symptom management- The use of pharmacologic and non-pharmacologic methods in compliance with nationally developed standards for pediatric palliative care pain and symptom management by the National Hospice and Palliative Care Organization.

Physician services- Services provided by a person who is licensed or authorized to practice as a physician pursuant to the District of Columbia Health Occupations Revisions Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201 *et seq.* (2007 Repl. & 2012 Supp.)).

Physical therapy services – Services provided by a person who is licensed or authorized to practice as a physical therapist pursuant to the District of Columbia Health Occupations Revisions Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201 *et seq.* (2007 Repl. & 2012 Supp.)).

Plan of Care- A written document developed by the patient's pediatric interdisciplinary team describing the scope of services and levels of care to be provided.

Respite care -Short-term inpatient care provided to the individual only when necessary to relieve the family members or other persons caring for the individual.

Routine home care- A level of care utilized when an individual who has elected to receive hospice care is at home because he/she is not receiving continuous care or general inpatient care and may receive homemaker, home health aide or personal care services, if necessary to supplement regular at-home care.

Speech therapy services – Services provided by a person who is licensed or authorized to practice as a speech therapist pursuant to the District of Columbia Health Occupations Revisions Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201 *et seq.* (2007 Repl. & 2012 Supp.)).

DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF FINAL RULEMAKING

The Director of the Department of Health Care Finance, pursuant to the authority set forth in An Act to enable the District of Columbia to receive federal financial assistance under Title XIX of the Social Security Act for a medical assistance program, and for other purposes, approved December 27, 1967 (81 Stat. 744; D.C. Official Code § 1-307.02 (2006 Repl. & 2012 Supp.), and Section 6(6) of the Department of Health Care Finance Establishment Act of 2007, effective February 27, 2008 (D.C. Law 17-109; D.C. Official Code § 7-771.05(6) (2008 Repl.)), hereby gives notice of an amendment to Section 5213 of Chapter 52 (Medicaid Reimbursement for Mental Health Rehabilitative Services) of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR).

The purposes of this amendment are to (1) increase the reimbursement rate to Department of Mental Health-certified providers for the Mental Health Rehabilitation Service (MHRS) – Medication Somatic; and (2) amend the code for the Medication-Somatic service to a code which more appropriately describes the service provided. Analysis of reimbursement rates for medication somatic services or comparable services for the state of Maryland and for District of Columbia Free Standing Mental Health Clinics revealed that the previous MHRS Medication Somatic rates were the lowest and were 30% less than Medicare rates for the District of Columbia. The standard for DC Medicaid reimbursement is 80% of the DC Medicare rate. The new rate brings the MHRS rate into compliance with this methodology by increasing reimbursement rates for Medication Somatic services. Additionally, the new code for these services is entitled "medication training and support, per 15 minutes", which best describes a Medication Somatic service.

The proposed rulemaking was published on May 31, 2013 in the *D.C. Register* at 60 DCR 7626 – Part 1. No comments were received and no changes have been made to the proposed rule as published. The Director took final action on the rule on July 18, 2013. This amendment will become effective on the date of publication of this notice in the *D.C. Register*.

Chapter 52, MEDICAID REIMBURSEMENT FOR MENTAL HEALTH REHABILITATIVE SERVICES, of Title 29, PUBLIC WELFARE, of the DCMR is amended as follows:

Section 5213, Reimbursement, Subsection 5213.1 is deleted in its entirety and is amended to read as follows:

5213.1 Medicaid reimbursement for MHRS shall be determined as follows:

SERVICE	CODE	BILLABLE UNIT OF SERVICE	RATE
Diagnostic/	T1023HE	An assessment,	$240.00

SERVICE	CODE	BILLABLE UNIT OF SERVICE	RATE
Assessment		at least 3 hours in duration	
	H0002	An assessment, 40 – 50 minutes in duration to determine eligibility for admission to a mental health treatment program	$85.00
Medication/ Somatic Treatment	H0034	15 minutes	$39.29 – Individual (ages 22 and over)
	H0034HA	15 minutes	$42.86– Individual (ages 0 – 21)
	H0034HQ	15 minutes	$21.26 – Group
Counseling	H0004	15 minutes	$19.50 – Individual On-Site (ages 22 and over)
	H0004HA	15 minutes	$20.31 – Individual On-Site (ages 0 – 21)
	H0004HQ	15 minutes	$10.45 – Group
	H0004HR	15 minutes	$19.50 – Family with Consumer On-Site (ages 22 and over)
	H0004HS	15 minutes	$19.50 – Family without Consumer On-Site (ages 22 and over)
	H0004HAHR	15 minutes	$20.31 – Family with Consumer On-Site (ages 0 – 21)
	H0004HAHS	15 minutes	$20.31 – Family without Consumer On-Site (ages 0 - 21)
	H0004HE	15 minutes	$23.19 – Individual Off-Site (all ages)
Community Support	H0036	15 minutes	$19.19 – Individual
	H0036HQ	15 minutes	$8.67 – Group
	H0036UK	15 minutes	$19.19 – Collateral
	H0036AM	15 minutes	$19.19 – Physician Team Member
	H0038	15 minutes	$19.19 – Self-Help Peer Support
	H0038HQ	15 minutes	$8.67 –Self-Help Peer Support

SERVICE	CODE	BILLABLE UNIT OF SERVICE	RATE
			Group
	H0036HR	15 minutes	$19.19 – Family with Consumer
	H0036HS	15 minutes	$19.19 – Family without Consumer
	H0036U1	15 minutes	$19.19 – Community Residence Facility
	H2023	15 minutes	$16.25 – Supported Employment (Therapeutic)
Crisis/ Emergency	H2011	15 minutes	$33.57
Day Services	H0025	One day, at least 3 hours in duration	$144.77
Intensive Day Treatment	H2012	One day, at least 5 hours in duration	$164.61
Community-Based Intervention (Level I – Multi-Systemic Therapy)	H2033	15 minutes	$57.42
Community-Based Intervention (Level II and Level III)	H2022	15 minutes	$31.35
Community-Based Intervention (Level IV – Functional Family Therapy)	H2033HU	15 minutes	$57.42

SERVICE	CODE	BILLABLE UNIT OF SERVICE	RATE
Assertive Community Treatment	H0039	15 minutes	$31.57 – Individual
	H0039HQ	15 minutes	$11.07 – Group

D.C. DEPARTMENT OF HUMAN RESOURCES

NOTICE OF FINAL RULEMAKING

The Director of the D.C. Department of Human Resources, with the concurrence of the City Administrator, pursuant to Mayor's Order 2008-92, dated June 26, 2008, and in accordance with the provisions of Chapter XXII of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (CMPA), effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-622.01 *et seq*. (2012 Supp.)), hereby gives notice that final rulemaking action was taken to adopt the following rules.

These rules would amend Chapter 22, "Life Insurance Benefits," of Subtitle B of Title 6, "Government Personnel", of the District of Columbia Municipal Regulations (DCMR). The purpose of these rules is to amend the heading of Section 2200 from "*Continuation of Life Insurance Benefits under FEGLI*" to "*Continuation of Life Insurance Benefits under Federal Employees' Group Life Insurance (FEGLI)*" and amend the section; amend the heading of section 2201 from "*Coverage Under DCGLI*" to "*Coverage Under the District of Columbia Employees' Group Life Insurance (DCEGLI)*" and amend the section; amend Subsection 2202.2(b) to include requirements needed for immediate retirement; amend Subsections 2204.1 and 2204.5 to clarify the conditions in which an employee can elect life insurance; amend Subsection 2206.1(b) to clarify that an employee furnish satisfactory evidence of insurability to the Director of the DCHR; to add Subsection 2206.1(c) to include that employees who waive the life insurance can enroll during the next life insurance open season; amend Subsection 2208.3 to add the "Age and Factor Chart"; amend Subsections 2209.1 and 2209.4 to remove additional compensation language; amend Subsection 2210.3 to remove the exception language on multiple exceed the annual pay for the Mayor; amend Subsection 2210.4 to increase the coverage amount on a spouse from "$5,000" to "$10,000, $25,000, and $50,000" and from "$2,500 to $10,000" on the life of each unmarried dependent child; amend Subsection 2213.3 to add extent of loss chart and amend the subsection; amend Subsection 2216 to add language on viatical settlements; amend Subsection 2217.1 to clarify that if more than one designation of beneficiary form exists, the form with the later date shall be used and renumbered subsection; to amend and renumber Section 2219; add Section 2221 (Viatical Settlement); and change the term "Director of Personnel" to "Director of the DCHR" throughout the chapter. Additionally, non-substantial changes were made to Subsections 2201.1, 2201.2; 2202.1, 2202.3, 2203.1, 2203.2; 2204.3, 2204.4, 2204.6, 2204.7; 2205.1, 2205.3, 2205.4, 2205.5, 2205.6; 2206.2, 2206.3, 2206.5, 2206.6, 2206.7; 2207.1, 2207.2; 2208.1, 2208.2; 2211.1, 2211.4, 2211.5, 2211.6; 2213.3, 2213.4; 2214.2; 2214.6; 2214.7, 2214.8, 2214.10, 2214.11, 2214.12; 2215.1, 2215.2; 2216.1, 2216.2; 2217.1; 2217.2, 2217.3, 2217.4, 2217.5, 2217.6; 2218.1, 2218.2, 2218.3; 2219.1, 2219.2; 2220.1, 2220.2, 2220.3, and 2220.4 of the chapter as well as the definitions of the terms "pay authority," "personnel authority," and "viatical settlement" in Section 2299 of the chapter are being amended for the purpose of updating statutory references and making other minor changes.

No comments were received and no changes were made to the Notice of Proposed Rulemaking published on May 10, 2013 (60 DCR 006672). The rules were adopted on June 26, 2013 and shall become effective upon publication of this notice in the *D.C. Register*.

Chapter 22, "Life Insurance Benefits," of Subtitle B of Title 6 of the District of Columbia Municipal Regulations is amended as follows:

Section 2200, "Continuation of Life Insurance Benefits under FEGLI," is repealed and replaced with:

2200 CONTINUATION OF LIFE INSURANCE BENEFITS UNDER FEDERAL EMPLOYEES' GROUP LIFE INSURANCE (FEGLI)

2200.1 D.C. Official Code § 1-622.01 (2006 Repl.) provides that the life insurance benefits provisions of Chapter 87 of Title 5 of the United States Code shall apply to all employees of the District government first employed before October 1, 1987, except those specifically excluded by law or rule and regulation." Therefore, the federal regulations contained in 5 CFR, Part 870 and any other related federal regulations will continue to apply to each employee of the District government first employed before October 1, 1987.

2200.2 Each employee newly employed on or after October 1, 1987, who has had prior District government service and who during that prior service was covered under the FEGLI program, regardless of whether the employee participated in the FEGLI program, shall be eligible for life insurance coverage under the FEGLI, if the current position meets the requirements for FEGLI coverage.

Section 2201, "Coverage under DCEGLI," is repealed and replaced with:

2201 COVERAGE UNDER THE DISTRICT OF COLUMBIA EMPLOYEES' GROUP LIFE INSURANCE (DCEGLI)

2201.1 Except as provided in Sections 2200 and 2203 of this chapter, each employee and annuitant of the District government shall be insured for an amount of basic insurance, as specified in Section 2208 of this chapter, under the DCEGLI program.

2201.2 Except as provided in Sections 2200 and 2204 of this chapter, each employee and annuitant of the District government shall be eligible to enroll for optional insurance coverage, as specified in Section 2210 of this chapter, under the DCEGLI program.

Section 2202, "Eligibility for DCEGLI," is amended as follows:

2202.1 Except for individuals excluded from life insurance benefits by Section 2203 of this chapter, the District government shall offer group life insurance benefits through the DCEGLI program to all of the following:

(a) Each employee and annuitant of the District government first employed on or after October 1, 1987; and

(b) Each employee hired on or after October 1, 1987, who had prior service with the District government, but who was not eligible for FEGLI coverage during that prior service.

2202.2 An annuitant shall be eligible for coverage under the DCEGLI program if he or she has done all of the following:

(a) Been enrolled for basic insurance for the five (5) years of service immediately preceding the date of retirement;

(b) Met all requirements for immediate retirement as provided (including ten (10) years of District Government service and required Social Security Administration documents, when necessary) whether or not final administrative action has been taken; and

(c) Not exercised his or her right to convert to an individual policy.

2202.3 An employee cannot have coverage under both the FEGLI and DCEGLI programs. There is no right to elect coverage under one or the other program. Eligibility for coverage under either program shall be as specified in Sections 2200, 2202, and 2203 of this chapter.

Section 2203, "Exclusions from DCEGLI," is amended as follows:

2203.1 Employees and individuals in the following groups shall be excluded from life insurance coverage:

(a) An employee serving under an appointment limited to one (1) year or less, except an employee appointed for full-time employment or part-time employment with a regular tour of duty without a break in service or after a separation of three (3) days or less, following service in which he or she was insured;

(b) An individual whose employment is of a temporary duration, who is employed for brief periods or intervals, or an employee who is expected to work less than six (6) months in each year, except for an employee who is employed under a District approved career-related work-study program of at least one (1) year and who is expected to be in a pay status for at least one-third (⅓) of the total period of time from the date of the first appointment to the completion of the work-study program;

(c) An intermittent employee who is a non-full-time employee without a regularly scheduled tour of duty, except when the employee enters into that status without a break in service or after a separation of three (3) days or less, following service in a position in which he or she was insured and to which he or she is expected to return;

(d) An individual who is a beneficiary or patient employee in a government hospital or home; and

(e) An individual paid on a contract or fee basis.

2203.2 The Director of the D.C. Department of Human Resources (Director of the DCHR), shall make the final determination regarding applicability of the above classifications to a specific employee or group of employees.

Section 2204, "Election of Insurance Coverage under DCEGLI," is amended as follows:

2204 ELECTION OF INSURANCE COVERAGE UNDER DCEGLI

2204.1 Except as provided in Section 2205 of this chapter, an employee shall be automatically insured for basic insurance on the date the employee becomes eligible for insurance, unless that an employee affirmatively declines the option for basic life insurance benefits.

2204.2 Each employee or annuitant who is insured for basic insurance shall be eligible to elect optional insurance coverage for himself or herself, and for his or her spouse and dependent children.

2204.3 An employee who is eligible for insurance coverage may elect any of the optional forms of insurance coverage described in Section 2210 of this chapter, if the election is made within thirty-one (31) days of entering into a pay status in a position eligible for insurance coverage.

2204.4 The effective date of an election of any optional insurance described in Section 2210 of this chapter shall be the first day an employee actually enters on duty in a pay status on or after the election is received by his or her personnel authority, except as provided in Subsection 2204.3 of this section.

2204.5 An employee who does not file an election of optional insurance within thirty-one (31) days of entering into a pay status in a position eligible for insurance shall not have the optional insurance until the next life insurance open season or other qualifying status change.

2204.6 The Director of the DCHR, is authorized to declare a life insurance open enrollment period to permit employees to make changes in their life insurance coverage without regard to the requirements of Section 2206 of this chapter. Enrollments received during an open enrollment period declared by the Director of the DCHR, shall be effective on the date designated by the Director of the DCHR.

2204.7 The Director of the DCHR, may limit the open enrollment period to permitting certain specific changes including, but not limited to:

(a) Cancelling a waiver and electing basic insurance only;

(b) Cancelling a waiver of family coverage; or

(c) Increasing additional insurance coverage by one (1) multiple of salary.

Section 2205, "Waiver, Cancellation and Declination of DCEGLI Coverage," is amended as follows:

2205 WAIVER, CANCELLATION AND DECLINATION OF DCEGLI COVERAGE

2205.1 An employee or annuitant who is eligible for insurance coverage may waive coverage by giving written notice to his or her personnel office in a manner prescribed by the Director of the DCHR.

2205.2 Following an initial appointment to a position eligible for life insurance coverage, the effective date of a waiver of an employee who files the waiver before the end of the first pay period will be the first day in the pay period in which the employee was in a pay status.

2205.3 An insured person may cancel his or her basic insurance at any time by filing a waiver of basic insurance coverage in a manner prescribed by the Director of the DCHR.

2205.4 An insured person may cancel his or her optional insurance at any time by completing and submitting the request to DCHR.

2205.5 The effective date of the waiver provided for in Subsection 2205.3 of this section shall be the end of the pay period in which the waiver is received by the appropriate office.

2205.6 An employee who does not elect optional insurance in accordance with Subsection 2204.2 of this chapter shall be deemed to have declined optional insurance coverage.

Section 2206, "Cancellation of a Waiver of DCEGLI Coverage," is amended as follows:

2206 CANCELLATION OF A WAIVER OF DCEGLI COVERAGE

2206.1 An employee who has filed a waiver of basic insurance coverage or who declined any optional insurance coverage may subsequently enroll and become insured if:

(a) At least one (1) year has elapsed since the effective date of the waiver; and

(b) He or she furnishes satisfactory evidence of insurability as determined by the Director of the DCHR and contractual language with the provider; or

(c) The employee enrolls during the next life insurance open season.

2206.2 An employee who has complied with Subsection 2206.1 of this section shall be insured when he or she actually enters on duty in pay status in a position in which he or she is not excluded from insurance, following the approval by the life insurance carrier of his or her request for insurance as provided for in Subsection 2206.8 of this section.

2206.3 An approval of a request for insurance coverage for an employee who has complied with Subsection 2206.1 of this section shall only be valid if the employee enters on duty in a pay status within thirty-one (31) days following the date of approval.

2206.4 A previous waiver shall be cancelled automatically at the time of reinstatement if an employee has been separated from service for at least one hundred eighty (180) days. If no new waiver is filed, basic insurance coverage begins automatically on the date the employee actually enters on duty in a pay status in a position wherein he or she is not excluded from insurance.

2206.5 During an open enrollment period as provided by Sections 2204.6 and 2204.7 of this chapter, an employee otherwise eligible for coverage may cancel his or her existing waiver of coverage by affirmatively electing to be insured on a form designated by the Director of the DCHR.

2206.6 An annuitant who has complied with Subsections 2205.1 or 2205.3 of this chapter and has filed a waiver of basic insurance coverage shall not be eligible to enroll to become insured under the DCEGLI program.

2206.7 An employee who has declined optional insurance coverage may elect optional insurance coverage under certain circumstances in the following manner:

(a) If an employee marries, he or she may elect Option A - Standard, Option C - Family, and Option B - Additional for a multiple of one (1) times salary, unless the employee already had Option B - Additional coverage, in which case he or she may increase coverage by one (1) additional multiple of salary up to the maximum number of multiples of salary permitted by Subsection 2210.3 of this chapter; and

(b) If an employee acquires an unmarried dependent child, he or she may elect Option A - Standard, Option C - Family, and Option B - Additional for a multiple of salary equal to the number of unmarried dependent children acquired, unless the employee already has Option B - Additional coverage, in which case he or she may increase coverage by a multiple of salary equal to the number of unmarried dependent children acquired, up to the

maximum number of multiples of salary permitted by Subsection 2210.3 of this chapter.

2206.8 The insurance carrier shall utilize its current practices to make the determination of eligibility of an employee who is cancelling a waiver of insurance coverage or requesting additional insurance coverage.

Section 2207, "Description of Benefits under DCEGLI," is amended as follows:

2207 DESCRIPTION OF BENEFITS UNDER DCEGLI

2207.1 Each insured employee and annuitant shall be provided a policy or a summary of benefits to include all of the following:

(a) The benefits to which entitled;

(b) The procedures for obtaining benefits; and

(c) The principal provisions of the policy.

2207.2 The Director of the DCHR, shall provide each insured employee and annuitant with information on the cost of basic insurance and each insurance option and shall notify each insured employee of any change in the cost prior to that change being implemented.

Section 2208, "Basic Insurance Amount (BIA) Under DCEGLI," is amended as follows:

2208 BASIC INSURANCE AMOUNT (BIA) UNDER DCEGLI

2208.1 An employee's basic insurance amount (BIA) shall be the greater of:

(a) His or her annual rate of basic pay, rounded to the next higher $ 1,000, plus $ 2,000; or

(b) A minimum of ten thousand dollars ($ 10,000).

2208.2 The BIA of an individual who is entitled to continue basic life insurance coverage as an annuitant or compensationer shall be the BIA in effect at the time the insurance to which he or she is entitled as an employee would stop under Section 2214 of this chapter.

2208.3 The amount of an employee's basic life insurance coverage shall be equal to his or her BIA multiplied by the appropriate factor determined on the basis of the age of the insured individual at the time of death, as follows:

Age	Factor
35 or under	2.0
36	1.9
37	1.8
38	1.7
39	1.6
40	1.5
41	1.4
42	1.3
43	1.2
44	1.1
45 or over	1.0

Section 2209, "Annual Rates of Pay for Purposes of DCEGLI," is amended as follows:
Subsections 2209.1 and 2209.4 are amended to read as follows:

2209.1 An insured employee's annual pay is his or her annual rate of basic pay as fixed by the appropriate pay authority.

2209.4 The annual pay for an employee who legally and concurrently serves in more than one (1) position shall be the sum of the annual basic pay fixed by the appropriate pay authority for the primary position.

Section 2210, "Optional Insurance Coverage under DCEGLI," is amended as follows:

Subsections 2210.3 and 2210.4 are amended to read as follows:

2210.3 Option B - Additional provides an employee with additional insurance coverage of one (1), two (2), three (3), four (4), or five (5) multiples of his or her annual pay, with each multiple being equal to the rate of annual pay rounded to the next highest thousand.

2210.4 Option C - Family provides the employee with both of the following:

(a) Ten thousand ($10,000), twenty-five thousand ($25,000), and fifty thousand (50,000) insurance coverage on the life of his or her spouse; and

(b) Ten thousand ($10,000) insurance coverage on the life of each unmarried dependent child.

Section 2211, "Withholdings for DCEGLI," is amended as follows:

Subsections 2211.1, 2211.4, 2211.5 and 2211.6 are amended to read as follows:

2211.1 During each pay period in which an insured employee is in a pay status for any part of the period, an amount to be determined by the Director of the DCHR, shall be withheld from the biweekly pay of the employee, except that the amount withheld from the pay of an employee who is paid on other than a biweekly basis shall be determined at a proportionate rate, adjusted to the nearest cent.

2211.4 Except as provided in Subsection 2214.10 of this chapter, whenever an insured employee receives insufficient pay to cover the cost of the insurance, he or she shall be required to pay the amount that represents the employee's cost of life insurance coverage which would have been withheld in a manner prescribed by the Director of the DCHR.

2211.5 Each insured annuitant receiving an annuity under the Teachers' Retirement System, the Police and Fire Retirement System, the Judges' Retirement System, or the Teachers' Insurance and Annuity Association programs shall have withheld from his or her annuity an amount, to be determined by the Director of the DCHR, to cover the cost of the insurance coverage; however, if the annuity is insufficient to cover the cost of the coverage, the annuitant shall be required to pay the full amount which would have been withheld had the annuity been sufficient to cover the cost.

2211.6 Each annuitant covered under the Defined Contribution Pension Plan shall be required to pay, in accordance with procedures issued by the Director of the DCHR, an amount equal to the amount that would be withheld, for an annuitant receiving an annuity, as provided in Subsection 2211.5 of this section.

Section 2213, "Accidental Death and Dismemberment under DCEGLI," is amended as follows:

Subsections 2213.3 and 2213.4 are amended to read as follows:

2213.3 Each employee who elects Option A - Standard optional insurance coverage described in Subsection 2210.1 of this chapter shall also have additional coverage of $10,000 for accidental death and dismemberment.

2213.4 Accidental dismemberment benefits shall be payable only upon the losses stated in the following schedule. The benefits are subject to the conditions and limitations approved by the Director of the DCHR, which are contained in the policy purchased by the DCHR, the amount of this benefit shall depend on the amount for which the employee is insured on the date the accident occurs and the extent of the loss according to the following schedule.

Extent of Loss	Percentage of Basic Insurance Payable
Sight of both eyes	100
Sight of one eye	50
Both hands	100
One hand	50
Both feet	100
One foot	50
One hand and one foot	100
One hand or one foot and sight of one eye	100

Section 2214, "Termination and Conversion of DCEGLI Coverage," is amended as follows:

Subsections 2214.2, 2214.6, 2214.7, 2214.8, 2241.10, 2214.11 and 2214.12 are amended to read as follows:

2214.2 The thirty-one-day (31-day) extension of insurance coverage provided in Subsection 2214.1 of this section shall not be extended beyond thirty-one days (31-days), nor is it contingent upon timely issuance of notice of the right of conversion to an individual policy.

2214.6 The employee, retiree, or annuitant shall be notified by the personnel authority of the loss of DCEGLI coverage as a group member and the right to convert to an individual policy either prior to or immediately following the event causing the loss of coverage.

2214.7 An employee, retiree, or annuitant who fails to exercise his or her right to convert to an individual policy during the thirty-one day (31-day) extension of coverage is deemed to have declined coverage under an individual policy, unless the Director of the DCHR, determines the failure was beyond the control of the employee.

2214.8 An employee, retiree, or annuitant seeking to convert to an individual policy after the thirty-one day (31-day) extension of coverage must apply to the Director of the DCHR, within six (6) months from the date that the coverage terminated.

2214.10 Except as provided in Subsection 2214.12 of this section, basic life insurance and optional life insurance of an insured employee continue without cost to the employee while he or she is in a non-pay status for up to three hundred sixty-five days (365 days), at which time it stops, subject to a thirty-one day (31-day) extension of insurance coverage.

2214.11 The three hundred sixty-five day (365-day) period described in Subsection 2214.10 of this section may be continuous or broken by periods of less than four (4) consecutive months in a pay status.

2214.12 If a claim is filed by a beneficiary or assignee, if any, in accordance with Subsections 2215.1 and 2215.2 of this chapter for an employee who is in a non-pay status at the time of death, the Director of the DCHR, shall determine the value of employee contributions not withheld from the employee during the preceding twelve (12) months because the employee was in a non-pay status and shall authorize the life insurance company selected in accordance with subsection 2218.1 of this chapter to withhold an amount equal to the value of those contributions. Any such amount shall be deducted from the payment due each beneficiary in proportion to the percentage of the total benefit being received by that beneficiary.

Section 2215, "Filing A Claim under DCEGLI," is amended as follows:

2215 FILING A CLAIM UNDER DCEGLI

2215.1 The Director of the DCHR, shall establish procedures for the filing of claims by the assignee, if any, or the beneficiary when death of an employee or annuitant occurs.

2215.2 If an employee has elected Option C - Family coverage described in Subsection 2210.4 of this chapter, the employee shall be required to file a claim in accordance with procedures established by the Director of the DCHR.

Section 2216, "Accidental Death and Dismemberment under DCEGLI," is amended as follows:

2216 DEATH CLAIMS-ORDER OF PRECEDENCE-DCEGLI

2216.1 The amount of group life insurance in force on an employee or annuitant at the date of his or her death shall be paid, on the establishment of a valid claim, to the person or persons surviving at the date of the death of the employee or annuitant, in the following order of precedence:

(a) To the assignee, if any, pursuant to a viatical settlement as provided in Section 2221 of this chapter;

(b) To the beneficiary or beneficiaries designated by the employee or annuitant of file with the employer executed and filed before death in a manner prescribed by the Director of the DCHR;

(c) If there is no designated beneficiary, to the widow or widower of the employee or annuitant;

(d) If none of the above, to the child or children of the employee or annuitant and descendants of a deceased child or children by representation;

(e) If none of the above, to the parents or parent of the employee or annuitant;

(f) If none of the above, to the duly appointed personal representative of the estate of the employee or annuitant; and

(g) If none of the above, to the other next of kin of the employee or annuitant under the laws of the domicile of the employee or annuitant at the date of death.

2216.2 If no claim has been filed by any of the persons set forth in Subsection 2216.1 of this section within four (4) years of the date of death of an employee or annuitant, the funds shall be deposited into the General Fund of the District of Columbia to be kept for safekeeping and disbursed in accordance with the Uniform Disposition of Unclaimed Property Act (D.C. Law 3-160; D.C. Code § 42-201 *et seq*.).

Section 2217, "Designation of Beneficiary," is amended as follows:

2217 DESIGNATION OF BENEFICIARY

2217.1 A designation of beneficiary shall be either in writing or through electronic submission and received by the personnel authority (or the applicable retirement system office in the case of an annuitant or retiree whose basic DCEGLI coverage is continued) before the death of the insured. In the event that more than one designation exists, the designation with the later date shall be used to determine beneficiaries.

2217.2 A change or cancellation of beneficiary in a last will or testament, or in any other document not witnessed and filed as required by Subsection 2217.1 of this section, shall not have any effect.

2217.3 A witness to a designation of beneficiary shall be ineligible to receive payment as a beneficiary.

2217.4 Any individual, firm, corporation, or legal entity (except an agency of the Federal or District of Columbia governments) may be named as beneficiary.

2217.5 A designation of beneficiary or a change in beneficiary may be made at any time and without the knowledge or consent of the previous beneficiary. This right shall not be waived or restricted.

2217.6 If an insured individual provides in a valid designation of beneficiary that a designated beneficiary shall be entitled to the proceeds of the insurance only if the beneficiary survives him or her for a period of time (not more than thirty (30) days) as specified by the designator, no right to the insurance shall vest to that beneficiary. If that beneficiary does not survive the specified period, payment of the proceeds of the insurance shall be made as if the beneficiary had predeceased the insured.

Section 2218, "Contracting Authority for DCEGLI," is amended as follows:

2218 CONTRACTING AUTHORITY FOR DCEGLI

2218.1 Subject to the requirements of Subsection 2218.3 of this section, the Director of the DCHR may select a policy or policies from one (1) or more life insurance companies to provide the benefits set forth in this chapter. The life insurance company or companies must be licensed to transact life and accidental death and dismemberment insurance under the laws of the District of Columbia.

2218.2 Subject to the requirements of Subsection 2218.3 of this section, the Director of the DCHR may discontinue at any time a policy or policies purchased from a company under Subsection 2218.1 of this section.

2218.3 Any contract under this section shall comply with the District of Columbia Procurement Practices Act of 1985 effective February 21, 1985 (D.C. Law 6-85; D.C. Official Code § 2-301.01 *et seq*.) and shall be in accordance with any delegations of authority made under that Act.

Section 2219, "Annual Accounting Reports for DCEGLI," is renumbered and amended as follows:

2219 ANNUAL ACCOUNTING REPORTS FOR DCEGLI

2219.1 For the purpose of this section, the following term has the meaning ascribed:

Risk charges - an insurance charge to compensate the insurer for its risk under the contract.

2219.2 Each contract entered into under Section 2218 of this chapter shall require the company to do all of the following:

(a) Furnish reasonable reports to the District as determined by the Director of the DCHR, to be necessary to enable the District to carry out its functions under this chapter;

(b) Authorize the Director of the DCHR to examine records of the company as may be necessary to carry out the purposes of this chapter; and

(c) Provide an accounting to the Director of the DCHR not later than ninety (90) days after the end of each policy year. The accounting shall set forth all of the following in a form approved by the Director of the DCHR:

(1) The amounts of premiums actually accrued under the policy from the end of the policy period;

(2) The total of all mortality and other claim charges incurred for that period; and

(3) The amounts of the company's expenses and risk charges incurred for that period.

Section 2220, "Special Contingency Reserve for DCEGLI," is amended as follows:

2220 SPECIAL CONTINGENCY RESERVE FOR DCEGLI

2220.1 Any amount of premiums collected (as reported in Subsection 2219.1(c)(1) of this chapter) in excess of the sum of the costs incurred (as reported in Subsection 2219.1(c)(2) and (3) of this chapter) shall be held by the company issuing the policy as a special contingency reserve to be used by the company only for charges under the policy.

2220.2 The special contingency reserve shall bear interest at a rate determined in advance of each policy period by the company from which the insurance was purchased under Section 2218 of this chapter and approved by the Director of the DCHR, as being consistent with the rates generally used by the company from which the insurance was purchased under Section 2218 of this chapter for similar funds held under other group life insurance policies.

2220.3 When the Director of the DCHR, determines that the amount of the special contingency reserve is sufficient to provide for adverse fluctuations in future charges under the policy, any funds in excess of that amount may be used to increase benefits, to reduce premiums, or both, or may be deposited in the General Fund of the District.

2220.4 When a policy is discontinued, any balance remaining in the special contingency reserve after all charges have been paid shall be deposited in the General Fund of the District.

Section 2221, "Viatical Settlement," is added as follows:

2221 VIATICAL SETTLEMENT

2221.1 An insured employee or annuitant who is terminally ill may make a viatical settlement in accordance with these rules and procedures to be issued by the Director of the DCHR.

2221.2 An insured individual who elects to viaticate must assign all of his or her insurance coverage, except that accidental dismemberment insurance and family optional insurance are excluded from such assignment.

2221.3 The assignment of an individual's life insurance coverage shall be irrevocable.

2221.4 The assignment shall become effective when recorded by the life insurance company authorized to provide life insurance coverage for the DCEGLI program.

2221.5 When an insured employee or annuitant makes a viatical settlement, any prior designation of beneficiary which might have been made shall be automatically cancelled and the insured person shall no longer have the right to designate a beneficiary.

2221.6 An assignee shall have the right to make beneficiary changes and to apply for conversion of the life insurance coverage under the same conditions as were available to the insured employee or former employee for conversion as provided in this chapter.

2299 DEFINITIONS

For the purposes of this chapter, the following terms have the meaning ascribed:

Accidental death and dismemberment - a provision added to an insurance policy for payment of an additional benefit in case of death or dismemberment by accidental means.

Annuitant - an employee first employed by the District of Columbia government after September 30, 1987, who subsequently retired pursuant to any of the following conditions:

(a) Retires under any of the following systems:

(1) Teachers' Retirement System;

(2) Police and Fire Retirement System;

(3) Judges' Retirement System; or

(4) Teachers' Insurance and Annuity Association programs; or

(b) Separated pursuant to under the District Retirement Benefit Program and after any of the following:

(1) Reaching 57 years of age and having completed 25 years of creditable District service in a law enforcement position;

(2) Becoming entitled to retirement benefits under the Social Security Act and having ten (10) or more years of service the District Government; or

(3) Becoming entitled to disability benefits under the Social Security Act.

Assignee - an individual or firm to whom ownership of an employee's or former employee's life insurance coverage is transferred through a viatical settlement.

Dependent child - a natural child, adopted child, stepchild, or foster child of an employee, retiree, or annuitant who is any of the following:

(a) An unmarried dependent child under twenty-six (26) years of age; or

(b) An unmarried child regardless of age who is incapable of self-support because of mental or physical disability that existed before age twenty-two (26).

Director of the DCHR - the Director of the D.C. Office of Department of Human Resources.

District - the District of Columbia, including the District of Columbia Courts or any independent agency, if the courts or any agency duly accept the plan, with the approval of the Director of the DCHR.

Pay authority - the Mayor or his or her designee, who has been delegated the authority to establish the pay system as provided in subchapter XI of Title 1 of the CMPA (D.C. Official Code § 1-611.04, *et seq*.).

Personnel authority - an individual or entity with the authority to administer all or part of a personnel management program as provided in Subchapter IV of Title 1 of the CMPA (D.C. Official Code § 1-604.01, *et seq*.).

Viatical settlement - an irrevocable assignment of all an employee's or former employee's incidents of ownership in a life insurance policy.

OFFICE OF TAX AND REVENUE

NOTICE OF FINAL RULEMAKING

The Deputy Chief Financial Officer of the District of Columbia Office of Tax and Revenue (OTR) of the Office of the Chief Financial Officer, pursuant to the authority set forth in Section 201(a) of the 2005 District of Columbia Omnibus Authorization Act, approved October 16, 2006 (120 Stat. 2019; P.L. 109-356, D.C. Official Code § 1-204.24d(10) (2012 Supp.)) of the Home Rule Act, and the Office of the Chief Financial Officer Financial Management and Control Order No. 00-5, effective June 7, 2000, hereby gives notice of this final action to amend Chapter 1, Income and Franchise Taxes, of Title 9, Taxation and Assessments, of the District of Columbia Municipal Regulations (DCMR), by amending Subsection 176.1 and by adding new Subsection 176.2.

Legislation on combined reporting became effective on September 14, 2011 in the 2012 Budget Support Act of 2011 (D.C. Law 19-0021; D.C. Official Code § 47-1805.02a *et seq.* (2012 Supp.)), which requires combined reporting in the District of Columbia. Through the following regulation, OTR will automatically grant a 7-month extension to file for all combined group members upon request.

These rules were previously published as a Notice of Proposed Rulemaking in the *D.C. Register* on June 14, 2013 at 60 DCR 9082. The Deputy Chief Financial Officer took final rulemaking action on July 23, 2013 and these rules shall become effective upon publication of this notice in the *D.C. Register*.

The regulations on Income and Franchise Taxes contained in Chapter 1 (Income and Franchise Taxes) of Title 9 (Taxation and Assessments) of the DCMR are amended as follows:

Subsection 176.1 is amended as follows:

176.1 *Extension for combined reporting filers.* Effective for tax years beginning after December 31, 2010, a calendar or fiscal year taxpayer that is a member of a combined group and that must report income derived from the activities of that group in a combined report, shall receive an automatic 7-month extension. This extension applies to all final zero returns.

New Subsection 176.2 is added as follows:

176.2 The request for an extension of time to file must be made on or before the due date of the return and shall not extend the date for payment of the tax due.

Prior Subsection 176.2 (Closing out separate entities), is amended and renumbered as 176.3, as follows:

176.3 *Closing out separate entities*. If an entity filed a District return on a separate reporting basis or on a District consolidated basis for the tax year beginning prior to January 1, 2011, and that entity will now be filing on a combined reporting basis for the tax year beginning after December 31, 2010, that entity (or entities), except for the designated agent, shall file a separate final zero return along with the combined report.

DISTRICT DEPARTMENT OF TRANSPORTATION

NOTICE OF FINAL RULEMAKING

The Director of the District Department of Transportation ("DDOT"), pursuant to the authority set forth in Sections 3(b), 5(4)(A), 6(b), and 7 of the Department of Transportation Establishment Act of 2002, effective May 21, 2002 (D.C. Law 14-137; D.C. Official Code §§ 50-921.02(b), 50-921.04(4)(A), 50-921.05(b), and 50-921.06 (2009 Repl. & 2012 Supp.)), Section 604 of the Fiscal Year 1997 Budget Support Act of 1996, effective April 9, 1996 (D.C. Law 11-198, D.C. Official Code§ 10-1141.04) ((2012 Supp.)), and Mayor's Order 96-175, dated December 9, 1996, hereby gives notice of the adoption of the following amendments to Chapter 24 (Stopping, Standing, Parking, and other Non-Moving Violations) and Chapter 99 (Definitions) of Title 18 (Vehicles and Traffic), and Chapter 33 (Public Right-Of-Way Occupancy Permits) of Title 24 (Public Space and Safety), of the District of Columbia Municipal Regulations (DCMR).

The purpose of the amendments is to establish a public right of way occupancy permit process for reserved on-street car-sharing companies to enter the reserved on-street car-sharing program, and to modify the reserved on-street car-sharing program to require car-sharing vehicles in each ward.

A Notice of Proposed Rulemaking was published in the *D.C. Register* on June 7, 2013 at 60 DCR 8678. No comments were received. No changes were made to the text of the proposed rules.

DDOT adopted the rules as final on August 2, 2013. 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 24, STOPPING, STANDING, PARKING, AND OTHER NON-MOVING VIOLATIONS, is amended as follows:

Section 2406, PARKING PROHIBITED BY POSTED SIGN, is amended as follows:

Subsection 2406.12 is amended as follows:

Paragraph (a) is amended to read as follows:

(a) The Director may establish reserved on-street parking spaces for the exclusive use of car-sharing vehicles pursuant to public right-of-way occupancy permits issued pursuant to 24 DCMR § 3313.

Paragraph (b) is repealed.

Chapter 99, DEFINITIONS, is amended as follows:

Section 9901, DEFINITIONS, is amended as follows:

The following terms and their ascribed meanings are amended to read as follows:

Reserved on-street car-sharing company – a company with a basic business license to operate in the District that provides access to car-sharing vehicles to the general public for short-term reservations.

Reserved on-street car-sharing program – DDOT's program authorizing the permitting of public space for the exclusive use of car-sharing vehicles.

Chapter 33, PUBLIC RIGHT-OF-WAY OCCUPANCY PERMITS, of Title 24, PUBLIC SPACE AND SAFETY, of the DCMR is amended as follows:

A new Section 3313 is added to read as follows:

3313 RESERVED ON-STREET CAR SHARING

3313.1 No person shall use the public right-of-way for the parking of its car-sharing vehicles in designated spaces in the public space without a public space permit issued by the Director.

3313.2 The Director shall issue an annual public space permit for a reserved on-street car sharing program only to a reserved on-street car-sharing company ("company").

3313.3 A public space permit issued pursuant to this section shall be subject to the following conditions, in addition to such other conditions as may be imposed by law, regulation, or the Director:

(a) The company must indemnify the District against legal liabilities associated with the use of public space for car-sharing operations;

(b) All company car-sharing vehicles parked in the District, regardless of whether they are located on private or public space, must be registered in the District and display District license plates;

(c) The company must reserve at least one (1) on-street space in each ward;

(d) The company must have at least as many vehicles available to members in private parking locations as in public parking locations, including at least one (1) in each ward; and

(e) The company shall provide DDOT with data to help evaluate the impact of the reserved on-street car-sharing program.

3313.4 The fee for a permit issued pursuant to this section shall be assessed, for each parking space covered by the permit, at an annual cost of two thousand eight hundred and ninety dollars ($2,890).

3313.5 The fee may be increased annually by the lesser of the Consumer Price Index or five percent (5%).

3313.6 The permit may be renewed annually.

Section 3399 is amended as follows:

Three new definitions are added in alphabetical order to read as follows:

Car-sharing vehicle – any vehicle available to multiple users who are required to join a membership organization in order to reserve and use such a vehicle for which they are charged based on actual use as determined by time and/or mileage.

Reserved on-street car-sharing company – a company with a basic business license to operate in the District that provides access to car-sharing vehicles to the general public for short-term reservations.

Reserved on-street car-sharing program – DDOT's program authorizing the permitting of public space for the exclusive use of car-sharing vehicles.

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

NOTICE OF FINAL RULEMAKING

The Board of Directors (Board) of the District of Columbia Water and Sewer Authority (DC Water), pursuant to the authority set forth in Sections 203(3) and (11) and 216 of the Water and Sewer Authority Establishment and Department of Public Works Reorganization Act of 1996, effective April 18, 1996 (D.C. Law 11-111, §§ 203(3), (11) and 216; D.C. Official Code §§ 34-2202.03(3) and (11) (2010 Repl.) and D.C. Official Code §§ 34-2202.16 (2010 Repl.)); Section 6(a) of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1206; D.C. Official Code § 2-505(a) (2011 Repl.)); and in accordance with Chapter 40, (Retail Ratemaking), of Title 21, (Water and Sanitation), of the District of Columbia Municipal Regulations (DCMR), hereby gives notice that at its regularly scheduled meeting on July 3, 2013, took final action through adoption of Board Resolution #13-79 to amend Section 112, (Fees), of Chapter 1, (Water Supply), Section 402, (Initiating a Challenge), of Chapter 4, (Contested Water and Sewer Bills), and Sections 4100, (Rates for Water Service), 4101, (Rates for Sewer Service), and 4104, (Customer Classification for Water and Sewer Rates) of Chapter 41, (Retail Water and Sewer Rates), of Title 21, (Water and Sanitation) of the DCMR.

Pursuant to Board Resolutions #13-12 and #13-30, DC Water's proposed rulemakings were published in the *D.C. Register* on March 1, 2013 at 60 DCR 2413 and on March 15, 2013 at 60 DCR 3796, respectively. Further, a notice of public hearing was published in the *D.C. Register* on March 22, 2013 at 60 DCR 4194, and a public hearing was held on May 8, 2013. The record of the public hearing remained open until June 8, 2013, to receive written comments on the proposed rulemakings. DC Water also conducted eight (8) town hall meetings and three (3) community meetings from March 1, 2013 through April 30, 2013 to receive comments on the proposed rulemakings. On June 25, 2013, the Retail Water and Sewer Rates Committee met to consider the comments offered at the May 8, 2013 public hearing and during the public comment period.

On July 3, 2013, the Board, through Resolution #13-79, after consideration of all comments received and the report of the Retail Water and Sewer Rates Committee, voted to amend the DCMR to: increase the retail metered water service rates from $3.42 per One Hundred Cubic Feet of water used to $3.61 per One Hundred Cubic Feet of water used; increase the retail sewer service rates from $4.18 per One Hundred Cubic Feet of water used to $4.41; increase the annual Clean Rivers Impervious Surface Area Charge from $114.84 to $142.20 per Equivalent Residential Unit; increase the Right of Way Occupancy Fee Pass Through Charge from $0.16 to $0.17 per One Hundred Cubic Feet of water used; increase the PILOT Fee from $0.50 per One Hundred Cubic Feet of water used to $0.53 per One Hundred Cubic Feet of water used; and add a new "Multi-Family" customer classification.

No changes were made to the substance of the proposed regulations.

This final rulemaking will become effective October 1, 2013.

Section 112, FEES, of Chapter 1, WATER SUPPLY, of Title 21, WATER AND SANITATION, of the DCMR is amended as follows:

Subsection 112.8 is amended to read as follows:

112.8 Effective October 1, 2013, the District of Columbia Right of Way Occupancy Fee Pass Through Charge and the Payment in Lieu of Taxes (PILOT) Fee, shall be increased from sixty-six cents ($0.66) for each one hundred cubic feet (1 Ccf) (or the equivalent of eighty-eight cents ($0.88) for each one thousand gallons (1,000 gals.) (one hundred cubic feet (1 Ccf) equals seven hundred forty-eight and five hundredths gallons (748.05 gals.)) to seventy cents ($0.70) for each one hundred cubic feet (1 Ccf) (or the equivalent of ninety-three cents ($0.93) for each one thousand gallons (1,000 gals.)) of water used, divided as follows:

(a) District of Columbia Right of Way Fee, assessed to recover the cost of fees charged by the District of Columbia to D.C. Water and Sewer Authority for use of District of Columbia public space and rights of way: An increase from sixteen cents ($0.16) per Ccf or (or the equivalent of twenty-one cents ($0.21) per one thousand gallons (1,000 gals.)) of water used to:

(1) Residential Customers: seventeen cents ($0.17) per Ccf (or the equivalent of twenty-two cents ($0.22) per one thousand gallons (1,000 gals.)) of water used;

(2) Multi-Family Customers: seventeen cents ($0.17) per Ccf (or the equivalent of twenty-two cents ($0.22) per one thousand gallons (1,000 gals.)) of water used; and

(3) Non-Residential Customers: seventeen cents ($0.17) per Ccf (or the equivalent of twenty-two cents ($0.22) per one thousand gallons (1,000 gals.)) of water used; and

(b) Payment in Lieu of Taxes to the Office of the Chief Financial Officer (OCFO) of the District of Columbia, assessed to cover the amount which D.C. Water and Sewer Authority pays each fiscal year to the District of Columbia, consistent with D.C. Water and Sewer Authority's enabling statute for public goods and services received from the District of Columbia: An increase from fifty cents ($0.50) per Ccf (or the equivalent of sixty-seven cents ($0.67) per one thousand gallons (1,000 gals.)) of water used to:

(1) Residential Customers: fifty-three cents ($0.53) per Ccf (or the equivalent of seventy-one cents ($0.71) per one thousand gallons (1,000 gals.)) of water used;

(2) Multi-Family Customers: fifty-three cents ($0.53) per Ccf (or the equivalent of seventy-one cents ($0.71) per one thousand gallons (1,000 gals.)) of water used; and

(3) Non-Residential Customers: fifty-three cents ($0.53) per Ccf (or the equivalent of seventy-one cents ($0.71) per one thousand gallons (1,000 gals.)) of water used.

Section 402, INITIATING A CHALLENGE, of Chapter 4, CONTESTED WATER AND SEWER BILLS, of Title 21, WATER AND SANITATION, of the DCMR is amended as follows:

Subsections 402.7 and 402.8 are amended to read as follows:

402.7 Non-residential and multi-family owners or their agents may seek an impervious surface area charge adjustment if the owner or agent can establish that the property has been assigned to the wrong rate class, the impervious service area used in the computation of the charge is incorrect or if the ownership information is incorrect.

402.8 Non-residential and multi-family owners or their agents shall submit a site survey, prepared by a registered professional land surveyor, showing impervious surfaces on the site and other information that may be requested by WASA.

Section 4100, RATES FOR SEWER SERVICE, of Chapter 41, RETAIL WATER AND SEWER RATES, of Title 21, WATER AND SANITATION, of the DCMR is amended as follows:

Subsection 4100.3 is amended to read as follows:

4100 RATES FOR WATER SERVICE

4100.3 Effective October 1, 2013, the rate for retail metered water service shall be increased from three dollars and forty-two cents ($3.42) for each one hundred cubic feet (1 Ccf) (or the equivalent of four dollars and fifty-seven cents ($4.57) for each one thousand gallons (1,000 gals.) (one hundred cubic feet (1 Ccf) equals seven hundred forty-eight and five hundredths gallons (748.05 gals.)) of water used to:

(a) Residential Customers: three dollars and sixty-one cents ($3.61) per Ccf (or the equivalent of four dollars and eighty-three cents ($4.83) for each one thousand gallons (1,000 gals.)) of water used;

(b) Multi-Family Customers: three dollars and sixty-one cents ($3.61) per Ccf (or the equivalent of four dollars and eighty-three cents ($4.83) for each one thousand gallons (1,000 gals.)) of water used; and

(c) Non-Residential Customers: three dollars and sixty-one cents ($3.61) per Ccf (or the equivalent of four dollars and eighty-three cents ($4.83) for each one thousand gallons (1,000 gals.)) of water used.

Section 4101, RATES FOR SEWER SERVICE, of Chapter 41, RETAIL WATER AND SEWER RATES, of Title 21, WATER AND SANITATION, of the DCMR is amended as follows:

Subsection 4101.1 is amended to read as follows:

4101 RATES FOR SEWER SERVICE

4101.1 Effective October 1, 2013, the rates for sanitary sewer service shall be:

(a) The retail sanitary sewer service rate shall be increased from four dollars and eighteen cents ($4.18) for each one hundred cubic feet (1 Ccf) (or five dollars and fifty-nine cents ($5.59) for each one thousand gallons (1,000 gals.) (one hundred cubic feet (1 Ccf) equals seven hundred forty-eight and five hundredths gallons (748.05 gals.)) of water used to:

(1) Residential Customers: four dollars and forty-one cents ($4.41) per Ccf (or the equivalent of five dollars and eighty-nine cents ($5.89) for each one thousand gallons (1,000 gals.)) of water used;

(2) Multi-Family Customers: four dollars and forty-one cents ($4.41) per Ccf (or the equivalent of five dollars and eighty-nine cents ($5.89) for each one thousand gallons (1,000 gals.)) of water used; and

(3) Non-Residential Customers: four dollars and forty-one cents ($4.41) per Ccf (or the equivalent of five dollars and eighty-nine cents ($5.89)) for each one thousand gallons (1,000 gals.)) of water used; and

(b) The annual Clean Rivers Impervious Surface Area Charge (IAC) shall be increased from one hundred fourteen dollars and eighty-four cents ($114.84), billed monthly at nine dollars and fifty-seven cents ($9.57), per Equivalent Residential Unit (ERU), to one hundred forty-two dollars and twenty cents ($142.20) per ERU, billed monthly as follows:

(1) Residential Customers: eleven dollars and eighty-five cents ($11.85) per month for each ERU;

(2) Multi-Family Customers: eleven dollars and eighty-five cents ($11.85) per month for each ERU; and

(3) Non-Residential Customers: eleven dollars and eighty-five cents ($11.85) per month for each ERU.

Paragraphs 4101.1(d) and (e) are amended to read as follows:

(d) The retail cooling water sewer charge shall be the retail sanitary sewer service rate set forth in Section 4101.1(a) for cooling water discharged into the District's wastewater sewer system; and

(e) The retail non-potable water source sewer charge shall be the retail sanitary sewer service rate set forth in Section 4101.1(a) for non-potable water discharged into the District's wastewater sewer system.

Subsection 4101.4 is amended to read as follows:

4101.4 All non-residential and multi-family customers shall be assessed ERU(s) based upon the total amount of impervious surface area on each lot. This total amount of impervious surface shall be converted into ERU(s), truncated to the nearest one-hundred (100) square feet.

Section 4104, CUSTOMER CLASSIFICATION FOR WATER AND SEWER RATES, of Chapter 41, RETAIL WATER AND SEWER RATES, of Title 21, WATER AND SANITATION, of the DCMR is amended as follows:

Subsection 4104.1 is amended to read as follows:

4104.1 The customer classifications for water and sewer rates shall consist of a residential class, multi-family, and a non-residential class:

(a) Residential – a single-family dwelling used for domestic purposes; a condominium or apartment unit where each unit is served by a separate service line and is individually metered and the unit is used for domestic purposes; or a multifamily structure of less than four apartment units where all the units are served by a single service line that is master metered.

(b) Multi-Family – a multifamily structure (such as a condominium or apartment dwelling) used for domestic purposes, with four or more units.

(c) Non-residential – all customers not within either the residential or multi-family class.

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

NOTICE OF FINAL RULEMAKING

The Board of Directors (Board) of the District of Columbia Water and Sewer Authority (DC Water), pursuant to the authority set forth in Sections 203(3) and (11) and 216 of the Water and Sewer Authority Establishment and Department of Public Works Reorganization Act of 1996, effective April 18, 1996 (D.C. Law 11-111, §§ 203(3), (11) and 216; D.C. Official Code §§ 34-2202.03(3) and (11) (2010 Repl.) and D.C. Official Code §§ 34-2202.16 (2010 Repl.)); Section 6(a) of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1206; D.C. Official Code § 2-505(a) (2011 Repl.)); and in accordance with Chapter 40, (Retail Ratemaking), of Title 21, (Water and Sanitation), of the District of Columbia Municipal Regulations (DCMR), hereby gives notice that at its regularly scheduled meeting on July 3, 2013, took final action through adoption of Board Resolution #13-80 to amend Chapter 41, (Retail Water and Sewer Rates), of Title 21, (Water and Sanitation), of the DCMR by adding new Sections 4105 to 4109 and amending Section 4199, (Definitions).

Pursuant to Board Resolution #13-44, DC Water's proposed rulemaking was published in the *D.C. Register* on May 3, 2013 at 60 DCR 6513. Further, a notice of public hearing was published in the *D.C. Register* on March 22, 2013 at 60 DCR 4194, and a public hearing was held on May 8, 2013. The record of the public hearing remained open until June 8, 2013, to receive written comments on the proposed rulemaking. DC Water also conducted eight (8) town hall meetings and three (3) community meetings from March 1, 2013 through April 30, 2013 to receive comments on the proposed rulemaking. On June 25, 2013, the Retail Water and Sewer Rates Committee met to consider the comments offered at the May 8, 2013 public hearing and during the public comment period.

On July 3, 2013, the Board, through Resolution #13-80, after consideration of all comments received and the report of the Retail Water and Sewer Rates Committee, voted to amend the DCMR to publish a notice of final rulemaking to implement the DC Clean Rivers Impervious Surface Area Charge Incentive Discount Program.

No changes were made to the substance of the proposed regulations. Section 4106.4 was amended to reiterate that the IAC Incentive Discounts provided by the program are "subject to the availability of funds and maximum budget limits established by DC Water's budget appropriations."

This final rulemaking will become effective October 1, 2013.

Title 21, WATER AND SANITATION, Chapter 41, Retail Water and Sewer Rates of the DCMR is amended by adding Sections 4105 through 4109, as follows:

4105 DISTRICT OF COLUMBIA CLEAN RIVERS IMPERVIOUS SURFACE AREA CHARGE INCENTIVE DISCOUNT PROGRAM: PURPOSE

4105.1 The purposes of Sections 4105 through 4109 are to:

(a) Implement the District of Columbia Clean Rivers Impervious Surface Area Charge Incentive Program;

(b) Provide an incentive for the installation of eligible best management practices that reduce the amount of stormwater runoff from a property, as determined by the District Department of the Environment (DDOE); and

(c) Comply with the requirements of the Water and Sewer Authority Equitable Ratemaking Amendment Act of 2008, effective March 25, 2009 (D.C. Law 17-370; D.C. Official Code § 34-2202.16a. (2010 Repl.)).

4106 DISTRICT OF COLUMBIA CLEAN RIVERS IMPERVIOUS SURFACE AREA CHARGE INCENTIVE DISCOUNT PROGRAM: ELIGIBILITY

4106.1 Each DC Water customer that is billed for the Clean Rivers Impervious Surface Area Charge (IAC) pursuant to Section 4101 of this chapter shall be eligible to receive a DC Clean Rivers Impervious Surface Area Charge Incentive (IAC Incentive) Discount as provided in Sections 4105 through 4109 of this chapter.

4106.2 The IAC Incentive Discounts are subject to the availability of funds and maximum budget limits established by DC Water's budget appropriations.

4106.3 DC Water shall apply an IAC Incentive Discount towards a customer's bill based on DDOE's approval of a stormwater fee discount for the customer's property.

4106.4 A customer shall receive an IAC Incentive Discount beginning on the effective date of this section after DC Water receives DDOE's storm water fee discount approval for that property, subject to the availability of funds and maximum budget limits established by DC Water's budget appropriations.

4106.5 The IAC Incentive Discount shall be retroactive to the effective date of these rules, or the date from which DDOE calculates a stormwater fee discount, whichever is later.

4106.6 The IAC Incentive Discount shall not be retroactive to the original installation date of the DDOE approved stormwater Best Management Practice (BMP).

4106.7 DC Water shall calculate the IAC Incentive Discount to be applied towards a customer's IAC:

(a) As a recurring discount to the IAC billed pursuant to § 4101 of this chapter;

(b) Beginning, the billing period that follows DC Water receipt and processing of DDOE's stormwater fee discount approval. For customers

billed on a semi-annual basis, the discount will appear on their next bill normally in March and September; and

(c) Ending, under the criteria provided in § 4106.9 of this chapter.

4106.8 A DC Water customer shall, in order to receive an IAC Incentive Discount:

(a) Be current on all DC Water billed payments; and

(b) Satisfy all DDOE requirements to receive a stormwater fee discount.

4106.9 The IAC Incentive Discount shall expire on the first of:

(a) The expiration of DDOE's approved stormwater fee discount period provided in Chapter 5 of this title;

(b) DDOE's revocation of the stormwater fee discount;

(c) The sale or transfer of the property to a new owner; or

(d) Three (3) years after the effective date of this section.

4107 DISTRICT OF COLUMBIA CLEAN RIVERS IMPERVIOUS SURFACE AREA CHARGE INCENTIVE DISCOUNT PROGRAM: DISCOUNT CALCULATION

4107.1 The IAC Incentive Discount shall not exceed the maximum allowable IAC Incentive Discount percentage, which shall be four percent (4%) of the otherwise chargeable Clean Rivers Impervious Area Charge in the first year of the IAC Discount program, which may change in subsequent years subject to DC Water's budget appropriations.

4107.2 The maximum allowable IAC Incentive Discount percentage is subject to change annually based on DC Water's budget appropriations.

4107.3 The IAC Incentive Discount shall be calculated as follows:

(a) DDOE will send DC Water the DDOE approved maximum volume of stormwater runoff retained (in Equivalent Residential Units (ERUs)) by an approved and eligible BMP(s) during a one and two tenths inch (1.2 in.) rainfall event;

(b) Multiply the number of ERUs of step "(a)" by the maximum allowable discount percentage; and

(c) Multiply the step "(b)" result by the IAC per ERU specified in § 4101 of this chapter.

4107.4 The calculated IAC Incentive Discount shall be applied to each Clean Rivers Impervious Area Charge billed.

4107.5 The IAC Incentive Discount will appear on the customer's DC Water bill beginning with the billing period that follows DC Water's receipt and processing of DDOE's approved maximum volume of stormwater runoff retained (in ERUs). For customers billed on a semi-annual basis, the discount will appear on their next bill, which is normally in March and September.

4108 DISTRICT OF COLUMBIA CLEAN RIVERS IMPERVIOUS SURFACE AREA CHARGE INCENTIVE DISCOUNT PROGRAM: DISCOUNT REDUCTION

4108.1 If DDOE determines that a customer's stormwater fee discount shall be reduced, DC Water shall reduce the IAC Incentive Discount proportionately upon receipt of DDOE's decision to reduce the stormwater retention value expressed in ERUs for the property.

4109 DISTRICT OF COLUMBIA CLEAN RIVERS IMPERVIOUS SURFACE AREA CHARGE INCENTIVE DISCOUNT PROGRAM: ADMINISTRATIVE APPEALS AND JUDICIAL REVIEW

4109.1 Any appeals related to a DDOE action regarding BMP application review or approval, eligibility, and stormwater retention volume calculations shall be taken in accordance with Section 563 of this title.

4109.2 Appeals of DC Water actions regarding the IAC Incentive Discount shall be taken in accordance with Chapter 4 of this title.

SECTION 4199, DEFINITIONS, is amended to add the following definitions, and these additional definitions shall be inserted in the correct alphabetical order:

DC Water - the District of Columbia Water and Sewer Authority.

DDOE - the District Department of the Environment.

Best Management Practice (BMP) - Structural or nonstructural practice that minimizes the impact of stormwater runoff on receiving waterbodies and other environmental resources, especially by reducing runoff volume and the pollutant loads carried in that runoff.

D.C. DEPARTMENT OF HUMAN RESOURCES

SECOND NOTICE OF PROPOSED RULEMAKING

The Director of the D.C. Department of Human Resources, with the concurrence of the City Administrator, pursuant to Mayor's Order 2008-92, dated June 26, 2008, and in accordance with Title XX of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (CMPA), effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-620.01 *et seq.* (2006 Repl.)), hereby gives notice of the intent to adopt in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*, the following proposed rules.

These rules would amend Chapter 20, "Health," of Subtitle B of title 6 of the District of Columbia Municipal Regulations (DCMR). The purpose of these rules is to amend Chapter 20 (Health) of Title 6-B (Government Personnel) of the District of Columbia Municipal Regulations (DCMR), in its entirety.

A Notice of Proposed Rulemaking was initially published in the *D.C. Register* on May 3, 2013 (60 DCR 006501). We received one (1) comment pertaining to the proposed rules which has resulted in an edit being made to Subsection 2049.13(c) to delete the phrase *"and apply or assist in applying therefore"* at the end of the paragraph. The proposed rulemaking published with this notice supersedes the Notice of Proposed Rulemaking published on May 3, 2013. Upon adoption, these rules will amend Chapter 20, "Health," of Subtitle B of Title 6 of the DCMR, as published at 40 DCR 7649 (November 5, 1993) and 51 DCR 10422 (November 12, 2004).

D.C. PERSONNEL REGULATIONS

Chapter 20, "Health," of Subtitle B of Title 6 of the District of Columbia Municipal Regulations is amended as follows:

Section 2049, "Pre-Employment and Other Physical Examinations and General Medical Qualifications Requirement," is amended as follows:

2049 PRE-EMPLOYMENT AND OTHER PHYSICAL EXAMINATIONS AND GENERAL MEDICAL QUALIFICATIONS REQUIREMENTS

2049.1 The provisions of this section establish the requirements for pre-employment and other physical examinations, including fitness-for-duty examinations; general medical qualifications requirements; and preventive health programs pursuant to section 2007 (2) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (CMPA), effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-620.07 (2)) (2006 Repl.), with adherence to the provisions of the Americans with Disabilities Act of 1990, approved July 26, 1990 (P.L. 101-336; 42 U.S.C. § 12101 *et seq.*), as amended; other federal or District laws or regulations; and equal employment opportunity considerations.

2049.2 Each individual selected for appointment shall be physically and mentally capable of safe and satisfactory performance of the essential functions of the position for which he or she was selected.

2049.3 Medical determinations shall be made by physicians or practitioners, and determinations regarding job requirements and performance shall be made by supervisors and managers.

2049.4 To the extent inconsistent with any applicable law or regulation, the provisions of this section shall not apply to:

(a) Police officers in the Metropolitan Police Department;

(b) Firefighters in the Fire and Emergency Medical Services Department; and

(c) Employees on the public sector workers' compensation system pursuant to §§ 2301 through 2347 of the CMPA (D.C. Official Code § 1-623.01 *et seq*. (2011 Supp.)).

2049.5 Personnel authorities may establish physical and mental qualifications requirements
that are necessary to perform a specific job or classes of jobs, such as certain jobs in transportation, public works, or security jobs. Any physical and mental qualification requirements established by the personnel authority pursuant to this subsection shall:

(a) Be related to the duties and responsibilities of the specific job or classes of jobs, and consistent with business necessity.

(b) Be designed to ensure consideration of individuals having the minimum physical ability necessary to perform the duties of the job efficiently without posing a significant risk of substantial harm to his or her health or safety, or that of others.

(c) List disqualifying medical conditions only in cases in which job duties require special physical capabilities to safely and satisfactorily perform the duties assigned to the job.

(d) Be waived by the personnel authority when a determination is made that the appointee or employee is a "qualified individual with a disability," as that term is defined in Section 2099 of this chapter.

2049.6 The personnel authority may require an individual who has applied for or occupies a position with established physical or mental standards or requirements for selection or retention, or established occupational or environmental standards that require medical review, to report for a medical examination or evaluation as

follows:

(a) Prior to appointment or selection (including reemployment on the basis of full or partial recovery from a medical condition);

(b) On a regularly recurring, periodic basis; or

(c) Whenever there is a direct question about an employee's continued capacity to meet the established physical or mental standards or requirements of the position, or conditions of employment.

2049.7 As appropriate in the case of positions with physical or mental qualification requirements pursuant to Subsection 2049.5 of this section, a personnel authority may either deny an applicant examination, deny an eligible appointment, or, instruct or allow the employing agency to remove an appointee, by reason of physical or mental unfitness for the position for which he or she has applied, or to which he or she has been appointed.

2049.8 In addition to a medical examination required pursuant to Subsection 2049.5 of this section, an employing agency may require a medical examination because of an employee's conduct or performance on the job. Such an examination shall be ordered only upon approval by the personnel authority of a written request from the agency.

2049.9 The personnel authority or employing agency may offer a medical examination when an employee has made a request for medical reasons for a change in duty status, assignments, or working conditions, or any other benefit or special treatment (including reemployment on the basis of full or partial recovery from a medical condition), and the employing agency, after it has received and reviewed the employee's medical documentation, determines that it cannot grant, support, or act further on the request without verification of the clinical findings and current clinical status.

2049.10 If an employee wishes his or her employing agency to consider any medical condition that may contribute to his or her unacceptable performance on the job, he or she shall furnish medical documentation, as that term is defined in Section 2099 of this chapter, of the condition. After the employing agency's review of the medical documentation supplied by the employee, the employing agency may, at its discretion, require a medical examination in accordance with this section.

2049.11 The medical examination process shall consist of the following:

(a) When a personnel authority or agency orders or offers a medical examination under this section, it shall inform the applicant or employee in writing of its reasons for ordering or offering the examination, and the consequences for failure to adhere to the request.

(b) The personnel authority or agency shall designate the examining physician, but shall offer an employee or former employee an opportunity to submit medical documentation from his or her personal physician or practitioner which the agency shall review and consider, or to propose a physician or practitioner of his or her choice.

(c) The personnel authority or agency shall provide the examining physician or practitioner with a copy of any approved medical evaluation protocol, any applicable medical qualifications and requirements for the position, or a detailed description of the duties of the position, including physical demands and environmental factors.

(d) The personnel authority or agency may order a psychiatric examination (including a psychological assessment) only when the result of a current general medical examination authorized by the agency or personnel authority under this section indicates no physical explanation for behavior or actions which may affect the safe and efficient performance of the individual or others.

(e) All medical specialty examinations ordered or offered under this section shall be conducted by a medical specialist.

(f) The employee shall pay for any medical examination conducted by a physician or practitioner he or she selected, regardless of whether the medical qualifications examination is ordered or offered by the agency or scheduled on the employee's own initiative.

(g) An agency may authorize, under conditions prescribed by the agency, an agency-required pre-employment medical qualifications examination of an applicant to be conducted by a physician or practitioner designated by the applicant, in which case the applicant shall pay for the examination.

(h) Each agency shall receive and maintain all medical documentation and records of examinations obtained under this section in accordance with the provisions of chapter 31 of these regulations.

(i) The report of an examination conducted under this section shall be made available to the applicant or employee under the provisions of chapter 31 of these regulations.

2049.12 If, based on the review of the medical documentation, in consultation with a physician or practitioner, the employing agency or personnel authority determines that an employee is temporarily disabled from performing his or her duties, the personnel authority may authorize one (1) or more of the following actions, as appropriate:

(a) Detail;

(b) Make existing facilities used by the employee readily accessible to and useable by a qualified individual with a disability;

(c) Temporarily reassign to vacant position;

(d) Change tour of duty; or

(e) Any other feasible assistance in returning the employee to full performance capacity.

2049.13 If, based on the review of the medical documentation, in consultation with a physician or practitioner, the employing agency or personnel authority determines that the disability is permanent, the personnel authority shall do the following:

(a) Determine whether reasonable accommodation can be made that would enable the employee to perform the essential functions of the position;

(b) In the event of a negative determination under Subsection 2049.13 (a) of this section, determine if there is another position available for which the employee qualifies and in which he or she can perform satisfactorily and safely, with or without reasonable accommodation;

(c) In the event of a negative determination under Subsection 2049.13 (b) of this section, explore with the employee, or his or her representative, the eligibility requirements and the advisability of filing for disability retirement or social security disability, as appropriate; or

(d) In the event that the individual does not qualify for or does not apply for disability
retirement or social security disability, or, if his or her application has been disapproved, the personnel authority may initiate action to terminate the employee.

2049.14 If, based on the review of the medical documentation, the personnel authority determines that the employee is fit, and the employee continues to be deficient in either conduct or performance, the personnel authority may take administrative action against the employee. Any action taken against a Career Service employee covered under Chapter 16 of these regulations shall be taken under the provisions therein.

2049.15 This section shall not apply to any situation where an employee, due to a problem or condition that adversely affects his or her overall work performance, and with his or her supervisor's approval, is engaged in a voluntary program of medical

assistance through a personal physician or practitioner, the Employee Assistance Program under Section 2050 of this chapter, or any other recognized and qualified party. In these situations, a medical examination may be offered at the employee's request, and shall be ordered only if the employee continues to perform unsatisfactorily, or poses a significant risk of substantial harm to his or her health or safety, of that of others.

Section 2050, "Employee Assistance Program," is amended as follows:

2050 EMPLOYEE ASSISTANCE PROGRAM

2050.1 In accordance with Section 2007 (3) of the CMPA (D.C. Official Code § 1-620.07 (3)) (2006 Repl.), it shall be the policy of the District government to provide an Employee Assistance Program (EAP) designed to address personal problems that employees may encounter which may adversely affect their overall work performance or conduct on the job.

2050.2 The Director of the Department of Human Resources (Director of the DCHR) shall administer an EAP pursuant to Mayor's Order 91-62, dated May 1, 1991.

2050.3 The provisions of a collective bargaining agreement shall take precedence over the provisions of this section, to the extent that there is a difference or conflict.

2050.4 The EAP shall provide counseling and related services to employees who are experiencing problems, including, but not limited to, the following problems or issues which may adversely affect work performance or conduct on the job:

(a) Family and marital problems;

(b) Financial difficulties;

(c) Emotional or mental illness; and

(d) Substance abuse problems.

2050.5 Records and information on referral to, or participation in, the EAP, shall be maintained in confidence as provided in Chapter 31 of these regulations and any other applicable federal and District of Columbia laws and regulations.

2050.6 An employee who is experiencing problems that adversely affect his or her work performance or conduct on the job shall be encouraged to voluntarily seek assistance to resolve the problems.

2050.7 Managers and supervisors should, in appropriate cases, consider referring to the EAP employees who are experiencing problems which adversely affect their overall work performance or conduct on the job before taking administrative

action against employees.

2050.8 Participation in the EAP shall not preclude the taking of a disciplinary action under Chapter 16 of these regulations, if applicable, or any other appropriate administrative action, in situations where such action is deemed appropriate. The EAP shall not be used in lieu of disciplinary actions, or any other appropriate administrative action.

2050.9 Any employee (excluding temporary employees) shall be eligible to receive services through the EAP.

2050.10 The EAP shall consist of assessment, counseling, and referral services.

2050.11 Involvement in the EAP shall be on the basis of self-referral or agency referral.

2050.12 Up to two (2) hours of administrative leave may be granted to an employee to attend his or her initial EAP appointment.

2050.13 The services of the EAP shall be provided through contracted health care service provider(s).

2050.14 The cost of the initial assessment, counseling, and referral session with the EAP contractor shall be paid in full by the District government, to the extent that the session is not covered by the employee's health insurance carrier.

2050.15 Unless a separate program is established pursuant to the provisions of Subsection 2050.19 of this section, participation in the EAP rather than another employee assistance program in the District government by agencies under the personnel authority of the Mayor shall be mandatory.

2050.16 The Director of the DCHR shall establish the rates for participation in the EAP.

2050.17 The Director of the DCHR may enter into a written agreement with other personnel authorities to provide EAP services.

2050.18 Each subordinate agency and independent personnel authority that participates in the EAP administered by the DCHR shall designate an EAP coordinator.

2050.19 The Director of the DCHR may authorize the establishment of other employee assistance programs in the District government, and each such program shall be consistent with the provisions of this section.

A new Section 2051, "Wellness Program," is added to read as follows:

2051 WELLNESS PROGRAM

2051.1 In accordance with Subsection 2007 (4) of the CMPA (D.C. Official Code § 1-620.07 (4) (2006 Repl.)), a District government wellness program has been established to improve and promote health and fitness of District government employees.

Section 2099, "Definitions," is amended as follows:

2099 DEFINITIONS

2099.1 For the purposes of this chapter, the following terms shall have the meaning ascribed:

Essential functions of the position – the fundamental job duties of the position that an employee or applicant holds or desires. A job function may be considered essential for any of several reasons, including but not limited to the following: the function may be essential because the reason the position exists is to perform that function; because of the limited number of employees available among whom the performance of that job function can be distributed; and/or the function may be highly specialized so that the incumbent in the position is hired for his or her expertise or ability to perform the particular function.

Evidence of whether a particular function is essential includes, but is not limited to the following: the supervisor's judgment as to which functions are essential; written job descriptions prepared before advertising or interviewing applicants for the job; the amount of time spent on the job performing the function; the consequences of not requiring the incumbent to perform the function; the work experience of past incumbents in the job; and/or the current work experience of incumbents in similar job.

Medical condition – A health impairment which results from injury, illness or disease, including psychiatric disease.

Medical documentation or documentation of a medical condition – a statement from a licensed physician or other appropriate practitioner which provides one (1) or more of the following kinds of information:

(a) The history of the specific medical condition(s), including references to findings from previous examinations, treatment, and responses to treatment;

(b) Clinical findings from the most recent medical evaluation, including any of the following

that have been obtained:

(1) Findings of physical examination;

(2) Results of laboratory tests including drug and alcohol screening, X-rays, echocardiograms, and other special evaluations or diagnostic procedures; and

(3) In the case of psychiatric disease evaluation of psychological assessment, the findings of a mental status examination and the results of psychological tests, if appropriate;

(c) Assessment of the current clinical status and plans for future treatment;

(d) Diagnosis;

(e) An estimate of the expected date of full or partial recovery;

(f) An explanation of the impact of the medical condition on the individual's capacity to carry out his or her assigned duties;

(g) Narrative explanation of the medical basis for any conclusion that the medical condition has or has not become static or well stabilized;

(h) Narrative explanation of the medical basis for any conclusion that duty restrictions or accommodations are or are not warranted and, if they are, an explanation of their therapeutic or risk-avoiding value; or

(i) Narrative explanation of the medical basis for any conclusion that indicates the likelihood that the individual is, or is not, expected to suffer injury or harm with or without accommodation, by carrying out the tasks or duties of a position for which he or she is assigned or qualified.

Medical specialist – a physician who is board-certified in a medical specialty.

Physician – A licensed Doctor of Medicine or Doctor of Osteopathy, or a physician who is serving on active duty in the uniformed services and is designated by the uniformed service to conduct examinations under this chapter.

Practitioner – A person providing health services who is not a medical doctor, but who is certified by a national organization and licensed by the District of Columbia or any State to provide the service in question.

Qualified individual with a disability – an individual with a disability who satisfies the requisite skill, experience, education and other job related requirements of the employment position such individual holds or desires, and who, with or without reasonable accommodation, can perform the essential functions of such position.

Reasonable accommodation – modifications or adjustments to a job application process that enable a qualified applicant with a disability to be considered for the position such qualified applicant desires; modifications or adjustments to the work environment, or to the manner or circumstances under which the position held or desired is customarily performed, that enable a qualified individual with a disability to perform the essential functions of that position; or modifications or adjustments that enable a covered entity's employee with a disability to enjoy equal benefits and privileges of employment as are enjoyed by its other similarly situated employees without disabilities. Reasonable accommodation may include but is not limited to: making existing facilities used by employees readily accessible to and usable by individuals with disabilities; job restructuring; part-time or modified work schedules; reassignment to a vacant position; acquisition or modifications of equipment or devices; appropriate adjustment or modifications of examinations, training materials, or policies; the provision of qualified readers or interpreters; and other similar accommodations for individuals with disabilities. All of the above is contingent upon the needs of the agency. A "covered entity" is an employer, employment agency, labor organization, or joint labor management committee.

Review of medical documentation – assessment of medical documentation by, or in coordination with, a physician to ensure that the following criteria are met:

(a) The diagnosis or clinical impression is justified in accordance with established diagnostic criteria; and

(b) The conclusions and recommendations are consistent with generally accepted medical principles and practice.

Comments on these proposed regulations should be submitted, in writing, within thirty (30) days of the date of the publication of this notice to Ms. Eboni Z. Gatewood-Crenshaw, Associate Director, Policy and Compliance Administration, D.C. Department of Human Resources, 441 4th Street, N.W., Suite 330S, Washington, D.C. 20001, or via email at eboni.gatewood-crenshaw@dc.gov. Additional copies of these proposed regulations are available at the above address.

THE DEPUTY MAYOR FOR PLANNING AND ECONOMIC DEVELOPMENT

NOTICE OF PROPOSED RULEMAKING

The Deputy Mayor for Planning and Economic Development (Deputy Mayor), pursuant to the authority set forth in § 107 of the Inclusionary Zoning Implementation Amendment Act of 2006, effective March 14, 2007 (D.C. Law 16-275; D.C. Official Code § 6-1041.07 (2008 Repl. & 2012 Supp.)) (Inclusionary Zoning Act) and Mayor's Order 2008-59, dated April 2, 2008, hereby gives notice of the proposed adoption of amendments to a new Chapter 22 entitled "Inclusionary Zoning Implementation" of Title 14 (Housing) of the District of Columbia Municipal Regulations (DCMR), in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

These rules will amend the procedures for implementing the Inclusionary Zoning Act and the Inclusionary Zoning Regulations adopted by the Zoning Commission for the District of Columbia and codified in Chapter 26 of Title 11 (Zoning) of the DCMR.

On March 9, 2012, a Notice to request comments from the public was published in the *D.C. Register* at 59 DCR 2021. In response to public comments received after the issuance of that notice, certain changes were determined necessary to effectively implement the Inclusionary Zoning Program.

Title 14 (Housing) of the DCMR is amended by adding a new Chapter 22 to read as follows:

CHAPTER 22 INCLUSIONARY ZONING IMPLEMENTATION

Secs.

2200 GENERAL PROVISIONS

2200.1 The purpose of this chapter is to implement the Zoning Commission's Inclusionary Zoning Regulations (Title 11 DCMR, Chapter 26) and the Inclusionary Zoning Act.

2200.2 This chapter implements these aspects of the Inclusionary Zoning Act by establishing, among other things:

(a) The process and prerequisites for obtaining building permits and certificates of occupancy for Inclusionary Developments;

(b) The process for selecting households for an Inclusionary Unit; and

(c) The responsibilities of and limitations on Inclusionary Development Owners, Inclusionary Unit Owners and Inclusionary Unit Tenants.

2200.3 All timeframes established in this chapter for an agency to take an action are guidelines only. An agency's failure to act within a timeframe established in this chapter shall not constitute a default by the agency and shall not permit any person to take or refuse to take any action governed by the Inclusionary Zoning Program.

2200.4 In computing a period of time specified in this chapter, calendar days shall be counted unless otherwise provided.

2200.5 In computing a period of time specified in this chapter, the day of the act, event, or default after which the designated period of time begins to run shall not be included. The last day of the period of time so computed shall be included unless it is a Saturday, Sunday, or official District of Columbia holiday, in which case

the period of time shall run until the end of the next day that is neither a Saturday, Sunday, nor official District of Columbia holiday.

2200.6 When, under this chapter, a person has the right or is required to perform an act within a prescribed period of time after the sending of or the date of a notice or other paper, and the paper or notice is sent by mail, three (3) days shall be added to the prescribed period of time.

2200.7 In the event of a conflict between the provisions of this chapter and the provisions of the Inclusionary Zoning Act or the Zoning Commission's Inclusionary Zoning Regulations, the most stringent provision shall apply.

2201 PREREQUISITES FOR OBTAINING BUILDING PERMITS FOR AN INCLUSIONARY DEVELOPMENT

2201.1 No building permit shall be issued for an Inclusionary Development unless:

(a) DCRA receives and approves an application for a Certificate of Inclusionary Zoning Compliance, signed by the Owner of the Inclusionary Development, demonstrating that the Inclusionary Development will meet the requirements of the Inclusionary Zoning Program; and

(b) The Inclusionary Development Owner files with the District of Columbia Recorder of Deeds the Inclusionary Development Covenant approved and executed by DHCD pursuant to § 2204.

2202 APPLICATION FOR CERTIFICATE OF INCLUSIONARY ZONING COMPLIANCE

2202.1 The Inclusionary Development Owner shall file a written application for a Certificate of Inclusionary Zoning Compliance with DCRA no later than the date upon which the first application for an above grade building permit is filed for the Inclusionary Development.

2202.2 The Inclusionary Development Owner shall include with its application for a Certificate of Inclusionary Zoning Compliance payment of an application fee of two hundred fifty dollars ($250).

2202.3 The Inclusionary Development Owner shall file its application for a Certificate of Inclusionary Zoning Compliance on a form prescribed by DCRA and shall provide such information as is requested on the form.

2202.4 The application form for a Certificate of Inclusionary Zoning Compliance shall include:

(a) The name of the Inclusionary Development, its marketing name if

different, and the apartment house or condominium name, if applicable;

(b) The street address of the Inclusionary Development;

(c) The zone district and, if applicable, overlay district in which the Inclusionary Development is located;

(d) The current and proposed square, suffix, and lot numbers on which the Inclusionary Development will be located;

(e) A list of all Inclusionary Units in the Inclusionary Development. Each Inclusionary Unit shall be identified by unit number, net square footage, and the number of bedrooms. The list shall also include, and separately identify, any Inclusionary Units that will serve as the location for the offsite compliance of another Inclusionary Development, as approved by the Board of Zoning Adjustment, together with a copy of the Board of Zoning Adjustment order approving the offsite compliance;

(f) A certification from the Inclusionary Development's architect or engineer that the size of each Inclusionary Unit is at least ninety-eight percent (98%) of the average size of the same type of Market Rate Unit in the development or at least ninety-eight percent (98%) of the size indicated in the following table, whichever is less:

Types of Dwelling	**Type of Unit**	**Minimum Unit Size (square feet)**
Multiple Family Dwelling	Studio/ Efficiency	400
	One Bedroom	550
	Two Bedroom	800
	Three Bedroom	1000
	Four Bedroom	1050
One or Two Household Dwellings	Two Bedroom	1000
	Three Bedroom	1200
	Four Bedroom	1400

(g) A copy of the site plan, front elevation or block face, and all residential floor plans for the Inclusionary Development. The floor plans shall show the location of each Inclusionary Unit and each Market Rate Unit and shall identify each by unit number;

(h) A copy of the building plat, if required by DCRA pursuant to 12A DCMR § 106.1.12;

(i) A plan for the phasing of construction that demonstrates compliance with 11 DCMR § 2605.5, which requires that all Inclusionary Units in an Inclusionary Development be constructed prior to or concurrently with the construction of Market Rate Units, except that in a phased development,

the Inclusionary Units shall be constructed at a pace that is proportional with the construction of the Market Rate Units;

(j) The total land area of all of the lots included in the Inclusionary Development;

(k) The total gross square footage of the Inclusionary Units in the Inclusionary Development, the net residential square footage of the Inclusionary Development, and the gross residential square footage of the Inclusionary Development;

(l) The total net floor area that will be set aside for Inclusionary Units as calculated by multiplying the total gross square footage of the Inclusionary Units required by 11 DCMR § 2603 by the ratio of the net residential square footage to the gross residential square footage of the Inclusionary Development;

(m) The total gross floor area of Inclusionary Units that will be set aside for Low and Moderate Income Households, if such Inclusionary Units are required by 11 DCMR § 2603.3;

(n) A proposed schedule of standard finishes, fixtures, equipment, and appliances for both Inclusionary Units and Market Rate Units;

(o) For each Inclusionary Unit, the approximate date by which the Inclusionary Development Owner will provide a Notice of Availability pursuant to § 2206;

(p) If construction of the Inclusionary Development will result in the temporary displacement of tenants who are entitled by law to return to comparable units, a list of the Inclusionary Units for which a right of return exists and where the right to return originated; and

(q) Such other information as may be requested by DCRA.

2203 REVIEW AND APPROVAL OF APPLICATION FOR CERTIFICATE OF INCLUSIONARY ZONING COMPLIANCE

2203.1 If DCRA determines that an application for a Certificate of Inclusionary Zoning Compliance does not demonstrate compliance with the Inclusionary Zoning Program or the information provided is insufficient, DCRA shall provide to the Inclusionary Development Owner a written notice of the deficiency and shall allow the Inclusionary Development Owner a reasonable period of time, designated in the written notice, to cure the deficiency.

2203.2 If the Inclusionary Development Owner fails to cure the deficiency within the period of time set forth in the written notice, DCRA may deny the application for the Certificate of Inclusionary Zoning Compliance.

2203.3 If the application for a Certificate of Inclusionary Zoning Compliance demonstrates compliance with the Inclusionary Zoning Program, and the proposed Inclusionary Development Covenant conforms to the requirements of § 2204, DCRA shall review and execute the Certificate of Inclusionary Zoning Compliance and DHCD shall review and execute the Inclusionary Development Covenant prior to final approval of the building permit application.

2203.4 The building permit application may be approved only after both the Certificate of Inclusionary Zoning Compliance and the Inclusionary Development Covenant are filed among land records.

2204 INCLUSIONARY DEVELOPMENT COVENANT

2204.1 The Inclusionary Development Covenant shall be in a form found legally sufficient by the Office of Attorney General and shall bind all persons with a property interest in any or all of the Inclusionary Development, and all assignees, mortgagees, purchasers, and other successors in interest, to such declarations as DHCD may require, but, at a minimum, shall include:

(a) A provision requiring that the present and all future Owners of a Rental Inclusionary Development shall construct or maintain and reserve Inclusionary Units at such affordability levels and in such number, square footage, and comparable level of finish as indicated on the Certificate of Inclusionary Zoning Compliance and shall rent such Inclusionary Units in accordance with the Inclusionary Zoning Program and the Certificate of Inclusionary Zoning Compliance;

(b) A provision requiring that the present and all future Owners of a For Sale Inclusionary Development shall construct and maintain Inclusionary Units at such affordability levels and in such number, and square footage as indicated on the Certificate of Inclusionary Zoning Compliance and shall sell each Inclusionary Unit in accordance with the Inclusionary Zoning Program and the Certificate of Inclusionary Zoning Compliance;

(c) A provision binding all assignees, mortgagees, purchasers, and other successors in interest to the Inclusionary Development Covenant;

(d) A provision providing for the whole or partial release or extinguishment of the Inclusionary Development Covenant only upon the reasonable approval of the Director of DHCD;

(e) A provision requiring that the sale or resale of a For Sale Inclusionary

Unit shall be only to a Household selected by DHCD or otherwise authorized by this chapter, at a price that does not exceed the Maximum Resale Price established in accordance with § 2219;

(f) A provision requiring that the lease rider shall be attached as an Exhibit to the lease for a Rental Inclusionary Unit and shall be executed by the Inclusionary Development Owner and each Inclusionary Unit Tenant, including any occupant of a Rental Inclusionary Unit that is eighteen (18) years old or older; and

(g) To the extent allowed by law, a provision requiring that in the event title to an Inclusionary Unit is transferred according to the provisions of Section 2223.1, the proceeds from such foreclosure or transfer shall be apportioned and paid as described therein.

2204.2 DHCD may require, in its sole discretion, the use of a deed of trust to ensure compliance by an Inclusionary Development Owner or Inclusionary Unit Owner with the Inclusionary Development Covenant.

2205 CERTIFICATES OF OCCUPANCY FOR INCLUSIONARY UNITS

2205.1 An Inclusionary Development Owner shall obtain a certificate of occupancy for each property that contains Inclusionary Units that identifies and includes each Inclusionary Unit in the Inclusionary Development.

2205.2 Prior to the issuance of a certificate of occupancy for an Inclusionary Development, an Inclusionary Development Owner shall provide to DCRA an update of all information provided in its application for a Certificate of Inclusionary Zoning Compliance, if there has been any substantive change to such information since the filing of the application. DCRA shall review the updated information pursuant to the procedures set forth in § 2203.

2205.3 After the submission of the application for a certificate of occupancy, DCRA shall inspect the Inclusionary Development for compliance with the Certificate of Inclusionary Zoning Compliance and the Inclusionary Zoning Program.

2205.4 DCRA shall make good faith efforts to complete its Inclusionary Zoning compliance inspection within seventeen (17) days after receipt of the certificate of occupancy application.

2205.5 No certificate of occupancy for an Inclusionary Development shall be issued unless DCRA determines that the Inclusionary Development is in compliance with the Certificate of Inclusionary Zoning Compliance and the Inclusionary Zoning Program.

2206 NOTICE OF AVAILABILITY; HOUSING LOCATOR WEBSITE REGISTRATION

2206.1 The provisions of this section govern the process by which:

(a) The owner of a For Sale Inclusionary Development or a For Sale Inclusionary Unit fulfills its obligation to notify DHCD that an Inclusionary Unit is available for purchase; and

(b) The owner of a Rental Inclusionary Development fulfills its obligation to notify DHCD that an Inclusionary Unit is available for lease.

2206.2 An Owner shall provide the notification described in § 2206.1 to DHCD by filing a written Notice of Availability in accordance with the provisions of this section.

2206.3 An Owner shall file the initial Notice of Availability for an Inclusionary Unit in an Inclusionary Development prior to the date of submission of the certificate of occupancy application to DCRA applicable to such Inclusionary Unit.

2206.4 An Owner of a For Sale Inclusionary Unit shall file all subsequent Notices of Availability prior to marketing the Inclusionary Unit for sale.

2206.5 A single Notice of Availability may be filed for one or more Inclusionary Units at a time.

2206.6 The Notice of Availability shall include:

(a) The street address and unit number for the Inclusionary Unit(s);

(b) The estimated date upon which the Inclusionary Unit(s) will be available for occupancy;

(c) For each Notice of Availability for a For Sale or Rental Inclusionary Unit, a list of any optional or required upfront or recurring fees and costs, including but not limited to condominium, cooperative, or homeowner association fees and fees or costs for amenities, services, upgrade options, or parking. For each such fee or cost, the following information shall be provided:

(1) The amount of the fee or cost;

(2) A description of the fee or cost and how it will be charged; and

(3) For the initial sale of a For Sale Inclusionary Unit, the budget for the condominium, cooperative, or homeowner association, the

condominium, cooperative, or homeowner association fee for each Market Rate Unit and each Inclusionary Unit, and the formula by which such fee is assessed;

(d) For each subsequent Notice of Availability for a For Sale Inclusionary Unit, an itemized list of all capital improvements and upgrades made to the Inclusionary Unit that the Owner wishes DHCD to consider when establishing the Maximum Resale Price pursuant to § 2219.9. The Inclusionary Unit Owner shall document each cost or value claimed with receipts, contracts, or other supporting evidence;

(e) A statement as to the Owner's chosen method of selection of Households for the Inclusionary Units in accordance with § 2208; and

(f) Such other information as may be required by DHCD.

2206.7 Within five (5) days after the Owner files a Notice of Availability, the Owner shall register the Inclusionary Unit for which the Notice of Availability was filed with the housing locator website established by the District pursuant to the Affordable Housing Clearinghouse Directory Act of 2008, effective August 15, 2008 (D.C. Law 17-215; 55 DCR7494).

2207 DESIGNATION OF MAXIMUM PURCHASE PRICE OR RENT

2207.1 Within seven (7) days after the receipt of a Notice of Availability, DHCD shall notify the Owner of the maximum purchase price or rent for each Inclusionary Unit listed in the Notice of Availability.

2207.2 Except as provided in § 2207.5, the initial maximum purchase price or rent for an Inclusionary Unit shall be the greater of:

(a) The purchase price or rent in the Rent and Price Schedule in place on the filing date of the application for the Certificate of Inclusionary Zoning Compliance issued for the Inclusionary Development in which the Inclusionary Unit is located; or

(b) The purchase price or rent in the Rent and Price Schedule in place on the filing date of the Notice of Availability for the Inclusionary Unit; or

(c) The purchase price or rent in the Rent and Price Schedule in place on the date of the lease or sales contract for the Inclusionary Unit.

2207.3 The maximum purchase price for all subsequent sales of an Inclusionary Unit Owner shall be the Maximum Resale Price determined by DHCD pursuant to § 2219.

2207.4 The maximum rent for all subsequent rentals shall be the rent set forth in the Rent and Price Schedule in place on the date of execution of the most recent lease for an Inclusionary Unit.

2207.5 If the costs provided for a For Sale Inclusionary Unit in response to §2206.6(c) exceed by ten percent (10%) or more the cost assumptions in the applicable Rent and Price Schedule, DHCD may lower the maximum purchase price to the extent needed to maintain the affordability standard set forth in § 103(a) of the Inclusionary Zoning Act (D.C. Official Code § 6-1041.03(a)) and this chapter.

2208 METHOD OF SELECTION OF HOUSEHOLDS

2208.1 Households may be selected for an Inclusionary Unit as follows:

(a) Except as provided in §§ 2208.2 through 2208.4, a Household may be selected for the initial or subsequent sale and for the initial lease of an Inclusionary Unit through a lottery conducted pursuant to § 2211.1;

(b) The Owner may select a Household through a method established by the Owner in a marketing plan approved by DHCD; or

(c) An Inclusionary Unit Owner may select a Household to purchase a For Sale Inclusionary Unit through a District licensed real estate broker.

2208.2 No lottery shall be conducted for the initial or subsequent sale or the initial lease of an Inclusionary Unit if the Inclusionary Unit is to be:

(a) Leased or sold to a household displaced from and entitled by law to return to the Inclusionary Unit;

(b) Leased or sold as a replacement unit as part of the New Communities Initiative; or

(c) Sold by an Inclusionary Unit Owner to the Inclusionary Unit Owner's spouse, domestic partner, parent, trust for the benefit of a child, child who is subject to a guardianship, or child who is eighteen (18) years of age or older, if the spouse, domestic partner, parent, or child submits the information and documents required by § 2214.1.

2208.3 A Household may be selected for the subsequent lease of a Rental Inclusionary Unit through:

(a) A method described in § 2208.2(a) or (b) or

(b) A method established by the Owner in a marketing plan approved by DHCD.

2208.4 If an Inclusionary Unit is subject to a requirement imposed by law or zoning that a specific group, class or type of Household occupy the Inclusionary Unit, or if the Inclusionary Unit meets the accessibility guidelines under the Fair Housing Act, the Household shall be selected for the initial or subsequent sale or lease of an Inclusionary Unit through a method established by the Owner in a marketing plan that is approved by DHCD.

2209 INCLUSIONARY ZONING HOUSEHOLD REGISTRATION

2209.1 In order to be eligible to participate in the household selection process for the rental of an Inclusionary Unit under § 2208.1, a Household shall complete a registration application form with such information as DHCD deems necessary and an Inclusionary Zoning Program education class conducted by DHCD or its designee.

2209.2 In order to be eligible to participate in the household selection process for the purchase of an Inclusionary Unit under § 2208.1 and under § 2208.3, a Household shall complete a registration application form with such information as DHCD deems necessary, attend an Inclusionary Zoning Program education class conducted by DHCD or its designee, complete a homeownership pre-purchase training by DHCD or its designee, and hold an active pre-qualification letter from a first trust lender indicating the household's creditworthiness and ability to afford the purchase price.

2209.3 Registration shall become effective on the date that DHCD considers the registration to be complete and shall expire one (1) year thereafter, unless renewed prior to expiration.

2209.4 A Full-Time Student shall not be eligible for the registration list unless they are Dependents of Parents or Guardians whose Household would otherwise meet the Requirements for IZ program.

2209.5 An application to renew a registration shall indicate any change in any information that was required to be provided in the initial application.

2210 REGISTRATION FOR AN INCLUSIONARY UNIT

2210.1 If the Notice of Availability identifies a DHCD lottery as the chosen selection method or if the Notice of Availability identifies a marketing plan as the chosen selection method, but, as of the date of the Notice of Availability no such marketing plan has been approved by DHCD, then the provisions of this section shall apply.

2210.2 Within five (5) days of receipt of a Notice of Availability, DHCD shall notify the Households on the registration list by email of the availability of the Inclusionary Unit(s) and post the availability on a website designated by DHCD.

2210.3 After a notice is posted on a website designated by DHCD, Households with active registrations under § 2209 who wish to confirm their interest in the available Inclusionary Unit(s) shall provide to DHCD the following within fourteen (14) days of the posting in order to be considered in the household selection process for the Inclusionary Unit(s):

(a) A notice of the Household's interest to rent or purchase the Inclusionary Unit(s) for which the Notice of Availability was filed, in such form as may be approved by DHCD;

(b) A certificate that confirms the Household's completion of an Inclusionary Zoning Program education class; and

(c) If the available Inclusionary Unit is a For Sale Inclusionary Unit:

1. An active pre-qualification letter from a lender indicating the Household's credit worthiness and ability to afford the purchase price.

2. A certificate that confirms the household's completion of a homeownership pre-purchase training by DHCD or its designee

2210.4 DHCD will place all Households who meet the income and household size requirement and have complied with the requirements of § 2210.2 onto one of two (2) lists:

(a) The District List, consisting of Households with at least one (1) member who Lives in the District of Columbia or Works in the District of Columbia and

(b) The Miscellaneous List, consisting of Households that do not qualify to be placed on the District List.

2211 HOUSEHOLD SELECTION THROUGH DISTRICT LOTTERY

2211.1 No later than twenty-one (21) days after DHCD posts the availability of an Inclusionary Unit(s) on a website designated by DHCD, DHCD shall hold a lottery of those Households that identify their interest in the Inclusionary Unit under § 2210.2, that meet the size and Annual Income requirements for the available Inclusionary Unit(s), and provide all the documents required pursuant to § 2210.2.

2211.2 For each Inclusionary Unit, DHCD shall randomly select at least four (4) Households through a lottery from the District List. If fewer than four (4) Households on the District List meet the Household size and Annual Income standards applicable to the Inclusionary Unit, DHCD shall randomly select additional Households through a lottery from the Miscellaneous List in order to select at least four (4) Households that meet the Household size and Annual Income standards applicable for the Inclusionary Unit. If fewer than four (4) households that meet the Household size and Annual Income standards are available on both the District List and the Miscellaneous List, all Households that meet the Household size and Annual Income standards and are interested in the Inclusionary Unit will be given an opportunity to purchase or lease the Inclusionary Unit.

2211.3 If none of the Households selected through a lottery purchase or lease the Inclusionary Unit, DHCD shall continue to hold lotteries pursuant to the procedures set forth in this section until a Household purchases or leases the Inclusionary Unit or the Inclusionary Unit is leased or sold; except as provided in § 2211.6.

2211.4 DHCD may permit, in its sole and absolute discretion, the rental or sale of the Inclusionary Unit to a Household that is not registered under § 2209 but has been determined eligible under § 2214, (a) if more than three (3) months have passed since the Notice of Availability was submitted for the Inclusionary Unit or at least one (1) lottery has been conducted under § 2210; or (b) at any time upon request of the Owner through a marketing plan approved by DHCD, as long as no Household selected through a lottery is still within the qualification process for an Inclusionary Unit at the time of the request.

2211.5 With respect to each Household selected pursuant to a lottery under this section, DHCD shall provide a notice under § 2212.2.

2212 DISTRICT LOTTERY – NOTIFICATION OF HOUSEHOLDS AND OWNERS

2212.1 No later than seven (7) days after a lottery is held, DHCD shall provide to the Owner a written list of the Households selected pursuant to the lottery.

2212.2 No later than seven (7) days after a lottery is held, DHCD shall provide a notice to each of the Households selected in the lottery of their selection and shall provide to each Household the address, unit type, and maximum rent or purchase price of the Inclusionary Unit for which the lottery was held and the means by which the Household may provide to the Owner the information required by § 2212.3.

2212.3 The notice provided pursuant to § 2212.2 for a For Sale Inclusionary Unit shall inform each Household that the Household is required to provide the following, as appropriate, to the Owner within thirty (30) days after the date of the notice:

(a) A Declaration of Eligibility, as described in § 2214.4;

(b) A Certification of Income, Affordability, and Housing Size, as described in § 2214.4;

(c) A mortgage pre-approval letter from a lender for the Inclusionary Unit for which the Household was selected;

(d) An executed sales contract for the For Sale Inclusionary Unit; and

(e) Any other documents requested by DHCD.

2212.4 The notice provided pursuant to § 2212.2 for a Rental Inclusionary Unit shall inform each Household that the Household is required to provide the following, as appropriate, to the Owner within fifteen (15) days after the date of the notice:

(a) A Declaration of Eligibility, as described in § 22144;

(b) A Certification of Income, Affordability, and Housing Size, as described in § 2214.4;

(c) An executed lease for the Rental Inclusionary Unit; and

(d) Any other documents requested by DHCD.

2212.5 A Household that fails to meet a deadline set forth in § 2212.3 or § 2212.4 shall be ineligible to purchase or rent the Inclusionary Unit(s) for which they have confirmed their interest, unless the Owner extends the deadline.

2213 DISTRICT LOTTERY — MARKETING OF INCLUSIONARY UNITS TO HOUSEHOLDS SELECTED PURSUANT TO THE LOTTERY

2213.1 The Owner shall market an Inclusionary Unit to each of the Households referred to the Owner under § 2212.1.

2213.2 The Owner may lease or sell the Inclusionary Unit to the first Household referred to the Owner that is ready and eligible to lease or purchase the Inclusionary Unit and also meets the Owner's non-income based rental or sale criteria.

2213.3 If more than one (1) Household is ready and eligible to lease or purchase the Inclusionary Unit at the same day, then the Household who has been on the Registration list the longest will have priority to lease or purchase the unit.

2213.4 The Inclusionary Unit Owner shall provide the Inclusionary Covenant to a Household referred to the Owner within five (5) days after a request from the Household.

2214 VERIFICATION OF HOUSEHOLD ELIGIBILITY; REQUIRED CERTIFICATIONS

2214.1 In order to be eligible to rent or purchase an Inclusionary Unit, a Household shall provide to the Owner of the Inclusionary Unit and DHCD a Declaration of Eligibility and a Certification of Income, Affordability, and Housing Size.

2214.2 Except as set forth in § 2208.2(a), an Owner shall sell or rent an Inclusionary Unit only to a Household which:

(a) Has provided a Certification of Income, Affordability, and Housing Size, obtained from a Certifying Entity, that complies with the requirements of this section and

(b) Has executed and provided a Declaration of Eligibility that complies with the requirements of this section.

2214.3 A Declaration of Eligibility required by this section shall be made on a form prescribed by DHCD and shall include a notarized statement sworn under penalty of perjury by all members of the Household who are at least eighteen (18) years of age that:

(a) The Certification of Income, Affordability, and Housing Size provided to the Owner was obtained from a Certifying Entity;

(b) The Household provided accurate and complete information to the Certifying Entity;

(c) Each member of the Household will occupy the Inclusionary Unit as his or her principal residence;

(d) No member of the Household has an ownership interest in any other housing or the member will divest such interest before closing on the purchase of, or signing the lease for, the Inclusionary Unit;

(e) If a for sale Inclusionary Unit, the members of the Household who are at least eighteen (18) years of age have satisfactorily completed an Inclusionary Zoning Program counseling class for homebuyers approved by DHCD and evidence of such satisfactory completion is attached to the Declaration of Eligibility;

(f) If a rental Inclusionary Unit, the members of the Household who are at least eighteen (18) years of age have satisfactorily completed a Inclusionary Zoning Program counseling class for renters approved by

DHCD and evidence of such satisfactory completion is attached to the Declaration of Eligibility;

(g) The Household understands its rights and obligations under the Inclusionary Covenant or lease riders required pursuant to § 2217.1; and

(h) Any other representations required by DHCD as part of the form.

2214.4 A Certification of Income, Affordability, and Housing Size required by this section shall be made on a form prescribed by DHCD and signed by an authorized representative of a Certifying Entity , certifying:

(a) The Household's Annual Income;

(b) That the Household's Annual Income qualifies the Household as being either a Low-Income Household or Moderate-Income Household, except that upon lease renewal for a Rental Inclusionary Unit, the Household's Annual Income does not exceed 140% of the income limit imposed by the Certificate of Inclusionary Zoning Compliance applicable to the Inclusionary Unit;

(c) The Household's size;

(d) That the Household's size is at least the size applicable to the Inclusionary Unit under § 2214.5 upon initial occupancy only;

(e) For a For Sale Inclusionary Unit, that the Household will not expend more than forty-one percent (41%) of its Annual Income on mortgage payments, Insurance, real property taxes, and condominium and homeowner association fees for the applicable Inclusionary Unit;

(f) For the initial Rental Inclusionary Unit, that the Household will not expend more than thirty-eight percent (38%) of its Annual Income on rent and Utilities; and

(g) Any other information or certifications required by DHCD.

2214.5 Unit size eligibility shall be determined based upon the following standards, regardless of the number of bathrooms or the existence of dens or other rooms that are not Bedrooms:

Unit Size (Bedroom)	Minimum Number of Persons in Unit
Studio or Efficiency (0)	1
1	1
2	2
3	3
4	4
5	5
6	5

2215 CERTIFYING ENTITY

2215.1 A Household shall obtain, and an Owner shall accept, a Certification of Income, Affordability, and Housing Size only from a Certifying Entity.

2215.2 DHCD may approve a Certifying Entity pursuant to a request for proposals process or through an application process.

2215.3 DHCD shall approve a Certifying Entity based on the entity's experience in successfully implementing activities similar to those described in § 2215.4, the capacity and experience of the entity's staff and management, the capacity and support of the entity's board of directors, the strength of the entity's financial and management systems, and any other factors DHCD deems relevant.

2215.4 A Certifying Entity shall be responsible for verification of a Household's Annual Income, verification of a Household's household size, verification that the rent or purchase price of an Inclusionary Unit is affordable to the Household, counseling and training Households on the Inclusionary Zoning Program, reporting data to DHCD, compliance with relevant regulations, and any other activities required by DHCD.

2216 CLOSING PROCEDURES

2216.1 Prior to closing, the Owner shall attach as exhibits to the deed used to convey a For Sale Inclusionary Unit the Declaration of Eligibility provided to the Owner by the Household purchasing the Inclusionary Unit, or such portions of the document designated by DHCD.

2216.2 The Owner shall include the following statement in twelve (12) point or larger type, in all capital letters, on the front page of the deed:

THIS DEED IS DELIVERED AND ACCEPTED SUBJECT TO THE PROVISIONS AND CONDITIONS SET FORTH IN THAT CERTAIN INCLUSIONARY DEVELOPMENT COVENANT, DATED AS OF

_____, 20__, RECORDED AMONG THE LAND RECORDS OF THE DISTRICT OF COLUMBIA AS INSTRUMENT NUMBER _____, ON _____ 20__, WHICH AMONG OTHER THINGS IMPOSES RESTRICTIONS ON THE SALE AND CONVEYANCE OF THE SUBJECT PROPERTY.

2216.3 Within seventeen (17) days after closing, the new Inclusionary Unit Owner shall provide DHCD with a signed copy of the United States Department of Housing and Urban Development Settlement Statement and a copy of the new deed (including the Declaration of Eligibility).

2217 RESPONSIBILITIES OF RENTAL INCLUSIONARY DEVELOPMENT OWNERS AND TENANTS

2217.1 No later than sixty (60) days before each anniversary of the first day of the lease, a Household leasing a Rental Inclusionary Unit shall submit to the Inclusionary Development Owner the following information and documents on or with such form as may be prescribed by DHCD:

(a) A statement as to whether the Tenant intends to renew the lease or vacate the Inclusionary Unit; and

(b) If the Tenant states that he or she intends to renew the lease:

(1) The names of each person residing in the unit;

(2) A Certification of Income, Affordability, and Housing Size that meets the requirements of § 2214.4; and

(3) A Declaration of Eligibility that meets the requirements of § 2214.4.

2217.2 A rider shall be attached to the lease agreement for each Rental Inclusionary Unit. The rider shall contain, but shall not be limited to, the following terms:

(a) The Tenant shall provide a Certification of Income, Affordability, and Housing Size in accordance with § 2217.1;

(b) The Tenant shall provide a Declaration of Eligibility in accordance with § 2217.1;

(c) The Tenant shall annually confirm its eligibility for the Inclusionary Unit based on the Annual Income requirements;

(d) The Tenant shall provide the information and documents required by § 2217.1 within the time period specified by § 2217.1;

(e) The Inclusionary Unit shall be the principal residence of all adult Household members who occupy the Inclusionary Unit; and

(f) The Tenant shall not make intentional misrepresentations to DHCD or the Certifying Entity.

2217.3 The Owner may, in the Owner's discretion, extend the deadline established by § 2217.1; provided, the deadline shall not be extended beyond the last day of the Tenant's lease.

2217.4 If a Tenant is in violation of a lease agreement or rider, the Inclusionary Development Owner shall provide to the Tenant a notice to vacate in accordance with § 42-3505.01(b) of the D.C. Official Code.

2217.5 If a notice to vacate is provided pursuant to § 2217.4, the Inclusionary Development Owner may permit the Household to continue to occupy the unit at the current rent for no more than six (6) months after the Inclusionary Development Owner provides to the Tenant the notice to vacate. Acceptance of rent during this period will not constitute a waiver of the violation of the lease or another obligation of tenancy or void the notice to vacate.

2217.6 The Inclusionary Development Owner shall not require payment of rent that is greater than the maximum allowable rent determined in accordance with §§ 2207.2 and 2207.4.

2217.7 Annually within fifteen (15) days after the anniversary of the issuance date of the first certificate of occupancy for an Inclusionary Unit in a Rental Inclusionary Development, the Inclusionary Development Owner shall submit a report to DHCD setting forth the following information for the entire Rental Inclusionary Development:

(a) The number of Rental Inclusionary Units, by bedroom count, that are occupied;

(b) The number of Rental Inclusionary Units, by bedroom count, that were vacated during the previous twelve (12) months;

(c) For each Rental Inclusionary Unit vacated during the previous twelve (12) months, the unit number of the unit that was vacated, the number of days the unit was vacant (or a statement that the unit is still vacant), and the date on which a Notice of Availability was provided to DHCD pursuant to § 2206;

(d) For each occupied Rental Inclusionary Unit, the names of all occupants, the Household size, and the Household's Annual Income as of the date of the most recent Certification of Income, Affordability, and Housing Size;

(e) A sworn statement that to the best of the Inclusionary Development Owner's information and knowledge, the Annual Income of each Household occupying each Rental Inclusionary Unit complies with the income limits applicable to the Rental Inclusionary Unit;

(f) A copy of each new and revised Certification of Income, Affordability, and Housing Size provided in accordance with § 2217.1; and

(g) A certification that for each Rental Inclusionary Unit that became available over the course of the reporting year Households were selected to occupy the Rental Inclusionary Units pursuant to the approved marketing plan.

2218 RESPONSIBILITIES OF INCLUSIONARY UNIT OWNERS

2218.1 Annually on the anniversary of the closing date for a For Sale Inclusionary Unit, the Inclusionary Unit Owner shall submit to DHCD a certification that it continues to occupy the unit as its principal residence. The certification shall be submitted on or with such form as may be prescribed by DHCD.

2219 DETERMINATION OF MAXIMUM RESALE PRICE

2219.1 The Maximum Resale Price ("MRP") shall be equal to the greater of:

(a) The original purchase price during the first year of ownership, or (for all subsequent years) the Maximum Resale Price of the previous year, multiplied by the annual rate of change in the AMI over a ten year period starting with the first AMI published by HUD after the purchase of the Inclusionary Unit by the Inclusionary Unit Owner. The resulting formula for the new Maximum Resale Price in any given year "n" is therefore $MRP_n = (MRP_{n-1} \times F_n)$ ("Formula"), where:

a. n = is the current AMI year starting from the most recent publication of the AMI by HUD and

b. F_n = the rate of appreciation of the current AMI of any given year "n." F_n is calculated by determining the ten year compounded annual growth rate of the AMI; or

(b) The maximum purchase price for the same unit type from the current published Maximum Price and Purchase Schedule as of the date of the Notice of Availability.

2219.2 Upon the submission of a Notice of Availability by an Inclusionary Unit Owner to DHCD, the Maximum Resale Price may be adjusted for the value of all the Eligible Capital Improvements and Eligible Replacement and Repair Costs made to the property during that Inclusionary Unit Owner's ownership of the Inclusionary Unit to the extent they are permanent in nature and add to the market value of the property at the percentage of cost indicted:

(a) Eligible Capital Improvements, which will be valued at 100% of reasonable cost, as determined by DHCD and

(b) Eligible Replacement and Repair Costs, which shall be valued at 50% of reasonable cost, as determined by DHCD.

2219.3 Any For Sale Inclusionary Development for which the Inclusionary Development Owner has executed and recorded an Inclusionary Development Covenant prior to [input effective date of amended rules] shall be subject to the terms of § 2219.1 effective as of the recordation date of the Inclusionary Development Covenant.

2219.4 Ineligible costs shall not be considered in determining the value of Eligible Capital Improvement and Eligible Replacement and Repair Costs.

2219.5 The value of improvements may be determined by DHCD based upon documentation provided by the Inclusionary Unit Owner or**,** if not provided, upon a standard value established by DHCD.

2219.6 DHCD may disallow an Eligible Capital Improvement or Eligible Replacement and Repair Cost if DHCD finds that the improvement diminished or did not increase the fair market value of the Inclusionary Unit.

2219.7 DHCD may reduce the value of an improvement claimed by the Inclusionary Unit Owner if there is evidence of abnormal physical deterioration of, or abnormal wear and tear to, the improvement.

2219.8 The Owner shall permit a representative of DHCD to inspect the Inclusionary Unit upon request to verify the existence and value of any improvements that are claimed by the Inclusionary Unit Owner.

2219.9 An allowance may be made in the Maximum Resale Price for the payment of legal fees associated with the sale of the Inclusionary Unit if written approval is obtained from DHCD.

2219.10 The value of personal property transferred to a purchaser in connection with the resale of a For Sale Inclusionary Unit shall not be considered part of the sales price of the For Sale Inclusionary Unit for the purposes of determining whether

the sales price of the For Sale Inclusionary Unit exceeds the Maximum Resale Price.

2220 RENTAL OF A FOR SALE INCLUSIONARY UNIT

2220.1 An Inclusionary Unit Owner may temporarily lease a For Sale Inclusionary Unit in accordance with the provisions of this section if such lease is not otherwise prohibited by applicable cooperative, condominium, or homeowner association rules.

2220.2 Upon written submission of a request for a waiver of the principal occupancy requirement for a temporary absence from an Inclusionary Unit and supporting documentation, DHCD may permit an Inclusionary Unit Owner to temporarily lease a For Sale Inclusionary Unit. DHCD shall approve or disapprove the request in its sole discretion considering the evidence before it.

2220.3 The lease term may not exceed twelve (12) months.

2220.4 An Inclusionary Unit Owner who is leasing a For Sale Inclusionary Unit in accordance with this section shall select tenant Households pursuant to §2208.2(c) and § 2208.3(b).

2220.3 Inclusionary Unit Owners that are approved by DHCD to temporarily lease their For Sale Inclusionary Units, and tenants of these For Sale Inclusionary Units, shall comply with the requirements in § 2217.

2220.4 The maximum rent charged during a temporary lease of a For Sale Inclusionary Unit shall be the rent set forth in the Rent and Price Schedule in place on the date of the lease.

2220.5 A condominium fee or assessment that a tenant of a For Sale Inclusionary Unit Owner leased under this section is required to pay pursuant to the terms of his or her lease shall be considered part of the rent of the tenant when determining whether the rent charged is consistent with the Maximum Rent and Purchase Price Schedule.

2221 CONVERSION OF A RENTAL INCLUSIONARY DEVELOPMENT TO A FOR SALE INCLUSIONARY DEVELOPMENT

2221.3 No condominium or cooperative documents may be filed to convert a Rental Inclusionary Development to a condominium or cooperative until a new application for a Certificate of Inclusionary Zoning Compliance is filed by the Inclusionary Development Owner and approved by DCRA and a Certificate of Inclusionary Zoning Compliance is issued by DCRA pursuant to the provisions set forth in § 2203.

2221.4 Following the issuance of a new Certificate of Inclusionary Zoning Compliance under this section, the Inclusionary Development Owner shall record a new or amendatory Inclusionary Development Covenant, applicable to a For Sale Inclusionary Development that complies with § 2204 prior to the conveyance of any For Sale Inclusionary Unit.

2221.5 The application for a Certificate of Inclusionary Zoning Compliance filed under this section shall comply with § 2202.4.

2221.6 Tenants occupying Rental Inclusionary Units shall have the same rights as are provided in the Rental Housing Conversion and Sale Act of 1980, effective September 10, 1980 (D.C. Law 3-86; D.C. Official Code § 42-3401.01 *et seq.*) ("Conversion Act").

2221.7 The offered sales price for a Rental Inclusionary Unit converted to a For Sale Inclusionary Unit shall not exceed the applicable maximum purchase price stated on the Price and Rent Schedule that is in effect on the date that the Tenant receives the first notice of conversion pursuant to the Conversion Act.

2221.8 If the tenant does not purchase the Inclusionary Unit within the time provided in the Conversion Act, and the tenant is not entitled to remain in the unit pursuant to section 208 of the Conversion Act (D.C. Official Code § 42-3402.08), the Inclusionary Development Owner shall furnish DHCD with a Notice of Availability pursuant to § 2206 and register the Inclusionary Unit with the website established by the District pursuant to the Affordable Housing Clearinghouse Directory Act of 2008, effective August 15, 2008 (D.C. Law 17-215; 55 DCR 5313).

2222 SALE BY HEIRS

2222.1 If an Inclusionary Unit Owner dies, at least one (1) heir, legatee, or other person taking title to the Inclusionary Unit by will or by operation of law shall occupy the Inclusionary Unit in accordance with these regulations or shall provide DHCD with a Notice of Availability in accordance with § 2206.

2223 FORECLOSURE

2223.1 If title to a For Sale Inclusionary Unit is transferred following foreclosure by, or deed-in-lieu of foreclosure to, a mortgagee in first position, or a mortgage in first position is assigned to the Secretary of the U.S. Department of Housing and Urban Development, Inclusionary Unit Covenant shall be released in accordance with the provisions of the Zoning Commission's Inclusionary Zoning Regulations (Title 11 DCMR, Chapter 26).

2224 VIOLATIONS AND OPPORTUNITY TO CURE

2224.1 Prior to exercising the authority to revoke a building permit or certificate of occupancy pursuant to § 104 of the Inclusionary Zoning Act, DCRA shall provide to the person who is alleged to have violated the Inclusionary Zoning Act or this chapter a written notice setting forth with particularity the alleged violation and shall provide to that person at least thirty (30) days to cure the alleged violation. If the person cures the violation within the designated cure period, DCRA shall not exercise its authority to revoke a building permit or certificate of occupancy pursuant to § 104 of the Inclusionary Zoning Act. DCRA may extend the designated cure period for good cause shown.

2224.2 DCRA shall not revoke a building permit or certificate of occupancy pursuant to § 104 of the Inclusionary Zoning Act except for a willful, substantial violation of the Inclusionary Zoning Act or this chapter.

2225 WAIVER

2225.1 The Director of DHCD may, upon the request of an agency of the District or the written request of an Inclusionary Development Owner, waive any or all of the provisions of this chapter in the DHCD's sole and absolute discretion if waiver of the provision supports the general purposes of the Inclusionary Zoning Program within 11 DCMR § 2600.3.

2226 APPLICABILITY

2226.1 These rules shall become applicable immediately in accordance with the Zoning Commission's Inclusionary Zoning Regulations (Title 11 DCMR, Chapter 26) and the provisions of the Inclusionary Zoning Act.

2299 DEFINITIONS

2299.1 When used in this chapter, the following words and phrases shall have the meanings ascribed below:

Annual Income – annual income as defined in 24 C.F.R. § 5.609 as of [input effective date of amended rules].

Area Median Income – the area median income for a household in the Washington Metropolitan Statistical Area as set forth in the periodic calculation provided by the United States Department of Housing and Urban Development, adjusted for household size without regard to any adjustments made by the United States Department of Housing and Urban Development for the purposes of the programs it administers. Adjustments of Area Median Income for household size shall be made as prescribed in section 2(1) of the Housing Production Trust Fund Act,

effective March 16, 1989 (D.C. Law 7-202; D.C. Official Code §§ 42-2801(1)).

Bedroom – a room with immediate access to an exterior window and a closet that is designated as a "bedroom" or "sleeping room" on construction plans submitted with an application for a building permit for an Inclusionary Development.

Certifying Entity – an entity approved by DHCD pursuant to § 2215.5.

DCRA – the D.C. Department of Consumer and Regulatory Affairs.

Dependent – an individual as defined in § 152 of the Internal Revenue Code (26 USC § 154).

DHCD – the D.C. Department of Housing and Community Development.

Eligible Capital Improvement – major structural system upgrades, special assessments, new additions, and improvements related to increasing the health, safety, or energy efficiency of an Inclusionary Unit. Such improvements generally include: (i) major electrical wiring system upgrades; (ii) major plumbing system upgrades; (iii) room additions; (iv) installation of additional closets and walls; (v) alarm systems; (vi) smoke detectors; (vii) removal of toxic substances, such as asbestos, lead, mold, or mildew; (viii) insulation or upgrades to double-paned windows or glass fireplace screens; and (ix) upgrade to Energy Star built-in appliances, such as furnaces, water heaters, stoves, ranges, dishwashers, and microwave hoods.

Eligible Replacement and Repair Cost – in-kind replacement of existing amenities and repairs and general maintenance that keep an Inclusionary Unit in good working condition. Such improvements generally include: (i) electrical maintenance and repair, such as switches and outlets; (ii) plumbing maintenance and repair, such as faucets, supply lines, and sinks; (iii) replacement or repair of flooring, countertops, cabinets, bathroom tile, or bathroom vanities; (iv) non-Energy Star replacement of built-in appliances, including furnaces, water heaters, stoves, ranges, dishwashers, and microwave hoods; (v) replacement of window sashes; (vi) fireplace maintenance or in-kind replacement; (vii) heating system maintenance and repairs; and (viii) lighting system.

For Sale Inclusionary Development – the portion of an Inclusionary Development that includes or will include Inclusionary Units that will be sold to Households.

For Sale Inclusionary Unit – an Inclusionary Unit that will be or has been sold to a Household.

Full Time Student - a person who is enrolled in a class load that is considered full-time for day students under the standards and practices of the college or university attended by that person.

Guardian - a person who is appointed by court order and who is charged with the care, custody, and responsibility of a person under the age of 18 years.

Household – all persons who will occupy the Inclusionary Unit. A Household may be a single family, one (1) person living alone, two (2) or more families living together, or any other group of related or unrelated persons who share living arrangements.

Inclusionary Development – a development subject to the provisions of the Inclusionary Zoning Program.

Inclusionary Development Covenant – the Inclusionary Development Covenant described in § 2204.

Inclusionary Development Owner – a person, firm, partnership, association, joint venture, or corporation, or government with a property interest in land or improvements that is or will be occupied by an Inclusionary Development, but excluding Inclusionary Unit Owners.

Inclusionary Unit– a dwelling unit set aside for sale or rental to Low-Income or Moderate-Income Households as required by the Inclusionary Zoning Program.

Inclusionary Unit Owner – a Household member or members that own(s) a For Sale Inclusionary Unit.

Inclusionary Zoning Act – the Inclusionary Zoning Implementation Act of 2006, effective March 14, 2007 (D.C. Law 16-275; D.C. Official Code § 6-1041.01 *et seq.*).

Inclusionary Zoning Program – all of the provisions of the Zoning Commission's Inclusionary Zoning Regulations, the Inclusionary Zoning Act, and this Chapter.

Ineligible Costs – normal maintenance, general repair work, personal or decorative items or work, cosmetic enhancements, installations with limited useful life spans, and non-permanent fixtures not eligible for capital improvement credit as determined by DHCD. Such costs generally include: (i) cosmetic enhancements such as fireplace tiles and mantels, decorative wall coverings or hangings, window treatments (for example, blinds, shutters, and curtains), installed mirrors, shelving, and refinishing

of existing surfaces; (ii) non-permanent fixtures, such as track lighting, door knobs, handles and locks, and portable appliances; and (iii) installations with limited useful life spans, such as carpet, painting of existing surfaces, and light bulbs.

Insurance – hazard insurance for single family For Sale Inclusionary Unit and mortgage insurance for any For Sale Inclusionary Unit.

Lives in the District of Columbia - the situation where a person who maintains a place of abode in the District of Columbia as his or her actual, regular, and principal place of residence.

Low-Income Household – a Household with a total Annual Income equal to or less than fifty percent (50%) of the Area Median Income, adjusted for household size.

Market Rate Unit – a unit in an Inclusionary Development that is not an Inclusionary Unit.

Moderate-Income Household – a Household with a total Annual Income greater than fifty percent (50%) and less than or equal to eighty percent (80%) of the Area Median Income adjusted for household size.

Notice of Availability – the notice required to be provided to DHCD by an Owner in accordance with § 2206.

Owner – both an Inclusionary Development Owner and an Inclusionary Unit Owner.

Parent - the natural or adoptive mother or father of a person.

Rent and Price Schedule – the rent and price schedule published in the *D.C. Register* pursuant to § 103(b) of the Inclusionary Zoning Act (D.C. Official Code § 6-1041.03(b)).

Rental Inclusionary Development – the portion of an Inclusionary Development that includes, or will include, Inclusionary Units that will be leased to Households.

Rental Inclusionary Unit – an Inclusionary Unit that will be or has been leased to a Household.

Tenant – a Household member or members that occupy a Rental Inclusionary Unit.

Utilities – water, sewer, electricity, natural gas, trash, and any other fees required

in order to occupy the Inclusionary Unit.

Works in District of Columbia - the situation where a person who reports to work in the District, irrespective of any travel for work or telecommuting.

All persons desiring to comment on the subject matter of this proposed rulemaking should submit comments in writing to Taura Smalls, Legislative Affairs Specialist, Department of Housing and Community Services, 1800 Martin Luther King, Jr, Ave, SE, Washington, D.C. 20020, not later than thirty (30) days after the date of publication of this notice in the *D.C. Register*. Copies of the proposed rules can be obtained from the Department at the address listed above. A copying fee of one dollar ($1) will be charged for each requested copy of the proposed rulemaking requested.

DISTRICT OF COLUMBIA RETIREMENT BOARD

NOTICE OF PROPOSED RULEMAKING

The District of Columbia Retirement Board (the Board), pursuant to the authority set forth in Section 121(i) of the District of Columbia Retirement Reform Act of 1979, effective November 17, 1979, (Pub. L. 96-122, 93 Stat. 866; D.C. Official Code § 1-711(e) (2011 Repl.)) (the Reform Act), hereby gives notice of its intent to adopt the following amendment to the District of Columbia Retirement Board Rules under Chapter 15 (District of Columbia Retirement Board) of Title 7 (Employee Benefits) of the District of Columbia Municipal Regulations, in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

The Board was established by the Reform Act as an independent agency of government of the District of Columbia. The Board is responsible for managing and controlling the Police Officers and Fire Fighters' Retirement Fund and the Teachers' Retirement Fund, as well as implementing and administering the retirement and post-employment benefit programs for members and officers of the Metropolitan Police Department and the Fire Department of the District of Columbia, and the teachers in the public day schools of the District of Columbia. *See* D.C. Official Code §§ 1-711(a), 1-901.02(13), (13A), (16)(A), (C), (22) (2011 Repl.); the Balanced Budget Act of 1997, effective August 5, 1997 (Pub. L. 105-33, 111 Stat. 725, § 11042(a); D.C. Official Code § 1-809.02(a) (2011 Repl.)).

The proposed rule will amend the Board's governing standards for establishing a quorum when vacancies occur.

Section 1511, QUORUM, of Chapter 15, DISTRICT OF COLUMBIA RETIREMENT BOARD, of Title 7, EMPLOYEE BENEFITS, of the District of Columbia Municipal Regulations is amended as follows:

Subsection 1511.1 is amended to read as follows:

1511.1 The applicable statutory requirements shall determine the number of members constituting a quorum for the transaction of Board business. A majority of members actually serving on the Board constitute a quorum when there are vacancies. Board business cannot be transacted until a quorum is present. For this purpose, "present" means (a) physically attending the meeting or (b) participating in the meeting via teleconference, via videoconference, or via other electronic means as the Board determines.

All persons desiring to comment on the subject matter of this proposed rulemaking should file comments in writing not later than thirty (30) days after the date of publication of this notice in the *D.C. Register*. Comments should be filed with the General Counsel of the D.C. Retirement Board, 900 7th Street, N.W., 2nd Floor, Washington, D.C. 20001. Copies of the proposed rules may be obtained at the Board.

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
CONSTRUCTION CODES COORDINATING BOARD

NOTICE OF EMERGENCY AND PROPOSED 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. & 2012 Supp.)) 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 (2011 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 give notice of the adoption of the following emergency rulemaking amending Subtitle A (Building Code Supplement) of Title 12 (D.C. Construction Codes Supplement of 2008) of the District of Columbia Municipal Regulations.

This emergency rulemaking is necessitated by the immediate need to amend provisions of the Green Building Act dealing with applicability of the law to construction projects, the process for submitting a financial security for certain projects, drawdowns of the financial security, and verification of compliance with the Green Building Act.

To clearly show the changes being made to the Building Code Supplement, additions are shown in underlined text and deletions are shown in ~~strikethrough~~ text.

This emergency rulemaking was adopted on July 1, 2013, to become effective immediately. This emergency rulemaking will remain in effect for up to one hundred twenty (120) days from the date of effectiveness. The rules will expire on October 29, 2013.

The Chairperson and Director also hereby give notice of the intent to take final rulemaking action to adopt this amendment. Pursuant to Section 10(a) of the Act and Section 12(a) of the Green Building Act, the proposed amendment will be submitted to the Council of the District of Columbia for a forty-five (45) day period of review, and final rulemaking action will not be taken until the later of thirty (30) days after the date of publication of this notice in the *D.C. Register* or Council approval of the amendment.

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:

NEW CONSTRUCTION (For Chapter 13A). The construction of any *building* or *structure* whether as a stand-alone, or an *addition* to, a *building* or *structure*. The term "new construction" includes new *buildings* and *additions* or enlargements of existing buildings, exclusive of any

alterations or *repairs* to any existing portion of a *building*.

RESIDENTIAL OCCUPANCIES (For Chapter 13A). Residential Group R-2, R-3 or R-4 occupancies, and *buildings* regulated by the *Residential Code*.

SUBSTANTIAL IMPROVEMENT (For Chapter 13A). Any *repair* or *alteration* of, or *addition* to, a *building* or *structure*, the cost of which equals or exceeds 50 percent of the market value of the *building* or *structure* before the *repair*, *alteration*, or *addition* is started.

Amend the following definitions in Section 202A of the Building Code to read as follows:

FLOOR AREA, GROSS (For Chapter 13A). The definition of *gross floor area* set forth in DCMR Title 11 (Zoning Regulations), Section 199 (Definitions), ~~shall have the same meaning as in the Zoning Regulations, 11 DCMR § 199,~~ and as interpreted by the Zoning Administrator, is incorporated by this reference.

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

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 a *substantial improvement* ~~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^2) 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 occupancies* ~~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 occupancies* ~~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 ~~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. This section shall apply only to the

following: (1) schools owned, operated or maintained by the District of Columbia Public Schools (DCPS); and (2) District of Columbia public charter schools.

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.~~ Prior to submitting a permit application under this exception, the applicant shall obtain an exemption based on insufficient funding from DDOE pursuant to Section 1301.1.11.

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^2) or more of *gross floor area* for *residential occupancies* ~~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*. The applicant shall provide plans and supporting documents in sufficient detail and clarity to enable the *code official* to verify compliance with this section. A ~~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 occupancies* ~~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^2) 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^2) 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^2) 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 *substantial improvement.* ~~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^2) 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^2) 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 occupancies* ~~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 project. ~~Residential Group R project.~~ Where *residential occupancies* ~~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^2) 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.

1301.1.2.4 Educational Group E. A *project* of Educational Group E occupancy 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. This section shall apply only to the following: (1) schools owned, operated or maintained by the District of Columbia Public Schools (DCPS); and (2) District of Columbia public charter schools.

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. Prior to submitting a permit application under this exception, the applicant shall obtain an exemption based on insufficient funding from DDOE pursuant to Section 1301.1.11.

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 1301.1.2.4.

1301.1.2.5 Terminology. Where the term "gross floor space" is used in the Green Building Act, the term shall mean *gross floor area.*

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 listed in Chapter 35 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 (excluding residential *projects* subject to 1301.1.1.4) or Sections 1301.1.2.2 through 1301.1.2.43 shall register the *project* with the USGBC or shall meet the LEED requirements without USGBC registration and provide verification of compliance in accordance with alternatives 2 or 3 of Section 1301.1.4.1. ~~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*.~~

1301.1.3.1.1. Prior USGBC registration Where an applicant has registered a *project* with the USGBC using an earlier version of the LEED standards listed in Section 1301.1.3 and Chapter 35, and the USGBC will continue the certification process under the earlier version, then the

applicant may elect to have verification of the *project* based upon such earlier LEED version.

1301.1.3.1.2 Verification of compliance without USGBC registration. Where an applicant elects to meet the LEED requirements without USGBC registration, the applicant shall use the LEED standards listed in Section 1301.1.3.

Exception: Where the applicant has engaged in at least one of the interactions with the District of Columbia listed below, then the applicant may elect to have verification of the *project* based upon an earlier LEED version, provided that the earliest version of the appropriate LEED standard that shall be used is the version 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*, but not applications for other types of permits, including, but not limited to, applications for raze permits; sheeting and shoring, foundation and other specialty permits; supplemental permits; or miscellaneous permits; or

6. Other substantial land-use interactions with the District as determined by the *code official*

1301.1.3.2 Enterprise Green Communities version. An applicant for permits subject to Section 1301.1.1.4 shall register the *project* with Enterprise Green Communities or with the entity that certifies compliance with an *approved* substantially equivalent standard; or, the applicant shall meet the applicable standard without registration of the *project* and provide verification of compliance in accordance with alternatives 2 or 3 of Section 1301.1.4.1.

1301.1.3.2.1 Prior registration. Where an applicant has registered a *project* with the Enterprise Green Communities or with an entity that certifies compliance with an *approved* substantially equivalent standard, using an earlier version of the applicable standards listed in Chapter 35, then the applicant may elect to have verification of the *project* based upon such earlier version, provided that the certifying organization will continue the certification process under the earlier version.

1301.1.3.2.2 Verification of compliance without registration. Where an applicant elects to meet the Enterprise Green Communities standard (or an *approved* substantially equivalent standard) without registration, the applicant shall use the Enterprise Green Communities standard listed in Chapter 35 or, if applicable, the *approved* substantially equivalent standard.

Exception: Where the applicant has engaged in at least one of the interactions with the District of Columbia listed in Section 1301.1.3.1.2, then the applicant may elect to have verification of the *project* based upon an earlier version of the appropriate standard, provided that the earliest version of the appropriate standard that shall be used is the version in effect one year prior to whichever of the interactions of the applicant with the District of Columbia listed in Section 1301.1.3.1.2 came first.

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 1301.1.2.4~~3~~ or the Enterprise Green Communities Criteria (or *approved* substantially equivalent standard) required by Section 1301.1.1.4, 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 1301.1.2.4~~3~~, or if applicable a certification by Enterprise Green Communities (or entity that certifies an *approved* substantially equivalent standard) that the *project* meets or exceeds the applicable standard required by Section 1301.1.1.4; 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 1301.1.2.4~~3~~, or if applicable the Enterprise Green Communities Criteria (or *approved*

substantially equivalent standard) required by Section 1301.1.1.4; 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 1301.1.2.43, or if applicable the Enterprise Green Communities Criteria (or *approved* substantially equivalent standard) required by Section 1301.1.1.4.

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 1301.1.2.43, 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 1301.1.2.43.

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^2) 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^2) 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 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 1301.1.2.4~~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, pursuant to the terms ~~by submission by the District~~ of the original security documentation, provided that where a binding pledge has been provided, the *code official* is authorized 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 1301.1.2~~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, or the implementing regulations set forth in Section 1301, to any *project* may be made to DDOE pursuant to the provisions of Chapter 35 (Green Building

Requirements) of DCMR Title 20 (Environment), and D.C. Official Code § 6-1451.10 (2008 Repl.).

All persons desiring to comment on these proposed regulations should submit comments in writing to Helder Gil, Legislative Affairs Specialist, Department of Consumer and Regulatory Affairs, 1100 Fourth Street, SW, Room 5164, Washington, D.C. 20024, or via e-mail at helder.gil@dc.gov, not later than thirty (30) days after publication of this notice in the *D.C. Register*. Persons with questions concerning this Notice of Proposed Rulemaking should call (202) 442-4400. Copies of the proposed rules can be obtained from the address listed above. A copy fee of one dollar ($1.00) will be charged for each copy of the proposed rulemaking requested. Free copies are available on the DCRA website at http://dcra.dc.gov by going to the "About DCRA" tab, clicking on "News Room", and then clicking on "Rulemaking".

DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The Director of the Department of Health Care Finance (DHCF), pursuant to the authority set forth in an Act to enable the District of Columbia to receive federal financial assistance under Title XIX of the Social Security Act for a medical assistance program, and for other purposes, approved December 27, 1967 (81 Stat. 774; D.C. Official Code § 1-307.02 (2006 Repl. & 2012 Supp.)) and Section 6(6) of the Department of Health Care Finance Establishment Act of 2007, effective February 27, 2008 (D.C. Law 17-109; D.C. Official Code § 7-771.05(6) (2008 Repl.)), hereby gives notice of the adoption, on an emergency basis of a new Section 1920, entitled "Day Habilitation Services", of Chapter 19 (Home and Community Based Services for Individuals with Intellectual and Development Disabilities) of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR). These emergency and proposed rules establish standards governing reimbursement of day habilitation and day habilitation one-to-one services provided to participants in the Home and Community-Based Waiver Services for Individuals with Intellectual and Developmental Disabilities (ID/DD Waiver) and conditions of participation for providers.

The ID/DD Waiver was approved by the Council of the District of Columbia and renewed by the U.S. Department of Health and Human Services, Centers for Medicaid and Medicare Services, for a five-year period beginning November 20, 2012. Day habilitation services are aimed at developing activities and skills acquisition to support or further integrate community opportunities outside of a person's home and assist the person in developing a full life within the community. Day habilitation one-to-one services are provided to persons with intense medical behavioral supports who require a behavioral support plan or require intensive staffing and supports. These rules amend the previously published rules by: (1) deleting Section 945 and codifying the rules in Section 1920; (2) reducing the reimbursement rates for this service based on the new rate methodology; (3) specifying the eligibility criteria and service authorization requirements when day habilitation one-to-one services are utilized; and (4) omitting the option to provide day habilitation services in a person's home.

Emergency action is necessary for the immediate preservation of the health, safety, and welfare of Waiver participants who are in need of day habilitation services. Based upon current reporting and record maintenance requirements, there are insufficient safeguards in place to make sure that providers are taking the necessary steps to ensure that beneficiaries are receiving high quality, appropriate services from qualified providers. By taking emergency action, this emergency and proposed rule will clarify the duties and responsibilities of day habilitation providers and increase their accountability. In addition, these rules will provide the District with the tools needed to increase oversight and to closely monitor the quality and appropriateness of services being delivered to beneficiaries.

The emergency rulemaking was adopted on July 3, 2013, and became effective on that date. The emergency rules shall remain in effect for one hundred and twenty (120) days or until October 30, 2013, unless superseded by publication of a Notice of Final Rulemaking in the *D.C. Register*. The Director also gives notice of the intent to take final rulemaking action to adopt these

proposed rules in not less than thirty (30) days after the date of publication of this notice in the *D.C. Register*.

Section 945 (Day Habilitation) of Chapter 9 (Medicaid Program) of Title 29 (Public Welfare) of the DCMR is repealed.

A new Section 1920 (Day Habilitation) is added to Chapter 19 (Home and Community Based Services for Individuals with Intellectual and Developmental Disabilities) of Title 29 (Public Welfare) of the DCMR to read as follows:

1920 DAY HABILITATION SERVICES

1920.1 The purpose of this section is to establish standards governing Medicaid eligibility for day habilitation for persons enrolled in the Home and Community-Based Services (HCBS) Waiver for Persons with Intellectual and Developmental Disabilities (Waiver) and to establish conditions of participation for providers of day habilitation services.

1920.2 Day habilitation services are aimed at developing activities and skills acquisition to support or further integrate community opportunities outside of a person's home, to foster independence, autonomy or career exploration and encourage development of a full life in the person's community.

1920.3 Day habilitation services are intended to be different and separate from residential services. These services are delivered in group settings or can be provided as day habilitation one-to-one services.

1920.4 To be eligible for day habilitation services:

(a) The service shall be recommended by the person's Support Team and included in the Individualized Support Plan (ISP) and Plan of Care; and

(b) A person shall have a demonstrated personal and/or social adjustment need that can be addressed through participation in an individualized habilitation program.

1920.5 Day habilitation one-to-one services shall consist of:

(a) Intense behavioral supports that require a behavioral support plan; or

(b) Services for a person who has medical needs that require intensive staffing and supports.

1920.6 To be eligible for day habilitation one-to-one services, a person shall meet at least one of the following requirements:

(a) Exhibit elopement which places the person at risk;

(b) Exhibit behavior that poses serious bodily harm to self or others;

(c) Exhibit destructive behavior that poses serious property damage, including fire-setting;

(d) Have any other intense behavioral problem that has been deemed to require one-to-one supervision;

(e) Exhibit sexually predatory behavior; or

(f) Have a medical history of or high risk for, falls with injury, be physically fragile or have physical needs that do not require professional nursing but require intensive staffing.

1920.7 Day habilitation one-to-one services shall be authorized by a physician's order and approved by the Developmental Disabilities Administration's Restrictive Control Review Committee.

1920.8 Day habilitation services shall be provided pursuant to the following service delivery criteria:

(a) The service may be provided in a group setting. However, persons within the group may also receive services on an individualized basis;

(b) The services provided in a community-based venue shall offer skill-building activities to enhance the person's habilitation needs; and

(c) The service shall be provided in the most integrated setting appropriate to the needs of the person.

1920.9 Day habilitation services shall consist of the following activities:

(a) Training and skills development that increase participation in community activities, enhance community inclusion, and foster greater independence;

(b) Activities that allow the person the opportunity to choose and identify his or her own areas of interest and preferences;

(c) Activities that provide opportunities for socialization and leisure activities in the community;

(d) Training in the safe and effective use of one or more modes of accessible public transportation;

(e) Coordination of transportation to enable the person to participate in community activities; and

(f) Individualized or group services that enable the person to attain his/her maximum functional level based on the ISP and Plan of Care.

1920.10 Each day habilitation provider shall develop a day habilitation plan for each person that corresponds with the person's ISP and Plan of Care that supports the interests, choices, goals and prioritized needs of the person. Activities set forth in the plan shall be functional, chosen by the person, correspond with habilitation needs and provide a pattern of life experiences common to other persons of similar age and the community-at-large. To develop the plan, the provider shall:

(a) Use observation, conversation, and other interactions, as necessary, to develop a functional analysis of the person's capabilities within the first month of participation and annually thereafter;

(b) Use the functional analysis, the ISP and Plan of Care, and other information available to develop a plan with measurable outcomes that develops to the extent possible the skills necessary to allow the person to reside and work in the community while maintaining the person's health and safety; and

(c) Focus on enabling each person to attain his/her maximum functional level by coordinating Waiver services with other services provided by any licensed professionals listed in the person's ISP and Plan of Care.

1920.11 Each day habilitation provider shall meet the following provider qualification and enrollment requirements:

(a) Comply with the requirements described under Section 1904 (Provider Qualifications) and Section 1905 (Provider Enrollment Process) of Chapter 19 of Title 29 DCMR; and

(b) Maintain the required staff-to-person ratio, indicated on the person's ISP and Plan of Care, to a maximum staffing ratio of 1:4.

1920.12 Each direct support professional (DSP) providing day habilitation services for a provider shall comply with Section 1906 (Requirements of Direct Support Professionals) of Chapter 19 of Title 29 DCMR.

1920.13 All day habilitation services shall be authorized in accordance with the following requirements:

(a) The Department on Disability Services shall provide a written service authorization before the commencement of services;

(b) The day habilitation DSP providing one-to-one services shall be trained in physical management techniques, positive behavioral support practices and other training required to implement the person's behavioral support plan;

(c) The service name and provider entity delivering services shall be identified in the ISP and Plan of Care;

(d) The ISP, Plan of Care and Summary of Supports and Services shall document the amount and frequency of services to be received;

(e) Completion of the person's day habilitation plan;

(f) Approval of the behavioral support plan for persons receiving day habilitation one-to-one services; and

(g) Accurate completion by the DSP of the behavioral data sheets for persons receiving day habilitation one-to-one services.

1920.14 Each provider shall comply with the requirements described under Section 1908 (Reporting Requirements) of Chapter 19 of Title 29 DCMR and Section 1911 (Individual Rights) of Chapter 19 of Title 29 DCMR.

1920.15 Each provider shall comply with the requirements described under Section 1909 (Records and Confidentiality of Information) of Chapter 19 of Title 29 DCMR.

1920.16 The reimbursement rate for day habilitation services shall be fifteen dollars and twenty cents ($15.20) per hour. Services shall be provided for a maximum of eight (8) hours per day. The billable unit of service for day habilitation services shall be fifteen (15) minutes. A provider shall provide at least eight (8) minutes of service in a span of fifteen (15) continuous minutes to be able to bill a unit of service. The reimbursement rate for day habilitation services shall be three dollars and eighty cents ($3.80) per billable unit.

1920.17 The reimbursement rate for day habilitation one-to-one services shall be twenty-seven dollars and eight cents ($27.08). The billable unit of service for day habilitation one-to-one services shall be fifteen (15) minutes. A provider shall provide at least eight (8) minutes of service in a span of fifteen (15) continuous minutes to be able to bill a unit of service. The reimbursement rate for day habilitation one-to-one services shall be six dollars and seventy seven cents ($6.77) per billable unit.

1920.18 Day habilitation services and day habilitation one-to-one services shall be provided for a maximum of eight (8) hours a day, not to exceed forty (40) hours per week and two thousand and eighty hours (2080) hours annually.

1920.19 Day habilitation services shall not be provided concurrently with supported employment or employment readiness services.

1920.20 No payment shall be made for care and supervision normally provided by the family or natural caregivers, residential provider, or employer.

1920.21 Provisions shall be made by the day habilitation provider for persons who arrive early and depart late.

1920.22 Time spent in transportation to and from the program shall not be included in the total amount of services provided per day.

Section 1999 (DEFINITIONS) is amended by adding the following:

Behavioral Support Plan (BSP) - A plan that is a component of the ISP that outlines positive supports and strategies to help a person ameliorate and/or eliminate the negative impact of one or more challenging behaviors that have a negative impact on a person's ability to achieve his/her goals.

Day Habilitation Plan - A person-centered plan developed by the day habilitation provider, based on a person-centered planning process that takes into account the results of a functional analysis, ISP, Plan of Care and other available information which lists services and outlines preferences, interests, and measurable outcomes to enable the person to reside, work and participate in the community, and maintain the person's health.

Direct support professional (DSP) - A person who works directly with people with developmental disabilities with the aim of assisting the individual to become integrated into his or her community or the least restrictive environment.

Family - Any person who is related to the person by blood, marriage, or adoption.

Functional Analysis - The process of identifying a person's specific strengths, preferences, developmental needs, and need for services by identifying the person's present developmental level, health status, expressed needs and desires of the person and his or her family, and environmental or other conditions that would facilitate or impede the person's growth and development

Staffing Plan - A written document that includes the numbers and titles of staff assigned to the particular person, for a specified time period and scheduled for a given site and/or shift to successfully provide oversight and to ensure the maintenance of the health, safety and well-being of the person receiving services.

Summary of Supports and Services - A written document that lists the various supports and services to be received by a person and a component of the person's ISP.

Support Team - A group of people providing support to a person with an intellectual/developmental disability, who have the responsibility of performing a comprehensive person-centered evaluation to support the development, implementation and monitoring of the person's person-centered ISP and Plan of Care.

Comments on the emergency and proposed rule shall be submitted, in writing, to Linda Elam, Ph.D., MPH, Senior Deputy Director/State Medicaid Director, Department of Health Care Finance, 899 North Capitol Street, NE, Suite 6037, Washington, D.C. 20002, via telephone on (202) 442-9115, via email at DHCF Publiccomments@dc.gov, or online at www.dcregs.dc.gov, within thirty (30) days after the date of publication of this notice in the *D.C. Register*. Copies of the emergency and proposed rule may be obtained from the above address.

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2013-137
July 22, 2013

SUBJECT: Appointments – 50th Anniversary of the March on Washington Commemorative Committee

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by 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.), and in accordance with Mayor's Order 2013-111, dated June 25, 2013, it is hereby **ORDERED** that:

1. **STERLING TUCKER** and **DR. JOYCE LADNER** are appointed as members of the 50th Anniversary of the March on Washington Commemorative Committee and shall serve in that capacity at the pleasure of the Mayor.

2. **EFFECTIVE DATE:** This Order shall become effective immediately.

Vincent C. Gray

VINCENT C. GRAY
MAYOR

ATTEST: Cynthia Brock-Smith

CYNTHIA BROCK-SMITH
SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2013-138
July 23, 2013

SUBJECT: Appointments – Housing Production Trust Fund Board

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 section 3a of the Housing Production Trust Fund Act of 1988, effective June 8, 1990, D.C. Law 8-133, D.C. Official Code § 42-2802.01 (2010 Repl.), it is hereby **ORDERED** that:

1. **STANLEY JACKSON,** having been nominated by the Mayor on March 28, 2013, and approved by the Council of the District of Columbia ("Council") pursuant to Resolution 20-0209 on July 10, 2013, is appointed as a member of the Housing Production Trust Fund Board ("Board"), with significant knowledge of an area related to the production, preservation, and rehabilitation of affordable housing for lower-income households, replacing Vickie Crudup-Davis, for a term to end January 14, 2017.

2. **JACQUELINE PRIOR,** having been nominated by the Mayor on March 28, 2013, and approved by the Council pursuant to Resolution 20-0210 on July 10, 2013, is appointed as a member of the Board, with significant knowledge of an area related to the production, preservation, and rehabilitation of affordable housing for lower-income households, replacing Maria Corrales, for a term to end January 14, 2017.

3. **ORAMENTA NEWSOME,** having been nominated by the Mayor on March 28, 2013, and approved by the Council pursuant to Resolution 20-0211 on July 10, 2013, is appointed as member of the Board, as a representative of an organization that advocates for the production, preservation, and rehabilitation of affordable housing for lower-income households, replacing Carrie Thornhill, to complete the remainder of an unexpired term to end January 14, 2015.

4. **ROBERT H. POHLMAN,** having been nominated by the Mayor on March 28, 2013, and approved by the Council pursuant to Resolution 20-0212 on July 10, 2013, is appointed as a member of the Board, as a representative of an

organization that advocates for people with disabilities, replacing Crystal Ford, for a term to end January 14, 2017.

5. **DAVID J. ROODBERG,** having been nominated by the Mayor on March 28, 2013, and approved by the Council pursuant to Resolution 20-0213 on July 10, 2013, is appointed as a member of the Board, as a representative of the for-profit housing production industry, replacing David Franco, to complete the remainder of an unexpired term to end January 14, 2015.

6. **SUE ANN MARSHALL,** having been nominated by the Mayor on March 28, 2013, and approved by the Council pursuant to Resolution 20-0214 on July 10, 2013, is appointed as a member of the Board, as a representative of the nonprofit housing production community, replacing Pamela Jones, to complete the remainder of an unexpired term to end January 14, 2015.

7. **M. CRAIG PASCAL,** having been nominated by the Mayor on March 28, 2013, and approved by the Council pursuant to Resolution 20-0215 on July 10, 2013, as a member of the Board, with significant knowledge of an area related to the production, preservation, and rehabilitation of affordable housing for lower-income households, replacing Casius Pealer, for a term to end January 14, 2017.

8. **JAMES D. KNIGHT,** having been nominated by the Mayor on March 28, 2013, and approved by the Council pursuant to Resolution 20-0216 on July 10, 2013, is appointed as a member of the Board, as a representative of the low-income tenant association, replacing Leonard Watson, Sr., for a term to end January 14, 2017.

9. **DAVID C. BOWERS,** having been nominated by the Mayor on March 28, 2013, and approved by the Council pursuant to Resolution 20-0217 on July 10, 2013, is reappointed as a member of the Board, as a representative of the financial services industry, to complete the remainder of an unexpired term to end January 14, 2015, and, pursuant to Resolution 20-0218, is appointed as Chairperson of the Board.

10. **EFFECTIVE DATE:** This Order shall be effective immediately.

Vincent C. Gray

VINCENT C. GRAY
MAYOR

ATTEST: Cynthia Brock-Smith

CYNTHIA BROCK-SMITH
SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2013-139
July 23, 2013

SUBJECT: Appointments – District of Columbia Water and Sewer Authority Board of Directors

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 section 204 of the Water and Sewer Authority Establishment and Department of Public Works Reorganization Act of 1996, effective April 18, 1996, D.C. Law 11-111, D.C. Official Code § 34-2202.04 (2010 Repl.), it is hereby **ORDERED** that:

1. **ELLEN O. BOARDMAN,** who was nominated by the Mayor on April 8, 2013, and approved by the Council of the District of Columbia ("Council") pursuant to Resolution 20-229 on July 10, 2013, is appointed as a principal member of the District of Columbia Water and Sewer Authority Board of Directors ("Board"), replacing Alethia Nancoo, for a term to end September 12, 2016.

2. **JAMES BUNN,** who was nominated by the Mayor on April 8, 2013, and approved by the Council pursuant to Resolution 20-0230 on July 10, 2013, is appointed as an alternate member of the Board, replacing Howard Croft, for a term to end September 12, 2016.

3. **KEITH A. ANDERSON,** who was nominated by the Mayor on April 8, 2013, and approved by the Council pursuant to Resolution 20-0231 on July 10, 2013, is appointed as an alternate member of the Board, replacing Joseph Cotruvo, for a term to end September 12, 2016.

4. **OBIORA "BO" MENKITI,** who was nominated by the Mayor on May 6, 2013, and approved by the Council pursuant to Resolution 20-0232 on July 10, 2013, is appointed as a principal member of the Board, replacing Adam Clampitt, for a term to end September 12, 2016.

5. **EFFECTIVE DATE:** This Order shall become effective immediately.

Vincent C. Gray

VINCENT C. GRAY
MAYOR

ATTEST: Cynthia Brock-Smith

CYNTHIA BROCK-SMITH
SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2013-140
July 25, 2013

SUBJECT: Appointments – District of Columbia Interagency Coordinating Council (DC ICC)

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.), and in accordance with the Individuals with Disabilities Education Act (IDEA) (Pub. L. 94-142; as amended), applicable federal regulations, and Mayor's Order 2012-49, dated April 5, 2012, and as amended by Mayor's Order 2013-053, dated March 4, 2013, it is hereby **ORDERED** that:

1. **JENNIFER LEWIS** is appointed, as a parent of an infant or toddler with a disability aged six or younger, member to the District of Columbia Interagency Coordinating Council ("Council"), replacing Edenn Perez, and shall serve for the remainder of a term to end May 3, 2014.

2. **ROYACE J. HAGLER** is appointed, as a representative from a Head Start agency, member to the Council, replacing Emma Kupferman, and shall serve for the remainder of a term to end May 3, 2014.

3. **TOM-TSVI M. JAWETZ** is appointed, as a parent of an infant or toddler with a disability or child with a disability aged 12 or younger, with knowledge of, or experience with, programs for infants and toddlers with disabilities, member to the Council, replacing Aura R. German, and shall serve for the remainder of a term to end May 3, 2014.

4. **EFFECTIVE DATE:** This Order shall be effective immediately.

Vincent C. Gray

VINCENT C. GRAY
MAYOR

ATTEST: Cynthia Brock-Smith

CYNTHIA BROCK-SMITH
SECRETARY OF THE DISTRICT OF COLUMBIA

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF MEETING
AGENDA

WEDNESDAY, AUGUST 7, 2013 AT 1:00 PM
2000 14TH STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

1. Review of Settlement Agreement, dated July 22, 2013, between Sticky Rice and Bobby Pittman of the Linden Neighborhood Association. **Sticky Rice**, 1224 H Street NE, Retailer CR, Lic#: 072783.

---

2. Review of Settlement Agreement, dated June 17, 2013, between Brooklyn's Finest and a Group of Residents. There is still an active Protest filed by ANC 5B. **Brooklyn's Finest**, 3126-3128 12th NE, Retailer C, Lic#: 092010.

---

3. Review of Motion to Dismiss Notice to Show Cause, dated July 22, 2013, from Matthew LeFande, Counsel for Little Miss Whiskey, **Little Miss Whiskey**, 1104 H Street NW, Retailer C, Lic#: 079090.

---

4. Review of Settlement Agreement, dated April 10, 2013, between Circa and ANC 2B. **Circa**, 1601 Connecticut Ave NW, Retailer CR, Lic#: 76074.

---

5. Request to change Hours of Operation and Alcohol Sales for Inside Premise and Summer Garden. Current Hours of Operation: Monday-Friday 11am-8pm; Saturday and Sunday 8am-8pm; Current Hours of Alcoholic Beverage Sales and Consumption: Monday-Friday 11am-8pm; Saturday and Sunday 8am-8pm. Requested Change for Hours of Operation and Alcoholic Beverage Sales and Consumption: Sunday-Saturday 8am-2am**.** ***Righteous Cheese,*** 1309 5th Street NE #502, Retailer CT, Lic#: 089981.

---

6. Review of Request dated July 26, 2013 from ***Premium Distributors of Washington, D.C.***, for approval to provide retailers with products valued at more than $50 and less than $500. Lic#: 060290.

*** 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.**

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF MEETING
INVESTIGATIVE AGENDA

WEDNESDAY, AUGUST 7, 2013
2000 14TH STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

On August 7, 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-CC-00049 Cactus Cantina, 3300 WISCONSIN AVE NW Retailer C Restaurant, License#: ABRA-014225

---

2. Case#12-251-00347 The Brixton, 901 U ST NW Retailer C Tavern, License#: ABRA-082871

---

3. Case#13-CMP-00302 The Brixton, 901 U ST NW Retailer C Tavern, License#: ABRA-082871

---

4. Case#13-CC-00043 West Wing Cafe, 300 NEW JERSEY AVE NW Retailer C Restaurant, License#: ABRA-084607

---

5. Case#13-CMP-00286 Tackle Box, 3245 M ST NW Retailer C Restaurant, License#: ABRA-084952

---

6. Case#13-CMP-00286(a) Tackle Box, 3245 M ST NW Retailer C Restaurant, License#: ABRA-084952

---

7. Case#13-CC-00042 Whole Foods Market, 1440 - 1446 P ST NW Retailer D Restaurant, License#: ABRA-086071

---

8. Case#13-CC-00050 FUDDRUCKERS, 734 7TH ST NW Retailer C Restaurant, License#: ABRA-086154

---

9. Case#13-CMP-00303 TruOrleans, 400 H ST NE Retailer C Restaurant, License#: ABRA-086210

---

10. Case#13-CMP-00301 Fuel Pizza & Wings, 600 F ST NW Retailer C Restaurant, License#: ABRA-088727

CAPITAL CITY PUBLIC CHARTER SCHOOL

REQUEST FOR PROPOSALS

SPED Services

Capital City Public Charter School invites all interested and qualified vendors to submit proposals for Special Education and Therapeutic Services. Proposals are due no later than 5 P.M. August 9, 2013. The RFP with bidding requirements and supporting documentation can be obtained by contacting Arogya Singh at 202-808-9800 or emailing asingh@ccpcs.org.

Math PD Services

Capital City Public Charter School invites all interested and qualified vendors to submit proposals for Math PD Services. Proposals are due no later than 5 P.M. August 9, 2013. The RFP with bidding requirements and supporting documentation can be obtained by contacting Arogya Singh at 202-808-9800 or emailing asingh@ccpcs.org.

CARLOS ROSARIO PUBLIC CHARTER SCHOOL

NOTICE OF REQUEST FOR QUOTES

Color Photocopier Purchasing

The Carlos Rosario Public Charter School seeks bids to purchase 9 (nine) color photocopiers w/network capabilities and the following features:

- 3 hole-punch
- staple
- scan
- fax
- 30 ppm color
- 35ppm black
- 51 ipm scan
- Paper size-letter, legal, ledger

Please send all bids via email to gluna@carlosrosario.org. All bids must be submitted no later than 4:00 pm Friday, August 9, 2013.

DISTRICT OF COLUMBIA CHILD SUPPORT GUIDELINE COMMISSION

NOTICE OF A PUBLIC MEETING

The District of Columbia's Child Support Guideline Commission's meeting

Thursday, August 22, 2013, at 8:30 A.M.
D.C. Office of the Attorney General, Child Support Services Division
441 4th Street, NW, Ste. 550N
Conference Room A
Washington, D.C. 20001

The District of Columbia Child Support Guidelines Commission (Commission) announces meeting in which it will discuss proposed changes to the District's Child Support Guideline (Guideline). The Commission's mission is to review the Guideline annually and to provide the Mayor with recommendations for improving the efficiency and effectiveness of the Guideline. In order to achieve its objective, and to ensure the recommendations the Commission provides to the Mayor take into account the public's concerns, it invites the public to attend its meeting.

Persons wishing to review the Child Support Guideline prior to the public meeting, may access it online by visiting the District of Columbia's website at www.dc.gov.

Individuals who wish to attend should contact: Cory Chandler, Chairperson, Child Support Guideline Commission, at 202-724-7835, or by e-mail at cory.chandler@dc.gov by Tuesday, August 20, 2013. E-mail submissions should include the full name, title, and affiliation, if applicable, of the person(s) wishing to attend. Persons wishing to comment should send nine (9) copies of their written commentary to the Office of the Attorney General for the District of Columbia at the address below.

Individuals who wish to submit their comments as part of the official record should send copies of written statements no later than 4:00 p.m., Wednesday, August 21, 2013 to:

Cory Chandler, Deputy Attorney General
Office of the Attorney General for the District of Columbia
Family Services Division
200 I Street, S.E.
4th Floor
Washington, D.C. 20003

COMMUNITY ACADEMY PUBLIC CHARTER SCHOOL (CAPCS)

REQUEST FOR PROPOSALS

Specialized Educational Services

Dorothy I. Height Community Academy Public Charter Schools (CAPCS) is soliciting proposals from qualified providers in the areas of speech/language, occupational therapy, physical therapy and counseling. Services should include, but not be limited to, evaluation, intervention, and professional development. Must be licensed in the District of Columbia. Description of relevant experience, references and cost structure required. LSBDE firms are encouraged to respond. For further information, contact Rachelle Roberts at rachelleroberts@capcs.org or 202-234-2122. **Final proposals submitted electronically are due on Friday, August 9, 2013.** CAPCS RESERVES THE RIGHT TO CANCEL THIS RFP AT ANY TIME.

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
BUSINESS AND PROFESSIONAL LICENSING ADMINISTRATION

SCHEDULED MEETINGS OF BOARDS AND COMMISSIONS

August 2013

CONTACT PERSON	BOARDS AND COMMISSIONS	DATE	TIME/ LOCATION
Theresa Ennis	Board of Accountancy	RECESS	8:30 am-12:00pm
Leon Lewis	Board of Appraisers	RECESS	8:30 am-4:00 pm
Leon Lewis	Board Architects and Interior Designers	RECESS	8:30 am-1:00 pm
Sheldon Brown	Board of Barber and Cosmetology	RECESS	10:00 am-2:00 pm
Sheldon Brown	Boxing and Wrestling Commission	RECESS	7:00-pm-8:30 pm
Kevin Cyrus	Board of Funeral Directors	RECESS	9:30am-2:00 pm
Theresa Ennis	Board of Professional Engineering	RECESS	9:30 am-1:30 pm
Leon Lewis	Real Estate Commission	RECESS	8:30 am-1:00 pm
Pamela Hall	Board of Industrial Trades	20	9:00 am-2:00 pm
	Asbestos Electrical Elevators Plumbing Refrigeration/Air Conditioning Steam and Other Operating Engineers		

Dates and Times are subject to change. All meetings are held at 1100 4th Street, SW, Suite E-300 A-B, Washington, D.C. 20024. Board agendas are available upon request.

For further information on this schedule, please call 202-442-4320.

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

BUSINESS REGULATORY REFORM TASK FORCE

NOTICE OF MEETINGS

The Business Regulatory Reform Task Force meeting scheduled for Wednesday, August 21, 2013 has been cancelled.

The next scheduled meeting will be on Wednesday, September 4, 2013 at 8:30 a.m.

The meeting is open to the public and will be held at 1100 Fourth Street, SW, Fourth Floor Conference Room (E-4302), Washington, D.C. 20024.

The location is on the Metro Green Line, at the Waterfront/SEU stop. Limited paid parking is available on site.

Additional meetings are scheduled for the following dates:

- Wednesday, September 18, 2013
- Tuesday, October 8, 2013
- Tuesday, October 22, 2013
- Tuesday, November 12, 2013
- Wednesday, December 4, 2013
- Wednesday, December 18, 2013
- Tuesday, January 7, 2014

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

NOTICE OF VENDING REGULATIONS INFORMATION SESSIONS

The Department of Consumer and Regulatory Affairs will be offering several free training sessions to the public regarding the recently approved vending business license regulations.

Staff from DCRA, the Department of Health (DOH), the Department of Transportation (DDOT), the Metropolitan Police Department (MPD), the Fire and Emergency Medical Services Department (FEMS), the Office of Tax and Revenue (OTR), and the Department of the Environment (DDOE) will be on hand to answer questions on topics such as:

- Vending licenses (classes, types, and requirements);
- Sidewalk vending;
- Mobile roadway vending (e.g., food and merchandise/services trucks);
- Vendor employee ID badges;
- Vending locations;
- Public/Farmers markets;
- Fees; and
- New vending business opportunities.

The free training sessions will be held on the following dates and times:

- Saturday, August 17 from 9:00 am to 11:00 am.
- Monday, August 19 from 6:00 pm to 8:00 pm.
- Saturday, August 24 from 9:00 am to 11:00 am.
- Monday, August 26 from 6:00 pm to 8:00 pm.
- Tuesday, August 27 from 6:00 pm to 8:00 pm.

Each of the training sessions will be held at the DCRA offices at 1100 Fourth Street, SW, Second Floor Conference Room (Room E-200), Washington, D.C. 20024. The location is on the Metro Green Line, at the Waterfront stop. Limited paid parking is available on site.

To register for any of the free training sessions, please visit: http://bizdc.ecenterdirect.com/Conferences.action and search for keyword “vending”.

If you need assistance with registering for any of the training sessions, please contact the DCRA Small Business Resource Center at 202-442-4538 or email Claudia.Herrera@dc.gov or India.Blocker@dc.gov.

BOARD OF ELECTIONS

CERTIFICATION OF ANC/SMD VACANCIES

The District of Columbia Board of Elections hereby gives notice that there are vacancies in five (5) Advisory Neighborhood Commission offices, certified pursuant to D.C. Official Code § 1-309.06(d)(2); 2001 Ed; 2006 Repl. Vol.

VACANT: 1A01, 5A04, 5E03, 7F07 and 8E03

Petition Circulation Period: **Monday, August 5, 2013 thru Monday, August 26, 2013**
Petition Challenge Period: **Thursday**, **August 29, 2013 thru Thursday, September 5, 2013**

Candidates seeking the Office of Advisory Neighborhood Commissioner, or their representatives, may pick up nominating petitions at the following location:

D.C. Board of Elections
441 - 4th Street, NW, Room 250N
Washington, DC 20001

For more information, the public may call **727-2525**.

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, Washington, DC, intends to issue a permit (#6315-R1) to Cellco Partnership (DBA Verizon Wireless) to operate a 50 kW natural gas fired emergency generator set at 5323 Connecticut Avenue NW, Washington DC.

The application to operate the generator and the draft permit are available for public inspection at AQD and copies may be made 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 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 should be addressed to:

Stephen S. Ours
Chief, Permitting and Enforcement Branch
Air Quality Division
District Department of the Environment
1200 First Street NE, 5th Floor
Washington, DC 20002

No written comments postmarked after September 2, 2013 will be accepted.

For more information, please contact Stephen S. Ours at (202) 535-1747.

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, Washington, DC, intends to issue a permit (#6346-R1) to Cellco Partnership (DBA Verizon Wireless) to operate a 125 kW natural gas fired emergency generator set at 1250 U Street NW, Washington DC.

The application to operate the generator and the draft permit are available for public inspection at AQD and copies may be made 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 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 should be addressed to:

Stephen S. Ours
Chief, Permitting and Enforcement Branch
Air Quality Division
District Department of the Environment
1200 First Street NE, 5th Floor
Washington, DC 20002

No written comments postmarked after September 2, 2013 will be accepted.

For more information, please contact Stephen S. Ours at (202) 535-1747.

DISTRICT DEPARTMENT OF THE ENVIRONMENT

FISCAL YEAR 2013

PUBLIC NOTICE

AIR QUALITY TITLE V OPERATING PERMIT AND GENERAL PERMIT FOR OMNI SHOREHAM HOTEL

Notice is hereby given that Omni Shoreham Hotel has applied for a Title V air quality permit pursuant to the requirements of Title 20 of the District of Columbia Municipal Regulations, Chapters 2 and 3 (20 DCMR Chapters 2 and 3) to operate two (2) 12.53 million BTU per hour (MMBTU/hr) Cleaver Brooks boilers, model CB200300015, two (2) emergency generators; seven (7) hot water heaters, two (2) minor natural gas boilers and various kitchen appliances at its facility located at 2500 Calvert Street NW, Washington, DC 20008. The contact person for the facility is Steve Polli, Chief Engineer at (202) 756-5152.

With the potential to emit approximately 26.8 tons per year of oxides of nitrogen (NO_x), the source has the potential to emit greater than the District's major source threshold of 25 tons per year of NO_x. Therefore, the facility is classified as a major source of air pollution and is subject to 20 DCMR Chapter 3 and must obtain an operating permit under that regulation.

The District Department of the Environment (DDOE) has reviewed the permit application and related documents and has made a preliminary determination that the applicant meets all applicable air quality requirements promulgated by the U.S. Environmental Protection Agency (EPA) and the District. Therefore, draft permit #018-R2 has been prepared.

The application, the draft permit, and all other materials submitted by the applicant [except those entitled to confidential treatment under 20 DCMR 301.1(c)] considered in making this preliminary determination are available for public review during normal business hours at the offices of the District Department of the Environment, 1200 First Street NE, 5th Floor, Washington DC 20002. Copies of the draft permit and related fact sheet are available at http://ddoe.dc.gov/service/public-notices-hearings.

A public hearing on this permitting action will not be held unless DDOE has received a request for such a hearing within 30 days of the publication of this notice. Interested parties may also submit written comments on the permitting action. Hearing requests or comments should be directed to Stephen S. Ours, DDOE Air Quality Division, 1200 First Street NE, 5th Floor, Washington DC 20002. Questions about this permitting action should be directed to Olivia Achuko at (202) 535-2997 or olivia.achuko@dc.gov. Comments or hearing requests will not be accepted after September 2, 2013.

FRIENDSHIP PUBLIC CHARTER SCHOOL

INVITATION FOR BID

Friendship Public Charter School (FPCS) is soliciting bids from suppliers to provide milk items to support the USDA National School Breakfast and Lunch Program, Supper program under the CACFP program and any other related programs at Friendship Public Charter School, Food and Nutrition Services during school year 2013-2014 in accordance with requirements and specifications detailed in the RFP. For full Request for Proposal, send an email to ProcurementInquiry@friendshipschools.org.

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

NOTICE OF AFFORDABLE DWELLING UNIT AFFORDABILITY ANALYSIS REQUEST

The Department of Housing and Community Development (DHCD), pursuant to the authority granted by Mayor's Order 2009-112 to monitor and enforce compliance with requirements to provide or maintain Affordable Dwelling Units (ADUs) in the District of Columbia, hereby gives notice that DHCD will intake requests to review the affordability of current ADUs. ADUs are for-sale and for-rent homes that are locally restricted and set-aside for occupancy by households whose income falls within a certain range and are generally offered at a below-market rate. ADUs do not include developments solely funded through the District's Housing Production Trust Fund (HPTF) or homes that are federally restricted through programs such as Home Investment Partnerships Act (HOME), Low-Income Housing Tax Credits (LIHTC), and the Community Development Block Grant (CDBG).

The purpose of this analysis is to determine whether the subject ADU is considered an "Unaffordable ADU" under the current policies and procedures of the ADU program. If an ADU is considered to be an Unaffordable ADU, then DHCD may adjust the area median income (AMI) of prospective purchasers eligible to purchase the ADU while maintaining the maximum resale price. DHCD may take other actions as appropriate within its delegated authority.

An ADU is considered an unaffordable ADU when a household – at the benchmark income and size for the unit's designated AMI level and unit type[1] – spends more than thirty-six percent (36%) of its monthly income on monthly mortgage payments and associated homeownership expenses (i.e. condominium fees).

ADU owners may request an affordability analysis using the form on the following page. All requests should be submitted to DHCD by mail at the following address: Department of Housing and Community Development; Housing Regulation Administration, Affordable Dwelling Unit Monitoring; 1800 Martin Luther King Jr. Avenue; Washington, DC 20020.

Once DHCD receives a completed request form, it will conduct an analysis of the ADU's affordability and will endeavor to respond to the requesting ADU owner within 20 days. (Please note that the response time may be longer or shorter depending on the volume of requests.) If the ADU is determined to be an Unaffordable ADU, then DHCD will provide the ADU Owner with a covenant amendment for signature and recording. Any change to the affordability level of an ADU will not take effect unless and until an amendment to the ADU Covenant is recorded. If an ADU is determined to be Unaffordable and a change is made to the affordability level of that ADU, then the ADU owner will also be entitled to a $5,000 increase in their maximum resale price.

[1] To determine benchmark income, multiply the four-person AMI published by the U.S. Department of Housing and Urban Development by 0.7 for one person, 0.8 for two people, 0.9 for three people, 1.1 for five people and 1.2 for six people, and so on. The benchmark household size per unit type is: one person for a studio, two people, for a one bedroom, three people for two bedrooms, and five people for three bedrooms.

For more information regarding Affordable Dwelling Units, go to www.dhcd.dc.gov, or contact the Housing Regulation Administration at (202) 442-9505. For information on DHCD's other affordable housing programs and services go to www.dhcd.dc.gov or call (202) 442-7200.

The District's Affordable Housing Locator lists affordable housing, including Affordable Dwelling Units, and is accessible at www.dchousingsearch.org.

HOWARD ROAD ACADEMY

REQUEST FOR PROPOSALS

Student Data Management

Howard Road Academy Public Charter School invites proposals for Student Data Management contracts for 2013-2014. Bid specifications may be obtained at the address below. Any questions regarding this bid must be submitted in writing to lhenderson@cedartree-dc.org before the RFP deadline.

Dr. LaTonya Henderson
Executive Director
Howard Road Academy
701 Howard Road, SE
Washington, DC 20020
lhenderson@cedartree-dc.org

Howard Road Academy will receive bids until Monday, Monday, August 12, 2013 and no later than 2:00 p.m.

THE NOT-FOR-PROFIT HOSPITAL CORPORATION
BOARD OF DIRECTORS

NOTICE OF PUBLIC MEETING

The Board of Directors of the Not-For-Profit Hospital Corporation, an independent instrumentality of the District of Columbia Government, will hold a conference call meeting at 10am on Friday, August 2, 2013. Members of the public wishing to witness the meeting should come to 1310 Southern Avenue, SE, Washington, DC 20032, Suite 2000. 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).

DRAFT AGENDA

1) CALL TO ORDER

2) DETERMINATION OF A QUORUM

3) APPROVAL OF AGENDA

4) BOARD DISCUSSION

1. Huron Consulting's Strategic Plan - Final Document

5) ANNOUNCEMENT

1. The next Governing Board Meeting will be held at 9:00am, September 26, 2013 at United Medical Center/Conference Room 2/3.

6) ADJOURNMENT

OPTIONS PUBLIC CHARTER SCHOOL

REQUEST FOR PROPOSAL (RFP)

Special Education Services

Options Public Charter School seeks bids for Special Education Support Services for Psychological Counseling and Evaluation, Occupational Therapy, and/or Speech and Language Therapy. Contractors bid on one or all services listed. The bid should include all eligible State and Federal discount pricing. After award of bid, services need to begin on August 26, 2013.

Bids must be received by 4:00 PM, Friday, August 9th. They can be mailed or electronically submitted to kware@optionsschool.org.

Karimah Ware
Options Public Charter School
1375 E Street NE
Washington, DC 20002
(202) 547-1028

Government of the District of Columbia
Public Employee Relations Board

In the Matter of:	
American Federation of Government Employees, Local 631,	
Petitioner,	PERB Case Nos. 04-UM-01 and 04-UM-02
and	Opinion No. 1263
Government of the District of Columbia,[1]	Petition for Unit Modification
Respondents.	

DECISION AND ORDER

I. Statement of the Case

The American Federation of Government Employees, Local 631 ("Union", or "Local 631") filed a Petition for Unit Modification ("Petition") regarding the certification of several bargaining units located at various District agencies: Department of Environment, Energy Division; and Department of Administrative Service/Mail Room ("Agencies").[2] The Union seeks modification "to reflect the changes in the identity of the employing agency; to add unrepresented positions created since the recognition or certification was granted; and to delete the classifications or employee positions that no longer exist." (Petition at pgs. 1-2). The Office of Labor Relations and Collective Bargaining ("OLRCB") represents the District of Columbia agencies/Respondents in this matter. The OLRCB filed its comments in opposition to the proposed unit modifications in October 2009. During the intervening time, the District engaged in multiple reorganizations that have an effect on the outcome of these proceedings. No interveners filed an appearance in this proceeding.

The matter was submitted to a hearing examiner for development of the record. A hearing was held and the parties were provided the opportunity to submit post-hearing briefs.

[1] Named Respondents include: Office of Zoning; Office of Planning; Department of Public Works, Energy Office; Office of Property Management; Department of Transportation; and Department of Real Services.

[2] The Petitioner filed a Petition, and Amended Petition and a Second Amended Petition. The Petitioner also amended agency names at the hearing, reflecting agency reorganizations.

The Hearing Examiner issued a Report and Recommendation (R&R) which recommended granting the Petition. The Hearing Examiner's R&R is before the Board for consideration.

II. Procedural History of PERB Case Nos. 04-UM-01 and 04-UM-02

On February 5, 2004, AFGE, Local 631 filed a petition for unit modification, pursuant to Board Rule 504.1(a)-(d), to modify PERB Case No. 82-R-15, **Certification No. 14** (1982) (DC Office of Planning and Development); PERB Case No. 82-R-16, **Certification No. 15** (1982), (Energy Office); and **Certification No. 44** (1987) (Department of Administrative Services/mail room) for the purpose of non-compensation bargaining to: (1) reflect the change of the name of the local union; (2) reflect changes in the identity of the employing agency; (3) add unrepresented positions created since the recognition or certification was granted; (4) delete classifications or employee positions that no longer exist; and, (5) consolidate two or more units within OPM and the Department of Public Works ("DPW"). (See R&R at p. 14).

In addition to the modifications requested in its February 5, 2004 Petition, on February 9, 2004, AFGE, Local 631 filed an Amended Petition for unit modification seeking to modify PERB Case No. 84-R-08, Certification No. 24 (as amended March 22, 1989), for the purpose of non-compensation bargaining. Based upon various reorganizations within DPW, Local 631 seeks to eliminate the consolidation order in Certification No. 24. (See Amended Petition). On July 1, 2004, Local 631 filed a Second Amended Petition amending the petition in PERB Case No. 04-UM-02 seeking, *inter alia*, to amend Certification No. 14, Certification No. 15, Certification No. 44, and seeking to change the name of the union from AFGE, Local 3871 to AFGE, Local 631. Notices were posted and the petitions were consolidated for hearing. (See Second Amended Petition).

A hearing in this matter was held on September 1, 2009.[3] On September 13, 2009, AFGE, Local 631 amended the petition to substitute the "Department of Environment, Energy Division" for the "Department of Public Works, Energy Office", reflecting a governmental reorganization. On October 29, 2009, the Respondents filed comments on Petition No. 04-UM-01 (Certification No. 44), representing the affected agencies (Office of Zoning, Office of Planning, Department of Real Estate Services, and Department of the Environment, Energy Office). OLRCB asserted that the 1998 merger of AFGE, Local 3871 into AFGE, Local 631 was invalid because Local 3871 did not vote on the action 12 years prior.

The hearing continued on March 15 and 16, 2010. (See R&R at p. 15). On March 15, 2010, the Respondents opposed the Amended Petition taking the position, as it had in the submitted comments, that that the 1998 merger of AFGE, Local 3871 into AFGE, Local 631 was invalid because AFGE, Local 3871 had not voted on the merger action 12 years prior. (See R&R at p. 15). The Respondents also offered a new argument in support of their opposition, stating that "the Project Manager position under the Construction Division at Department of Real Estate

[3] The Hearing Examiner was unable to continue the hearing and another Hearing Examiner was assigned for the remainder to the proceedings.

Services (DRES) is "aligned with management and as a result, is excluded from the bargaining unit."[4] (R&R at p. 16).

The hearing continued on March 16, 2010. The Hearing Examiner directed the Respondents to submit affidavits stating what the project manager does, attached to the DRES project manager's current position description and a statement as to why any project manager should be excluded from the bargaining unit. The Petitioner was granted the opportunity to file a reply brief. The Respondents filed 21 affidavits without position descriptions attached, and the Hearing Examiner issued a show cause order on May 25, 2010. No position descriptions were submitted and a subpoena was issued to 21 DRES employees, directing them to give testimony. Twelve employees appeared and one produced an official position description. The Hearing concluded on July 7, 2010 and the record closed on August 7, 2010. (See R&R at p. 18).

The Hearing Examiner found that the District implemented multiple reorganizations that have an effect on the outcome of these proceedings and provided a time line of District reorganizations as well as bargaining unit certifications affected.

The following changes in the District Government's organizational structure were cited:

1. D.C. DPW was established by law in 1984. In 1993, the District's Weatherization Assistance Program, and employees then represented by AFGE, Local 3871, was transferred from the Department of Housing and Community Development to the Energy Office, within the Department of Public Works. (R&R at p 10).

2. In 1998, the Council of the District of Columbia established the Office of Property Management (OPM), abolished the Department of Administrative Services (DAS) and moved then-members of AFGE, Local 631 in accord with that reorganization. (R&R at p. 11).

3. In 2000, the Council transferred all authority previously delegated to the Department of Consumer and Regulatory Affairs concerning historic preservation to the Office of Planning along with employees then represented by AFGE, Local 3871. (R&R at p. 11).

4. In 2002, the Council established the Department of Transportation. (R&R at p. 11).

---

[4] The Respondents also opposed the petition asserting that two maintenance mechanic positions in the Facilities Division of DRES "are coded under AFGE 631 and ...the overwhelming majority of those positions have been coded and included in AFSCME [Local] 2091." The Respondents argued that "all employees in the maintenance mechanic position in DRES Facilities Division, Maintenance Operation, should be members of AFSCME 2091 and not AFGE 631. After testimony by James Ivey, President of AFSCME, Local 2091 that he relinquished those positions to AFGE, Local 631, the Respondents abandoned this position. (See R&R at p. 17).

The Respondents also alleged for the first time, at the third day of hearing, that two Contract Specialist position in DPW, (Office of Administrative Services, Equal Employment Opportunity (EEO) Specialist and the Americans with Disabilities Act (ADA) Specialist in the District Department of Transportation), should be excluded from the bargaining unit. The Hearing Examiner granted the Petitioner's motion to exclude any testimony opposing the inclusion of these positions because the Respondents had failed to raise the issue during the previous six (6) years and raised it for the first time during the hearing with no prior notice to the Petitioner. (See R&R at n. 36).

5. In 2009, by Executive Order, the Mayor of the District of Columbia re-designated OPM as the District of Columbia Department Real Estate Services (DRES). (R&R at p. 11).

6. Prior to the issuance of the Executive Order creating DRES, the District re-named two positions in the soon-to-be-extinct OPM, i.e., Project Manager, Construction Division (DS-13) and Project Manager, Construction Division (DS-14). In re-naming these positions, the District simply changed the position title from "General Engineer (Project Manager)" to "Project Manager." Subsequent new hires entered employment with the job title "Project Manager," in the new DRES. Also, the District transferred the newly named positions of "Property Manager" position from OPM to the newly-created DRES. Thus, DRES "Project Manager" positions are equivalent to those of construction managers. Neither position is classified as supervisory nor managerial. (R&R at p. 12).

7. OPM unilaterally determined that positions now designated "Project Manager" were not covered by a collective bargaining unit. Thus, applicants for the position in the summer of 2009 were advised on the DRES website that the positions were not covered by a collective bargaining unit. The Hearing Examiner determined that the position does not entail the development of agency policy. Employees encompassed by the following certifications currently are employed in DRES: Certifications No. 77, No. 82, No. 85 and No. 92. (R&R at p. 13).

The following bargaining unit certifications pertain to AFGE, Local 631:

8. (1965) D.C. General Hospital ("DCGH"), Repairs and Improvements, Department of Buildings and Grounds.

9. (1972) D.C. Board of Labor Relations ("BLRB") certified AFGE, Local 631, *inter alia*, as the exclusive bargaining unit Building and Grounds Management Section, Administrative Service Division, the Maintenance Section of DCGH and the Central Support Branch, Administrative Services Division, Department of Human Resources. BLR Case No. 3R002.

10. (1976) BLRB certified issued an order clarifying that AFGE, Local 631 was the bargaining unit representative for the Department of Environmental Services assigned to the Mount Olivet Shops. BLR Case No. 3R003, 5R007.

11. (1976) BLRB certified AFGE, Local 631 as the exclusive representative for employees in the city's Mobile Equipment Management Division, Office of Executive Management, Department of Environmental Services. BLR Case No. 5R003.

12. (1984) The Public Employee Relations Board ("PERB" or "the Board") granted OLRCB's unopposed petition to consolidate four (4) separate units (AFGE, Locals 631, 872, 1975 and 2553) into one department-wide non-compensation unit within the District of Columbia Department of Public Works ("DC DPW"). (BLR Case No. 84-R-08; DC

DPW and AFGE, Local 631, 872, 2553 and 1975, PERB Case No. 84-R-08, Certification No. 24).

13. (1994) The Board certified AFGE 631 as the exclusive representative for all professional and non-professional employees in the Design Engineering Construction Administration, Bureau of building Construction Services, DC DPW. (See, *AFGE, Local 631 and DC DPW, Design Engineering Construction Administration, Bureau of Building Construction Service*, PERB Case No. 94-RC-03, Certification No. 77).

14. (1995) The Board granted certification of exclusive representation to AFGE, Local 631 for all professional and non-professional employees of DPW, Facilities Operation and Maintenance Administration (FOMA), Office of Contract Support, and the Office of Standards Enforcement, thereby modifying PERB Case No. 84-RC-08, Certification No. 24. (See *AFGE , Local 631 and DC DPW, Design Engineering and Construction Administration, Office of Contract Administration, Contract Management Division*, PERB Case No. 95-RC-13; and *AFGE, Local 631 and DC DPW , Facilities Operation and Maintenance Administration, Office of Contract Support and the Office of Standards and Inspection*, PERB Case No. 94-RC-06, Certification No. 82; *AFGE, Local 631 and DC DPW, Design Engineering and Construction Administration, Office of Contract Administration, Contract Management Division*, PERB Case No. 95-RC-13, Certification No. 85. See also, *AFGE, Local 631 and DC DPW, Design Engineering and Construction Administration, Office of Contract Administration, Contract Management Division*, PERB Case No. 96-UM-07, Certification No. 95).

15. (1995) The Board certified AFGE, Local 631 as the representative for all unrepresented non-professional employees of the Department of Public Works, Office of Management Services, Administrative Services Branch. (See, *AFGE, Local 631 and DC DPW, Office of Management Services, Administrative Services Branch*, PERB Case No. 95-RC-18, Certification No. 91).

16. (1996) The Board issued a certification of representation of by AFGE, Local 631 for all professional and non-professional employees of the city's Water and Sewer Authority, Office of Engineering Services and Bureau of Water Waste Treatment, Laboratory Division, and of the Wastewater Treatment, Solid Processing Division and Wastewater Division, those in the Office of Administrative Services, Water Conservation Division and the Procurement and Facilities Division, Goods and Services Branch. (See, *AFGE, Local 631 and DC WASA*, PERB Case No. 96-UM-03, Certification No. 92).

17. (1997) The Board issued an order consolidating several AFGE locals then representing District employees, including Certification No. 24 at the Department of Public Works. (See, DC *DPW and AFGE, Locals 631, 872, 2553 and 197*, PERB Case No. 84-RC-08 (Consolidation Order); *AFGE, Local 872 and DCWASA*, PERB Case No. 98-UM-07, Certification No. 95).

18. (1999) The Board certified AFGE, Local 631 as the exclusive representative for a consolidated unit described as "[a]ll professional and non-professional employees in the

Department of Public Works, Office of Materials Development within the Design, Engineering and Construction Administration; and all non-professional employees within the Design, Engineering and Construction Administration, Office of Contract Administration, Contract Management Division. This supersedes previous Certification Nos. 85 and 92 and establishes a consolidated unit under Certification No. 108. (See, *DC DPW and AFGE, Local 631*, Certification No. 108).

19. (1999) OLRCB sought and was granted by the Board an order consolidating three (3) collective bargaining units represented by AFGE, Local 631 at DPW which included "all employees employed by [DC DPW] under the Mobile Equipment Management Division, Office of Executive Management; excluding shop and office employees assigned to the Mt. Olivet Shops; and all non-professional employees employed by DPW under the Office of Management Services, Contract Support Division and the Administration Services Branch." This certification changed the identity of the employing agency for one of the consolidated units from the Department of Environmental Services ("DES") to the Department of Public Works. (See, *DC DPW and AFGE, Local 631*, PERB Case Nos. 99-UM-06 and 99-UCN-04, Slip Op. No. 614; *DC DPW and AFGE*, Local 631, PERB Case Nos. 99-UM-06 and 99-UCN-04, Certification No. 111).

The following bargaining unit certifications pertain to AFGE, Local 3871:

20. (1982) The Board certified Local 3871 as the exclusive e representative, non-compensation, for all employees of the District's Energy Office and its Office of Planning and Development. (See, *AFGE, 14th District, Local 3871 and DC Office of Planning and Development*, PERB Case No. 82-R-15, Certification No. 14; *AFGE, 14th District, Local 3871 and DC Energy Office*, PERB Case No. 82-R-16, Certification No. 15).

21. (1987) The Board certified AFGE, Local 3871 as the exclusive representative for non-compensation, for all employees in the Mail Management Branch (Mail Room), Department of Administrative Services. (See, *AFGE, Local 3871 and DC Office of Administrative Services*, PERB Case No. 86-R-02, Certification No. 44).

22. (1994) AFGE, National Executive Council imposed trusteeship on Local 3871. The National Vice President, David J. Schlein, notified OLRCB that the "American Federation of Government Employees is disbanding AFGE Local 3871 currently in trusteeship and merging it with AFGE, Local 631. The dues and service fees deducted from employees should be raised to the level of that currently paid to Local 631, which is $12.00 per pay period....The dues and service fee deduction checks should be sent to the treasurer of Local 631. OLRCB did not oppose the merger prior to the filing of the petition at issue here and the office was on notice since at least 2003 that the petitioner had requested, and was receiving, dues payments on behalf of former members of AFGE Local 3871." (R&R at p. 9).

23. (2000) Pursuant to a subsequent District reorganization, certain employees responsible for historic preservation duties were transferred to the office of Planning in October 2000.

24. (2003) AFGE, District 14 notified OLRFCB that "[a]s the result of the merger of Local 3871 with AFGE, Local 631 [the employees formerly represented by AFGE, Local 3871] are now represented by Local 631. A clarification of unit petition memorializing the merger will be filed with the Board as soon as possible." (R&R at p. 10).

25. **Bargaining unit certification pertaining to AFGE, Local 1975**:

(1984) AFGE, Local 1975 became part of a four-unit consolidation unit for non-compensation collective bargaining purposes. (See, *DC DPW and AFGE, Locals 631, 872, 2553 and 1975*, PERB Case No. 84-R-08, Certification No. 24). Later, the District refused to bargain with AFGE, Local 631 until AFGE, Local 1975 was severed from Certification No. 24. (See R&R at p. 10).

AFGE, Local 3871 was issued Certificate Nos. 14 and 15 in 1982, and 44 in 1987. In 1994, the AFGE national union imposed a trusteeship on AFGE, Local 3871 and in 1998, merged it into AFGE, Local 631. The Hearing Examiner addressed the Respondents' opposition to the unit modification based on the argument that the merger of the two AFGE Locals was invalid since members of AFGE, Local 3871 did not vote on the merger. Assuming the Respondents' argument to be timely, the Hearing Examiner found that the argument was not supported by the record, noting that the AFGE national constitution authorizes its National Executive Council ("NEC") to take all necessary actions in furtherance of broader union goals.[5] (See R&R at p. 21).

The Hearing Examiner determined that "in approving the merger between its locals, the AFGE NEC acted within the parameters of its national constitution." (R&R at p. 21). The Hearing Examiner noted that AFGE, Local 8371 and Local 631 are locals are within AFGE, District 14. In addition, the Hearing Examiner found that the national union's decision to cease the operations of AFGE, Local 3871 and transfer the employees in the bargaining unit to the authority of AFGE, Local 631, does not raise a question concerning representation for the post-affiliate union, as there has been unbroken continuity with the pre-affiliate union. Consequently, the Hearing Examiner found no impediment to granting the petition for unit modification under PERB Rule 516.1,[6] nor under Board case precedent. Furthermore, the testimony established that

[5] The AFGE national constitution states as follows:

> The NEC also shall utilize every legitimate means and effort to consolidate existing compatible locals into larger segments or councils for the purpose of creating stronger union entities and eliminating fragmented organizations. District boundaries will not be a barrier to any merger or consolidation deemed beneficial and for the protection of union members.

[6] PERB Rule 516.1 provides as follows:

> An exclusive representative shall file a petition...to amend its certification whenever there is a change in the identity of the exclusive representative that does not raise a question concerning representation (*e.g.*, whether the employees have designated a particular organization as their bargaining agent). A change

the merger was willingly accepted by both locals and no bargaining unit members filed a complaint in this regard. (See R&R at p. 22).

With regard to the Petitioner's request for name change and consolidation, the Hearing Examiner stated that "the Bureau of Repairs and Improvements became a part of FOMA under DPS, later moved to OPM, now resides in DRES, and that AFGE, Local 631 has represented its trade workers continuously through the various moves for more than two decades....There is no question of continuity in representation here." (R&R at p. 23). The Petitioner seeks a name change to reflect the Respondents' multiple reorganizations. The Respondents contend that the DRES Project Manager position should be excluded from the unit alleging that such positions are aligned with management. The Hearing Examiner found that the record does not support a finding that the DRES Project Manager position is managerial in nature and thus should not be excluded from the bargaining unit. (See R&R at p. 23). The Hearing Examiner found no evidence that any of the incumbents occupying the Project Manager position "operate with virtual autonomy with respect to analyzing, evaluating, and effectively recommending action to be taken concerning broad agency policy objectives and program goals." (R&R at p. 24).

III. The Hearing Examiner made the following recommendations:

1. The Petitioner has met its burden of demonstrating a community of interest among employees represented by AFGE, Local 631 and those represented previously by AFGE, Local 3871 and no change has occurred in the continuity of the post-affiliation union with the pre-affiliation union. Therefore, the Board should grant the petition, as follows:

   AFGE, Local 631 is recognized as the exclusive representative of:

   [a] All employees in the District of Columbia Office of Planning; excluding management officials, supervisors, confidential employees, employees engaged in personnel work in other than clerical capacities and employees engaged in administering the provisions of Title XVIII of the CMPA of 1978, *as amended*; and,

   [b] All employees in the District of Columbia Office of Zoning; excluding management officials, supervisors, confidential employees, employees engaged in personnel work in other than clerical capacities and employees engaged in administering the provisions of Title XVIII of the CMPA of 1978, *as amended*; and

---

in the identity of the representative that does not raise a question concerning representation may include a change in the name of the labor organization.

[c] All employees in the Energy Office of the District of Columbia Department of Environment; excluding management officials, supervisors, confidential employees, employees engaged in personnel work in other than clerical capacities and employees engaged in administering the provisions of Title XVIII of the CMPA of 1978, *as amended*; and,

[d] All employees in Fleet Management Administration, Department of Public Works, and all unrepresented non-professional employees, in the Administrative Services Branch, Office of Management Services in the Department of Public Works; excluding management officials, supervisors, confidential employees, employees engaged in personnel work in other than clerical capacities and employees engaged in administering the provisions of Title XVIII of the CMPA of 1978, *as amended*; and

[e] All professional and non-professional employees in the District Department of Transportation Office of Contracting and Procurement and Administrative and Management Support Services, Office Integrity and Compliance; excluding management officials, supervisors, confidential employees, employees engaged in personnel work in other than clerical capacities and employees engaged in administering the provisions of Title XVIII of the CMPA of 1978, *as amended*; and,

[f] All employees in the Mail Services in the Department of Real Estate Services, Facilities Division, Facilities Management; and for all professional and non-professional employees in the Department of Real Estate Services Facilities Division – Operations and Facilities Division - Facilities Management Areas I, II, II, IV, and V; Facilities Division Building Maintenance Operations, Areas I, II, IV and V; and Building Maintenance – DC Warehouse formerly employed in the Office of Property Management, Facilities Operation Maintenance Administration (FOMA), including positions of Secretary, mail Assistant, maintenance Mechanic, Electrician, Electrical Worker, Plumber, Pipefitter, A/C Equipment Mechanic, Locksmith Leader, Locksmith, Carpenter Leader, Carpenter, Wood Crafter, Masonry Worker, Sheet Metal Worker, Mechanic, Welder; in the Department of Real Estate Services, the Construction Division, for all professional employees (including civil engineer, mechanical engineers, electrical

engineer, general engineer, structural engineer and architect) and non-professional (including civil engineering technician, program manager, clerical and other support staff), formerly employed in the Office of Property Management, Capital Construction Services Administration (CCSA); and for all employee in the Contracts Unit, Department of Real Estate Services, Facilities Division, Excluding management officials, supervisors, confidential employees, employees engaged in personnel work in other than clerical capacities and employees engaged in administering the provision of Title XVIII of the CMPA of 1978, *as amended*.

2. There being no opposition to granting the petition insofar as the petitioner asserts that Certification of Representation No. 24 no longer is an appropriate consolidated bargaining unit due to reorganizations within the District of Columbia Government, the Board should grant the petition, as follows:

AFGE, Local 1975 is recognized as the exclusive representative of all non-professional District Service (DS) and Wage Grade (WG) employees within the Department of Public Works, except Fleet Management Administration and the Office of Management Services, Administrative Services Branch, who previously were assigned to bargaining units within DPW AFGE, Local 1975 on July 23, 1984 in Certification of Representation No. 24 as follows:

[a] Non-professional DS employees granted recognition on May 3, 1972, in the Department of Highways and Traffic including Bureau of Construction and Maintenance; Design Engineering and Research; Traffic Engineering and Operation; and Office of Planning and Programming and Business Administration; and now in the Department of Transportation in Bureaus of Construction and Maintenance; Design, Engineering and Research; Traffic Engineering and Operations; and Office of Transportation Policies and Plans; and Office of Controller; excluding management officials, supervisors, confidential employees, employees engaged in personnel work in other than clerical capacities and employees engaged in administering the provisions of Title XVIII of the CMPA of 1978, *as amended*; and

[b] All Wage Grade employees granted exclusive recognition on June 2, 1967 in the Department of Highways and Traffic, including Bureaus of Construction and

Maintenance; Design, Engineering and Research; and Traffic Engineering and Operations and now in the same bureaus of the Department of Transportation, excluding management officials, supervisors, confidential employees, employees engaged in personnel work in other than clerical capacities and employees engaged in administering the provisions of Title XVIII of the CMPA of 1978, *as amended*; and

[c] All Uniformed Motor Vehicle Inspectors in the Department of Motor Vehicles, and covered by amended recognitions issued October 19, 1981 for non-supervisory employees in the Bureau of Traffic Adjudication, Department of Parking Enforcement; Motor Vehicles; Department of Transportation, excluding management officials, supervisors, confidential employees, employees engaged in personnel work in other than clerical capacities and employees engaged in administering the provisions of Title XVIII of the CMPA of 1978, *as amended*; and

[d] All unrepresented District Service (DS) professional employees in the Government of the District of Columbia Department of Public Works, Transportation Systems Administration, Bureau of Traffic Adjudication, Hearing Division, employed as Hearing Examiners; excluding management officials, supervisors, confidential employees, employees engaged in personnel work in other than clerical capacities and employees engaged in administering the provisions of Title XVIII of the CMPA of 1978, *as amended*; and,

[e] All employees in the Government of the District of Columbia Department of Transportation, employed as Hearing Examiners; excluding management officials, supervisors, confidential employees, employees engaged in personnel work in other than clerical capacities and employees engaged in administering the provisions of Title XVIII of the CMPA of 1978, *as amended*.

(R&R pgs. 26-30).

IV. Discussion

An appropriate unit under the CMPA is a unit that possesses a community of interest among the employees and promotes effective labor relations and efficiency of agency operations. The Board has held that under D.C. Code § 1-617.09(a), "petitioning parties need only propose

an appropriate unit, not necessarily the most appropriate unit, in order to meet the Comprehensive Merit Personnel Act's requirement for appropriate unit."[7]

Amendments to certifications are governed by Board Rule 516.1, which provides as follows:

> An exclusive representative shall file a petition...to amend its certification whenever there is a change in the identity of the exclusive that does not raise a question concerning representation (*e.g.*, whether the employees have designated a particular organization as their bargaining agent). A change in the identity of the representative that does not raise a question concerning representation may include a change in the name of the labor organization.

Here, AFGE, Local 631 seeks to consolidate various bargaining units within several agencies that have undergone a transition, including a name change.

The Board has held that:

> Under PERB and NLRB precedent, an employer's obligation to recognize and bargain with an incumbent union continues following the union's merger or affiliation unless either: (1) the union's members were not afforded an opportunity to vote, with adequate due process safeguards, regarding the merger or affiliation; or (2) the organizational changes resulting from the merger of affiliation were so dramatic that the post-affiliation union lacked substantial continuity with the pre-affiliation union.

AFSCME Local 1033 and 2097 v. D.C. Health and Hospitals Public Benefit Corp., 47 DCR 6991, Slip Op. No. 620, PERB Case No. 99-AC-01 (2000) (citations omitted). The conditions precedent to an employer's obligations are alternative, not cumulative.

The Board has held that a management official is "one who formulates and effectuates management policies by expressing and making operative the decisions of their employers."[8] The Hearing Examiner found no evidence that any of the incumbents now occupying the Project Manager position "operates with virtual autonomy with respect to analyzing, evaluating, and effectively recommending action to be taken concerning broad agency policy objective and program goals." (R&R at p. 24).

---

[7] *Health and Hospital Public Benefit Corporation and All Unions Representing Units in Compensation Units 12, 20, 21, 22, 23 and 24 and employees employed by the Health and Hospital Public Benefit Corp.*, 45 DCR 6743, Slip Op. No. 559 at p. 7, PERB Case Nos. 97-UM-05 and 97-CU-02 (1998).

[8] *AFGE, Local 2725 and D.C. Dep't of Housing and Community Development*, 45 DCR 2049, Slip Op. No. 532 at pgs. 4-5, PERB Case No. 97-UC-01 (1974) citing NLRB v. Bell Aerospace Co., 416 U.S. 267, 288 (1974).

Pursuant to Board Rule 550.21, the Board may adopt a hearing examiner's report and recommendation to the extent that it is supported by the record. The Boards has reviewed the record and all the pleadings filed in the instant case. Having also reviewed the Hearing Examiner's findings and recommendations, and finding them be reasonable, persuasive and supported by the record, the Board hereby adopts the Hearing Examiner's recommendation to grant the American Federation of Government Employees, Local 631's Petition for Unit Modification, including the DRES Project Manager position in the bargaining unit.

ORDER

IT IS HEREBY ORDERED THAT:

1. The American Federation of Government Employees, Local 631's Petition for Unit Modification is granted.

2. Pursuant to Board Rule 559.1, this Decision and Order is final upon issuance.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD
Washington, D.C.

April 27, 2012

CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order and Notice in PERB Case Nos. 04-U-01 and 04-UM-02, Slip Opinion No. 1263 is being transmitted electronically and *via* U.S. Mail to the following parties on this the 27th day of April, 2012.

Jonathan K. O'Neill, Esq.
Attorney for
Office of Labor Relations
and Collective Bargaining
441 4th Street, NW, Suite 820 North
Washington. DC 20005

EMAIL & U.S. MAIL

jonathan.o'neill@dc.gov
Louise.Cisse@dc.gov

Barbara B. Hutchinson, Esq.
Counsel for American Federation of
Government Employees, Local 631
7907 Powhattan Street
New Carrollton, MD 20784

EMAIL & U.S. MAIL

bbhattync@gmail.com

Sheryl V. Harrington
Secretary

REAL PROPERTY TAX APPEALS COMMISSION

NOTICE OF ADMINISTRATIVE MEETING

The District of Columbia Real Property Tax Appeals Commission will hold an Administrative Meeting on Thursday, August 15, 2013, at 2:30 pm in the Commission offices located at 441 4th Street, NW, Suite 360N, Washington, DC 20001. Below is the draft agenda for this meeting. A final agenda will be posted to RPTAC's website at http://rptac.dc.gov

For additional information, please contact: Carlynn Fuller Jenkins, Executive Director, at (202) 727-3596.

DRAFT AGENDA

I. CALL TO ORDER

II. ASCERTAINTMENT OF A QUORUM

III. REPORT BY THE CHAIRPERSON
- **a. DRAFT -- FISCAL YEAR/TAX YEAR 2013 ANNUAL REPORT**

IV. REPORT OF THE VICE CHAIR
- **a. FINAL RULE MAKING**

V. REPORT BY THE ADMINISTRATIVE OFFICER
- **a. TAX YEAR 2014 APPEAL SEASON**
- **b. UPCOMING PUBLIC MEETINGS**

VI. COMMENTS FROM THE PUBLIC – LIMITED TO 2 MINUTES

VII. ADJOURNMENT

Individual who wish to submit comments as part of the official record should send copies of the written statements via mail or email no later than 4:00 p.m., Friday, August 9, 2013, to:

Carlynn Fuller Jenkins, Executive Director
Real Property Tax Appeals Commission
441 4th Street NW, Suite 360N
Washington, D.C. 20001
202-727-6860
Email: Carlynn.fuller@dc.gov

SOMERSET PREPARATORY DC PUBLIC CHARTER SCHOOL

REQUEST FOR PROPOSAL

Food Service Management Services

SOMERSET PREPARATORY DC 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 Request for Proposals (RFP) such as; student data, days of service, meal quality, etc. may be obtained beginning on July 26, 2013 from:

JAMES GRIFFIN
3301 WHEELER RD, SE, Washington, DC 20032
301-775-0349

Proposals will be accepted at the above address on Friday, August 16, 2013 no later than 12 noon

All bids not addressing all areas as outlined in the RFP will not be considered.

TWO RIVERS PUBLIC CHARTER SCHOOL

NOTICE OF REQUEST FOR PROPOSALS

INTERPRETATION AND TRANSLATION SERVICES

Two Rivers PCS is receiving bids for interpretation and translation services. The provider must be available beginning September 3, 2013 through June 30, 2014. Primary languages requiring services are ASL, Spanish, Amharic, and Mandarin. Services needed for teacher/parent conferences, IEP/SST meetings, and after school events. Additional needs include telephone interpretation services and translation of written documents. Two Rivers may choose to work with one or more companies. Bids may include only partial language services if a company does not have interpreters for all of the listed languages. Individuals are welcome to apply as independent contractors. Bids due August 19, 2013. For complete RFP and Statement of Work e-mail Mary Gornick at procurement@tworiverspcs.org

TRANSPORTATION SERVICES

Two Rivers is seeking a company or companies to provide student transportation for approximately 30 local field trips and 3 long distance field trips. The company must have the availability of both charter buses and school buses and should be able to provide services within 7 days of request. The provider must be available beginning September 3, 2013 through June 30, 2014. Bids are due August 19, 2013. For complete RFP and Statement of Work e-mail Mary Gornick at procurement@tworiverspcs.org

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 18263-B of Stephanie and John Lester, pursuant to 11 DCMR §§ 1202.1 and 3104.1, for a special exception under § 223 to allow a rear addition to an existing one-family row dwelling not meeting requirements for lot occupancy (§ 403), rear yard (§ 404), or open court width (§ 406) in the CAP/R-4 District at premises 117 C Street, S.E. (Square 733, Lot 23).[1]

HEARING DATE: October 25, 2011
DECISION DATE: November 8, 2011

DECISION AND ORDER ON REMAND

This self-certified application was submitted on July 7, 2011 by Stephanie and John Lester (collectively, the "Applicant"), the owners of the property that is the subject of the application. The application, as finally amended, requests a special exception under § 223 of the Zoning Regulations to allow construction of a rear addition to a one-family row dwelling not meeting zoning requirements related to lot occupancy, rear yard, or width of open court in the Capitol Interest (CAP) Overlay/R-4 District at 117 C Street, S.E. (Square 733, Lot 23). Following a public hearing, the Board voted to approve the application.

This application was originally approved by summary order issued November 17, 2011. Charles Parsons,[2] who appeared at the public hearing as a person in opposition to the application, petitioned the D.C. Court of Appeals for review of the Board's decision, and the Court vacated the summary order and directed the Board to prepare a full order with findings of fact and conclusions of law to facilitate judicial review of its decision. *Parsons v. D.C. Bd. of Zoning Adjustment*, D.C. Court of Appeals No. 11-AA-1606, decided February 28, 2013. Pursuant to the Court's directive, the Board now issues this order.[3]

PRELIMINARY MATTERS

Notice of Application and Notice of Hearing. By memoranda dated July 8, 2011, the Office of Zoning provided notice of the application to the Office of Planning ("OP"); the State Historic

[1] This caption has been revised to reflect the zoning relief ultimately requested by the Applicant. A full discussion of the original application and its amendment is contained in the findings of facts.

[2] Following the issuance of the original summary order in November 2011, Mr. Parsons filed a motion for reconsideration as well as a request to waive the Board's rules and permit filing of a motion for reconsideration by a person who was not a party in the original proceeding. For the reasons set forth in BZA Order No. 18263-A, the Board denied Mr. Parson' request for a waiver and dismissed the related motion for reconsideration.

[3] Mr. Parsons filed a "Motion for Resolution on Merits" on May 23, 2013. In addition to requesting that the Board prepare this order, Mr. Parsons also requested a hearing on his motion for reconsideration and that he be made a party. The Board did not consider the remand instructions as encompassing any other action than the issuance of this order, and therefore instructed the Office of Zoning staff to return the motion to Mr. Parsons.

Preservation Officer; the District Department of Transportation; the Councilmember for Ward 6; Advisory Neighborhood Commission ("ANC") 6B, the ANC in which the subject property is located; Single Member District/ANC 6B01; and the Architect of the Capitol. Pursuant to 11 DCMR § 3112.14, on July 28, 2011 the Office of Zoning mailed letters providing notice of the hearing to the Applicant, ANC 6B, and the owners of all property within 200 feet of the subject property. Notice was published in the *D.C. Register* on July 29, 2011 (58 DCR 6406).

Party Status. The Applicant and ANC 6B were automatically parties in this proceeding. There were no additional requests for party status.

Applicant's Case. The Applicant provided testimony and evidence from Jack Lester, the property owner, and Jennifer Fowler, an expert in architecture. The Applicant and its expert witness described the project, explained the need for the various forms of zoning relief requested, and addressed issues regarding potential adverse impact. The Applicant plans to construct a rear addition to the row dwelling at the subject property comprising a portion attached to the existing dwelling, a two-story portion abutting the rear property line, which will provide an enclosed parking space and additional living space on the upper floor, and a covered walkway (referred to throughout the hearing as a "trellis") to connect both portions into one enlarged building.

OP Report. By memorandum dated October 18, 2011, OP recommended approval of the application subject to two conditions: (i) the lattice roof over the walkway must provide at least 51% coverage; and (ii) the covered walkway must provide a communication between the two portions of the building, rather than terminate at the blank rear wall of the existing house. According to OP, "[p]ast precedent dictates that a trellised structure, though not enclosed, can be considered a meaningful connection if the lattice provides at least 51% coverage and if the covered walkway provides communication between the different parts of the building." (Exhibit 31.)

ANC Report. By letter dated October 12, 2011, ANC 6B indicated that, at a regular monthly public meeting, held October 11, 2011 with a quorum present, the ANC voted 8-0-0 "to support the applicant's request as presented."[4] According to ANC 6B, "the project's impact on air, light and privacy will be negligible." (Exhibit 30.)

Architect of the Capitol. By memorandum dated August 25, 2011, the Architect of the Capitol submitted its report on the requested special exception in the Capitol Interest Overlay District. The Architect of the Capitol found that the proposed relief for additions to a three-story row dwelling and second floor addition to a proposed garage, not meeting lot occupancy

[4] The ANC described the necessary relief as a special exception from the open court requirement to construct a two-story addition on the rear of a row dwelling not meeting the required open court width, a special exception from lot occupancy requirements and a special exception from the rear yard setback restriction to construct a two-story addition with a garage at the rear of the property with a second-floor apartment. This essentially restates the relief requested in the application as amended; i.e. a special exception under § 223 to allow construction of a rear addition to a one-family row dwelling not meeting zoning requirements related to lot occupancy, rear yard, or width of open court.

requirements under § 403 and lot control restrictions under § 2516.1, was not inconsistent with the intent of the CAP/R-4 District and would not adversely affect the health, safety, and general welfare of the U.S. Capitol precinct and adjacent area, and was not inconsistent with the goals and mandates of the United States Congress as stated in 11 DCMR § 1200.1. (Exhibit 26.) The Architect of the Capitol suggested that the Applicant should provide shadow diagrams for both equinoxes and solstices reflecting the impact of the additions and the garage on the adjacent neighbors, and that the amount of storage needed at the garage should be questioned as it affected the size of the proposed structure.

Persons in support. The Board received a letter in support of the application from the owners of a nearby property, 127 C Street, S.E. The letter stated the owners' preference for a new livable space, which would be maintained and inhabited, unlike the existing parking slab, as a way to make the alley a safer, more livable place that would improve the look and community of the neighborhood. (Exhibit 27.) The Applicant also submitted a letter in support of the application written by the owner and resident of 119 C Street, S.E., which abuts the subject property.

Persons in opposition. The Board received a letter, dated August 12, 2011, from the Trustee of the Carl O. Winberg 1992 Trust, which owns several lots in the vicinity of the subject property, including two abutting lots (Lots 22 and 832). The letter stated "no objection to the applicant placing a similar structure [i.e. an accessory building] consisting of two stories but there is some deep concern about any additional height added to the existing structure." According to the Trustee, "[a]ny addition to the existing structure at that location would impact sunlight and create a substantial shade problem with the rear yard of 115 C Street." (Exhibit 25.)

The Board heard testimony and received letters in opposition to the application from the zoning committee of the Capitol Hill Restoration Society ("CHRS"), which objected that the planned trellis would not provide a legitimate connection between the Applicant's house and garage, that the Applicant had not demonstrated a need for additional space, and that approval of the project would have a serious impact on the Capitol Hill historic district. The Board also heard testimony in opposition to the application from Charles Parsons, who owns and resides in a neighboring row dwelling on C Street. Mr. Parsons expressed concerns including that the Applicant's project would "aggravate an already overcrowded situation" in the alley and would encourage construction of other residential buildings there.

Post-hearing submissions. At the close of the hearing, the Board requested additional information regarding the position of Mr. Joseph Wall, an adjacent neighbor, on the proposed application. The Board also left the record open for supporting documentation from the Applicant on the second prong of the Section 223 test, and for material from the Applicant, CHRS, and Mr. Parsons regarding the third prong of the Section 223 test. The Board also left the record open for the Applicant to provide additional material and precedent supporting the use of a trellis as a communication between two structures to create a single building. The record was closed for all other matters. (Exhibit 37.)

Following the close of the public hearing, CHRS and Mr. Parsons submitted lengthy responses that exceeded the limited issues permitted by the Board. (Exhibits 38 and 39.) The Applicant submitted the materials requested by the Board and included replies to the responses of CHRS and Mr. Parsons. (Exhibits 40-42.)

At a public meeting on November 8, 2011, the Board declined to accept or review the post-hearing responses because they addressed issues that went beyond the limited extent to which the record had been left open and were not accompanied by a request to reopen the record. (Public Meeting Transcript of November 8, 2011 (Tr. Nov. 8) at 34-35.) The Board then proceeded to deliberate based on the evidence and testimony that was properly submitted into the record, including specific consideration of the concerns and issues raised by Mr. Parsons and CHRS at the hearing. (Tr. Nov. 8 at 36-37.)

FINDINGS OF FACT

The Application and its Amendment

1. The application was filed with the Office of Zoning on July 7, 2011 and was self-certified pursuant to 11 DCMR § 3113.2.

2. The Applicant originally sought zoning relief to construct an addition to the existing row dwelling and also to construct an accessory structure on the subject property.

3. Because the two structures would exceed the maximum lot occupancy permitted by § 403, the Applicant sought relief from that provision. Although normally lot occupancy relief requires a variance, § 223.1 of the Zoning Regulations permits relief from this and certain other provisions by special exception for an "addition to a one-family dwelling or flat, in those Residence Districts where a flat is permitted, or a new or enlarged accessory structure on the same lot."

4. The proposed accessory building would have exceeded the one-story limitation for such structures imposed by 11 DCMR § 2500.4. Because § 2500.4 is not one of the provisions included within § 223, variance relief was sought.

5. The Applicant sought relief from 11 DCMR § 2516, which provides an exception to the building lot control regulations to permit two or more principal structures on a single subdivided lot in residence zones by special exception. There is no dispute that as originally proposed the new structure would be an accessory building. Since there would not be two principal buildings on the subject lot, it is unclear why § 2516 relief was sought, but in any event relief from that provision was available as a special exception.[5]

[5] The notice of public hearing published in the *D.C. Register* at 58 DCR 6406 erroneously stated that the application sought a "special exception from the accessory building one-story height limitation under subsection 2500.4, and a variance from the building lot control restrictions." As noted the exact reverse was true. Unfortunately this error

6. Thus, prior to its amendment, the only variance needed by the application was from the height limit applicable to the proposed accessory building.

7. The application was amended on October 11, 2011 to eliminate the request for variance relief from the accessory structure height limit and the special exception authorized by § 2516 based on modifications to the plans that reflected a connection between the row dwelling and the rear garage portion of the addition. (Exhibit 29.)

8. The application was also amended to expand the required special exception under § 223 to also include relief from the rear yard requirement of § 404.2 and the court width requirement of § 406. (Id.) The amended relief was also self-certified pursuant to 11 DCMR § 3113.2. (*Id*.) The Applicant included revised plans and elevations.

The Subject Property

9. The subject property is located at 117 C Street, S.E., an interior lot on the south side of the street (Square 733, Lot 23) and is mapped within the CAP/R-4 District.

10. The subject property is a rectangular parcel 19 feet wide and 119.5 feet deep, with an area of 2,270.5 square feet. The lot exceeds minimum zoning requirements for lot area and lot width (1,800 square feet and 18 feet, respectively).

11. The subject property is improved with a one-family row dwelling three stories in height, with a basement. Due to a change in grade from north (i.e. the front of the house to the south), the basement level of the Applicant's row dwelling is located at the existing grade at the rear of the house.

12. The subject property currently has a lot occupancy of 44.4%, where a maximum of 60% is permitted as a matter of right. The existing rear yard is almost 53 feet deep, where a minimum depth of 20 feet is required.

13. A public alley, known as Rumsey Court, abuts the subject property at the rear. The alley is 30 feet wide for much of its length, including the portion at the rear of the Applicant's property. Rumsey Court is accessible from D Street by two narrower alleys; one is located approximately mid-block and is 15 feet wide, while the other, located in the western portion of the square between two large buildings, is 25 feet wide (although its public portion is 10 feet wide). Ramsey Court also provides access to 1st Street via a public alley 10 feet wide.

14. The Applicant's dwelling is attached to similar dwellings on both sides. Both of the adjoining properties have accessory buildings in their rear yards, accessible by the alley.

---

was carried through to footnote 1 of the Summary Order, which stated that the Applicant amended the application "to withdraw special exception relief from 2500.4 and variance relief from 2516.1."

The carriage house at 115 C Street, the lot abutting the subject property to the west, has two stories and contains an apartment on the upper floor. The accessory building at the rear of 119 C Street, the lot abutting the subject property to the east, is a one-story garage. Neither of the accessory buildings on the adjoining lots has any windows directly facing the subject property.

15. The majority of lots in the same square as the subject property are developed with attached dwellings similar in size to the Applicant's residence. Although many of the buildings are devoted to residential use, few other properties in the immediate vicinity of the subject property along C Street are used as one-family dwellings. Several of the properties are used by political and lobbying groups in light of the proximity of the U.S. Capitol. At its western edge, the square contains large buildings used by the National Republican Club and the Republican National Committee, as well as a six-story apartment building located on D Street and directly across the alley to the south of the subject property.

16. Several alley lots improved with row dwellings are located to the east of the apartment building. The alley also provides access to numerous accessory buildings, primarily one-story garages but also several two-story carriage houses as well as garages with living space above a ground-floor parking area. There are approximately nine two-story dwellings in the alley near the subject property.

The Applicant's Project

17. The Applicant proposes to construct a rear addition to the row dwelling. While the main part of the house, fronting on C Street, has three floors, parts of the house at the rear have one or two stories. The planned addition will enlarge the entire existing house to three stories by building second and third stories above the existing one-story portion and a third story above the existing two-story portion. Another component of the new construction will comprise a two-story addition located at the rear of the lot, which will contain an enclosed parking space with living space on the upper floor (the "Alley Addition").

18. There will be a walkway between the existing row dwelling and the Alley Addition that will be covered with a trellised structure. The trellis will provide a minimum of 51% coverage over the walkway and in doing so will physically connect the basement level of the existing row dwelling with the first floor of the Alley Addition. (Exhibits 32-33; Public Hearing Transcript of October 25, 2011 (Tr. Oct. 25 at 63-64.).

19. The trellis and covered walkway will be located at grade level at the rear of the subject property. The connection will extend from a door at the basement level of the main portion of the dwelling to a door providing access to the Alley Addition. The trellis was included in the Applicant's calculations of lot occupancy. (Exhibits 32-33.)

20. The Applicant and OP testified that the Board and the Zoning Administrator had previously accepted trellises as meaningful communications between structures that create one building for zoning purposes. (Tr. Oct. 25 at 89-90, 93-94, 100; see also Exhibit 35 (ruling from the Zoning Administrator that a trellis constitutes a valid roofed connection between structures); *Application No. 17331 of JPI Apartment Development LP* (2005).)

21. The Alley Addition will be built to the rear lot line so as to provide an enclosed parking space accessible via the public alley. The garage portion of the addition will extend the width of the lot, abutting the neighboring accessory garages, and will provide one parking space and storage on the first floor, along with a stairway giving access to the second floor. The second floor will contain approximately 475 square feet of space (19 feet by 25 feet), with a kitchen, living room, and bathroom. The second floor may be used as a separate dwelling, since a two-family dwelling (also known as a flat") is permitted as a matter of right in the R-4 District. (11 DCMR § 330.5.)

Zoning Relief

22. The CAP/R-4 Zone District permits a lot occupancy of 60%. The Alley Addition component of the Applicant's project will increase the lot occupancy from 44.2% to 69.9%. (Exhibit 29.)

23. The CAP/R-4 Zone District requires a 20-foot rear yard. The Alley Addition component of the Applicant's project will be located in and eliminate the existing rear yard. (Exhibit 29.)

24. The CAP/R-4 Zone District requires courts to have a minimum width of four inches per foot of height. The existing property features a seven-foot wide court. The third-story addition will extend the height of the building to 37 feet, which would require a 12-foot wide court, and the second-story addition will extend the height of the building to 28 feet, which would require a nine-foot wide open court. (Exhibit 29.)

The Impact of the Addition

25. As noted, both neighboring properties are improved with similar row dwellings and have similar garages located at the rear of those lots.

26. The Alley Addition will be located across the 30-foot-wide public alley from the buildings on the south side of the square, and at least 48 feet from the closest alley dwellings located to the east of the apartment building.

27. The Alley Addition has been designed in the same style as other garages in the alley and in the neighborhood and to a similar scale. The Alley Addition will be made of brick similar to existing alley structures, and it will feature detailing similar to the existing alley structures such as arched brick detailing above the windows, two-over-two double-hung wood windows, and a wide brick arch above the garage door. (Exhibit 29.)

28. The project will not block any windows because the existing main structure and carriage house at 115 C Street have no windows on the east façade. The project will have a minimal impact on light and air to other portions of 115 C Street.

29. The subject property will retain a significant area of open space between the rear of the main portion of the house and the Alley Addition.

30. The Alley Addition will be located at a sufficient distance from all adjoining residences to avoid creating any undue effect on the light and air available to those residences.

31. Providing the additional setback to conform to the court requirements would not make an appreciable difference on the impact to 115 C Street, S.E. and would require the Applicant to introduce an otherwise unnecessary and detrimental variation in the side wall of the addition. (Tr. Oct. 25 at 70-72.)

32. The entire addition will not significantly increase traffic or noise in the square. (Exhibit 29.) The project had been designed to permit trash cans to be enclosed and stored within the Alley Addition rather than left out along the alley. (Tr. Oct. 25 at 68-69.)

33. The subject property is a contributing building in the Capitol Hill historic district. The Applicant testified that the project was favorably reviewed by the Historic Preservation Office and the Historic Preservation Review Board.

Harmony with Zoning

34. The subject property is located within the Capitol Interest (CAP) Overlay and is zoned R-4. 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. Its primary purpose is the stabilization of remaining one-family dwellings. (11 DCMR §§ 330.1, 330.2.)

35. The addition will promote the residential use of the property, consistent with the focus on one- and two-family dwellings of the R-4 zoning

36. The Capitol Interest Overlay was established to promote and protect the public health, safety, and general welfare of the U.S. Capitol precinct and the adjacent area. (11 DCMR § 1200.1.)

37. By report dated August 25, 2011, the Architect of the Capitol submitted a memorandum finding that the application was not inconsistent with the intent of the CAP/R-4 Zone District and would not adversely impact the health, safety and general welfare of the U.S. Capitol Precinct or be inconsistent with the goals and mandates of the U.S. Congress. (Exhibit 26.)

CONCLUSIONS OF LAW AND OPINION

Preliminary Matter – The Trellis Issue

In its letter to the Board and during its testimony the CHRS zoning committee asserted that the use of the trellis to connect the existing dwelling and the Alley Addition would not result in the creation of a single enlarged building. If that is correct, then the Applicant's proposal would result in a principal building and an accessory building on the lot. The only meaningful difference in the zoning relief required under that scenario would be that the Applicant would need a variance from height limit applicable to accessory buildings.

As will be explained, the Board has consistently held that arguments asserting the need for additional zoning relief are irrelevant to its consideration of an application for special exception relief. Nevertheless, the Board will also explain why a basis exists to conclude that the Applicant's planned trellis will create a single building.

This Application was self-certified pursuant to 11 DCMR § 3113.2. That provision allows an architect or attorney to certify that zoning relief is needed and the type of relief required. Prior to the adoption of § 3113.2, an application needed to be accompanied by a Zoning Administrator referral, which could not be obtained unless a building permit application was filed and rejected. Self-certification therefore allows property owners who know what zoning relief is needed to seek that relief prior to applying for a building permit.

However, because there is always the chance that the Zoning Administrator might later disagree as to the type of relief needed, each self-certification form, including the one made here, requires the applicant, and where applicable its agent, to acknowledge that:

> [T]hey are assuming the risk that the owner may require additional or different zoning relief from that which is self-certified in order to obtain, for the above-referenced project, any building permit, certificate of occupancy, or other administrative determination based upon the Zoning Regulations and Map. Any approval of the application by the Board of Zoning Adjustment (BZA) does not constitute a Board finding that the relief sought is the relief required to obtain such permit, certification, or determination.

Thus the Board's grant of this or any other self-certified application does not prevent the Zoning Administrator from denying a building permit because more relief is needed, or the Board from affirming the denial.

It is for this reason the Board has consistently held that assertions of an erroneous certification are irrelevant to its review of applications. For example, in *Application No. 16974 of Tudor Place Foundation* (2004), the Board responded to such an assertion by stating:

> Assuming that the opposition is correct . . . the most that can be said is that the applicant will need variance relief. That fact alone does not require the Board

> to deny a special exception. . . . Our inquiry is limited to the narrow question of whether the Applicant met its burden under the general and specific special exception criteria.

Accord *Application No. 18250 of Raymundo B. Madrid* (2011); *Application No. 17537 of Victor Tabb* (2007) ("The question of whether an applicant should be requesting variance relief is not germane to the question of whether a special exception should be granted.")

These holdings are consistent with the Court of Appeal's admonition that "[i]n evaluating requests for special exceptions, the BZA is limited to a determination of whether the applicant meets the requirements of the exception sought." *Georgetown Residents Alliance v. District of Columbia Bd. of Zoning Adjustment*, 802 A.2d 359, 363 (D.C., 2002). It would defeat the entire purpose of the self-certification process if one of the "requirements of the exception sought" is to prove the exception alone will suffice. The sufficiency of the self-certified relief must be proven in the first instance to the Zoning Administrator and not the Board.

This is not to say that the Board may not, on its own motion, dismiss an application when there is no plausible basis to conclude that the relief requested is sufficient. The Board has the right not to waste its time. For example, if an applicant's own undisputed computation showed that a proposed building would exceed the maximum height permitted, the Board could dismiss the application if the applicant refused to add the needed variance. But where, as here, the issue is not one of computation, but interpretation, the Board should at this stage allow the Zoning Administrator to carry out the function of "administratively interpreting … the Zoning Regulations" vested in him by Part 3 (F) of Reorganization Order No. 55 (1953).

Nevertheless, since the Board allowed testimony and submissions on the trellis issue, it will explain why dismissal of the Application was not warranted.[6]

Subsection 199.1 of the Zoning Regulations defines a "building" as a structure having a roof supported by columns or walls for the shelter, support or enclosure of persons, animals, or chattel. The Board has previously concluded that a trellis meets the definition of "building" when it has a roof that provides at least 51% coverage, is supported by columns, and is used for the shelter, enclosure or support of persons. *See Application No. 17331 of JPI Apartment Development LP* (2005) at 2.

Here, as set forth in the Findings of Fact, the proposed trellis will be designed to contain sufficient coverage to constitute a "roof," it will be supported by columns, and it will provide shelter and support for the Applicant. Accordingly, the Board concludes that the trellis meets the definition of "building" under the Zoning Regulations.

[6] The record was not reopened as part of the remand and therefore the Board has no knowledge as to whether a building permit was applied for or issued. This order is written based upon the facts known to the Board at the time of its original decision.

The definition of "building" under § 199.1 permits separate portions of a structure to be considered as a single building for zoning purposes provided that a communication exists between those separate portions at or above the main floor. For purposes of this definition, "communication" typically means access between the separate portions of the structure. (See *BZA Appeal No. 16646* at 9.) The Zoning Commission has used the term "meaningful connection" to describe a communication sufficient to create a single building. *See Z.C Order No. 08-34, Center Place Holdings, LLC* (2011); *Z.C. Order No. 05-36, First Stage & Consolidated PUD & Related Map Amendment-200 K Street, N.E.* (2006). The Board has previously found that a trellis may constitute such a connection between separate portions of a structure that creates one building under the Zoning Regulations. (*BZA Application No. 17331* at 2.)

The trellis proposed by the Applicant will provide cover over a walkway that will connect to doors in the row dwelling and the Alley Addition. (See Tr. Oct. 25 at 64 ("[W]e've basically created doorways on either side of the trellis connection, so that it [will] be a meaningful connection between the house and the rear structure.") Therefore a basis exists upon which the Zoning Administrator could reasonably conclude that the trellis will provide a meaningful communication (that is, access) between separate portions of the structure.

Similarly, the Zoning Administrator could reasonably conclude that the trellis will be located at the main floor. The Regulations define "main floor" as the floor of the story in which the principal entrance of a building is located. This definition presumes, however, that the site is located on relatively even grade. On a sloping site such as the property in this case, the site may have multiple "main floors" that correspond to the changes in grade – one main floor that corresponds with the grade at street level at the front of the row dwelling, and another main floor that corresponds with the grade at the rear of the structure, which is one level below the grade at street level.

This understanding is consistent with other treatments of the term "main floor" under the Regulations. The definition of "building area," for example, excludes portions of a building that do not extend above the level of the main floor of the main building. Here, the trellis is treated as part of the building area and is counted against the building's lot occupancy based on an understanding that the basement level constitutes a "main floor" because it is located at the level of the existing grade at the rear of the row dwelling. If the trellis is at the main floor for purposes of calculating lot occupancy, then it must also be at the main floor for purposes of determining whether it is a sufficient building connection.

Accordingly, the Board concludes that a plausible basis exists for the Zoning Administrator to conclude that the Board's grant of this application suffices to clear a building permit application for zoning compliance; there is no basis for the Board to dismiss the application in order to avoid an exercise in futility.

The Merits

The Applicant requests special exception relief under § 223 of the Zoning Regulations to allow construction of a rear addition to a one-family row dwelling not meeting zoning requirements related to lot occupancy, rear yard, or width of open court in the Capitol Interest (CAP) Overlay/R-4 District at 117 C Street, S.E. (Square 733, Lot 23). The Board is authorized under § 8 of the Zoning Act, D.C. Official Code § 6-641.07(g)(2) (2008) to grant special exceptions, as provided in the Zoning Regulations, where, in the judgment of the Board, the special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Map, subject to specific conditions. (*See* 11 DCMR § 3104.1.)

Pursuant to § 223, an addition to a one-family dwelling or flat may be permitted as a special exception, even when the addition does not meet certain zoning requirements including lot occupancy, rear yard, or width of open court, subject to certain conditions. These conditions include that the addition must not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property, and in particular the light and air available to neighboring properties must not be unduly affected, the privacy of use and enjoyment of neighboring properties must not be unduly compromised, and the addition, together with the original building, as viewed from the street, alley, and other public way, must not substantially visually intrude upon the character, scale and pattern of houses along the subject street frontage.

Based on the findings of fact, the Board concludes that the requested special exception satisfies the requirements of §§ 223 and 3104.1. The Board credits the testimony of the Applicant and OP that the proposed rear addition will not unduly affect light or air available to neighboring properties, especially since both neighboring properties are improved with similar row buildings and have similar garages located at the rear of those lots. Given the depths of the lots and the width of the abutting alley, and given that the subject property will retain a significant area of open space between the rear of the main portion of the house and the Alley Addition, the Applicant's Alley Addition will be located at a sufficient distance from all adjoining residences to avoid creating any undue effect on the light and air of those residences. The other portion of the rear addition, built on the same footprint and to the same height as the existing house, as well as the one-story connecting walkway, will not create any undue impact on light or air available to neighboring properties due to their location and relatively small scale.

Similarly, the Applicant's new construction will not unduly compromise the privacy of use and enjoyment of neighboring properties. The addition will not allow views from windows significantly different from the existing house, except for the Alley Addition, which will contain a residence on its second floor. The Board does not find that views from the rear of the subject property, looking out over an open area to the north or over an alley 30 feet wide to the south, will compromise the privacy of use or enjoyment of any neighboring property.

The Applicant's new construction will not be visible from C Street and thus will not visually intrude on the character, scale, or pattern of houses along the street frontage. The addition will

be visible from the rear alley, and its appearance will be similar to the numerous existing garages and two-story carriage houses along the alley. The new construction will maintain the residential appearance of the property, and will not alter its scale or character.

The Board notes that the project is also subject to review by the Historic Preservation Review Board for compatibility with the surrounding buildings, among other elements, and, according to the Applicant, has been received favorably. The Board does not credit a statement, made without elaboration in a letter submitted by the zoning committee of the Capitol Hill Restoration Society, that approval of the Applicant's project would have a serious impact on the Capitol Hill historic district. This alleged impact was not explained and thus the Board was unable to discern its import for purposes of a zoning review of a request for special exception approval under §§ 223 and 3104.

The Board concludes that the planned rear addition satisfies the requirements of § 223 and pursuant to § 3104.1, the Board finds that the addition is unlikely to result in a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property, or affect light and air available to neighboring properties. The Board also concludes that the rear addition satisfies the requirement of § 3104.1 that it be in harmony with the general purpose and intent of the Zoning Regulations by promoting the residential use of the property, consistent with the focus on one- and two-family dwellings of the R-4 zoning designation of the subject property, and will not tend to adversely affect the use of neighboring property in accordance with the Zoning Regulations.

With regard to harmony with the CAP Overlay District, the Board notes that the Architect of the Capitol found that the Applicant's proposal was not inconsistent with the intent of the CAP/R-4 District and would not adversely affect the health, safety, and general welfare of the U.S. Capitol precinct and adjacent area. In light of its conclusion that the proposed new construction will not adversely affect neighboring properties, the Board finds no need for the shadow diagrams suggested by the Architect of the Capitol. Similarly, since the Board does not find that the size of the proposed garage portion will be inconsistent with the requirements for special exception approval, the Board declined to question the Applicant's need for storage or its impact on the size of the planned garage.

The Board finds no merit in the assertions by Mr. Parsons that the rear addition would contribute to commercialism, overcrowding, increased traffic, and trash accumulation in the alley, or speculation that approval of the requested zoning relief would cause additional applications for similar relief. The Applicant's project will create one enclosed parking space in an area that now provides a parking pad large enough for two vehicles, with new living space located on the second floor of the garage portion of the addition. The garage will also provide storage space, including an area to store trash containers inside. The addition will not result in additional traffic or noise. Especially in light of the prevalence of residential uses along the alley at present, as well as larger commercial or institutional uses located on the western portion of the square, the Board does not find that the Applicant's addition will greatly alter existing conditions in the alley.

With regard to the concern that approval of this application might set a precedent, the Board notes that each application is considered on its own merits. An application by Charles and Susan Parsons, for a variance from alley width requirements to allow conversion of the second floor of an alley structure on Rumsey Court into an apartment, was previously approved. (Application No. 17943; order issued July 16, 2009.) Zoning relief was approved for another building on the alley, an accessory garage at 139 C Street, S.E., to allow a new second floor for use as an artist studio (Application No. 11289; order effective June 26, 1973); the Board also granted relief to allow an addition to a row dwelling on the southern portion of Square 733 at 138 D Street, S.E. (Application No. 17879; order issued February 11, 2009). Other applications have been denied, including a request for relief to convert the building at 111 C Street, S.E. into three apartments (Application No. 10750, August 9, 1971) and a request for area variances to allow a second-story addition and conversion of an accessory building into a dwelling at 127 C Street, S.E. (Application No. 12332; order issued September 20, 1977).

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 6B voted to support the application; the ANC did not raise any issues or concerns but concluded that the project's impact on air, light, and privacy would be negligible. The Board concurs with the ANC's conclusion.

The Board is also required to give "great weight" to the recommendation of the Office of Planning. (D.C. Official Code § 6-623.04 (2001).) In this case, as discussed above, the Board concurs with OP's recommendation that the application should be approved. As finally revised, the Applicant's plans satisfy the two conditions recommended by the Office of Planning: that the lattice roof over the walkway must provide at least 51% coverage, and that the covered walkway must provide a communication between the two portions of the building and not terminate at a blank rear wall of the existing house. Since the Board's approval includes approval of the revised plans, 11 DCMR § 3125.7, and the Applicant may only carry out its construction in accordance with these plans, 11 DCMR § 3125.8, there is no need to expressly state the conditions in this order.

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 a special exception under § 223 to allow construction of a rear addition to a one-family row dwelling not meeting zoning requirements for lot occupancy (§ 403.2), rear yard (§ 404.1), or width of open court (§ 406.1) in the Capitol Interest (CAP) Overlay/R-4 District at 117 C Street, S.E. (Square 733, Lot 23). Accordingly, it is **ORDERED** that the application, subject to Exhibit No. 33 (Plans), is hereby **GRANTED.**

VOTE: **5-0-0** (Meredith H. Moldenhauer, Nicole C. Sorg, Lloyd J. Jordan, Jeffrey L. Hinkle, and Anthony J. Hood to Approve.)

Vote taken on November 8, 2011.

BZA APPLICATION NO. 18263-B
PAGE NO. 15

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: July 25, 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. 18409 of CAS Riegler Companies, pursuant to 11 DCMR § 3103.2, for a variance from the off-street parking requirements under § 2101.1, for the conversion of an existing flat into an apartment house containing four[1] units in the R-4 District at premises 1300 Park Road, N.W. (Square 2843, Lot 824).

HEARING DATES: October 2, 2012, January 8, 2013, March 12, 2013, May 21, 2013, and July 23, 2013[2]

DECISION DATE: July 23, 2013

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case is self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 5.)

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 the Applicant, Advisory Neighborhood Commission ("ANC") 1A, and to all owners of property within 200 feet of the property that is the subject to this application. The subject property is located within the jurisdiction of ANC 1A, which is automatically a party to this application. A letter from ANC 1A was submitted to the record in support of the original application, dated September 12, 2012, which indicated that at a duly noticed, regularly scheduled monthly meeting on September 12, 2012, with a quorum present, the ANC took voted 7 (yeas):0 (neas):2 (absentions) to approve the request for relief for required off-street parking and to support the Applicant's request for relief from the Building Restriction Line restriction. (Exhibit 27.) The record reflects that the Applicant presented the ANC with the revised proposal on July 11, 2013. ANC 1A did not submit a supplemental report or otherwise change its vote of approval.

The Office of Planning ("OP") submitted a timely report dated July 16, 2013, recommending approval of the application, as revised. (Exhibit 33.) OP had submitted a prior report dated September 18, 2012, recommending the Board take no action in regard to the application when the project design had required that the Applicant get approval of Council legislation to remove the Building Restriction Line on the property. (Exhibit 27.)

[1] The Applicant revised the project and changed the number of units to four units from the originally requested five units. The caption has been amended to reflect that change.

[2] Since filing the application, the Applicant requested and was granted several continuances of the hearing in the case pending Council legislative action to remove one of the two Building Restriction Lines that encumber the subject property. As the process to remove one of the Building Restriction Lines became too much of a delay, the Applicant chose to proceed with a slightly smaller project that did not require the building line removal. (Exhibits 28 - 32.)

The 2013 OP report noted that its approval recommendation was based on the Zoning Administrator's determination that this is a conversion of the existing rowhouse. (Exhibit 33.) The District Department of Transportation ("DDOT") submitted a letter of "no objection" to the record. (Exhibit 24.)

A letter of opposition was submitted for the record by Bill Hernandez, Power Brokers Property Management, on behalf of The Wisteria Apartments, 1315 Park Road, N.W. (Exhibit 22.)

As directed by 11 DCMR § 3119.2, the Board required the Applicant to satisfy the burden of proving the elements that are necessary under § 3103.2, to establish the case for a variance from the off-street parking requirements under § 2101.1. No parties appeared at the public hearing in opposition to 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 proving under 11 DCMR § 3103.2 that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the requested 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.

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 REVISED PLANS AT EXHIBIT 32.**

VOTE: **3-0-2** (Lloyd J. Jordan, Jeffrey L. Hinkle, and Robert E. Miller to Approve; S. Kathryn Allen, not present or voting, and 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: July 30, 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.

BZA APPLICATION NO. 18409
PAGE NO. 3

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 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO § 3129.9, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL TOLL OR 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. 18554 of Catherine L. Bennett , pursuant to 11 DCMR § 3104.1, for a special exception for a rear deck addition to a one-family semi-detached dwelling under section 223, not meeting the lot occupancy requirements (section 403), and rear yard requirements (section 404) in the R-3 District at premises 2456 Skyland Place, S.E. (Square 5740, Lot 244).

HEARING DATE: July 23, 2013
DECISION DATE: July 23, 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") 8B, and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 8B, which is automatically a party to this application. ANC 8B did not participate in this 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. The Board received letters in support from neighboring property owners.

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 report, 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 26 – Revised Plans) be **GRANTED.**

VOTE: **3-0-2** (Lloyd J. Jordan, Robert E. Miller and Jeffrey L. Hinkle to APPROVE. S. Kathryn Allen not present; and the third member seat 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: July 24, 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. 18591 of Adolfo Briceno, pursuant to 11 DCMR § 3103.2, for a variance from the floor area ratio requirements under § 771.2, a variance from the off-street parking requirements under § 2101.1, and a variance from the loading requirements under § 2201.1, for a proposed restaurant in the HS-A/C-2-A District at premises 1255 H Street, N.E. (Square 1004, Lot 343).

HEARING DATE: July 23, 2013
DECISION DATE: July 23, 2013

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case is self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 5.)

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 the Applicant, Advisory Neighborhood Commission ("ANC") 6A, and to all owners of property within 200 feet of the property that is the subject to this application. The subject property is located within the jurisdiction of ANC 6A, which is automatically a party to this application. ANC 6A submitted a letter in support of the application, dated July 12, 2013, which indicated that at a duly noticed, regularly scheduled monthly meeting on July 11, 2013, with a quorum present, the ANC voted unanimously (8:0) to approve the application subject to conditions. (Exhibit 28.)

The Office of Planning ("OP") submitted a timely report dated June 16, 2013, recommending approval of the application. (Exhibit 30.) The District Department of Transportation ("DDOT") submitted a letter recommending approval of the application subject to conditions. (Exhibit 29.)

A party status request in opposition by Linden Neighborhood Association was granted by the Board, but later withdrawn by the party in opposition at the hearing after discussions with the Applicant and agreement to the conditions adopted by the Board in this order.

As directed by 11 DCMR § 3119.2, the Board required the Applicant to satisfy the burden of proving the elements that are necessary under § 3103.2, to establish the case for variances from the floor area ratio requirements under § 771.2, from the off-street parking requirements under § 2101.1, and from the loading requirements under § 2201.1. No parties appeared at the public hearing in opposition to 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 proving under 11 DCMR § 3103.2 that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the requested 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.

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 PLANS AT EXHIBIT 12 AND THE ADDITIONAL SHEET IN EXHIBIT 27 AND THE FOLLOWING CONDITIONS:**

1. All loading and garbage pick-up shall occur at the rear of the building from the public alley with flexibility for modification to the 13th Street side upon DDOT approval.

2. Business operations of the site shall not block vehicular access to the public alley, other than for brief loading and garbage pick-up.

3. The Applicant shall make staff off-site parking available.

4. There shall not be amplified music or sounds on the roof terrace and no loud music within the restaurant other than soft listening music for the comfort of restaurant patrons inside.

VOTE: 3-0-2 (Lloyd J. Jordan, Robert E. Miller, and Jeffrey L. Hinkle to Approve; S. Kathryn Allen, not present or voting, and 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: July 26, 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 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO § 3129.9, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL TOLL OR 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.

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 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

Application No. 18592 of Craig Meskill, pursuant to 11 DCMR § 3104.1, for a special exception to allow an accessory apartment in a one-family detached dwelling under subsection 202.10, in the R-2 District at premises 4401 14th Street, N.E. (Square 3994, Lot 32).

HEARING DATE: July 23, 2013
DECISION DATE: July 23, 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") 5A, and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 5A, which is automatically a party to this application. ANC 5A submitted a letter in support of 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 202.10. 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 202.10, 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 8 – Plans) be **GRANTED.**

VOTE: **3-0-2** (Lloyd J. Jordan, Jeffrey L. Hinkle and Robert E. Miller to APPROVE. S. 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: July 24, 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. 18593 of Glenn M. Engelmann, pursuant to 11 DCMR § 3103.2, for a variance from the lot occupancy requirements under section 403, a variance from the rear yard requirements under section 404, and a variance from the nonconforming structure requirements under subsection 2001.3, to allow a rear deck addition to an existing row dwelling in the DC/R-5-B District at premises 1412 Hopkins Street, N.W. (Square 96, Lot 93).

HEARING DATE: July 23, 2013
DECISION DATE: July 23, 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 of Zoning Adjustment ("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") 2B and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 2B, which is automatically a party to this application. The ANC submitted a letter in support of the application. The Office of Planning ("OP") submitted a report in opposition to the application.

Variance

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 § 3103.2, for a variance from §§ 403, 404 and 2001.3. 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 filed in this case, the Board concludes that in seeking a variance from §§ 403, 404 and 2001.3, the applicant has met the burden of proving under 11 DCMR § 3103.2, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the 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.

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 31 – Revised Plans) is hereby **GRANTED.**

VOTE: 3-0-2 Robert E. Miller, Lloyd J. Jordan, Jeffrey L. Hinkle to APPROVE. S. Kathryn Allen not present and the third mayoral 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: July 24, 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. 18594 of John and Julie Lippman, pursuant to 11 DCMR § 3103.2, for a variance from the nonconforming structure provisions under § 2001.3, to allow an addition to an existing four (4) unit apartment house, not meeting the lot occupancy (§ 403) requirements in the R-4 District at premises 471 M Street, N.W. (Square 513, Lot 920).

HEARING DATE: July 23, 2013
DECISION DATE: July 23, 2013

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case is self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 5.)

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 the Applicant, Advisory Neighborhood Commission ("ANC") 6E, and to all owners of property within 200 feet of the property that is the subject to this application. The subject property is located within the jurisdiction of ANC 6E, which is automatically a party to this application. ANC 6E submitted a report in support of the application, dated June 17, 2013, which indicated that at a duly noticed, regularly scheduled monthly meeting on June 5, 2013, with a quorum present, the ANC voted unanimously (7:0:0) to approve the application. (Exhibit 24.)

The Office of Planning ("OP") submitted a timely report dated June 16, 2013, recommending approval of the application. (Exhibit 28.) The District Department of Transportation ("DDOT") submitted a letter of "no objection" to the record. (Exhibit 26.)

An adjacent neighbor, Rhona Bryson, 473 M Street, N.W., testified as a person in opposition at the hearing.

As directed by 11 DCMR § 3119.2, the Board required the Applicant to satisfy the burden of proving the elements that are necessary under § 3103.2, to establish the case for a variance from the nonconforming structure provisions under § 2001.3, to allow an addition to an existing four-story apartment building not meeting the lot occupancy (§ 403) requirements. No parties appeared at the public hearing in opposition to 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 proving under 11 DCMR § 3103.2 that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the requested 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.

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 REVISED PLANS AT EXHIBIT 25A.**

VOTE: **3-0-2** (Lloyd J. Jordan, Robert E. Miller, and Jeffrey L. Hinkle to Approve; S. Kathryn Allen, not present or voting, and 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: July 26, 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 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO § 3129.9, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL TOLL OR 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.